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January 12, 2023

Gabriella Davis

Petitions Clerk

IAPMO Board of Directors

The IAPMO Group – West Building

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Dear IAPMO Board Members:

RE: Petition to the IAPMO Board of Directors regarding UMC Docket #11-24

- 1. Petitioner:** Mary Koban, Sr. Director Regulatory Affairs
Marie Carpizo, General Counsel
Air-Conditioning, Heating, and Refrigeration Institute (AHRI)
2311 Wilson Blvd, Suite 400
Arlington, VA 22201

Hearing Representative: Rusty Tharp, Vice President of Regulatory Affairs & Environmental Research
Daikin Comfort Technologies North America
19001 Kermier Road
Waller, TX 77484
- 2. Action Petitioned:** Decision Docket #11-24, Uniform Mechanical Code (UMC) Item 208, Public Comment #4
- 3. Grounds for Petition:** Extraordinary circumstances exist as the Standards Council violated IAPMO and ANSI procedures which immediately and negatively impacts all users of the UMC.
- 4a. Action Being Sought:** Approval of UMC Item 208, Public Comment #4
- 4.b. Supporting Information**

This appeal petition is being filed for the following reasons:

1. The IAPMO Standards Council failed to address and correct procedural issues committed by the IAPMO Technical Committee.
2. The IAPMO Standards Council also committed procedural issues which negatively impact the IAPMO Standards Development Process.
3. The IAPMO Standards Council did not demonstrate efforts to harmonize the Uniform Mechanical Code with other ANSI documents in violation of ANSI Essential Requirements.

The IAPMO Standards Council failed to address and correct procedural issues committed by the IAPMO Technical Committee

The Technical Committee (TC) violated Section 4-3.5.1 of the *IAPMO Regulations Governing Committee Projects*. The TC did not provide a technical statement and did not sufficiently detail their rationale for voting against Item #208, Public Comment #4 (PC#4) to the 2024 edition of the Uniform Mechanical Code. Section 4-3.5.1(c) states the IAPMO Technical Committee (TC) “shall include a statement, preferably technical in nature, on the reason for the TC action” and “[s]uch statement shall be sufficiently detailed so as to convey the TC’s rationale for its action so that rebuttal may, if desired, be submitted during the Comment Period.”

First, since PC #4 was not part of the Report on Proposals (ROP), it was impossible for the TC to agree with the “original” decision. PC#4, as being voted on now, was not contained in the ROP. Therefore, the TC could not have agreed with their original decision. The IAPMO Standards Council failed to address this critical procedural issue during the Standards Council hearing and also failed to address these in the Standards Council Decision letter.¹ AHRI correctly raised this violation at the Standards Council Hearing.²

In the Standards Appeal Decision letter, the Standards Council incorrectly noted that “*IAPMO membership twice addressed this item – once at the Assembly Consideration Session in 2021 and again at the Association Technical Meeting in Charlotte in 2022.*”³ The TC did not address Public Comment #4 twice and the Standards Council missed this distinction.

PC#4 was not submitted until after the 2021 membership meeting on September 28, 2021. PC#4 was submitted by the January 4, 2022 deadline. Therefore, it was impossible for the membership or the IAPMO TC to address PC#4 at the 2021 Assembly Consideration Session. This provides evidence that the IAPMO TC and the Standards Council did not accurately review and/or follow the IAPMO standard development process development and the connection to item #208. Furthermore, the IAPMO Standards Council ignored the procedural violations.

Second, the TC failed to provide a sufficiently detailed response to convey the TC’s rationale for why Public Comment #4 was rejected. In the Report on Comments, page 286, the TC provided the following rationale for its negative vote: “*The comment is being rejected based on the action taken on Item # 208, Public Comment # 1.*”

The IAPMO TC provided the following reasons for not accepting the IAPMO membership vote regarding Item 208, Public Comment #4:

- *agreed with the original Technical Committee’s decision or*
- *that the decision to reject comments #3 through #9 due to the acceptance of comment #1 was the correct decision or*
- *there was a great deal of discussion by the Technical Committee*

AHRI notes per Section 4-3.5.1(c) of the *Regulations Governing Committee Projects*, the IAPMO Technical Committee (TC) “shall include a statement, preferably technical in nature, on the reason for the TC action” and

¹ IAPMO Standards Appeal Decision letter for Docket Number 11-24, December 14, 2022.

² IAPMO Standards Council Hearing Transcripts, November 17, 2022; page 65-66.

³ IAPMO Standards Appeal Decision letter for Docket Number 11-24, December 14, 2022.

"[s]uch statement shall be sufficiently detailed so as to convey the TC's rationale for its action so that rebuttal may, if desired, be submitted during the Comment Period." None of the three items noted above provide sufficiently detailed information to convey the TC's rationale for its action so that rebuttal may be submitted.

Therefore, in light of these two procedural violations committed by the IAPMO TC and not addressed by the IAPMO Standards Council, AHRI argues that UMC item #208, PC#4 should be accepted.

The IAPMO Standards Council also committed procedural issues which negatively impact the IAPMO Standards Development Process.

IAPMO staff identified an incorrect reference in the six pages comprising Public Comment #4. There was one incorrect reference in section 1104.6.2. When this minor error was noted, IAPMO staff committed a procedural error by not contacting AHRI regarding PC#4 submission. IAPMO staff should have contacted AHRI first regarding PC#4, but IAPMO staff contacted a third-party other than AHRI and our co-submitters for PC#4. This is a clear violation of the procedural requirements regarding addressing questions about the PC with the submitter.

In the Standards Appeal Decision letter, the IAPMO Standards Council cite that they are concerned that PC#4 does not correlate with ASHRAE 15 (Addenda a – k).⁴ While AHRI provided addenda a- k as background, most of these addenda are not specific to A2Ls or Human Comfort. Addendum c, cited by the Standards Council, is specific to flammables in public corridors and lobbies – not A2Ls or Human Comfort. As Item #208 was the byproduct of the A2L TG on Human Comfort, the goal of PC #4 was not to correlate to all ASHRAE 15 addenda, but rather to better align with changes to ASHRAE 15 related specifically to A2Ls in Human Comfort. The IAPMO Standards Council erred in their rationale by basing their decision on the failure of PC#4 to correlate with all of these specific addenda.

Furthermore, this incorrect reference was noted as a minor error by IAPMO staff. Minor errors of this nature are routinely sorted out by code correlating committees and successfully addressed. Therefore, it is unclear why this was not discussed by IAPMO staff and addressed how to remediate this issue in the UMC. Additionally, no mention of this reference error was noted during the TC balloting process. If this minor reference section was a concern to the TC, the TC members should have noted this as their technical substantiation. This again shows that the IAPMO TC members did not provide sufficient detail as to convey the TC's rationale for its action.

Therefore, in light of this procedural issue not addressed by the IAPMO Standards Council, AHRI argues that UMC item #208, PC#4 should be accepted.

The IAPMO Standards Council did not demonstrate efforts to harmonize the Uniform Mechanical Code with other ANSI documents in violation of ANSI Essential Requirements.

As it was noted during the IAPMO Standards Council Hearing, the current IAPMO language does not meet section 1-4 of *ANSI Essential Requirements*, which states that *"good faith efforts shall be made to resolve potential conflicts between and among existing American National Standards and candidate American National*

⁴ *Id.*

*Standards.*⁵ IAPMO staff could easily employ a good faith effort to fix the small reference error and align the standard with ASHRAE 15. Furthermore, based on email communication with IAPMO staff on September 21, 2022, the reference error was already noted by IAPMO staff and they also knew potential solutions under the code correlation process to correct these errors. Therefore, good faith efforts were not made to resolve potential conflicts among existing American National Standards.

AHRI raised in our letter to the IAPMO Standards Council and during the appeal hearing that the current language will negatively impact AHRI members, consumers and installers due to conflicts between ASHRAE 15, the UMC and the IMC. AHRI argued that AHRI members will be forced to provide different HVAC products to UMC states employing low GWP refrigerants versus the IMC states employing low GWP refrigerants. This will present a cost disadvantage as AHRI members will need to provide different product offerings throughout the U.S. The current language will negatively impact U.S. consumers. HVAC products will likely be limited and have higher costs in locations following the UMC guidance language. These increased costs will particularly impact lower socioeconomic groups that are already disadvantaged, as heating and cooling are necessities not luxuries.

The requirements in Item 208, PC#1, which were accepted, will negatively impact Original Equipment Manufacturers (OEMs) and HVAC installers. Critical updates to mitigation options are contained within PC#4, that are not provided in PC#1. Therefore, in states like Texas, where both the UMC and IMC are followed, OEMs will need to design different types of products with possibly different cost structure to meet the two different model building codes (UMC and IMC). In addition, installation and servicing requirements will also be different. The non-alignment of the UMC with current ASHRAE Standard 15 will create confusion regarding sensor requirements, charge size, and installation limitations.

In conclusion, AHRI argues that due to the IAPMO procedural violation and failure to meet ANSI Essential requirements, AHRI strongly recommends the IAPMO Board of Directors approve Item #208, PC#4 to the 2024 edition of the Uniform Mechanical Code.

If you have any questions, please do not hesitate to contact me at mkoban@ahrinet.org.

Cordially yours,

Mary E. Koban

Mary Koban
Sr. Director Regulatory Affairs, AHRI

⁵ ANSI Essential Requirements: Due Process Requirements for American National Standards, January 2022 Edition, March 2, 2022 Editorial Update.