

November 21, 2008

Jack Beuschel, President
Studor Inc.
11256 47th Street North
Clearwater, FL 33762

Re: IAPMO Standards Council Decision Docket #1153-09
Date of Decision: November 14, 2008*
Uniform Plumbing Code – Sections 203.0, 906.1, 911.0 & Chapter 14, Table 14-1
Items #3, #134, #139, #195

Dear Mr. Beuschel:

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

At its meeting of November 13 – 14, 2008, the IAPMO Standards Council considered your appeal on behalf of Studor Inc. requesting the acceptance of proposal Items #3, #134, #139, and #195 contained in the 2007 Report on Proposals (ROP) seeking to include air admittance valves in Sections 203.0, 906.1, 911.0 and Table 14-1 of the 2009 edition of the *Uniform Plumbing Code*. All of the ideas contained within these proposals were considered by the Plumbing Technical Committee in the 2007 Report on Proposals and the committee decided to modify – for the reasons set forth in Item #239 in the ROP – all of the requests of Appellant by creating a new section in Appendix L of the 2009 edition of the *UPC* embracing, in effect, the proposals requested by Appellant. The proposals as submitted by Appellant are as follows:

Item #3:

203.0

Air Admittance Valves – One-way valves designed to allow air to enter the plumbing drainage system when negative pressures develop in the piping system. The device shall close by gravity and seal the vent terminal at zero differential pressure (no flow conditions) and under positive internal pressures. The purpose of an air admittance valve is to provide a method of allowing air to enter the plumbing drainage system to prevent siphonage of plumbing fixture traps.

Item #134:

906.1 Each vent pipe or stack shall extend through its flashing and shall terminate vertically not less than six (6) inches (152 mm) above the roof nor less than one (1) foot (305 mm) from any vertical surface.

Exception: Individual, branch and stack vents shall be permitted to terminate to an air admittance valve in accordance with Section 911.

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Item #139:

911.0 Air Admittance Valves.

911.1 Where Permitted. An individual vent, branch vent, vent stack or stack vent shall be permitted to terminate with a connection to an air admittance valve. Air admittance valves shall be installed in accordance with the manufacturer's installation instructions and this section.

911.2 Individual and branch type air admittance valves. Individual and branch type air admittance valves shall only vent fixtures located on the same floor level.

911.3 Installation requirements. Fixtures being vented by individual or branch type air admittance valves shall connect to a horizontal drainage branch that meets one of the following requirements:

- a. The horizontal branch shall connect to the drainage stack or building drain a maximum of thirty five (35) feet from the top of the stack, or
- b. The horizontal branch shall be provided with relief vent, not less than one and one-half (1½) inches in diameter. The relief vent shall connect to a vent that extends to the outdoor air. The relief vent shall be located between the fixture(s) vented by the air admittance valve and the connection to the stack.

911.4 Stack type air admittance valves. Stack type air admittance valves shall be permitted to vent fixtures on different floor levels.

911.5 Maximum stack height. The maximum stack height of a drainage stack being vented by an air admittance valve shall be fifty (50) feet.

911.6 Location. Individual and branch type air admittance valves shall be located not less than four (4) inches above the horizontal pipe of the trap arm. Stack type air admittance valves shall be located not less than six (6) inches above the flood level rim of the highest fixture being vented. Air admittance valves shall be located within the maximum developed length permitted for the vent piping. Air admittance valves shall be located not less than six (6) inches above building insulation material.

911.7 Access and ventilation. All air admittance valves shall be accessible and located within a space that allows air to enter the valve.

911.8 Size. The air admittance valve shall be rated for the size of the vent to which it is connected.

911.9 Vent to outdoors. A minimum of one vent shall extend outdoors to the open air for every plumbing system.

911.10 Limitation of insulation. Air admittance valves shall not be installed on special waste systems and shall not be located within supply or return air plenums.

Item #195:

Table 14-1

Standard Number	Standard Title	Application
<u>ASSE 1050-2002</u>	<u>Stack Air Admittance Valves For Sanitary Drainage Systems</u>	<u>DWV Components</u>
<u>ASSE 1051-2002</u>	<u>Individual and Branch Type Air Admittance Valves for Sanitary Drainage Systems</u>	<u>DWV Components</u>

In response to the committee's action, Appellant and others submitted multiple comments, including comment sequences #1, #59, #62, and #88 in the 2008 Report on Comments (ROC). Appellant requested that the committee accept his original proposals to include air admittance valves in Sections 203.0, 906.1, 911.0 and Table 14-1 rather than in Appendix L, while others requested that the committee not include air admittance valves in Appendix L or the body of the code. All of the arguments made by the various commenters are summarized in the aforesaid Comment Sequence numbers in the ROC.

In response to all of the comments, the committee reaffirmed its earlier action placing air admittance valves into Appendix L of the proposed 2009 edition of the *Uniform Plumbing Code*.

At the September Association Technical Meeting Convention, a successful motion was made – for the reasons set forth at the convention – to accept Comment Sequences #1 (Public Comment 1) and #88 thereby reversing the aforesaid action of the Plumbing TC resulting in the omission of air admittance valves from Appendix L of the 2009 edition of the *UPC*. Appellant failed to make any motions at the Association Technical Meeting Convention seeking to include his proposals in the body of the code.

The matter (Items #3 and #195) was then balloted to the TC in accordance with the Regulations Governing Committee Projects and the amendment ballot failed to achieve committee consensus resulting in a process-based recommendation to not include air admittance valves in Appendix L of the 2009 edition of the *UPC*.

In accordance with Section 4-6.1 of the Regulations Governing Committee Projects, a floor amendment such as this that fails the subsequent TC ballot indicates that consensus has not been achieved and results in a recommendation that the portion of the report modified by the association recommended amendment be returned to the TC and any existing text to which the returned portion pertains shall stand. Where no previous edition text exists, the proposed text is deleted. This process-based recommendation conforms with the amendment recommended by the IAPMO membership.

On an appeal, the Standards Council accords great respect and deference to the IAPMO codes and standards development process. Appellant contends that Sections 3-3.6 and 3-3.7 of the IAPMO Regulations Governing Committee Projects requires the Standards Council to overturn the result recommended by the process because, in Appellant's opinion, insufficient technical data has been provided to justify the rejection of these proposals by the process-based result. Section 3-3.6 of the IAPMO Regulations states:

3-3.6 Document Content. *Each TC shall, as far as practicable, prepare Documents in terms of required performance avoiding specifications of materials, devices, or methods so phrased as to preclude obtaining the desired results by other means. It*

shall also base its recommendations on one or more of the following factors; namely, plumbing and/or mechanical experience, research data, engineering fundamentals, or other such information as may be available.

The Standards Council's review of the entire record provides ample technical support for the process-based recommendation to return the issue to the committee and to utilize the existing text from the 2006 edition of the *UPC* for the 2009 edition.

Appellant further contends that Section 3-3.7 of the IAPMO Regulations requires the inclusion of air admittance valves in the *UPC* by virtue of the existence of American National Standards relating to air admittance valves. Section 3-3.7 of the IAPMO Regulations states:

3-3.7 Reference Standards and Publications.

3-3.7.1 Mandatory Reference Standards in IAPMO Codes and Standards.

3-3.7.1.1 Mandatory standards referenced in IAPMO Codes and Standards shall be written using mandatory language and shall be identifiable by title, date or edition, and name of the developing organization. An original copy of the reference standard shall be on file at IAPMO Headquarters if not readily available from other sources. See also 3-3.7.4, 4-3.3, and 4-4.5.

3-3.7.1.2 Mandatory Standards referenced in IAPMO Codes and Standards shall be developed via an open process having a published development procedure. The development procedure shall include a means for obtaining divergent views, if any. The development procedure shall include a means of achieving consensus for the resolution of divergent views and objections.

3-3.7.1.3 Mandatory standards referenced in IAPMO Codes and Standards not complying with 3-3.7.1.2 are permitted. However, in such instances the TC shall determine that the mandatory standard is appropriate for reference. The TC shall verify the standard is written in mandatory language, is identifiable by title, date or edition, and developing organization, and that it is readily available. Any mandatory standard proposed for reference on the basis of this paragraph shall be specifically identified as not complying with 3-3.7.1.2 in a ROP or ROC.

3-3.7.2 Nonmandatory Reference Standards in IAPMO Codes and Standards. *Reference standards that do not comply with 3-3.7.1 shall only be referenced as nonmandatory standards and shall only be included as advisory material in an IAPMO Code or Standard.*

3-3.7.3 Nonmandatory Referenced Publications in IAPMO Guide Documents and Recommended Practices. *Publications referenced in IAPMO Guide Documents and Documents establishing recommended practices shall be subject to 3-3.7.4.*

3-3.7.4 Reference to Other IAPMO Documents or Documents Published by Other Organizations. *When a reference is made in a Technical Committee Report to another IAPMO Document or other publications prepared by any organization,*

such a reference shall contain the title, date or edition, name of the developing organization and preferably the specific parts of the Document to which reference is made. TCs shall include such references only after review of such Documents or publications, satisfying themselves that the references are adequate and appropriate. An original copy of the reference Document shall be on file at IAPMO Headquarters, if not readily available from other sources.

As previously noted by this Standards Council in prior development cycles, and as noted by IAPMO in various ANSI appeals pursued by Appellant, Section 3-3.7 of the IAPMO Regulations does not require the inclusion in the *UPC* of any and all devices which may be within the scope of American National Standards. Thus, contrary to Appellant's contentions, the mere existence of ANSI/ASSE 1050, ANSI/ASSE 1051 and NSF 14 for air admittance valves does not require inclusion of air admittance valves in the *Uniform Plumbing Code*.

In conducting its review, the Council will overturn the result recommended through the 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 of the arguments raised by it and no clear and substantial basis has been presented on which to overturn the results recommended by the IAPMO codes and standards development process. Accordingly, the Council has voted to deny this appeal.

Sincerely,



Gabriella Davis
Secretary, Standards Council

cc: Neil Bogatz, General Counsel
Lynne Simnick, Director of Code Development
Members, Plumbing Technical Committee
Members, Standards Council
Julius Ballanco, Interested Party
Leonard Ramociotti, Interested Party
Bob Adler, Interested Party

***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. **Due to the Thanksgiving Holiday, petitions will be accepted through December 3, 2008.** As this document is being submitted to the American National Standards Institute (ANSI) for designation 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.

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 Executive Director 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 Executive Director 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.