



Dawn Michele Bellis
Secretary, Standards Council

26 August 2020*

To: Interested Parties

Subject:

Standards Council Decision (Final):	D#20-1
Standards Council Agenda Item:	SC#20-8-4-d
Date of Decision:	26 August 2020
NFPA 1, <i>Fire Code</i> , 2021 Edition	

Dear Interested Parties:

At its meeting of August 10-12, 2020, the Standards Council considered an appeal on the above referenced matter. The Council's Final decision is now available and is attached herewith.

Sincerely,

A handwritten signature in black ink that reads "Dawn Michele Bellis".

Dawn Michele Bellis
Secretary, NFPA Standards Council

cc: S. Everett, S. Gallagher, T. Vecchiarelli, G. Colonna
Members, TC on Fire Code (FCC-AAA)
Members, NFPA Standards Council (AAD-AAA)
Individuals Providing Appeal Commentary

*NOTE: Participants in NFPA's standards development 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 Regulations Governing the Development of NFPA Standards 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 publication date of this Decision.



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SUMMARY OF ACTION (for convenience only; not part of official decision): The Standards Council voted to uphold this appeal seeking to delete Paragraph 65.3 from NFPA 1, *Fire Code*, 2021 edition.

DECISION:

At its meeting of August 10-12, 2020, the Standards Council considered an appeal from Julie Heckman of the American Pyrotechnics Association (“APA”). The appeal requests that the Standards Council delete Paragraph 65.3 from NFPA 1, *Fire Code*, 2021 edition to be consistent with Standards Council Decision 14-1 and direction from the Standards Council.

As background, NFPA has a long-standing policy opposing any use of fireworks by consumers or the general public. For a more detailed description of that policy and its history, see Standards Council Decision 14-1. (“NFPA, as a safety organization, has and continues to have, a long-standing advocacy position opposing, on well-documented safety grounds, any use of fireworks by consumers or other members of the general public.”) On that basis, NFPA has not allowed standards development activity related to the use of fireworks by the general public. Standards Council therefore limited the scope of NFPA standards development activities to the storage and retail sales of consumer fireworks. In 2014, and following a set of decisions and appeals over a number of years¹, the Standards Council ended NFPA’s development of standards for the storage and retail sales of consumer fireworks. (See Standards Council Decision 14-1, page 6.)

In the present matter, the Technical Committee on the Fire Code (the “TC”) created First Revision 34 (FR-34), which resulted in Paragraph 65.3 and states: “The use of consumer fireworks by the public shall be prohibited.” FR-34 passed TC ballot, received no public comments, no second revisions were made and no Amending Motions could be certified on this Paragraph. The TC Chair expressed in a written statement relative to this appeal that the TC understood Paragraph 65.3 to be aligned with the Council’s prior Decision 14-1.

On appeal, the Council accords great respect and deference to the NFPA standards development process. In conducting its review, the Council will overturn the results of that process only where a clear and substantial basis for doing so is demonstrated. There is such a basis demonstrated in this matter. While the Council appreciates the perspective of the TC and acknowledges that the TC thought it was acting in accordance with the Council’s prior decision, the fact is that the NFPA Standards Council has not granted the authority to develop standards related to the use of fireworks by consumers or other members of the general public. This broadly includes standards that would prohibit their use. Paragraph 65.3 addresses the very topic that is outside of the scope of NFPA standards development. Standards Council is therefore unable to issue NFPA 1 with that provision.

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 presents a clear and substantial basis upon

¹ For information on these decisions, See Standards Council Decisions 08-19, 12-4, and 14-1.

which to overturn the results yielded by the NFPA standards development process. The effect of this action is that Paragraph 65.3 will not be included in NFPA 1, 2021 edition.

The Council wishes to strongly remind participants, especially those who are familiar with the NFPA standards development process, that it is incumbent on them to participate at every stage in the standards development process.

Council Member Kenneth Bush recused himself from the deliberations and vote on the appeal.