Dear Interested Parties:

At its meeting of August 7-9, 2012, the Standards Council considered an appeal on the above referenced matter.

Attached is the final decision of the Standards Council on this matter.

Sincerely,

Amy Beasley Cronin
Secretary, NFPA Standards Council

c: D. Berry, M. Brodoff, L. Fuller, M. Curtis, J. Goyette
Members, Technical Committee on Electrical Equipment in Chemical Atmospheres (EEC-AAA)
Members, NFPA Standards Council (AAD-AAA)
Individuals Providing Appeal Commentary

*NOTE: Participants in NFPA’s codes and standards making process should know that limited review of this decision may be sought from the NFPA Board of Directors. For the rules describing the available review and the method for petitioning the Board for review, please consult section 1-7 of the NFPA Regulations Governing Committee Projects and the NFPA Regulations Governing Petitions to the Board of Directors from Decisions of the Standards Council. Notice of the intent to file such a petition must be submitted to the Clerk of the Board of Directors within 15 calendar days of the Date of Decision noted in the subject line of this letter.*
SUMMARY OF ACTION (for convenience only; not part of official decision): The Standards Council voted to deny the appeal to issue NFPA 499 without Certified Amending Motion 499-1 to Accept an Identifiable Part of Comment 499-6.

DECISION:
At its meeting of August 7-9, 2012, the Standards Council considered an appeal from David Wechsler of Lake Jackson, Texas. The appeal requests that the 2013 Edition of NFPA 499, Recommended Practice for the Classification of Combustible Dusts and of Hazardous (Classified) Locations for Electrical Installations in Chemical Process Areas, be issued without Certified Amending Motion (CAM) 499-1, which sought to Accept an Identifiable Part of Comment 499-6. Specifically, the appellant seeks to return the definition of “combustible dust” to the Committee Meeting Action shown in Comment 499-3.

As background, the Technical Committee on Electrical Equipment in Chemical Atmospheres (TC) accepted Committee Proposal 499-1 that sought to modify the definition of “Combustible Dust”. Subsequently, the TC considered Comment 499-6 where through an action of Accept in Principle in Part, the Committee further modified the definition of “Combustible Dust”. A Certified Amending Motion (CAM) 499-1 that sought to Accept an Identifiable Part as Modified by the TC for Comment 499-6 was made at the 2012 Association Technical Meeting (Tech Session). The amending motion was supported by the NFPA membership in attendance, and passed the subsequent balloting of the TC. This means, under NFPA rules, the recommendation that comes to Council is that the modified definition of “Combustible Dust” that was sought in CAM 499-1 is added to the new edition of NFPA 499.

The appeal requests that the Council overturn the action that was recommended by the codes and standards development process. On appeal, the Council accords great respect and deference to the NFPA codes and standards development process. In conducting its review, the Council will overturn the result recommended through that process only where a clear and substantial basis for doing so is demonstrated. The Council has reviewed the entire record concerning this matter and has considered all the arguments put forth in this appeal. In the view of the Council, this appeal does not present any clear and substantial basis on which to overturn the results yielded by the NFPA codes and standards development process. Accordingly, the Council has voted to deny the appeal. The effect of this action is that the modified definition of “Combustible Dust” from CAM 499-1 will be in the new edition of NFPA 499. The definition reads as follows:

3.3.3* Combustible Dust. Finely divided solid particles that present a dust flash fire or dust explosion hazard when dispersed and ignited in air.