



December 14, 2022

To: Interested Parties

CC: Julius Ballanco, JB Engineering and Code Consulting
Dave Mann, Self
Randy Young, Self
Chris Ruch, NEMI

Re: IAPMO Standards Council Decision Docket #07-24
Date of Decision: December 14, 2022
Uniform Mechanical Code – Sections 308.0, 308.1
Item 067 Public Comment 1

To Whom It May Concern:

At their meeting on November 16, 2022, the IAPMO Standards Council considered the automatic appeal pertaining to Item 067 and the above referenced sections. This decision reflects the complete deliberation of the Council with respect to this item.

Summary of Technical Committee Actions

For a summary of actions taken, please refer to Exhibit A attached hereto.

Analysis of Appeal

This automatic appeal regards code sections addressing prohibited locations for fuel-burning appliances in the Uniform Mechanical Code (UMC).

At their first meeting, the Mechanical Technical Committee (TC) discussed proposal 067 which sought to relocate and amend section 308.0 to a new section 305.6 “Prohibited Locations” and included, within a modified subsection 305.6.1 “General” locations where fuel-burning appliances shall not be installed. The TC overwhelmingly rejected this proposal, noting their concerns with the content and vagueness of the language.

The proponent then submitted Public Comment 1, seeking to modify the language to clarify the intent of the section. At their meeting, a majority of the Technical Committee discussed their support of this comment, though some shared their concerns with the language of the proposed code change. However, that ballot failed, as the required two-thirds affirmative was not achieved. In accordance with Section 4-4.6.4 of the Regulations Governing Committee Projects, the TC action was reported in the ROC as rejected.

At the Association Technical Meeting in Charlotte, the membership passed a motion to accept an identifiable part of Public Comment 1 by removing the word “freely” from the comment (see Exhibit A). The resulting membership recommendation was subsequently balloted through the Mechanical TC and the TC did not agree with the membership, resulting in a process-based recommendation to reject the proposed code change, leaving section 308.0 unchanged from the previous edition of the UMC.

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 has reviewed the entire record concerning this appeal and has considered all the arguments raised by it including what was shared during oral testimony.

The Council notes that the history of this Item does not demonstrate that consensus was achieved with respect to the proposed language. At both the proposal and comment stages, the TC expressed significant concerns with the proposed language. At the proposal stage, every member of the TC voting on this item voted to reject it. At the comment stage, there was, again, concern expressed by the TC about the contents of Public Comment 1, and a motion to accept received a majority, but not the required two-thirds majority vote when balloted. Finally, after the membership recommended acceptance of an identifiable part to remove the term “freely,” the ballot, again, failed to achieve a majority (let alone the required two-thirds affirmative) of TC votes in support. Because at no point did the TC approve the language at issue, the process-based recommendation is to leave section 308.0 unchanged.

During the Council hearing, several spoke in support of the modification recommended by the membership during the Association Technical Meeting – removing the word “freely” from section 308.1. The Council notes the compelling arguments that the language of Public Comment 1 is improved by the elimination of the word “freely.” However, in looking at the entire record, it is clear for the Council that at no point was consensus achieved as to the entire proposal to amend sections 308.0 and 308.1 of the UMC. For this reason, the Council concludes that the evidence in the record does not provide any clear and substantial basis on which to overturn the results recommended by the IAPMO codes and standards development process.

Final Decision

In consideration of the aforesaid, the Standards Council dismisses the appeal.

The effect of this decision is that the 2024 edition of the Uniform Mechanical Code at section 308.0 and 308.1 will remain unchanged from the previous edition, as set forth in Exhibit B.

Sincerely,



Gabriella Davis
Secretary, Standards Council

cc: Heather Koffman, Executive VP, General Counsel
Hugo Aguilar, Senior VP, Codes and Standards
Taylor Duran, Staff Liaison
Mechanical Technical Committee
Standards Council

***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 07-24; Item #067 Public Comment 1 *2024 Uniform Mechanical Code, Sections 308.0, 308.1*

The 2021 Report on Proposals (ROP) published the results of the first committee ballot on Item #067, a code change proposal requesting to relocate Sections 308.0 and 308.1 to Sections 305.6 and 305.6.1 for the installation of fuel-burning appliances.

At the meeting, a majority of the committee members were in support of rejecting the proposal as submitted. Upon written ballot of the Mechanical Technical Committee, they affirmed their decision to reject the proposal to include the above sections.

At their second meeting, the committee reviewed a public comment seeking to accept a revision to Section 308.0 "Prohibited Locations," and Section 308.1 "General" which sought to add language for the installation of fuel-burning appliances. Though a majority of the committee members discussed their acceptance of Public Comment 1, upon written ballot of the Mechanical Technical Committee, the ballot failed to achieve the necessary two-thirds affirmative vote. In accordance with Section 4-4.6.4 of the Regulations Governing Committee Projects, the TC action was reported in the ROC as rejected.

The 2022 Report on Comments (ROC) published the results of the second committee ballot for Public Comment 1, showing the committee's last successful action to not include such installation requirements for fuel-burning appliances.

At the Association Technical Meeting Convention, a motion was made to accept an identifiable part of Public Comment 1 which sought to accept a portion of Public Comment 1. The motion passed resulting in a membership recommendation to the Technical Committee to accept an identifiable part of Public Comment 1. The effect of the membership recommendation was to accept Public Comment without the use of the term "freely" in Section 308.1 "General."

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 10 agree and 18 disagree.

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 #07-24

The 2024 Uniform Mechanical Code will remain unchanged at this section from the previous edition, as follows:

308.0 Improper Location.

308.1 General. Piping or equipment shall not be so located as to interfere with the normal use thereof or with the normal operation and use of windows, doors, or other required facilities.

**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 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.

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.