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MEMORANDUM

TO: NEC® Correlating Committee

FROM: Sarah Caldwell, *Committee Administrator*

DATE: November 9, 2022

SUBJECT: NEC® Proposed TIA No. 1679 **FINAL CC BALLOT RESULTS**

The public comment circulation has passed, therefore, according to 5.6(b) in the NFPA *Regs*, the final results show this TIA **HAS** achieved the $\frac{3}{4}$ majority vote.

12 Eligible to Vote
1 Not Returned (*Kendall*)

8 Agree
2 Disagree (*Gallo, Porter*)
1 Abstain (*Hickman*)

There are two criteria necessary to pass ballot [(1) simple majority (2) affirmative vote of $\frac{3}{4}$ of ballots received] in order to recommend that the Standards Council issue this TIA.

- (1) In all cases, an affirmative vote of at least a simple majority of the total membership eligible to vote is required.

$$[12 \text{ eligible} \div 2 = 6 + 1 = \mathbf{(7)}]$$

- (2) The number of affirmative votes needed to satisfy the $\frac{3}{4}$ requirement is **8**.
(12 eligible to vote - 1 not returned – 1 abstentions = $10 \times 0.75 = 7.5$)

Ballot comments are attached for your review.

The *Regs* at 1.6.2.(c) state: An appeal relating to a proposed Tentative Interim Amendment that has been submitted for processing pursuant to Section 5.2 shall be filed no later than 5 days after the notice of the TIA final ballot results are published in accordance with 4.2.6.

Appeal Closing Date for this TIA is **November 14, 2022**.

NFPA 70®-2023 Edition

National Electrical Code®

TIA Log No.: 1679

Reference: 210.52(C)(3) Exception (New)

Comment Closing Date: October 31, 2022

Submitter: Daniel Buuck, National Association of Home Builders

www.nfpa.org/70

1. Add a new Exception to section 210.52(C)(3) to read as follows:

210.52(C)(3) Receptacle Outlet Location. Receptacle outlets shall be located in one or more of the following:

- 1) On or above, but not more than 500 mm (20 in.) above, a countertop or work surface
- 2) In a countertop using receptacle outlet assemblies listed for use in countertops
- 3) In a work surface using receptacle outlet assemblies listed for use in work surfaces or listed for use in countertops

Receptacle outlets rendered not readily accessible by appliances fastened in place, appliance garages, sinks, or rangetops as covered in 210.52(C)(1), Exception No. 1, or appliances occupying assigned spaces shall not be considered as these required outlets.

Exception: Where installed to meet construction requirements for accessibility, receptacle outlets shall be permitted to be mounted not more than 300 mm (12 in.) below the countertop or work surface. Receptacles mounted below a countertop or work surface in accordance with this exception shall not be located where the countertop or work surface extends more than 150 mm (6 in.) beyond its support base.

Informational Note No. 1: See 406.5(E) for installation of receptacles in countertops and 406.5(F) for installation of receptacles in work surfaces. See 380.10 for installation of multioutlet assemblies.

Informational Note No. 2: See Informative Annex J and ANSI/ICC A117.1-2009, *Standard on Accessible and Usable Buildings and Facilities*, for additional information.

Substantiation: There have been a lot of changes to the kitchen receptacle outlet location section in the NEC over the last two code development cycles resulting in a major hardship for designers, installers, builders, and code officials. Without approval of this amending motion, locating receptacles below the countertop for accessibility would be prohibited, creating a conflict between the NEC and the current ICC A117.1 Accessible and Usable Buildings and Facilities Standard.

The 2017 edition of the NEC prohibited locating receptacles below the countertop (e.g., face-mounted on the lower cabinets) but provided exceptions for kitchen islands and peninsulas and for accessible construction. The 2020 edition was changed to allow receptacles to be located below countertops anywhere in the kitchen, including those counters along a wall. The exceptions were not needed, so they were removed. The language that CMP-2 approved this cycle reinstates the prohibition for locating receptacles below the countertop but did not

include any exceptions. It is my understanding that the omission of an exception for accessibility was a result of the successive changes over the last few cycles and completely unintentional.

A task group of the ICC A117.1 standard on accessibility is currently in the process of addressing receptacle locations in kitchens of Accessible, Type A, and Type B dwellings. Members of the task group are listed below. They have voiced a need for more time before such a dramatic change goes into effect. Current kitchen designs, which are often very compact, necessitate flexible receptacle location, and the most accessible location is often on the face of the lower cabinets below the counter. The Task Group believes the approval of this TIA is necessary to allow time to resolve a compliance problem between two competing sets of requirements without imposing extreme hardship on builders, designers, and occupants by requiring fundamental alterations to kitchen design to comply with both. The Task Group's intent is to resolve this conflict in ICC A117.1.

The proposed exception to 210.52(C)(3) in this TIA is based on the language in the 2017 Edition of the NEC. The term "physically impaired" was changed to the widely accepted term "accessibility."

ICC A117.1 Accessible and Usable Buildings and Facilities Task Group: Electrical Receptacles in Facilities with Accessible, Type A, and Type B Dwelling and Sleeping Units
Members: Daniel Buuck (Chair - National Association of Home Builders), Gene Boecker (National Association of Theatre Owners), Karen Braitmayer (Disability Rights Education and Defense Fund), Paula Cino (National Multifamily Housing Council), David Collins (American Institute of Architects), Glenn Dea (International Sign Association), Dennis Hall (Construction Specifications Institute), Gina Hilberry (United Cerebral Palsy), Matthew Lescher (National Association of Theatre Owners), Allison Lourash (Little People of America, Inc.), Marsha Mazz (United Spinal Association), Dan O'Gorman (American Society of Plumbing Engineers), Kimberly Paarlberg (International Code Council), Rex Pace (U.S. Department of Housing and Urban Development), Kenneth Peskin (International Sign Association), Edward Steinfeld (Rehabilitation Engineering and Assistive Technology Society of North America), Scott Windley (U.S. Access Board), Mary Winkler (American Society of Safety Engineers), Dawn Anderson, Ralph Baldwin (Legrand), Cara Godwin (Ankrom Moisan), John S. Gonzalez (International Code Council), Kevin Harkins, Thomas Hirsch, FAIA, Mary Jean McCarthy-Tapp, Larry Perry, Ashley Pitts, Kimberly Rosentel, Chris Schexnayder (theACCESSpartnership, lp), Richard Sternadori, Kyle Thompson (Plumbing Manufacturers International), John Torkelson.

Emergency Nature: The standard contains an error or an omission that was overlooked during the regular revision process.

The 2023 NEC will be adopted by around twenty states soon after publication if the past is any indication, and the prohibition of installing receptacles below countertops and work surfaces would catch designers, installers and builders by surprise. Modifications to current kitchen designs would increase cost and reduce usability for those who most need it. The A117.1 Task Group is requesting more time to make the required changes to avoid potential conflicts with

the NEC and to develop accessibility solutions that are acceptable to both the ICC A117 Committee and the members of the CMP-2. Without this additional time, designers, installers and builders may find it virtually impossible to comply with both the NEC and the ICC A117.1 requirements for kitchen receptacles without undue expense or sacrifices in necessary features such as kitchen storage that is within reach of a person with a disability.

NEC CC TIA No. 1679 Ballot Final

Election:70_A2025_NEC_AAC_Log1679_Ballot

Results by Revision

QUESTION: I AGREE there are no CORRELATION ISSUES in accordance with 3.4.2 and 3.4.3 of the NFPA Regs.

Eligible to Vote: 12

Not Returned : 1

David H. Kendall

Vote Selection

Votes

Comments

Agree

8

Lawrence S. Ayer

Agree

John R. Kovacik

Agree

Alan Manche

Agree

Dean C. Hunter

I agree there are no correlation issues in accordance with 3.4.2 and 3.4.3 of the NFPA Regulations.

Roland E. Deike, Jr.

AGREE, no CORRELATION ISSUES

David A. Williams

agree

Timothy James Schultheis

agree

Richard A. Holub

Agree

Disagree

2

Ernest J. Gallo

I agree there is a need for language to support installation provisions for occupancies designated as being designed and constructed for compliance with ANSI/ICC A117.1. Accessible And Useable Buildings And Facilities. However the proposed language provided is vague and can allow for provisions for "accessibility" for any occupancy design including those not designed in accordance with ANSI/ICC A117.1. Perhaps a correlating committee task group could be formed to this issue.

Christine T. Porter

I think there is an issue, but this TIA did not adequately address how to mitigate the risk and still enable use of appliances in a manner that does not pose the same risk to those that are in a wheelchair as those that are not.

Abstain

1

Palmer L. Hickman

This failed ballot at the Code Panel level based on the information provided so I am unclear why we are being asked to determine whether or not a correlation issue exists. I am surmising it is the result of the failed ballot which I deduce is existing NEC text which we have already voted to release.