

Clarifications and Expectations

What the CMS Life Safety Code Waivers Mean for You

Getting Your Questions Answered

The Joint Commission has identified the need to increase the field's awareness and understanding of the Life Safety Code®. To address this need, The Joint Commission Perspectives® publishes the column Clarifications and Expectations, authored by George Mills, MBA, FASHE, CEM, CHFM, CHSP, director, Department of Engineering, The Joint Commission. This column clarifies standards expectations and provides strategies for challenging compliance issues, primarily in life safety and the environment of care, but also in the vital area of emergency management. You may wish to share the ideas and strategies in this column with your facility's leadership.*

The Centers for Medicare & Medicaid Services (CMS) has recently granted a series of categorical waivers for requirements in the 2000 edition of the National Fire Protection Association's (NFPA's) *Life Safety Code*®* (LSC). These waivers were announced in a memorandum released by CMS on August 30, 2013 (Survey and Certification, S&C 13-58-LSC). The Joint Commission was instrumental in helping CMS to identify the need for and content of these waivers. Overall, the waivers are designed to protect the physical environment while preserving hospital resources and maintaining life safety.

The Joint Commission was asked by CMS to identify requirements in the *Life Safety Code* that would have an immediate benefit to patient care and safety. In addition, The Joint Commission also requested that four earlier actions, named originally in S&C 12-21-LSC, now be classified as categorical waivers.

* Life Safety Code® is a registered trademark of the National Fire Protection Association, Quincy, MA.

† In a conventional waiver, if CMS identifies a noncompliant life safety condition during a survey and writes a citation, the organization is then required to implement corrective action. At this point, if an organization feels it will have a difficult time implementing corrective action (or for other reasons), it may request a conventional waiver. However, in a categorical waiver, permission is received outside of any survey activity.

Categorical waivers differ from conventional waivers in that initiating a categorical waiver is not related to a survey event but may be elected at any time.† To satisfy CMS's conditions related to categorical waivers, organizations are required to do the following:

1. Document their decision to use a categorical waiver(s). If a waiver involves a specific requirement in the Joint Commission's "Life Safety" (LS) standards chapter, an organization must annotate the "Additional Comments" field of the Basic Building Information (BBI) in the electronic Statement of Conditions™ (E-SOC). However, if the requirements involve the "Environment of Care" (EC) standards chapter, an organization must document the decision in its EC committee minutes or an equivalent place.
2. Notify Joint Commission and CMS surveyors at the beginning of a survey that they have chosen to declare a categorical waiver. This is critical. It is not acceptable for an organization to wait until after it receives a *Life Safety Code* citation to notify the surveyor that it wishes to declare a categorical waiver.

While categorical waivers are straightforward, organizations should be aware of a few nuances. The following paragraphs answer organizations' frequently asked questions.

Why is this set of categorical waivers significant?

These particular CMS categorical waivers apply to specific requirements found in the *Life Safety Code*. Both The Joint Commission and CMS require compliance with the 2000 edition of the *Life Safety Code* as well as with other NFPA standards associated with that edition. In some cases, compliance with the 2000 edition is costly to organizations, whereas later editions of the *Code* have aligned requirements with

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those that are more cost effective while still ensuring patient safety.

CMS issued a Survey and Certification (S&C) letter on August 30, 2013, declaring that these categorical waivers could be implemented immediately.

What topics do the waivers address?

The waivers relate to seven distinct topic areas, with specific waivers targeted to various requirements in each area. The topics are shown in the sidebar on this page and discussed as follows.

- **Openings in exit enclosures.** Many existing buildings have mechanical rooms or spaces (such as penthouses) that only open directly into an exit enclosure, such as an exit stair. To bring these spaces into compliance with the 2000 edition of the *Life Safety Code*, an organization would need to construct a new exit enclosure that provides exiting from the unoccupied spaces. Building a compliant exit enclosure would typically be cost prohibitive, and, in many cases, not even possible. The CMS waiver tied to this topic permits organizations to keep existing openings in exit enclosures for mechanical equipment spaces, if those spaces are protected by fire-rated door assemblies. Note that organizations can only use the mechanical spaces cited by the waiver for non-fuel-fire mechanical equipment, and the spaces must not house any combustible materials. In addition, the spaces must be located in a fully sprinklered building. (See Standard LS.02.01.20, EP 32.)
- **Emergency generators and standby power systems.** Another CMS categorical waiver reduces the time an organization must annually test any diesel-powered emergency generator that does not meet monthly load level requirements. The NFPA 110 Technical Committee has determined that a 1.5-hour test (as opposed to the 2-hour test required by NFPA 110-1998 as cited in the 2000 edition of the *LSC*) is sufficient to detect problems with a generator and adequately test its reliability. By reducing the test time, it is estimated that an organization reduces emissions by at least 25%—thus helping to preserve the environment. The total cost of the load bank test may also be reduced by approximately 25%, based on fuel savings and duration of the exercise. (See Standard EC.02.05.07, EP 5)
- **Doors.** Two CMS categorical waivers address the topic of doors. One allows for door locking arrangements in areas where patients a) have specific clinical needs (such as on a psychiatric or Alzheimer's unit); b) pose a security risk (such as a potentially violent patient in the emergency department); or c) require certain protective measures to ensure their safety (such as patients in a neonatal unit).

Specifically acknowledging patient safety as associated with allowed locking arrangements is a change from the 2000 edition of the *Life Safety Code*. The second waiver permits more than one delayed egress lock to be installed in the path of egress. This is significant because an organization can now lock more than one exit access door along the egress path, allowing, for example, more than one unit to be secured. (See Standard LS.02.01.20, EP 1.)

Seven CMS Waiver Topics (Plus Four)

The seven topics below are the subject of the new CMS categorical waivers. In addition, four other topics are listed that existed before but are now classified as “categorical.”

- Openings in exit enclosures
- Emergency generators and standby power systems
- Doors
- Suites
- Extinguishing requirements
- Clean waste and patient record recycling containers
- Medical gas alarms

Plus four . . .

- Wheeled equipment in the egress corridor
 - One alternative kitchen cooking arrangement open to the egress corridor per smoke compartment
 - Direct vent gas fireplaces and solid fuel-burning fireplaces
 - Combustible decorations on walls, doors, and ceilings
- **Suites.** Suites are room and space groupings that function more efficiently than individual rooms off a corridor. To facilitate the use of suites, later editions of the *Life Safety Code* allow larger sleeping suites, up from 5,000 square feet in the 2000 edition to 7,500 square feet (and in certain conditions to 10,000 square feet). Suites are required to have one exit into an egress corridor in the 2000 *Life Safety Code*, but in later editions, one exit may be to an exit stair and the second required exit may be into a second compliant suite. From a patient care perspective, allowing the suite-to-suite configuration provides the patient with consistent care, as patient care equipment would be available in the second suite (rather than having to relocate the patient into the egress corridor to access equipment, for instance). The categorical waiver provides clarifying language specific to allowing the suite-to-suite separation, which is equivalent to a corridor separation. (See Standard LS.02.01.20, EP 18.)

- **Extinguishing requirements.** Another CMS categorical waiver reduces the required testing frequency for sprinkler system alarm devices and electric motor-driven fire pump assemblies. The 2000 *Life Safety Code* requires organizations to inspect, test, and maintain all automatic sprinkler and standpipe systems in accordance with the 1998 edition of NFPA 25, *Standard for the Inspections, Testing, and Maintenance of Water-Based Fire Protection Systems*. This document requires quarterly testing of vane-type and pressure switch waterflow alarm devices and weekly testing of electric motor-driven pump assemblies. The waiver allows organizations to return testing frequency to the previous Joint Commission requirement of semiannual for vane-type and pressure switch type waterflow alarm devices, for an estimated savings of 50% (reduction from 4 tests per year to 2). Electric motor-driven pump assemblies may now be tested monthly rather than weekly, for an estimated 77% reduction of testing costs and time. This will reduce both the labor and testing cost burden without negatively impacting the equipment's reliability. (See Standard EC.02.03.05, EPs 2 and 6.)
- **Clean waste and patient record recycling containers.** Another CMS categorical waiver permits organizations to use 96-gallon containers for recycling clean waste—for example, paper and cans—and patient records awaiting destruction. The goal of this waiver is to reduce the number of trash containers an organization must use, thus

reducing the cost burden. (See Standard LS.02.01.70, EP 2.)

- **Medical gas alarms.** An additional CMS categorical waiver permits organizations to substitute a centralized computer system for one of the medical gas master alarms required by the 1999 edition of NFPA 99-1999 *Health Care Facilities*, which is referenced in the 2000 edition of the *Life Safety Code*. The provision requires that the computer system meet the requirements outlined in section 5.1.9.4 of the 2012 edition of NFPA 99. Using a centralized computer system may result in a one-time savings, and in most cases will be a more efficient means to monitor the status of piped medical gas systems. (See Standard EC.02.05.01, EP 1.)

What other topics are included?

Four previous *Life Safety Code* waivers, originally issued in a March 2012 S&C letter, are now addressed in the categorical waiver granted in S&C 13-58-LSC. The previous S&C waivers were only granted on a case-by-case basis. By including that S&C in the current S&C 13-58-LSC, the previously required CMS case-by-case action is nullified.

These are the four topics:

- **Wheeled equipment** such as lifts (with certain provisions and restrictions—see NFPA 101-2012 18/19.2.3.4(6)) is allowed in the egress corridor provided that at least 5 feet clearance remains and the fire plan includes management of the lift in a fire condition. Other wheeled equipment

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would include crash carts, transport carts (including wheelchairs), and isolation carts. Fixed seating with at least 6 feet clearance and other restrictions (*see* NFPA 101-2012 18/19.2.3.4(5)) is also allowed. (*See* Standard LS.02.01.20, EPs 12 and 13.)

- **One alternative kitchen cooking arrangement** (per NFPA 101-2012 18/19.3.2.5) open to the egress corridor per smoke compartment is allowed, following the requirements at 18/19.3.2.5.2. (*See* Standard LS.02.01.30, EP 25.)
- **The installation of direct vent gas fireplaces** in smoke compartments containing patient sleeping rooms and the installation of solid fuel-burning fireplaces in areas other than patient sleeping areas is allowed, with certain restrictions as defined in LSC 2012 section 18/19.5.2 *Heating, Ventilating, and Air Conditioning*. (*See* Standard LS.02.01.50, EP 1.)
- **The installation of combustibles decorations** is allowed on walls, doors, and ceilings, with very specific restrictions as required in the 2012 *Life Safety Code* 18/19.7.5.6. (*See* Standard LS.02.01.70, EP 1.)

Are the waivers mandatory?

No. An organization must decide whether to invoke the categorical waivers or not. Because of this, The Joint Commission will *not* be adjusting the standards and elements of performance related to these topics. Before electing to use a waiver, an organization should fully educate itself on the waiver's requirements and make sure that the waiver's approach aligns with its operations.

How do I ensure compliance with the waivers?

For an organization to apply a categorical waiver, it must


comply with all of the requirements in the *Life Safety Code* edition cited in the waiver. For example, if an organization has suite-to-suite exiting, the organization must ensure that both suites are fully compliant with the 2012 edition of the *Life Safety Code*.

What if an organization forgets to document the waiver decision?

If an organization neglects to document the waiver decision or forgets to tell the surveyor at the beginning of survey, the surveyor will assess compliance with the applicable requirements found in the 2000 edition of the *Life Safety Code*. Any areas of noncompliance as a result of not documenting the decision to apply the categorical waiver, or failing to declare that decision at the beginning of survey, will result in a finding.

Where can I get more information?

Joint Commission–accredited organizations that need more information should feel free to contact the Joint Commission Department of Engineering (630-792-5900).

For more information about the CMS S&C 13-58-LSC, please go to <http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-13-58.pdf>. 

This month's column, which also appears in the November 2013 issue of Environment of Care® News, discusses Life Safety Code waivers from the Centers for Medicare & Medicaid Services. Next month's column will discuss maintaining fire equipment and building features.
