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## Summary of TRC Email Agenda for 4/27

*This summary was revised on 5/25/20 to reflect votes by a TRC member who was unavailable at the time of the vote.*

The following is a summary of email-based discussions for Change Requests (CRs) addressed by the Technical Review Committee (TRC) for the week of 4/27/20. These CRs were discussed by email, with votes being cast 5/4-5/7.

The review of select CRs via email was instituted as a response to the challenges presented by the COVID-19 pandemic. Approximately one-half of TRC members are among those who work with public health, and whose participation on the TRC was strained by their local response. Reviewing these select CRs via email afforded them the ability to still participate in the CR review process, as their input as public health officials is crucial, and be able to focus on their local response to the pandemic.

To ensure that all CRs are adequately reviewed, the TRC reserves the right to revisit any CR reviewed via email, even if a vote has been cast. The TRC will also examine all Abstain votes to ensure that proper attention has been given to each CR. Additionally, any TRC member can initiate the revisiting of a CR reviewed via email without a consensus vote. In this occurrence, the CR in question will be revisited by the TRC during the normal call schedule and a new vote cast. In this summary, items that are currently identified as needing further review are highlighted.

**3.2-0035:** This CR proposes to amend the definition of QUALIFIED LIFEGUARD to include compliance with the topics the MAHC recommends for lifeguard training per section 6.2. The TRC was unable to find a consensus recommendation, ending with a vote of Abstain.

6.2.1-0001, 6.2.1-0002, 6.2.1-0003, 6.2.1-0004, 6.2.1-0005, 6.2.1-0006: These CRs proposes to specify various national training agencies as acceptable by the MAHC. The TRC a No vote for each of these CRs. It is noted by a TRC member that the intent of the MAHC is not to specify approved training agencies, but to create a mechanism that any training agency can be compared to by the AHJ. Such a list of nationally approved training agencies would be better suited for the Annex or to the CMAHC certification process. The Technical Director notes that it is incorrect to assume that the national training agencies meet the requirements found in the code without a thorough review of their lifeguard training programs.

**3.2-0036:** This CR proposes to amend the definition of QUALIFIED OPERATOR to include compliance with the topics the MAHC recommends for pool operator training in section 6.1. The TRC was unable to find a consensus recommendation, ending with a vote of Abstain.

**6.1.1.1-0001 & 6.1.1.1-0002:** These CRs seek to list nationally recognized QUALIFIED OPERATOR training agencies as acceptable per the MAHC. The TRC was unable to find consensus on 6.1.1.1-0001 resulting in an Abstain vote. The Technical Director notes that without a thorough review, it is incorrect to assume that such training programs are in compliance with the MAHC. Additionally, the CMAHC certification is a process for performing such a thorough review.

4.1.1.2-0003, 4.1.2.2.5-0001, 4.2.1.5.1-0001, 4.2.1.9-0001, 4.5.11.1.2-0001, 4.5.11.1.3-0001, 4.5.21.2-0001, 4.9.1.7.1.2.1-0001, 4.9.2.1.4.1-0001, 4.11.1.1.1-0001, 4.11.1.1.2.2-0001, 4.12.1.2-0001, 4.12.1.5.1-0001, 4.12.4.4-0001:

These CRs seek to clarify language in the MAHC. An overview of for each of the above is as follows:

- 4.1.1.2-0003: The AHJ does not determine the relevant laws, ordinances, rules, and regulations. The AHJ enforces the code requirements and the laws, ordinances, rules, and regulations referenced by the code.
- 4.1.2.2.5-0001: As written it appears that it is totally at the discretion of the AHJ as to whether an equipment area will be permitted rather than an equipment room. The code should address the requirements of equipment areas if allowed, otherwise they should not be allowed by the code. Even if they were not allowed by the code the design professional and/or owner could request a variance with appropriate.
- 4.2.1.5.1-0001: This CR deletes this section. 4.2.1.5.1 allows for justification to permit graphics that prevent the detection of a bather in distress, algae, sediment, or other objects in the Aquatic Venue. That goes against 4.2.1.5 that graphics cannot prevent detection of bottom of the pool for bathers, algae, etc.. Changes to requirements require a formal variance with sufficient justification to support that substantially equal health and safety are provided through other means than that prescribed in the rule.
- 4.2.1.9-0001: Seeks a variance if not covered by the listed materials.
- 4.5.11.1.2-0001: Removes language as "other approved designs" is vague.
- 4.5.11.1.3-0001: Deletes this section. This appears to describe a variance. Criteria in MAHC 4.5.11.1 states colors of *at least* 6.5. Values less would be a variance. Submit a variance request and justification that values less can meet substantially equal health.
- 4.5.21.2-0001: Adds language. If a facility does not meet the requirements of MAHC 4.0, the facility should request a variance from the specific sections as needed based on sufficient justification. Corresponds to guidance in MAHC 5.2.3 Variances.

- 4.9.1.7.1.2.1-0001: If a facility does not meet the requirements of MAHC 4.0, the facility should have formal variances process from the specific sections as needed based on sufficient justification.
- 4.9.2.1.4.1-0001: Deletes section. Unnecessary. The MAHC is not law/code. Pools need to follow local health laws anyways. If a jurisdiction has rules more strict than the MAHC, then they need to be followed.
- 4.11.1.1.1-0001: Deletes section. No basis for approval of lakes, springs, etc. is given to be deemed a Public Water System as in 4.11.1.1. Other sources would not meet the requirements for a public water system. But from Annex 4.11.1.1.1 Other Sources: There are several lake, spring, private well, or other approved private water sources around the country that have been used for decades to supply water to AQUATIC FACILITIES. Hauled water obtained from a public water supply or approved private water supply may also be used to fill POOLS. As long as the source water quality does not significantly change and can be treated by the AQUATIC FACILITY equipment to protect the health and SAFETY of PATRONS, it can be allowed.
- 4.11.1.1.2.2-0001: Deletes Section. The only source that meets EPA standards is a public water system. Condensate from MAHC 4.11.1.1.2 would still be prohibited.
- 4.12.1.2-0001: Removes language. When the Special Use of a spa prevents compliance with the requirements for depth, the designer and owner should submit a variance request with specific justification and formal written approval.
- 4.12.1.5.1-0001: Deletes section. This can be addressed a variance request with justification.
- 4.12.4.4-0001: Clarifies formal variance process

Discussion was held regarding the submitter's concern about older codes. It was commented that each code has its own peculiarities on what is grandfathered in, and it is outside the scope of the MAHC to attempt and regulate other codes. Additional discussion revolved around 4.11.1.1.1-0001. A proposed modification to the CR was submitted by a TRC member. However, the TRC made no movement to recommend a change to the CR. Discussion was held regarding the topic of variances to the code allowed by the AHJ.

The TRC recommends a Yes vote for CRs 4.1.2.2.5-0001, 4.2.1.5.1-0001, 4.2.1.9-0001, 4.5.11.1.2-0001, 4.5.11.1.3-0001, 4.9.1.7.1.2.1-0001, 4.9.2.1.4.1-0001.

The TRC was unable to find a consensus on CRs 4.1.1.2-0003, 4.11.1.1.1-0001, 4.11.1.1.2.2-0001, 4.12.1.2-0001, 4.12.1.5.1-0001, and 4.12.4.4-0001 resulting in a vote of Abstain.

The TRC recommends a No vote for CRs 4.11.1.1.1-0001, 4.11.1.1.2.2-0001, 4.12.1.5.1-0001, and 4.12.4.4-0001.

The TRC recommended modified language from the original CR for 4.5.21.2-0001, and 4.12.1.5-0001. The TRC listed a recommended Yes vote for 4.5.21.2-0001 pending approval from the submitter.

6.4.1.4.1-0001, 6.4.1.4.1-0002, 6.4.1.4.1-0003, 6.4.1.4.1-0004: These CRs provides edits to the MAHC to provide clarification of the listed CRs. An overview of these CRs is:

- 6.4.1.4.1-0001: Edit #1 "deaths" to "death" to avoid implication that 1 death is OK and not reportable.
- 6.4.1.4.1-0002: Edit #2 to remove "requires" and add "Resuscitation, CPR, Oxygen, or AED is initiated".
- 6.4.1.4.1-0003: Edit #3 to remove "requires transportation of the" and add "PATRON is transported to or is treated at a medical facility"
- 6.4.1.4.1-0004 Edit #4 to remove "or disease outbreak associated with water quality" and add "A PATRON reports their diagnosis with a waterborne illness."

Grammar issues were noted by a TRC member with the above CRs. Regarding 6.4.1.4.1-0001, a TRC member notes that this change may be more applicable in 6.3.3 (Imminent Health Hazards), but if unsure if it meets the level of requiring closure of the facility. The TRC recommends a Yes vote for these CRs.

6.4.1.4.3-0001: This CR proposes to add an enforcement component that reads "A failure to report incidents as required can lead to a formal enforcement action such as an order to close or the revocation of the operating permit"- this is for failure to report illness and injury incident reports to the AHJ within 24 hours required under 6.4.1.4. The submitted proposes that there is significant under reporting of incidents, delay in reporting, or never reported that are found out through complaints, news, or other means. A concern exists that this can hamper investigations.

The CR Champion reported to the TRC that enforcement actions and potential enforcement penalties are already outlined in 6.6.5 Enforcement Penalties on page 183 of the MAHC. It appears to duplicate the provision already set forth by the MAHC. It seems unnecessary to duplicate it again under a specific CR#, and a concern exists about setting a precedent to include enforcement guidelines under each individual CR#.

The TRC was unable to come to a consensus on this CR resulting in a vote of Abstain.

4.1.1.2-0004, 4.1.3.1.2-0001, 4.2.2.3.3-0002, 4.2.2.3.3.1-0002, 4.6.2.4-0001, 4.6.2.5-0002, 4.7.2.3.3.2-0001, 4.10.1.3-0001, 4.10.1.4-0002, 4.10.4.1.1-0001, 4.10.4.1.3-0002, 4.10.4.1.4-0001, 4.10.7.1-0001, 4.12.10.1.1.2-0001, 5.6.3.1.1-0002, 5.6.3.1.3-0002, 5.6.3.2.1-0001, 5.6.3.2.4-0001, 5.6.3.4.1-0002, 5.6.3.5.1-0001, 5.6.3.6.5-0001, 5.6.7.3.1-0001, 5.6.8.2.2-0002, 5.7.3.1.4.1.7-0001, 5.10.4.7.1-0001, 5.10.4.7.2-0001, 5.12.10.5.1.1-0001, 5.12.10.5.1.3-0001, 5.12.10.5.2.1-0001, 5.12.10.5.2.4-0001, 5.12.10.5.4.1-0001, 5.12.10.5.5.1-0001, 5.12.10.5.6.5-

0001, 5.12.10.6.2.1-0001, 5.12.10.7.2-0001, 5.12.10.14.2.2-0001, 6.1.2.1.5.1-0001, 6.4.1.2.2-0002: This grouping of CRs proposes to amend language referencing relevant federal, state, and local law to include “all applicable federal, state, or local laws, rules, regulations or ordinances”. The submitter noted that the MAHC lacks consistency in how it refers to such laws etc., and that the language used should be consistent throughout the MAHC.

One TRC member noted that while it appears prudent to use the same terminology in referencing regulatory requirements enacted by governmental entities, the proposed phrase could unintentionally include entities that have no role in a specific section at hand.

No formal feedback was received from the Operation & Maintenance TSC on the group of CRs assigned to them; however one TSC member suggesting just using "Authority Having Jurisdiction" as is done with ASTM.

The Facility Design & Construction TSC was assigned to most of the CRs in this group and had the following feedback; they felt that the CR was acceptable as submitted but proposed alternate wording. Other CR-specific feedback is noted under individual CRs below.

"We agree that language should be consistent. The proposed modification is a reasonable request. It provides broader and more encompassing guidance for the user. Should we be considering including the proposed language under the definition of CODE or AHJ?" This is more of a legal language issue than technical issue. The TRC should reach out for additional advice from an attorney. The TSC has suggested alternate language, but accepts the changes as submitted. Their proposed modification was to simplify the reference language to "All applicable CODES enforced by the AHJ". In regards to the TSC recommendation to reach out to an attorney, legal consultations regarding language would fall under the purview of the CDC and not the CMAHC or CR review process.

Other TSC feedback is noted in these individual CRs:

- 4.1.1.2-0004: Injury prevention TSC felt that this CR should be approved and that consistency of wording across the document is beneficial.
- 4.1.3.1.2-0001, 4.2.2.3.3-0002, 4.2.2.3.3.1-0002: Injury prevention TSC felt that this CR should be approved and that consistency of wording across the document is beneficial.
- 4.6.2.4-0001, 4.6.2.5-0002, 4.7.2.3.3.2-0001: The Recirculation Systems and Filtration TSC recommended accepting this CR.
- 4.10.1.3-0001: Injury prevention TSC felt that this CR should be approved and that consistency of wording across the document is beneficial.
- 4.10.1.4-0002, 4.10.4.1.1-0001, 4.10.4.1.3-0002, 4.10.4.1.4-0001, 4.10.7.1-0001: Injury prevention TSC felt that this CR should be approved and that consistency of wording across the document is beneficial.

- 4.12.10.1.1.2-0001: Injury prevention TSC felt that this CR should be approved and that consistency of wording across the document is beneficial.
- 5.6.3.1.1-0002: The Injury Prevention TSC felt that this CR would be acceptable only with modification, because proposed redaction of language appears to change the intent of the code. Existing MAHC language is confusing. It can be read to require compliance with codes (1) at the time of construction or (2) with subsequent versions of those codes. As such, compliance would be EITHER if in compliance at the time of construction or if in compliance with a newer version. In theory, a pool that is not compliant with the current code but is compliant with the code at time of construction would be in compliance with the MAHC. Thus, changes to electrical components could be made based upon the OLD code as opposed to the current code. Proposed revision removes this distinction and appears to require repairs be made in compliance at all times with the current code. While we agree with this recommended change, it is important to note the possible change to the intent of the original code. Their proposed language is: Repairs or alterations to electrical equipment and associated equipment shall preserve compliance with the NEC, and all applicable federal, state, or local laws, rules, regulations, or ordinances at the time of such repairs or alterations.
- 5.6.3.1.3-0002: This CR has been moved to a later agenda for discussion.
- 5.6.3.2.1-0001: Injury prevention TSC felt that this CR should be approved and that consistency of wording across the document is beneficial.
- 5.6.3.2.4-0001, 5.6.3.4.1-0002: Facility Design & Construction TSC agrees with the author that it would be best to include outside references only once in the MAHC. However, Maintenance and Repair is often completed without the consultation of a design professional, regulatory plan review, or even a pool professional. An example may be a deck repair by a concrete contractor with no pool experience that requires replacement of grab rail or accessory anchors. This section of the MAHC is a reminder that the wire connected to that anchor is important and needs to be preserved. This CR is not recommended to be implemented. This may be the only statement that tells an operator that bonding wires must be preserved if they do a key word search of "Maintenance" or "Repair" in the MAHC. It is possible they will not think to look at the NEC otherwise. Injury prevention TSC felt that this CR should be approved and that consistency of wording across the document is beneficial.
- 5.6.3.5.1-0001: Injury prevention TSC felt that this CR should be approved and that consistency of wording across the document is beneficial.
- 5.6.3.6.5-0001: Injury prevention TSC felt that this CR should be approved and that consistency of wording across the document is beneficial.
- 5.6.7.3.1-0001: The Recirculation Systems and Filtration TSC recommended accepting this CR.
- 5.6.8.2.2-0002: Injury prevention TSC felt that this CR should be approved and that consistency of wording across the document is beneficial.

- 5.7.3.1.4.1.7-0001: The Disinfection & Water Quality TSC felt this CR was acceptable as submitted. Injury prevention TSC felt that this CR should be approved and that consistency of wording across the document is beneficial.
- 5.10.4.7.1-0001: The Injury Prevention TSC felt the CR was acceptable only with modification, as this provision appears to require a biohazard plan only "as required by ..." Does it not make sense to require a BIOHAZARD PLAN as part of the AQUATIC SAFETY PLAN irrespective of regulatory mandates? In other words ALL aquatic facilities should have a BIOHAZARD PLAN whether or not other codes/laws/etc. so require. Keep in mind, OSHA does not apply equally to all facilities (e.g. Public entities vs Private; State OSAs vs Federal OSHA). Original MAHC language also appears to only require a biohazard plan if local codes require it. Their proposed language is: A biohazard action plan shall also be on file as part of the AQUATIC FACILITY SAFETY PLAN. A TRC member pointed out that the MAHC already has other sections which require this, and that any change to the language about the biohazard plan was not part of the intent of the CR.
- 5.10.4.7.2-0001: Injury prevention TSC felt that this CR should be approved and that consistency of wording across the document is beneficial.
- **5.12.10.5.1.1-0001:** The Injury Prevention TSC felt that this CR would be acceptable only with modification, because proposed redaction of language appears to change the intent of the code. Existing MAHC language is confusing. It can be read to require compliance with codes (1) at the time of construction or (2) with subsequent versions of those codes. As such, compliance would be EITHER if in compliance at the time of construction or if in compliance with a newer version. In theory, a pool that is not compliant with the current code but is compliant with the code at time of construction would be in compliance with the MAHC. Thus, changes to electrical components could be made based upon the OLD code as opposed to the current code. Proposed revision removes this distinction and appears to require repairs be made in compliance at all times with the current code. While we agree with this recommended change, it is important to note the possible change to the intent of the original code. Their proposed language is: Repairs or alterations to electrical equipment and associated equipment shall preserve compliance with the NEC, and all applicable federal, state, or local laws, rules, regulations, or ordinances at the time of such repairs or alterations.
- 5.12.10.5.1.3-0001, 5.12.10.5.2.1-0001, 5.12.10.5.2.4-0001: The Injury Prevention TSC feels the CR is acceptable only with modification, as this original code provision does not reference "at the time of construction". However, for consistency with other provisions that do mention repairs/alterations, should the CODE not reinforce the current version of those CODES? Because time is not referenced, it is possible to interpret that maintenance/repair should be consistent with the original NEC or laws etc in existence at the time of original installation/construction. Their suggested language is "Maintenance or repair of electrical circuits or devices shall preserve grounding compliance with the NEC and all applicable federal, state, or local laws, rules,

regulations, or ordinances at the time of such maintenance or repair." The TRC notes that the language recommendation by the TSC to modify this CR series falls outside the intent of the original CR

- 5.12.10.5.5.1-0001: The Injury Prevention TSC felt that this CR was acceptable only with modification, and that this original code provision does not reference "at the time of construction" thus I would agree with the proposed change. However, for consistency with other provisions that do mention repairs/alterations, should the CODE not reinforce the current version of those CODES? Because time is not referenced, it is possible to interpret that maintenance/repair should be consistent with the original NEC or laws etc in existence at the time of original installation/construction. Their suggested language is "Maintenance or repair of all metallic equipment, electrical circuits or devices, or reinforced concrete structures shall preserve bonding compliance with the NEC and all applicable federal, state, or local laws, rules, regulations or ordinances at the time of such maintenance or repair." The TRC notes that the language recommendation by the TSC to modify this CR series falls outside the intent of the original CR
- 5.12.10.5.6.5-0001: Injury prevention TSC felt that this CR should be approved and that consistency of wording across the document is beneficial.
- 5.12.10.6.2.1-0001: Injury prevention TSC felt that this CR should be approved and that consistency of wording across the document is beneficial.
- 5.12.10.7.2-0001; 5.12.10.14.2.2-0001: Injury prevention TSC felt that this CR should be approved and that consistency of wording across the document is beneficial. 5.12.10.7.2-0001 also corrects misnumbered sections.
- 5.12.10.14.2.2-0001: Injury prevention TSC felt that this CR should be approved and that consistency of wording across the document is beneficial.
- 6.1.2.1.5.1-0001: The Injury Prevention TSC felt that additional information/improvement was needed, as this code provision seems subject to interpretation. There is no way for a course provider to be able to discuss each local code. For example, if I teach a course in MA, I will talk about the MA DPH Health Code. There is no way for me to discuss local town health department codes other than to say, if your local jurisdiction has a health code, you must follow it. Also, what federal laws should be discussed pertaining to the operation of a pool. Arguable FLSA, Pregnancy Act, etc all apply to the operation of a pool because without staff, pools will not operate. Regulations by EPA on wastewater disposal or for storage of chemicals are numerous - these are not covered in a standard CPO type course. OSHA requirements for fall protection, etc apply to the operation of pools, but these are not discussed. I believe the intent is to discuss traditional "health codes" not necessarily all laws and regulations. They stated that this CR needs discussion with TSC and CMAHC Staff; Need clarification on exactly what regulations, codes, etc. should be included in qualified operator training



programs. The CR language would be acceptable but we need more guidance on what specifics should be included in training. The TRC notes that the language recommendation by the TSC to modify this CR series falls outside the intent of the original CR

- 6.4.1.2.2-0002: Injury prevention TSC felt that this CR should be approved and that consistency of wording across the document is beneficial.

One TRC member noted that “applicable” sufficiently addresses any concern regarding over-reach issues. The TRC reached a consensus to approve the above block of CRs. However, the CRs above which are highlighted are being slated for additional discussion as the Technical Director felt the input of the TSCs warrants additional discussion by phone.