

January 10, 2022

National ITC Corporation
2540 Severn Avenue, Suite 200,
Metairie, Louisiana 70454

IAPMO Board of Directors
The IAPMO Group – West Building
4755 E. Philadelphia Street
Ontario, CA 91761

Attention: Ms. Gabriella Davis, Petitions Clerk

Reference: Notice of Intent to File Petitions for UMC TIA 009-18 and UMC TIA 001-21

Ms. Davis,

Please find enclosed two (2) petitions to be filed with the IAPMO Board of Directors prior to the closing date of Friday, January 14, 2022, related to the IAPMO Standards Council Decisions dated, December 20, 2021.

Each petition is filed with one (1) original and twenty (20) copies as required by Section 6 Filing and Contents of the Petition of the IAPMO Regulations Governing Petitions to the Board of Directors from Decisions of the Standards Council.

I Donald J Berger Jr, employed as a Business Representative with National ITC Corporation am filing this petition as **"SELF"**, and wish to advise that in an effort to make efficient use of the IAPMO Board of Directors time and consideration, that I ***DO NOT request a hearing for these TIAs.***

I do request the IAPMO Board of Directors to perform a full review of these petitions and base their decision on facts related to the substantiation as outlined within each TIA and enclosed petitions.

Please advise of any questions or concerns.

Respectfully,



Donald (DJ) J Berger Jr
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ORIGINAL

Name: Donald (DJ) J Berger Jr
Affiliation: National ITC Corporation (Representing "SELF")
Address: 2540 Severn Ave., Metairie, LA 70002

Statement: This petition to the IAPMO Board of Directors relates to the IAPMO Standards Council Decision of TIA UMC-009-18 regarding the following sections: **2018 Uniform Mechanical Code – Sections 1109.2, 1109.7, and Table 1701.1**

Argument: The referenced TIA was balloted by the UMC Technical Committee and resulted in a majority of affirmative votes on both Technical Merit and Emergency Nature but failed to achieve the seventy-five percent of affirmative votes required by IAPMO Regulations Governing Committee Projects. Comments from the UMC Technical Committee Members that voted in opposition to the TIA during the balloting process regarding "Technical Merit" addressed such things as quantity of fittings installed, use of fittings by the industry for so many years, fittings already accepted by other codes, and so on. However, none of the negative comments addressed the actual substantiation of the TIA, which was the "the referenced UL 207-2009 standard" specifically states within its scope that "tubing fittings" are not applicable to the standard. For "Emergency Nature", those opposed to the TIA expressed no concerns that a safety issue exists for tubing fittings being installed in residences and buildings on Group A1 high pressure refrigerant piping, that have been supposedly tested and listed to an Underwriters Laboratories (UL) Standard that clearly states it does not cover "tubing fittings" within its scope. Recognizing that the TIA received a majority of affirmative votes from the UMC Technical Committee Members, and that those Technical Committee Members were able to focus on the Proponent's substantiation that the cited 2018 UMC Sections should be modified to remove the referenced UL 207 Standard from the 2018 UMC, for the reason that the scope of the referenced UL 207 Standard clearly states that tubing fittings are not applicable to the standard, an appeal and hearing request was submitted to the IAPMO Standards Council.

The IAPMO Standards Council TIA hearing was conducted via virtual meeting. The Chairman of the IAPMO Standards Council hearing read the rules on how the hearing was going to proceed. As the Proponent of the TIA and the TIA appeal, I attempted to write down the hearing agenda and rules to the best of my ability but found the task to be more than difficult. Had hearing rules and an agenda been sent out ahead of time, I believe this would have allowed me to be better prepared to rebut those individuals speaking in opposition to the appeal.

Introductions of those that would be speaking were conducted. There were two individuals speaking in favor of the appeal and eight speaking in opposition. Of the ten speakers, those representing "self", were Mr. Dave Mann and me, while the eight speakers opposed to the appeal were either representing manufacturers, manufacturer organizations, or standards companies.

The Hearing Chairman allowed me five minutes to provide an opening statement. I do not remember if I used the entire time as I attempted to stick to the simple substantiation "that the scope of the referenced UL 207 clearly states the standard is not applicable to tubing fittings" and thus was misapplied for tubing fittings and joints within the sections of 2018 UMC as referenced in the TIA.

Mr. Dave Mann, speaking in favor of the TIA, agreed with my opening statement, and provided additional information about the potential effect of Standards Companies or Organizations modifying existing UMC referenced standards without the UMC Technical Committee having any knowledge or input on how those modifications might impact the existing UMC codes.

Most of the statements in opposition did not address the substantiation of the TIA in regard to applicability of the referenced UL 207 but did address a later version of the UL 207 that is not referenced in the 2018 UMC.

While listening to the consecutive comments of the eight speakers, who were given five minutes each to speak, I attempted to take notes of what each speaker was saying and prepare for the two minutes allowed for me to rebut their testimony.

This is another phase of the hearing that I did not agree with. I was required to wait until all opponents gave their testimony, then allowed a total of two minutes to rebut the consecutive testimony of eight people, with each given up to five minutes to speak. This might not have been such a difficult task had the Hearing Chairman or someone from the IAPMO Staff been able to interrupt them and remind them to stick to the substantiation, but that did not happen. I had to rebut unrelated testimony about leak rates, how many of the fittings have been installed over the last seven years, an inappropriate ASHRAE report that addressed the use of fittings on flammable refrigerant piping, and so on. Only one speaker somewhat addressed the actual substantiation of the TIA, which was the misapplied UL 207 Standard, and that was the Underwriters Laboratories Representative. This left me having to rebut seven speakers talking about issues that had nothing to do with the actual substantiation of the TIA.

However, the one testimony from the UL Representative is the one I would like to focus on in this argument. ***The UL Representative acknowledged in his testimony that the referenced UL 207-2009 (with revisions through June 27, 2014) standard was modified in 2020 so that the standard no longer excluded tubing fittings from the scope of the standard.***

That should have been the only testimony that the IAPMO Standards Council heard and the only testimony that I should have had to rebut.

The hearing went into the questions from the IAPMO Standards Council phase. Those questions mainly focused on the testimony addressing the other issues such as leak rates, the ASHRAE report, field failures of fittings, and so on. Again, these issues were not part of the substantiation of the TIA.

One of the IAPMO Standards Council Members did ask a question of the UL Representative about why UL did not submit a TIA back in 2020 if UL knew the standard did not cover tubing fittings? The UL Representative said something to the fact that he didn't think about submitting a TIA but would investigate getting one submitted.

I am seeking the intervention of the IAPMO Board of Directors to the decision of the IAPMO Standards Council for the following reasons:

- Testimony given during the hearing by those in opposition of the appeal that was not relative to the substantiation of the TIA, should not have been considered or debated during the hearing, and should have been stricken from the record.
- Testimony given by the UL Representative during the hearing acknowledged and confirmed the substantiation of the TIA and should have been the only testimony from those in opposition to be considered or debated during the hearing.
- The Proponent should have been provided a minimum of two minutes to rebut testimony of each speaker, directly following each individual speaker giving testimony, instead of two minutes to rebut the entire group of speakers at one time.
- The letter acknowledging the decision of the IAPMO Standards Council states the "review of the full record, including testimony provided during the hearing" as the reason the Council hereby rejects the proposed TIA. As the majority of the testimony provided in opposition was unrelated to the substantiation of the TIA, the IAPMO Standards Council's decision was based on testimony unrelated to the TIA.

I am petitioning the decision of the IAPMO Standards Council's decision concerning this TIA for the IAPMO Board of Directors to review the full record of the hearing, and to only consider the testimony provided during the hearing that related to the substantiation of the TIA, and to

disregard all other testimony not directly related to the misapplication of the referenced UL 207, which clearly states within its scope that tubing fittings are not covered as part of that standard.

I believe upon the review of the full record of the hearing for this TIA, the IAPMO Board of Directors will find that extraordinary circumstances do exist as a result of the IAPMO Standards Council's decision to reject the appealed TIA.

In closing, as the 2018 UMC references to the UL 207 Standard with revisions through June 27, 2014, and according to the testimony of the UL Representative during the appeal hearing of the TIA acknowledged and confirmed the referenced standard does not cover tubing fittings, and that Underwriters Laboratories has since modified and superseded this referenced standard by a later version, and that the referenced standard (UL 207-2009, with revisions through June 27, 2014) which is no longer available from UL, and cannot be obtained or referenced by those who depend on the 2018 UMC for the safe installation of refrigerant piping systems, thereby creates an unsafe situation where tubing fittings have been and are being installed in high pressure, Group A1 refrigeration piping systems in residences and buildings, and of which these tubing fittings being installed by allowance of the 2018 UMC, were supposedly tested and listed to a **confirmed misapplied standard** are currently being allowed to be installed in those jurisdictions who have adopted the 2018 UMC, requires that the IAPMO Board of Directors recognize their obligation to preserve the integrity of the standards development process and take any action necessary in approving the referenced TIA in its entirety.

Statement of Relief: Overturn the decision of the IAPMO Standards Council decision for UMC TIA 009-18 and approve the TIA for both Technical Merit and Emergency Nature.

Request for Hearing: In an effort to make efficient use of the IAPMO Board of Directors time and consideration, I **DO NOT** request the scheduling of hearing for this TIA.

Respectfully submitted,



Donald (DJ) J Berger, Jr
January 10, 2022
Mobile: 504-415-9165