

COMMONWEALTH OF MASSACHUSETTS

REQUEST TO DELETE PARAGRAPH 65.3

FROM NFPA-1, 2021 EDITION

MEETING BEING HELD REMOTELY

VIA MICROSOFT TEAMS

Tuesday, August 11, 2020

Commencing at 10:56 a.m.

1 APPEARANCES

2

3 Standards Council:

4 James E. Golinveaux, Chair

5 Chad E. Beebe, Principal

6 Kenneth E. Bush, Principal

7 Michael A. Crowley, Principal

8 Jeffrey J. Foisel, Principal

9 Patricia A. Gleason, Principal

10 Michael J. Johnston, Principal

11 Gary S. Keith, Principal

12 John R. Kovacik, Principal

13 Jack Poole, Principal

14 James R. Quiter, Principal

15 Rodger Reiswig, Principal

16 Kenneth W. Richards, Jr., Principal

17

18 NFPA Staff:

19 Dawn Michele Bellis

20 Guy Colonna

21 Christian Dubay

22 Suzanne Gallagher

23 Tracy Vecchiarelli

24 Valeria Ziavras

1 APPEARANCES, (Cont'd):

2

3 Julie Heckman

4 William Koffel

5 Tony Apfelbeck

6 Tad Trout

7 Mike Ingram

8 Mary Maynard

9 Amy Cronin

10 Bill Weimer

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12 Court reporter:

13 Sharon G. Saalfield, LCR No. 147, MA CSR, RDR, CRR

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P R O C E E D I N G S

MR. GOLINVEAUX: Good morning. My name is James Golinveaux. It's my distinct pleasure to serve as the chair of the NFPA Standards Council and to welcome you.

I'm going to call this hearing to order. In a moment, I'll have everyone introduce themselves by stating their name and affiliation, but before we do that, I want to remind everyone that we have a stenographer online with us today who's recording these hearings. So from this standpoint, it is important that each of you, when you make your remarks, state your name and your affiliation so the stenographer can accurately capture the information for the record.

In addition, to those who will be speaking, I ask you to forward your name as you wish for it to appear in the record, as well as your affiliation, to Mary Maynard, if you have not already done so, so that we can spell your name correctly in the record.

The appeal hearing is scheduled for today, August 11th. We'll start with the introduction of council members followed by NFPA staff, and finally, I'll recognize the appellants and other guests to

1 introduce themselves.

2 From this -- from a process standpoint, the
3 general approach we will take today is to allow 10
4 minutes for each side to make opening remarks and
5 then we'll open the floor to questions from council
6 members. Please wait for me to recognize you before
7 speaking to ensure that all comments and questions
8 are heard for accurate recording. Once all
9 questions are addressed to the satisfaction of the
10 council, we'll move to closing remarks. Five
11 minutes have been allocated for closing remarks for
12 each side. Following closing remarks, the hearing
13 will conclude.

14 Does anyone have any questions at this point?

15 Hearing none, the hearing is related to the
16 agenda item 20-8-4-D, as in David, regarding text
17 recommended by the Technical Committee on Fire Code,
18 Section 65.3, NFPA-1.

19 So again, my name is James Golinveaux. I'm the
20 chair of council. And I will ask the council to
21 introduce themselves.

22 MR. BEEBE: I'm Chad Beebe, member of council.

23 MR. BUSH: Kenneth Bush, member of council.

24 For the record, I am recusing myself on this agenda

1 item and I will not participate as a member of the
2 Standards Council in the hearing, deliberations, or
3 voting on this matter.

4 MR. CROWLEY: Michael Crowley, member of
5 council.

6 MR. FOISEL: Jeff Foisel, member of council.

7 MS. GLEASON: Patricia Gleason, member of
8 council.

9 MR. JOHNSTON: Michael Johnston, member of
10 council.

11 MR. KEITH: Gary Keith, member of council.

12 MR. KOVACIK: John Kovacik, member of council.

13 MR. GOLINVEAUX: Jack, if you are there, you're
14 on mute still.

15 MR. POOLE: Jack Poole, member of council.

16 MR. GOLINVEAUX: There you go.

17 MR. QUITER: James Quiter, member of council.

18 MR. GOLINVEAUX: Rodger, you're on mute.

19 MR. REISWIG: Sorry. Rodger Reiswig, member of
20 council.

21 MR. RICHARDS: Kenneth Richards, member of
22 council.

23 MR. DUBAY: Christian Dubay, NFPA staff.

24 MS. BELLIS: Dawn Michele Bellis, NFPA staff.

1 MR. COLONNA: Guy Colonna, NFPA staff.

2 MR. GOLINVEAUX: Suzanne, you may be --

3 MS. GALLAGHER: Sorry. Suzanne Gallagher, NFPA
4 staff.

5 MS. VECCHIARELLI: Tracy Vecchiarelli, NFPA
6 staff.

7 MS. ZIAVRAS: Val Ziavras, NFPA staff.

8 MR. GOLINVEAUX: Okay. I'll have the other --
9 Dawn, just a formality here. Do I go to recognize
10 the guests at this point to introduce? Because the
11 speakers will introduce themselves on the record.
12 Do I -- do I go to the guests? I'm normally used to
13 this around a table.

14 MS. BELLIS: Yes, I think that would be
15 advisable. We can go to the guests and then we can
16 come back to the appellants.

17 MR. GOLINVEAUX: Okay. So if the guests can
18 raise their hand, I'll call you on one by one to
19 introduce yourself to put it on the record. Just
20 use the "raise your hand" feature.

21 Okay. First one is Anthony Apfelbeck. Go
22 ahead.

23 MR. APFELBECK: Tony Apfelbeck. I'm the
24 director of building and fire safety for the City of

1 Altamonte Springs. For the record, I am a number of
2 the NFPA-1 TC but I am not representing the TC
3 today. I am speaking for myself.

4 MR. GOLINVEAUX: Thank you, Tony. Mike Ingram.

5 MR. INGRAM: Mike Ingram, guest of Julie
6 Heckman. I'm with Fireworks Over America.

7 MR. GOLINVEAUX: Okay. My next one is Amy.
8 Amy, you're on mute if you're speaking. Amy, I'm
9 not hearing you.

10 MS. CRONIN: Amy --

11 MR. GOLINVEAUX: There you go. No? Amy, we're
12 not hearing you. I'm sorry.

13 Okay. Well, I see Amy Cronin. I don't know
14 the representation for Amy.

15 MS. CRONIN: Thank you so much. Sorry about
16 that. Amy Cronin, Strategic Code Solutions. And I
17 have no client interest in this. I'm just an
18 observer.

19 MR. GOLINVEAUX: Okay. Thanks, Amy.

20 Mike, you still have your hand up. If you guys
21 can take your hand down? That way, I won't continue
22 to call on you.

23 All right. Seeing that --

24 UNIDENTIFIED SPEAKER: You have one on the

1 phone, James.

2 MS. BELLIS: So James, we should have Tad Trout
3 and Bill Weimer.

4 MR. GOLINVEAUX: Oh, I'm sorry. I don't see
5 the hand up.

6 MS. BELLIS: That's all right.

7 MR. GOLINVEAUX: All right. So Tad, could you
8 introduce yourself?

9 MR. TROUT: Sure. Tad Trout. I'm with Julie
10 Heckman, APA, and also TNT Fireworks.

11 MR. GOLINVEAUX: Okay. And then you said it
12 was William?

13 MS. BELLIS: William. Bill Weimer.

14 MR. GOLINVEAUX: Bill Weimer? Are you there?

15 MR. WEIMER: Yes, thank you. I'm Bill Weimer,
16 a former member of the NFPA Technical Committee on
17 Pyrotechnics. I'm representing American
18 Pyrotechnics Association and my primary employer,
19 Phantom Fireworks. Thank you for allowing me to
20 observe.

21 MR. GOLINVEAUX: So, welcome to the
22 participants and welcome to the guests as well.
23 We'll proceed with the hearing here.

24 I'm noting one recusal by Mr. Kenneth Bush, a

1 member of council, who will not participate in the
2 deliberation of this.

3 I'm going to turn it over to Mrs. Heckman.
4 Please begin by introducing yourself, and proceed
5 with your opening statement in support of your
6 appeal. And Mrs. Heckman, if you're referring to
7 Bill Koffel to do that for you, please just state
8 that for the record.

9 MS. HECKMAN: Good morning. I'm Julie Heckman,
10 the executive director of the American Pyrotechnics
11 Association. I appreciate the opportunity to be
12 here today to voice our concerns and express our
13 appeal to NFPA-1, and, in particular, for FR-34. We
14 believe that is in direct conflict with the decision
15 of the Standards Council number 14-1, which states
16 that no NFPA committees should develop standards for
17 the storage and retail sale of consumer fireworks or
18 for the use of fireworks by members of the public.

19 At this point, I would like to turn this over
20 to Mr. Bill Koffel, who is our co-consultant.

21 MR. GOLINVEAUX: Okay. Mr. Koffel, please
22 state your name and affiliation and then proceed.

23 Bill, you're on mute if you're speaking.

24 MR. KOFFEL: Thank you, Julie, and thank you to

1 the members of the council. On behalf of the -- I
2 am Bill Koffel, president of Koffel Associates, and
3 on this matter, I am a co-consultant to the American
4 Pyrotechnics Association.

5 On behalf of APA, we want to thank you for
6 giving us an opportunity to address this appeal
7 before you this morning. As a quick overview, APA
8 requests that the council issue NFPA-1 2021 edition,
9 without the new paragraph 65.3, consistent with the
10 council decision number 14-1.

11 I want to go over a history of how we got to
12 where we are today. So during the public input
13 phase, Koffel Associates submitted, on behalf of
14 APA, two public inputs: PI 138 and PI 139. Those
15 PIs requested the reinstate language regarding the
16 retail sales and storage of consumer fireworks based
17 upon fire tests that were being performed by Factory
18 Mutual.

19 And I would like to note that APA had no
20 involvement in the fire test conducted by Factory
21 Mutual. We were not involved technically, nor were
22 we involved financially, although we did offer
23 assistance to Factory Mutual. So those tests were
24 done totally independent of any APA activity.

1 Due to a conflict during the first draft
2 meeting, I was not present. One of my employees,
3 who happens to be a member of the technical
4 committee, talked to me the evening of the first day
5 and indicated that the chair wanted to discuss the
6 PIs with me. I responded to that person and
7 indicated that we fully expected the PIs to be
8 resolved. And based upon council's decision 14-1
9 and the fact that subsequent to submitting the PIs,
10 NFPA 1124 was moved the annual 2021 cycle, so it
11 would not be issued in time to be referenced by the
12 2021 edition of NFPA-1.

13 Based upon that, I was told there was no
14 further discussion needed, and it was my
15 understanding that all PIs associated with consumer
16 fireworks, including the one that led eventually to
17 paragraph 65.3, were to be resolved by the committee
18 at the meeting. Based upon this discussion and
19 based upon the council decision prohibiting the
20 technical committee from taking any action regarding
21 the use of consumer fireworks, I did not review the
22 first draft report when it was issued. As a result,
23 APA did not submit a public comment on paragraph
24 65.3. We did discuss submitting other public

1 comments, and I advised against it since there was
2 no action the committee could take related to
3 consumer fireworks, due to the scope limitations of
4 the committee and the fact that NFPA 1124 had
5 slipped a cycle.

6 In preparation for the second draft meeting,
7 however, I did review the public comments submitted
8 by other parties, and noted at that time the new
9 paragraph 65.3. That was the result of Public Input
10 6 which was submitted to provide some restrictions
11 on the use of consumer fireworks, but did not
12 prohibit the use of consumer fireworks by the
13 public.

14 The submitter of Public Input 6 incorrectly
15 stated that the council decision only addressed
16 storage and sale. In his supporting statement, he
17 referenced agenda item 14-3-31, which directed
18 committees to remove language that addressed retail
19 sales and storage of consumer fireworks. There was
20 nothing in that direction to remove language on the
21 prohibition on the use or the permission of use of
22 consumer fireworks because that was not contained.
23 There was no language, relevant language, to be
24 removed in the appropriate NFPA codes and standards.

1 Let me fast-forward to August of 2019. At the
2 August 2019 council meeting, the council heard a
3 report of fire tests conducted by Factory Mutual and
4 that report was submitted or presented by Gary
5 Keith. In agenda item 19-8-53, the council states,
6 and I'll quote, "The council also clearly expressed
7 that no NFPA committees are currently authorized to
8 develop standards for the storage and retail sales
9 of consumer fireworks or for the use of fireworks by
10 members of the public." They continue to say, "See
11 Standards Council decision 14-1 per NFPA's policy on
12 fireworks."

13 The second draft meeting of the NFPA-1
14 Technical Committee was held September 24th-25th,
15 2019, a little over a month after the August council
16 meeting.

17 Having now recognized paragraph 65-3, I
18 attended that meeting with the intent to encourage
19 the committee to make a second revision to delete
20 the paragraph. However, I did not need to raise the
21 issue. The committee chair and the staff liaison
22 both indicated to the committee that there was a
23 potential problem with 65-3 and that it may conflict
24 with Standards Council's decision 14-1.

1 A motion was made for a second revision to
2 delete paragraph 65.3. During the discussion of
3 that motion, I offered comments on behalf of APA,
4 and emphasized that we, too, felt that 65.3 was in
5 conflict with the council decision. The motion
6 failed. So there's no written documentation related
7 to how that was handled since there were no public
8 comments, and the motion failed, so it did not move
9 forward as a second revision.

10 However, during the discussion, members of the
11 committee indicated that if the council feels the
12 language is in conflict with the decision, the
13 council should remove the language. So, in essence,
14 at least some committee members deferred to the
15 council to take the final action on this item.

16 One month later -- actually, only a couple
17 weeks later, in October 2019, the PYR Technical
18 Committee held their first draft meeting. During
19 that meeting, there were also public inputs
20 submitted by APA to restore chapters six and seven
21 to that document. Those PIs were also resolved
22 based upon the council decision and the limitation
23 on the scope of the committee to address consumer
24 fireworks.

1 However, the committee did vote to request that
2 the council revise the scope of the committee to
3 reinstate the ability of that committee to address
4 retail sales and storage of consumer fireworks.

5 Then, in December of 2019, the council met and
6 heard the request of the PYR Technical Committee and
7 denied that request. That is agenda item 19-12-17.
8 And again, I will quote from the minutes. "In
9 accordance with the Standards Council decision
10 number 14-1, the committee" -- "and reasserted in
11 the minutes of the August 2019 council meeting, the
12 council has determined and clearly articulated that
13 no technical committees are currently authorized to
14 develop standards for the storage and retail sales
15 of consumer fireworks or, for the use of fireworks
16 by members of the public."

17 APA, following the various steps available to
18 us, submitted a NITMAM to delete paragraph 65.3. We
19 submitted that with full recognition that the NITMAM
20 most likely would not be certified, and it was not
21 certified since there was not an action during the
22 second draft phase that we could attach our NITMAM
23 to. As a result, APA filed the appeal that is
24 before you this morning.

1 So in summary, on at least three occasions, the
2 Standards Council has directed NFPA technical
3 committees that they are not to develop standards
4 regarding the use of consumer fireworks by the
5 public, including two times in the last 12 months.
6 FR-34, which resulted in paragraph 65.3, is in
7 direct conflict with that direction by the council
8 in that it restricts the use of consumer fireworks
9 by the public. The committee response to the appeal
10 and the discussion at the second draft meeting, the
11 language violates decision 14-1 that council should
12 remove the language. Again, you will see that in
13 your agenda item in the committee recommendation.

14 And I would add one final --

15 MR. GOLINVEAUX: You're coming up on time, so
16 make it quick on the summary.

17 MR. KOFFEL. One final note. The action to
18 create public -- or paragraph 65.3 was in response
19 to a public input that did not prohibit the use of
20 consumer fireworks. It put restrictions on it. The
21 committee did not justify in their rationale for
22 65.3 why the use should be prohibited other than to
23 say generically that the use is unsafe by the
24 public.

1 So in summary, APA respectfully requests that
2 NFPA-1, 2021, be issued without paragraph -- the new
3 paragraph 65.3, consistent with the council's
4 decision. Thank you very much.

5 MR. GOLINVEAUX: Thank you, Mr. Koffel. And
6 thank you, Mrs. Heckman.

7 The committee statement is on the record with
8 council, so it doesn't need to be read into the
9 record, so we have that written record from the
10 committee. In that time period, is there anyone
11 else who wants to speak on behalf of the committee
12 action? If you could raise your hand? Mr.
13 Apfelbeck.

14 MR. APFELBECK: Good morning, Council. My name
15 is Tony Apfelbeck. I'm the director of the building
16 and fire safety department for the City of Altamonte
17 Springs, Florida. As I introduced for the record,
18 I'm a member of the NFPA-1 TC, but I'm here only
19 representing myself. I am not representing the TC
20 here today.

21 As Mr. Koffel indicated, I was the author of
22 the original public input that morphed into the
23 first revision on this issue. Rather than
24 discussing the lengthy history of this issue and how

1 it is or is not intertwined in the consumer
2 fireworks retail sale item, I think the question
3 here before you today is a very different, but a
4 simpler one.

5 The question, to me, is does NFPA walk the talk
6 when it comes to our codes and standards matching
7 our public messaging on the use of consumer
8 fireworks by the public? The longstanding position
9 of NFPA has been that fireworks are not safe in the
10 hands of consumers and must be left to the
11 professionals. This is a valid evidence-based
12 position and a long-standing position. This
13 messaging is repeated in NFPA's website, social
14 media platforms, press releases, and almost every
15 venue that NFPA engages in when discussing
16 fireworks.

17 I pulled up a number of sampling of press
18 releases on NFPA's website this morning. These
19 include ones that have headlines "Leave Fireworks to
20 the Professionals." "There's No Safe Way to Use
21 Consumer Fireworks."

22 I also have the actual brochure that is meant
23 for the public on use of fireworks by the public.
24 It says, "Fireworks Are Not Safe in the Hands of

1 Consumers."

2 All of these advocate only use of fireworks by
3 professionals and not members of the public. So
4 there is a glaring omission in NFPA's messaging with
5 respect to this. NFPA's codes and standards are not
6 in line with this messaging. If a jurisdiction
7 adopts the complete NFPA codes and standards set,
8 the use of fireworks by the -- the use of consumer
9 fireworks by the public is legal. If a member of
10 the media was to ask NFPA staff if NFPA model codes
11 and standards prohibit the use of consumer fireworks
12 by the public, the answer would be no, they do not.
13 A follow-up question about why they do not would be
14 a very uncomfortable one for staff to answer and
15 would be difficult to go ahead and pass the
16 straight-face test.

17 One way or another, the NFPA Standards Council
18 will write code on this issue today. Either the
19 Standards Council will allow this language in NFPA-1
20 to stand and bring the codes and standards in line
21 with NFPA's public messaging, or the Standards
22 Council will write code by omission and decide to
23 legalize the use of consumer fireworks by the public
24 in NFPA's model codes and standards by providing no

1 regulation on this issue.

2 Let's be clear. If the Standards Council sides
3 with the appellant on this issue, NFPA is legalizing
4 the use of consumer fireworks by the public in the
5 NFPA codes and standards. Omission of provisions in
6 the codes and standards is legalization of the
7 activity. We would then be failing to walk the talk
8 of the public messaging of NFPA. We need to correct
9 this condition so the codes and standards walk the
10 talk. Based on this simple fact, I'm urging the
11 Standards Council to deny the appeal and allow the
12 NFPA-1 language to be retained in the code. Thank
13 you for your time.

14 MR. GOLINVEAUX: Thank you, Tony. There's a
15 couple minutes left on the committee's side. Does
16 anyone else want to be recognized to speak on behalf
17 of the action of the committee?

18 Seeing none, I will move to questions from
19 council before we move into concluding remarks. And
20 just to remind people, you'll have five minutes.

21 Julie, if you want to refer that to Mr. Koffel,
22 I will allow -- that'll be fine for you to do for
23 the closing comments. And Tony, if you have any
24 closing comments as well, we'll go ahead and

1 recognize you for that, or anybody else.

2 So I'm going to open this up from questions to
3 council. I'm going to start a question off myself
4 to Mr. Koffel. Just trying to read the record and
5 understand the appeal being filed, you know, without
6 the NITMAM, the NITMAM not being certified because
7 it didn't have a -- the second revision comment to
8 it. Simply just an error of missing the first
9 revision was the slip of that, I assume? Can you
10 confirm that, Bill?

11 MR. KOFFEL: That is correct. And we did plan
12 to address that in the second draft meeting by
13 raising the issue and encouraging the committee for
14 a second revision.

15 MR. GOLINVEAUX: Okay. So as far as not
16 submitting a comment to the first revision, it was
17 just a simple error?

18 MR. KOFFEL: Most likely due to
19 miscommunication. It was my understanding all the
20 PIs were to be resolved.

21 MR. GOLINVEAUX: Okay. All right. Just wanted
22 to confirm that. I've got a question from
23 Mr. Quiter.

24 MR. QUITER: Yes. Jim Quiter, member of

1 council. I understand there were submittals made on
2 restrictions of use, but no one has said what those
3 restrictions were. So just to know what the leap
4 from restrictions to banning was, what sort of
5 restrictions were being placed on it in the first
6 comment?

7 MR. GOLINVEAUX: And Jim, who is this question
8 to?

9 MR. QUITER: It's to -- actually, I'd be
10 curious about Tony's answer and Bill Koffel's
11 answer.

12 MR. GOLINVEAUX: All right. And again, when
13 you answer the question, if you can introduce
14 yourself and your affiliation again, and then
15 proceed with the answer.

16 MR. APFELBECK: Tony Apfelbeck, director of
17 building and fire safety for the City of Altamonte
18 Springs.

19 Yes, I was the original author of that public
20 input. And I put the public input on the table to
21 go ahead and address what I consider was a gap.
22 Yes, a lot of jurisdictions do have allowed
23 legalization and use of consumer fireworks, and
24 there was nothing in NFPA codes and standards that

1 addressed the restrictions. Those restrictions
2 would be setbacks with respect to other buildings,
3 with respect to hazards. Would it be on locations
4 that the consumer fireworks could have been used in
5 such as maybe within a public right of way or a
6 public park? What the competence of a certain
7 person that would be lighting it would be? Would
8 they have to be 18 years old? Would they not have
9 to be utilizing under the influence of alcohol or
10 other items?

11 So those kind of items were put on the table
12 within a long list to go ahead and try to address
13 some restrictions regarding the use. And a lot of
14 those were taken and considered from what industry
15 has proposed in bringing forward.

16 MR. GOLINVEAUX: Thank you. Mr. Koffel, do you
17 want to respond to that question as well?

18 MR. KOFFEL: Bill Koffel, consultant to APA. I
19 concur with Tony's -- a summary of the public input.

20 MR. GOLINVEAUX: Okay. Mr. Quiter? Are you
21 good? You're on mute, Jim.

22 MR. QUITER: Yeah, I lowered my hand. Yes, I'm
23 good. Thank you.

24 MR. GOLINVEAUX: Okay. Next question is from

1 Chad Beebe. Mr. Beebe?

2 MR. BEEBE: Chad Beebe, member of council.
3 This question is for Mr. Koffel. You had mentioned
4 that there was a lot of discussion at the second
5 draft meeting about this being a decision that would
6 ultimately be placed on the council to make. Can
7 you provide a little more detail about that
8 discussion, how that went? Was that part of the
9 overall discussion when the comment was made in the
10 committee meeting, or was it a private discussion
11 that happened off side? And kind of who was
12 involved in that discussion?

13 MR. KOFFEL: Yes. Bill Koffel, consultant to
14 APA. As indicated, staff and the committee chair
15 raised to the attention of the committee that there
16 is a potential problem with 65.3 as it relates to
17 the council decision. As a result, there was a
18 motion made for a second revision to delete 65.3.
19 During the discussion of that motion, and we -- the
20 chair did allow me to participate in that
21 deliberation, but during the discussion of that
22 motion, there were multiple members of the committee
23 that stated if 65.3 was in conflict with the council
24 decision, the council should remove the language.

1 And the committee statement that you have from Kathy
2 Stasek (spelled phonetically) essentially says the
3 same thing. The committee determined that it was up
4 to the council to make that decision as to whether
5 the prohibition was consistent with prior decisions
6 of the council.

7 MR. GOLINVEAUX: Okay. Mr. Reiswig?

8 MR. REISWIG: Rodger Reiswig, member of
9 council. I just have a question of Mr. Apfelbeck.
10 You made the comment about by not having the
11 language, NFPA would be legalizing the usage of the
12 fireworks. If the language wasn't in there before,
13 has something else been added that maybe we're not
14 aware of to make you say that?

15 MR. APFELBECK: No, nothing's been added, but
16 the issue hasn't been really addressed before in
17 this particular manner. So previously, a
18 jurisdiction that did adopt any of the NFPA codes
19 and standards, an entire set, use of consumer
20 fireworks would be legal. So now the decision is
21 before the council to actually make that decision.
22 Do you legalize consumer fireworks within the codes
23 and standards set by omission and not address this
24 issue, or do you prohibit it? So nothing has

1 changed with respect to the prohibition in the past.
2 This is new language and a new issue to be
3 discussed.

4 MR. REISWIG: Thank you.

5 MR. GOLINVEAUX: Okay. I am not seeing any
6 further questions from council at this point. Does
7 anyone else have a question I need to address before
8 I move on?

9 Not seeing any, I'm going to now move into the
10 five-minute response period.

11 Ms. Heckman, are you going to default to
12 Mr. Koffel, or would you like to do the closing
13 statement or combine the time? You have five
14 minutes.

15 MS. HECKMAN: I would like to defer to
16 Mr. Koffel, please.

17 MR. GOLINVEAUX: Thank you. Mr. Koffel?

18 MR. KOFFEL: Yes. Bill Koffel, code consultant
19 to APA. The first thing I'd like to raise -- and
20 this is more for the record. As I've been following
21 this meeting, it appears as if Mr. Apfelbeck's
22 comments have been included in the section of the
23 record that says he's speaking on behalf of the
24 committee, but I know he specifically said he was

1 not. I believe his comments would be more
2 appropriately placed in the record as being opposed
3 to the appeal.

4 With regard to his comments about NFPA's policy
5 on consumer fireworks, we fully understand that, but
6 the council's position has been that technical
7 committees may not develop code or standard language
8 that would allow for the safe use, sale, and storage
9 of consumer fireworks, and yet, the committee
10 developed language that would prohibit the use of
11 consumer fireworks. We don't think you can have it
12 both ways. You have to allow the discussion to go
13 on both sides of the issue. You can't limit it to
14 just on a prohibition.

15 To Mr. Apfelbeck's comments about the language
16 in NFPA-1, there are, I believe, and Julie can
17 correct me if I'm wrong, 49 states that allow
18 consumer fireworks to some extent. It varies from
19 state to state. NFPA made a decision several years
20 ago, decision 14.1, to not write codes and standards
21 that address consumer fireworks. We believe 65.3 is
22 inconsistent with that decision. There's nothing in
23 that language that legalizes the use of consumer
24 fireworks if 49 of the states already allow the use

1 of consumer fireworks by state law or regulation
2 that would supercede any of the language in NFPA-1.

3 And I'll turn it back to time remaining to
4 Julie if she wants to add any comments to that.

5 MS. HECKMAN: Thank you, Bill. I just want to,
6 you know, reiterate, you know, I am a member of the
7 NFPA Technical Committee on Pyrotechnics, and we did
8 ask for return of scope. And every time we've
9 requested anything on -- to deal with consumer
10 fireworks, we have been referred back to Standards
11 Council decision 14-1 saying no technical committee
12 of the NFPA has scope to address consumer fireworks.

13 And I'd also like to support the statement that
14 Bill made. There are 49 states, plus the District
15 of Columbia and Puerto Rico, that allow the sale and
16 use of some type of consumer fireworks. So
17 regardless of how the council approaches this, it
18 wouldn't be creating a regulation by default. The
19 states aren't going backwards. Consumer safety has
20 improved dramatically. We're here not to advocate
21 for a prohibition or use, but to say what's fair is
22 fair. And if no committee is allowed to address
23 consumer fireworks, then this provision in NFPA-1
24 needs to be removed.

1 I'm really grateful for being here today. I
2 want to thank the council for their time.

3 MR. GOLINVEAUX: Okay. And thank you very
4 much. And just, Bill, you had made a comment. The
5 only record from the committee was written into the
6 record, and council has that in front of them, so
7 Tony is just opposing the appeal.

8 So Tony, I'll let you finish up with any final
9 arguments before I go into closing.

10 MR. APFELBECK: Tony Apfelbeck, director of
11 building and fire safety for the City of Altamonte
12 Springs. I'm going to go ahead and just stand on my
13 previous statement and the record. Thank you.

14 MR. GOLINVEAUX: Okay. Thank you. As we
15 conclude the hearing, let me inform you to what
16 happens next.

17 The council will deliberate and reach its
18 decision in executive session. Once the decision is
19 made, that decision, including background of any
20 other information council believes relevant, will be
21 prepared by NFPA staff and published by the
22 secretary of the Standards Council on the Standards
23 Council web page. That's at www.nfpa.org/sc, and in
24 accordance with the regulations governing the NFPA

1 standards.

2 Additionally, the decision will be sent to the
3 appellants and the chair of the responsible
4 committees directly. The official opinion and
5 decision of council is at the published by the -- I
6 apologize.

7 The official opinion and decision of the
8 council is that -- as published by the secretary,
9 and no other communication shall be considered the
10 council's decision or position. Any question
11 regarding the decision should be addressed with the
12 secretary.

13 On behalf of the NFPA Standards Council, I'd
14 like to thank all of you who participated in today's
15 appeal hearing. Your involvement, as well as the
16 stakeholders', is important to the NFPA standards
17 development process. This hearing is now ended and
18 we will officially go off the record. Thank you
19 guys very much. Council will be removing themselves
20 from this venue at this point.

21 (Whereupon, the hearing was concluded at 11:32
22 a.m.)

23

24

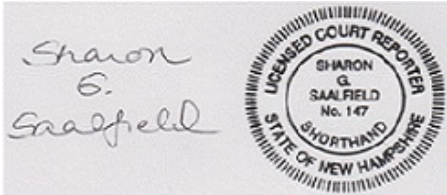
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C E R T I F I C A T E

I, Sharon G. Saalfield, a Licensed Shorthand Reporter for the State of New Hampshire, Certified Shorthand Reporter for the Commonwealth of Massachusetts, Registered Merit Reporter and Certified Realtime Reporter, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes of the proceeding taken at the place and on the date hereinbefore set forth to the best of my skill and ability under the conditions present at the time.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this proceeding was taken, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

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