



November 25, 2019

International Association of Plumbing and Mechanical Officials

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Richard Church, Executive Director
Plastic Pipe and Fittings Association
800 Roosevelt Road, Building C, Suite 312
Glen Ellyn, IL 60137

Re: IAPMO Standards Council Decision Docket #01-21
Date of Decision: November 25, 2019*
2021 Uniform Mechanical Code – Section 602.2 and Table 1701.1
Item # 050

Dear Mr. Church:

I am transmitting to you herewith the following decision of the IAPMO Standards Council.

At 10:00 a.m. at their meeting on November 14, 2019, the IAPMO Standards Council considered your appeal requesting publication of the 2021 Uniform Mechanical Code and the above-referenced code sections as proposed to be amended by Public Comment 1 to Item #50. This decision provided herein reflects the complete deliberation of the Council with respect to this Item.

Summary of Technical Committee Actions

For a summary of actions taken with respect to the Item at issue please refer to Exhibit A attached hereto.

Analysis of Appeal

Appellant has raised issues to the Standards Council concerning the technical merit and procedural development of the Technical Committee action on the Public Comment submitted for Item #50. Accordingly, Appellant's relief requested of the IAPMO Standards Council is to override the results recommended by the development process and to issue the 2021 edition of the *Uniform Mechanical Code* with Sections 602.2 and Table 1701.1 amended as set forth in the Proposal.

On an appeal, the Standards Council accords great respect and deference to the IAPMO 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 appeal and has considered all the arguments raised by it.

I. Analysis of Appellant's Arguments Relating to the Technical Committee Meeting of May 2019

Appellant asserts that written material in the form of a certain extraneous document was distributed to members of the UMC Technical Committee during the Committee's meeting in Denver, Colorado on May 1-2, 2019. The Standards Council has no way to determine whether this is true; the Council has been presented with no corroborating evidence. One Technical Committee member testified in opposition to the Appeal and on this issue specifically offering testimony that only cast more doubt in the assessment of the Council.

On this issue, Appellant has not asserted a procedural violation even assuming Appellant's testimony to be true.¹ The Standards Council determines, contrary to the Appellant's written appeal and oral testimony, it is not accurate to say a document was "inappropriately inserted into the process" as the document provided as Attachment A to Appellant's written appeal was not part of the official record prior to this appeal. IAPMO staff did not distribute the document to the TC, nor was it included by IAPMO staff as part of the record related to this Item. The point is, as a matter of practical necessity the Regulations Governing Committee Projects can only govern the matters within the process. The extraneous document referred to by Appellant was not part of the development process at all.

¹ Appellant offers Regulations §§ 3-3.2.2, 3-3.3.3, 3-3.5.3; each section is inapt.

Concurrent with Appellant's identification of extraneous written material the Appellant offers the Council blind quotes from the TC meeting. The Council cannot, and will not, measure the veracity of these quotes.² It is not the proper function of this Council to adjudicate whether the Technical Committee was provided false information, whether delivered by testimony from the public or otherwise. Any such discussion of facts and technical merit is within the bounds of the Committee's functions and the Regulations.

Substantively, because the TC action in 2019 at the Comment stage was consistent with the TC action in 2018 at the Proposal stage, the illicit document seemingly had no effect. At all times the Technical Committee had full opportunity to debate the Public Comment; Appellant is a member of the Technical Committee. Furthermore, there is no indication anywhere in the record that the Technical Committee relied in any way on statements made in the extraneous document.

In the view of the Council, the evidence in the record on the issue of the extraneous document does not provide any clear and substantial basis on which to overturn the results recommended by the IAPMO codes and standards development process.

II. Analysis of Appellant's Substantive Arguments

Appellant has identified to the Council standards similar, practically identical, to UL 2846-2014 that are referenced already in the Uniform Mechanical Code.³ The Council accepts this assertion as true for the purposes of adjudicating this appeal. Appellant contends that the very existence of those similar standards as referenced standards in the UMC dictates that UL 2846-2014 *must* be allowed as a referenced standard, too. Of course, the presence (or absence) of similar standards in other sections of the Document does not serve to deny the Technical Committee the opportunity to decide on the inclusion of UL 2846-2014 on its own merits. The presence of similar standards is not compelling justification for the Council to upset the voluntary consensus development process.

III. Analysis of Appellant's Procedural Arguments

Appellant contends that the UMC Technical Committee action and Assembly action create a conflict.

The Council takes note of the ANSI definition of a "conflict":

Conflict within the ANS process refers to a situation where, viewed from the perspective of a future implementer, the terms of one standard are inconsistent or incompatible with the terms of the other standard such that implementation of one standard under terms allowable under that standard would preclude proper implementation of the other standard in accordance with its terms.⁴

In applying this specific definition of a "conflict" to the facts presented by Appellant, the Council does not find any instance of a conflict nor is there evidence that would support a contrary conclusion.⁵ IAPMO was not contacted by NFPA nor UL about a potential conflict in need of resolution by the developers pursuant to ANSI's *Essential Requirements*.

Appellant asserts that the Mechanical Technical Committee Statements accompanying the rejection of Public Comment 1 "failed to provide an adequate explanation or support for its decision to reject the inclusion of UL 2846 in the UMC." When assessing adequacy of a TC statement the Council will look to the provision of the Regulations governing this issue: Section 4-4.6.3. That Section defines the

² The Council notes that one of the primary purposes of in person meetings of the TC is to engage in discussion. The Standards Council is in no position to pass judgment on the content of the TC's discussions, and the deliberations are not recorded nor transcribed.

³ Appellant has identified: NFPA 262 (edition not cited), UL 1887 (edition not cited), UL 1820 (edition not cited)

⁴ ANSI Essential Requirement 2.4.1

⁵ Appellant states twice in its papers in a conclusory manner that the absence of UL 2846 from the UMC creates a conflict with NFPA standards and UL standards without explaining.

responsibility of the TC, and that Section does not go as far as Appellant would seemingly desire for “adequate explanation or support.” Upon review of the full record, the Council finds no procedural violation here.⁶ The Council notes that Appellant presented his rebuttal to the Assembly at the Association Technical Meeting.

Final Decision

In consideration of the aforesaid, the Standards Council denies Appellant’s request for relief regarding the actions taken by the Mechanical Technical Committee on Item #50. The Council does not overturn the result recommended by the consensus process. The effect of this decision is that the Committee’s final actions with respect to Item #50 will be included within the 2021 edition of the *Uniform Mechanical Code* as more specifically set forth in Exhibit B.

Sincerely,



Gabriella Davis
Secretary, Standards Council

cc: Monte Bogatz, Executive VP, General Counsel
Heather Koffman, VP, Associate General Counsel
Hugo Aguilar, VP, Codes and Standards
Zalmie Hussein, Staff Liaison
Mechanical Technical Committee
Standards Council
Gary Morgan, Borealis
Bill LeVan, CISPI
Dave Parney, CISPI
Dave Mann

***NOTE:** Participants in IAPMO’s codes and standards making process are advised that limited review of this decision may be sought from the IAPMO Board of Directors. For the rules describing the available review and the method for petitioning the IAPMO Board of Directors for review, please consult Section 1-7 of the *IAPMO Regulations Governing Committee Projects* and the *IAPMO 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 Petitions Clerk of the Board of Directors within 15 calendar days of the Date of Decision noted in the subject line of this letter.** As the *Uniform Mechanical Code* is designated as an American National Standard (ANS), any persons who have directly and materially affected interests by this decision have the right to appeal to ANSI in accordance with ANSI procedures.

⁶ Regulations § 4-4.6.3 requires: “The TC action on Comments ‘accepted as amended,’ ‘rejected,’ or ‘held’ shall include a statement, **preferably technical in nature**, on the reason for the TC action. Such statement shall be sufficiently detailed so as to convey the TC’s rationale for its action so that rebuttal may, if desired, be offered when the Committee presents its Technical Committee Report to the Association for consideration.” [emphasis added]

Exhibit A

Summary of Technical Committee Actions Appeal Docket 01-21; Item #050

2021 Uniform Mechanical Code, Section 602.2 and Table 1701.1

The 2018 Report on Proposals (ROP) published the results of the first committee ballot on Item #050, a code change proposal requesting to include a new Exception (9) to Section 602.2 “Combustibles Within Ducts or Plenums,” and to include *UL 2846-2014 “Fire Test of Plastic Water Distribution Plumbing Pipe for Visible Flame and Smoke Characteristic (with revisions through December 20, 2016)”* in Table 1701.1.

At the Technical Committee meeting in Ontario, CA, a majority of the committee members were in support of rejecting this proposal as submitted. Upon written ballot of the Mechanical Technical Committee, they affirmed their desire to reject the code change proposal.

At their second Technical Committee meeting in Denver, CO, a majority of the committee members were in support of rejecting Public Comment 1, which was the only comment received on this item. Upon written ballot of the Mechanical Technical Committee, they affirmed their decision to reject Public Comment 1.

The 2019 UMC Report on Comments (ROC) published the results of the second and final committee ballot on Public Comment 1, with a vote of 20 Affirmative; 4 Negative; 1 Abstain; 1 Not Returned.

At the Association Technical Meeting Convention in Reno, NV, a motion was made to approve Item #050 Public Comment 1 as submitted. The motion failed.

There was no further action taken on this item, thus the process recommendation is the committee’s final action as published in the ROC, which will not include a new Exception (9), nor include *UL 2846-2014 “Fire Test of Plastic Water Distribution Plumbing Pipe for Visible Flame and Smoke Characteristic (with revisions through December 20, 2016)”* in Table 1701.1.

Exhibit B
Result for #01-21

The 2021 Uniform Mechanical Code at Section 602.2 will include the same Exceptions (1) – (8) as noted in the previous edition:

602.2 Combustibles Within Ducts or Plenums. Materials exposed within ducts or plenums shall be noncombustible or shall have a flame spread index not to exceed 25 and a smoke-developed index not to exceed 50, where tested as a composite product in accordance with ASTM E84 or UL 723. Plastic piping installed in plenums shall be tested in accordance with all requirements of ASTM E84 or UL 723. Mounting methods, supports and sample sizes of materials for testing that are not specified in ASTM E84 or UL 723 shall be prohibited.

Exceptions:

- (1) Return-air and outside-air ducts, plenums, or concealed spaces that serve a dwelling unit.
- (2) Air filters in accordance with the requirements of Section 311.2.
- (3) Water evaporation media in an evaporative cooler.
- (4) Charcoal filters where protected with an approved fire suppression system.
- (5) Products listed and labeled for installation within plenums in accordance with Section 602.2.1 through Section 602.2.3.
- (6) Smoke detectors.
- (7) Duct insulation, coverings, and linings and other supplementary materials installed in accordance with Section 605.0.
- (8) Materials in a hazardous fabrication area including the areas above and below the fabrication area sharing a common air recirculation path with the fabrication area.

Table 1701.1 will not include *UL 2846-2014 "Fire Test of Plastic Water Distribution Plumbing Pipe for Visible Flame and Smoke Characteristic (with revisions through December 20, 2016)"*.

**IAPMO Regulations Governing Committee Projects
Section 1-7**

1-7 Petitions to the Board of Directors.

1-7.1 General. The Standards Council has been delegated the responsibility for the administration of the codes and standards development process and the issuance of Documents. However, where extraordinary circumstances requiring the intervention of the Board of Directors exist, the Board of Directors may take any action necessary to fulfill its obligations to preserve the integrity of the standards development process. Anyone seeking such intervention of the Board of Directors may petition the Board of Directors concerning Standards Council action on any matters. Such petitions shall be filed and processed in accordance with the Regulations Governing Petitions to the Board of Directors from Decisions of the Standards Council.

1-7.2 Notice of Intent to File the Petition. Anyone wishing to petition the Board of Directors concerning an Standards Council action related to the issuance of a document, shall file a Notice of Intent to File a Petition within 15 days following the Standards Council action. A Standards Council action related to the issuance of a document includes any action of the Council that issues or returns a Document or that affects the text of a Document. Petitions concerning other Standards Council actions shall be filed within a reasonable period of time.

1-7.3 Effect of Filing. The filing of a Petition will not serve to stay the effective date of a Document or a Tentative Interim Amendment unless the Chief Executive Officer of the Association or the Board of Directors acts, pursuant to 4-7.2 or 5-6, to delay the effective date. Any Petition pending at the time a Document or Tentative Interim Amendment becomes effective will be treated as a Petition to withdraw the Document or Tentative Interim Amendment.

1-8 Use of Visual Aids and Demonstrations Before the Standards Council or Board of Directors. The policy for the use of visual aids and physical demonstrations to the Standards Council and Board of Directors shall be the same as that required for TCCs, TCs, and Task Groups, in accordance with 3-3.3.3(e) and 3-3.3.3(f).

**IAPMO Regulations Governing Petitions to the Board of Directors
from Decisions of the Standards Council**

ADOPTED BY THE IAPMO BOARD OF DIRECTORS SEPTEMBER 4, 2000. Amended in January 2007.

Section 1 Scope of and Authority for these Regulations.

- (a) These regulations have been issued by the Board of Directors pursuant to its authority under Article 5, 6 and 8 of the IAPMO Bylaws.
- (b) These regulations set forth the procedures to be used for the filing and processing of all petitions to the Board of Directors filed pursuant to 1-7 of the Regulations Governing Committee Projects.
- (c) The Board of Directors can amend these regulations from time to time and waive or supplement, in whole or in part, at any time or times at its discretion.
- (d) For the purposes of these regulations, the Standards Council Secretary, or such other person as the Chair of the Board of Directors may appoint, shall act as a petitions clerk.

Section 2 Subcommittees of the Board of Directors. Unless the Board of Directors otherwise orders, the authority to consider and make recommendations on the disposition of a petition by the Board of Directors shall be delegated to a subcommittee of the Board of Directors, which shall be appointed, in accordance with 2.1 of these regulations. Subcommittees shall be appointed by the Chair of the Board of Directors.

2-1 Composition of Subcommittees. Subcommittees shall consist of three or more members of the Board of Directors. The criteria for selection and appointment of subcommittee members shall be as follows:

- (a) A subcommittee member shall be a person who can decide the petition on the merits in an impartial manner.
- (b) A subcommittee member shall not have any conflict of interest. (A conflict of interest is defined as any situation in which a decision on a petition could substantially and materially affect the member's financial or business interest.)
- (c) Each subcommittee member shall, to the extent practicable, represent diverse interests within the association.

In making a decision of whether or not to serve on a subcommittee, the member may consult with the IAPMO general counsel.

Section 3 The Scope of Review. The petitioner shall generally confine the argument in the petition to matters that were presented below and shall not raise any new matters that could have but were not presented within the standards development process. A petition to the Board of Directors shall not be regarded as simply another opportunity to reargue a position that was rejected by the Standards Council. In considering a petition, the subcommittee shall give due deference to the judgment of the Standards Council and shall not intervene unless it can be demonstrated that extraordinary circumstances exist requiring the Board of Director's intervention to protect the integrity of the standards development process.

Section 4 The Record. In its consideration of the petition, the subcommittee shall have before it the entire record that was before the Standards Council, as well as all proceedings and decisions of the Standards Council on the issue. In addition, the subcommittee may consult any other records of the association that it deems pertinent to the issue, and the subcommittee may seek technical assistance from staff, the technical committee, or any other source or persons that it deems appropriate.

Section 5 Notice of Intent to File the Petition. Anyone wishing to petition the Board of Directors concerning a Standards Council action related to the issuance of a document, shall file a Notice of Intent to File a Petition within 15 days following the Standards Council action. A Standards Council action related to the issuance of a document includes any action of the Council that issues or returns a document or that affects the text of a document. Petitions concerning other Standards Council actions shall be filed within a reasonable period of time.

Section 6 Filing and Contents of the Petition.

- (a) Within 15 days following the receipt of the notice of intent to file, or within such other time as the petitions clerk may allow, the petitioner shall file the petition together with 20 copies. The petition shall be no more than 10 pages in length and shall contain, in separately denominated sections, the following:
 - (1) Name, affiliation, and address of the petitioner;
 - (2) Statement identifying the particular Standards Council action to which the petition relates;
 - (3) Argument setting forth the grounds for the petition and, in particular, addressing why there exist extraordinary circumstances requiring the intervention of the Board of Directors (see the preceding Section 3 and 1-7 of the Regulations Governing Committee Projects); and
 - (4) Statement of the precise relief requested.
- (b) Any part of the record related to the standards development process that is referenced or discussed in the petition should be clearly cited in the petition using available markings such as the title, author, date, and page of the record. Since the full record will be available to the subcommittee during its review, attachments and appendices shall not accompany the petition, unless express permission has been obtained from the petitions clerk.

Section 7 Consideration of the Petition.

7-1 Initial Review. The petitions clerk may, at his or her discretion, arrange for initial review of the petition by meeting, correspondence, or telephone conference. If upon such initial review of the petition and any

relevant portions of the record, the subcommittee determines that the petition has no merit, it may dismiss the petition.

7-2 Full Review. If initial review is not conducted, or, if upon such review, the subcommittee determines that further review is warranted, it shall afford the opportunity for responses to be filed by interested parties. Responses, together with 20 copies, shall be filed within 15 days or within such other time as the petitions clerk may allow.

(a) Responses shall be no more than 10 pages in length and shall contain, in separately denominated sections, the following:

(1) Name, affiliation, and address of the respondent;

(2) Statement identifying the petition to which the response relates and stating whether the respondent supports or opposes the petition; and

(3) Argument setting forth the grounds for opposing or supporting the petition and, in particular, addressing why there does or does not exist extraordinary circumstances requiring the intervention of the Board of Directors (see the preceding Section 3 and 1-7 of the Regulations Governing Committee Projects).

(b) Any part of the record related to the standards development process that is referenced or discussed in a response should be clearly cited in the response using available markings such as the title, author, date, and page of the record. Since the full record will be available to the subcommittee during its review, attachments and appendices shall not accompany the response, unless express permission has been obtained from the petitions clerk.

(c) So as to avoid unnecessary repetition and duplication of effort, parties are encouraged to file joint responses where possible and appropriate.

(d) Unless a hearing has been requested and granted by the subcommittee (see Section 8), the subcommittee shall, either by meeting or telephone conference, review and render a decision on the petition based on the written submissions of the parties and the record before it.

Section 8 Requests for Hearings. If the petitioner requests a hearing on the petition and that hearing is granted, the petitioner shall be assessed a filing fee of \$2,500 to be posted following the granting of the request. This fee may be reduced or waived by the Chief Executive Officer upon application of the petitioner if good cause for reducing or waiving the fee is presented. If a hearing is granted, the Procedures for Hearings shall be followed.

Section 9 Waiver of Regulations. Any of the deadlines or requirements set forth in these regulations may be waived by the subcommittee upon application of the petitioner or any other party for good cause shown, or in the discretion of the subcommittee.

Section 10 Subcommittee Report to the Board of Directors. The subcommittee shall file with the Board of Directors a written report concerning each petition that it has determined.