



November 21, 2017

To: Interested Parties

CC: Ralph Koerber, Air Diffusion Council
Jeff Shapiro, International Code Consultants
Chris Van Rite, M&M Manufacturing Co.

Re: IAPMO Standards Council Decision Docket #02-18
Date of Decision: November 21, 2017
Uniform Mechanical Code – Section 603.4.1
Item #072

To Whom It May Concern:

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

At 10:00 a.m. at their meeting on November 15, 2017, the IAPMO Standards Council considered the automatic appeal pertaining to Item #072 and the above referenced Section. The Council notes that three other appeals (02-18A, 02-18B, 02-18C) were consolidated into the instant Automatic Appeal.

This decision provided herein reflects the complete deliberation of the Council with respect to Item #072.

Summary of Technical Committee Actions

For a complete recital of actions taken with respect to Item #072 please refer to Exhibit A attached hereto.

The Standards Council recognizes that the consensus body – the Mechanical Technical Committee – initially accepted a Proposal to delete the exception for residential occupancies set forth in Section 603.4.1. The Council recognizes that the following year the TC effectively contradicted itself with the approval of Public Comment #2, which recommended rejection of the Proposal.

The Council recognizes that while the Technical Committee approach has been inconsistent, the Association has consistently spoken in favor of the Proposal to eliminate the exception for residential occupancies, expressing its final opinion at the Association Technical Meeting Convention in Anchorage, Alaska in September 2017. The subsequent Technical Committee ballot did not achieve the required two-thirds majority vote; the Mechanical Technical Committee therefore did not accept the recommendation of the Association. This was the final vote of the consensus body.

Analysis of Appeal

On an appeal, the Standards Council accords great respect and deference to the development process prescribed in the ANSI-accredited IAPMO *Regulations Governing Committee Projects*. 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 recognizes that at the Association Technical Meeting in Anchorage the Association overwhelmingly passed a motion to accept Public Comment #1 to delete the Exception in Section 603.4.1. This action was subsequently balloted through the Mechanical TC and failed, which resulted in a process-based recommendation to maintain the Exception in Section 603.4.1 in the 2018 edition of the *Uniform Mechanical Code*. The Council is not compelled by the written or oral testimony submitted to take action which would overturn the result recommended through the development process.

In summary, taken altogether, the evidence in the record does not provide a clear and substantial basis on which to overturn the results recommended by the IAPMO codes and standards development process.

Further, the Council notes its August 31, 2017 decision on TIA UMC-005-15 wherein the Council issued a Tentative Interim Amendment which amended Section 603.4.1. In that decision (see attached), the Council noted:

The Regulations at Section 5-8 states, “TIA’s issued after the proposal closing date shall also apply, *where the text of the existing document remains unchanged*, to the next edition of the Document.” [emphasis added] If through the conclusion of the Association Technical Meeting Convention and subsequent TC balloting and all appeals, Section 603.4.1 of the 2018 UMC maintains the text of the 2015 edition of the UMC then, in accordance with the Regulations, TIA UMC-005-15 shall also apply to the 2018 Uniform Mechanical Code.

Final Decision

In consideration of the aforesaid, the Standards Council dismisses the consolidated appeal for Item #072.

The effect of this decision is that Section 603.4.1 of the 2018 *Uniform Mechanical Code* will read consistently with the 2015 UMC which includes an August 2017-issued TIA, as 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

Docket #02-18
Appeal Decision – Automatic Appeal
November 21, 2017

Enrique Gonzalez, Staff Liaison
Mechanical Technical Committee
Standards Council
David Bixby, ACCA
Jack Lagerhausen, Air Duct Council
James Kendzel, ASA
Chip Kirkland, Atco
Bob Raymer, California Building Industry Association
Brad Wungluck, City of Manteca
David Dias, Sheet Metal Workers
Jon Melchi, HARDI
Emily Withers, Stoyan Bumbalov, Richard Weinert, CA Department of Housing &
Community Development
Julius Ballanco, JB Engineering
Eric Adamczyk, Johns Manville
Matt Meyer, Johnson Controls
Jason Shelton, JP Lamborn
Don Surrena, NAHB
Charles Cottrell, NAIMI
Katrina Kelley, Shawn Mullins, Owens Corning
Stan Rusek, Darrin Affeldt, Quietflex
Randy Young
Bo Carlay, James Lollis, Thermaflex
Dave Mann
Mike Afonso, UA Local 342

***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.

Exhibit A

Summary of Technical Committee Actions

Appeal Docket #02-18; Item #072

UMC Section 603.4.1

The 2016 Report on Proposals (ROP) published the results of the first committee ballot on Item #072, a code change proposal requesting to delete "Exception: Residential occupancies" from section 603.4.1 "Length Limitation."

At the meeting, a majority of the committee members were in support of accepting the proposal as submitted. Upon written ballot of the Mechanical Technical Committee, they affirmed their decision to accept the proposal to strike the exception.

At their second meeting, the committee reviewed six comments seeking to either accept, reject or modify the proposal. A majority of the committee members were in favor of rejecting Public Comments 1, 3, 4, 5, and 6, and were in favor of accepting Public Comment 2 which sought to reject the proposal thereby retaining the exception for residential occupancies in section 603.4.1. Upon written ballot of the Mechanical Technical Committee, they affirmed their decisions to reject Public Comments 1, 3, 4, 5, and 6, and to accept Public Comment 2 to reject the proposal.

The 2017 Report on Comments (ROC) published the results of the second committee ballot for all public comments to Item #072, showing the committee's last successful action to keep the exception for residential occupancies in section 603.4.1.

At the Association Technical Meeting Convention, a motion was made to accept Public Comment 1 which sought to accept the original proposal. The motion passed resulting in a membership recommendation to the Technical Committee to accept Public Comment 1. The effect of the membership recommendation was to strike the exception for residential occupancies in section 603.4.1.

Following the Association Technical Meeting Convention, the Technical Committee was issued a ballot on whether they agreed with the membership's recommendation. On this, their final ballot, the committee did not achieve the necessary two-thirds majority affirmative vote. The final ballot tally reported a vote of 9 agree, 15 disagree, 1 abstain.

The Regulations Governing Committee Projects at Section 4-6.1 states:

4-6.1 Recommended Amendments.

- (c) If the Association recommended amendment is not approved by the TC...such action of the Committee shall be deemed to be a recommendation that the portion of the Report modified by the Association recommended amendment be returned to the TC; the remainder of the Report stands as recommended by the Association; and any existing text to which the returned portion pertains shall stand. The TC...shall be balloted on whether the resulting Document is suitable; and if it is determined that it is not suitable, the issue shall be automatically docketed as an appeal to the Standards Council who shall determine whether and in what form the document shall be issued...

The issue was docketed as an appeal for the Standards Council.

Exhibit B

Result for #02-18

As a result of the Council appeals hearings, process recommendation, and a Tentative Interim Amendment issued on August 31, 2017, the 2018 UMC at section 603.4.1 will read as follows:

603.4.1 Length Limitation. Factory-made flexible air ducts and connectors shall be not more than 5 feet (1524 mm) in length and shall not be used in lieu of rigid elbows or fittings. Flexible air ducts shall be permitted to be used as an elbow at a terminal device.

Exception: Residential occupancies.

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.



August 31, 2017

David Dias
Sheet Metal Workers' Local Union 104
2610 Crow Canyon Road, Suite 300
San Ramon, CA 94583

Eli Howard
SMACNA
4201 Lafayette Center Drive
Chantilly, VA 20151

Re: IAPMO Standards Council Decision
TIA UMC-005-15
Decision date: August 31, 2017**
Uniform Mechanical Code – Section 603.4.1

Dear Messrs. Dias and Howard:

I am transmitting to you herewith the following decision of the Standards Council. At its teleconference meeting on August 30, 2017, the Standards Council considered your request for the issuance of proposed TIA UMC-005-15 in the 2015 edition of the *Uniform Mechanical Code*. The proposed Tentative Interim Amendment requested a revision to Section 603.4.1 as follows:

603.4.1 Length Limitation. Factory-made flexible air ducts and connectors shall be not more than 5 feet (1524 mm) in length and shall not be used in lieu of rigid elbows or fittings. Flexible air ducts shall be permitted to be used as an elbow at a terminal device.

Exception: Residential occupancies.

Prior to the August 30 teleconference, the proposed TIA was balloted through the Mechanical Technical Committee in accordance with the Regulations Governing Committee Projects to determine if there existed the necessary three-fourths majority support on technical merit and emergency nature to establish the recommendation for issuance. The ballot passed on both accounts.

In determining whether or not to issue a TIA, the Council looks to the TC letter ballot for a recommendation of support through an evaluation of the TIA on its technical merit and emergency nature and, in this case, that support exists on both accounts by an overwhelming margin. Upon a full review and consideration of all of the information available to it, including testimony made to the Council, the Council agrees with the substantiation submitted by the proponents and thus voted to accept the recommendation of the Technical Committee and issue proposed TIA UMC-005-15 as noted above.

The Regulations at Section 5-8 states, “TIA’s issued after the proposal closing date shall also apply, *where the text of the existing document remains unchanged*, to the next edition of the Document.” [emphasis added] If through the conclusion of the Association Technical Meeting Convention and subsequent TC balloting and all appeals, Section 603.4.1 of the 2018 UMC maintains the text of the 2015 edition of the UMC then, in accordance with the Regulations TIA UMC-005-15 shall also apply to the 2018 Uniform Mechanical Code.

Sincerely,



Gabriella Davis
Secretary, Standards Council

CC: Chris Van Rite
Monte Bogatz, Executive VP & General Counsel
Lynne Simnick, Sr VP Special Projects
IAPMO Standards Council
Members of the Mechanical TC

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