



December 14, 2022

To: Interested Parties

CC: Rusty Tharp, Daikin Comfort Solutions  
Mary Koban, AHRI  
Stephen Spletzer, Chemours  
Harshad Inamdar, Rheem Manufacturing  
Jim Kendzel, American Supply Association  
Julius Ballanco, JB Engineering and Code Consulting  
Jeremy Tidd, Mitsubishi Electric  
Philip Johnston, Daikin Applied  
Dave Mann, Self  
Randy Young, Self  
Christopher Ruch, NEMI

Re: IAPMO Standards Council Decision Docket #13-24  
Date of Decision: December 14, 2022  
Uniform Mechanical Code – Section 1108.1  
Item 220 Public Comment 1

To Whom It May Concern:

At their meeting on November 17, 2022, the IAPMO Standards Council considered the automatic appeal pertaining to Item 13-24 and the above referenced section. 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 relates to a Public Comment that sought to enumerate “Equipment essential to the refrigeration process” in Section 1108.1 “General” of the Uniform Mechanical Code (UMC).

A proposal, Item 220, sought to add a list of “Equipment essential to the refrigeration process permitted to be placed in or pass through a refrigeration machinery room” to Section 1108.1, which was reviewed by the Mechanical Technical Committee (TC). At their 2021 meeting, noting that the proposed language introduced the list with the mandatory phrase “shall include,” but might not be exhaustive, the TC rejected the proposal. Thereafter, Public Comment 1 sought to modify the proposal’s language, proposing language stating that the equipment at issue “may include” the enumerated items. The TC accepted this comment.

At the 2022 Association Technical Meeting in Charlotte, however, the Association recommended rejection of Public Comment 1. That recommendation was not accepted by the TC, which voted to keep the changes proposed by Public Comment 1, and this automatic

appeal arose. The process-based recommendation is to maintain the final action of the Technical Committee, acceptance of Public Comment 1.

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 where a clear and substantial basis for doing so is demonstrated.

### Issues on Appeal

At the hearing, the Council heard testimony regarding the appeal from its proponents with respect to two issues: whether the language proposed for insertion was duplicative of existing language in the UMC, and whether the newly proposed language introduced ambiguity.

#### **1. Duplicative Content**

Supporters of the appeal argued that the new language added by Public Comment 1 would be duplicative of language already existing in Section 1108.1 “General.” That section currently reads, in its entirety, as follows: “Equipment, piping, ducts, vents, or similar devices that are not essential for the refrigeration process, maintenance of the equipment, or for the illumination, ventilation, or fire protection of the room shall not be placed in or pass through a refrigeration machinery room.” The section’s exclusion of “devices that are not essential” for the listed processes from the machinery room constitutes allowance of devices that are essential to those processes in such rooms.

As pointed out by proponents of the appeal, many, if not all, of the items that would be enumerated in the new list proposed in Public Comment 1 are already covered by the existing language. For example, items (5) (“Machinery room ventilation equipment”), (8) (“Machinery room fire sprinkler systems”), and (9) (“Machinery room lighting and service receptacles”) are repetitive of the existing exceptions for “equipment...essential for...the illumination, ventilation, or fire protection of the room.”

#### **2. Ambiguity**

Testimony given noted that the “may include” language would be vague, ambiguous, may ultimately be unenforceable, and may be misinterpreted by Authorities Having Jurisdiction. Further, use of the word “may” does not comply with the IAPMO Manual of Style, which states: “The terms *may* and *may not* shall not be used in any portion of codes, standards, or recommended practices.”

### Council Reasoning

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, in the course of the discussions at the appeal hearings, no one spoke in opposition to the appeal.

In the view of the Council, the evidence in the record provides a clear and substantial basis on which to overturn the results recommended by the IAPMO codes and standards development process. The Council agrees with the concerns expressed by those in support of the appeal regarding the language of Public Comment 1, and has determined that these objections are sufficient justification for the Council's acceptance of this appeal and rejection of Public Comment 1.

### Final Decision

In consideration of the aforesaid, the Standards Council hereby grants the appeal. The effect of this decision is that in the 2024 edition of the Uniform Mechanical Code, Section 1108.1 will remain unchanged, as illustrated 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 13-24; Item #220 Public Comment 1 *2024 Uniform Mechanical Code, Section 1108.1*

The 2021 Report on Proposals (ROP) published the results of the first committee ballot on Item #220, a code change proposal requesting to revise Section 1108.1 “General” to include a list of equipment that is consider essential to the refrigeration process that is permitted to be placed in or pass through a refrigeration machinery room.

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 section.

At their second meeting, the committee reviewed one public comment seeking to accept a revised proposal that replaced “shall” to “may.” A majority of the committee members were in favor of accepting Public Comment 1. Upon written ballot of the Mechanical Technical Committee, they affirmed their decision to accept Public Comment 1.

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 include an enumerated list of equipment essential to the refrigeration process.

At the Association Technical Meeting Convention, a motion was made to reject Public Comment 1 which sought to overturn the Committee’s acceptance of Public Comment 1. The motion passed resulting in a membership recommendation to the Technical Committee to reject Public Comment 1. The effect of the membership recommendation was for section 1108.1 “General” to remain unchanged from the previous edition of the UMC.

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 8 agree and 20 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 #13-24**

The 2024 Uniform Mechanical Code will read as it does in the previous edition as follows:

**1108.0 Refrigeration Machinery Room Equipment and Controls.**

**1108.1 General.** Equipment, piping, ducts, vents, or similar devices that are not essential for the refrigeration process, maintenance of the equipment, or for the illumination, ventilation, or fire protection of the room shall not be placed in or pass through a refrigeration machinery room.

## IAPMO Regulations Governing Committee Projects Section 1-7

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### 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).

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## IAPMO Regulations Governing Petitions to the Board of Directors from Decisions of the Standards Council

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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.