CMS - **S&C: 13-58-LSC**
August 30, 2013

Waiver Process

Providers and suppliers that want to take advantage of one or more of the categorical waivers identified below must formally elect to use one or more of the waivers and **must document their election decision**. If a provider/supplier conforms to the requirements identified for each categorical waiver elected, it will not need to apply specifically to CMS for the waiver, nor will it need to wait until being cited for a deficiency in order to use this waiver. At the entrance conference for any survey assessing LSC compliance, a provider/supplier that has elected to use a categorical waiver must notify the survey team of this fact, and that it meets the applicable waiver provisions. It is not acceptable for a healthcare facility to first notify surveyors of waiver election after a LSC citation has been issued.

The survey team will review the provider's/supplier's documentation electing to use one or more of the categorical waivers and confirm it is meeting all applicable categorical waiver provisions. This will ensure an adequate level of protection is afforded. The waiver(s) elected by the provider/supplier must be described under Tag K000. Categorical waivers do not need to be cited as deficiencies nor do they require Regional Office approval. Therefore the applicable field on the Form CMS-2786 should be marked as "Facility Meets, Based Upon, 3. Waivers." If the survey team determines that the waiver provisions are not being met, the provider/supplier will be cited as a deficiency under §482.41(b)(2), §485.623(d)(3), §483.70(a)(2), §416.44(b)(2), or §418.110(d)(2), as appropriate.

Clarification of Process for LSC Waivers permitted under S&C-12-21

CMS memorandum S&C-12-21-LSC, dated March 9, 2012, also provided for categorical waivers of several provisions of the 2000 LSC, but required each provider/supplier waiver to be evaluated separately before a survey was to be conducted, with final approval by the CMS Regional Office. Providers/suppliers seeking to take advantage of these categorical waivers may now use the categorical waiver process described above, so long as they are in compliance with all other requirements identified in S&C-12-21-LSC.

Categorical Waiver Available:

1. Medical Gas Master Alarms

The 1999 NFPA 99, *Health Care Facilities Code* is cross-referenced in the 2000 LSC and, as a result, it contains requirements applicable to providers and suppliers who must meet the 2000 edition of the LSC under our regulations. The 1999 NFPA 99, sections 4-3.1.2.2(b)(2) requires medical gas master alarms to be located in two separate locations and section 4-3.1.2.2(a)(9) does not allow a centralized computer as a substitute for any medical gas alarm panel. The use of computers to continuously monitor critical signals has increased in health care facilities and the use of computers to monitor medical gas can improve surveillance and shorten response time. As a result, the 1999 NFPA 99 provision required under the 2000 LSC is not only outmoded and unduly burdensome to providers and suppliers, but also arguably less efficient in promoting fire safety. As a result, in the 2005 edition of NFPA 99, the NFPA began to permit a centralized computer system to be substituted for one of the master alarms, and this policy is continued in section 5.1.9.4 of the 2012 NFPA 99. Accordingly, we are permitting a waiver to allow a centralized computer system to substitute for one of the Category 1 medical gas master alarms, but only if the provider/supplier is in compliance with all other applicable 1999 NFPA medical gas master alarm provisions, as well as with section 5.1.9.4 of the 2012 NFPA 99.

2012 NFPA 99, Section 5.1.9.4, Master Alarms by Computer Systems. Computer systems used as substitute master alarms as required by section 5.1.9.2.1(2), shall have the mechanical and electrical characteristics described in 5.1.9.4.1 and the programming characteristics described in 5.1.9.4.2.

5.1.9.4.1 Computer systems used to substitute for alarms shall have the following mechanical and electrical characteristics:

> **(1)** The computer system shall be in continuous uninterrupted operation and provided with power supplies as needed to ensure such reliability.
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> **(2)** The computer system shall be continuously attended by responsible individuals or shall provide remote signaling of responsible parties (e.g., through pagers, telephone auto-dialers, or other such means).
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> **3)** Where computer systems rely on signal interface devices (e.g., electronic interfaces, other alarm panels, 4 mAto 20 mA cards), such interfaces shall be supervised such that failure of the device(s) shall initiate an alarm(s).
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> **(4)** If the computer system does not power the signaling switches/sensors from the same power supply required in section 5.1.9.4.1(1), the power supply for the signaling switches/sensors shall be powered from the life safety branch of the emergency electrical system as described in Chapter 6.
>
> **(5)** Computer systems shall be permitted to communicate directly to the sensors/switches in 5.1.9.2.3 in the same manner as an alarm panel if operation of another alarm panel(s) is not impaired.

(6) Communication from the computer system to the signaling switches or sensors shall be supervised such that failure of communication shall initiate an alarm.

(7) Computer systems shall be provided with an audio alert per 5.1.9.1(3), except the audio alert shall be permitted to be only as loud as needed to alert the system operator.

(8) The facility shall ensure compliance with 5.1.9.1(12).

Section 5.1.9.4.2 The operating program(s) for computer systems used to substitute for alarms shall include the following:

(1) Medical gas alarms shall be allocated the priority of a life safety signal.

(2) A medical gas alarm signal shall interrupt any other activity of a lesser priority to run the alarm algorithm(s).

(3) The alarm algorithm shall include activation of an audible alert, activation of any remote signaling protocol, and display of the specific condition in alarm.

(4) The alarm algorithm shall provide for compliance with sections 5.1.9.1(1), 5.1.9.1(2), 5.1.9.1(3), 5.1.9.1(5), 5.1.9.1(6), and 5.1.9.1(8).

Categorical Waiver Available:

4. Doors

Section 18/19.2.2.2.2 through 18/19.2.2.2.5 of the 2000 LSC permits door locking arrangements where the clinical needs (e.g., psychiatric units, Alzheimer units, dementia units) of the patients require specialized security measures for their safety, provided adequate provisions are made for the rapid removal of occupants by means such as remote control locks or keys carried by staff at all times. The need for door locking arrangements may extend to other circumstances, such as instances when patients pose a security risk (e.g., some patients in emergency departments) or when a patient requires specialized protective measures for safety (e.g., pediatric units, newborn nurseries). In the 2009 LSC, the NFPA recognized this and began to allow for door locking arrangements when patients pose a security risk or when patients require specialized protective measures for safety, and continuation of this policy is reflected in the 2012 LSC, in sections 18/19.2.2.2.2 through 18/19.2.2.2.6. Accordingly, we are permitting a waiver to allow door locking arrangements where there are clinical needs justifying them, patients pose a security risk, or where patients require specialized protective measures for their safety, but only if the provider/supplier is in compliance with all other applicable 2000 LSC door provisions, as well as with sections 18/19.2.2.2.2 through 18/19.2.2.2.6 of the 2012 LSC.

Section 19.2.2.2.4 of the 2000 LSC permits delayed-egress locks in the means of egress, provided not more than one such device is located in an egress path. However, where the clinical needs (e.g., psychiatric units, Alzheimer units, dementia units) of the patients require specialized security measures for their safety, or where patients pose a security risk (e.g., some patients in emergency departments) or when a patient requires specialized protective measures for safety (e.g., pediatric units, newborn nurseries), more than one delayed egress lock may be required along the path of egress in order to accommodate the clinical, security, and other special needs of patients. In the 2009 LSC, NFPA began to allow for more than one delayed-egress lock in an egress path, and continuation of this policy is reflected in sections 18/19.2.2.2.4 of the 2012 LSC, provided that the facility also employs the compensating safety measures specified in those sections which facilitate rapid removal of occupants. Accordingly, we are permitting a waiver to allow more than one delayed-egress lock in the egress path, but only if the provider/supplier is in compliance with all other applicable 2000 LSC door provisions, as well as with sections 18/19.2.2.2.4 of the 2012 LSC.

2012 NFPA 101, Section 18/19.2.2.2 through 18/19.2226 Doors.

19.2.2.2.2 Locks shall not be permitted on patient sleeping room doors, unless otherwise permitted by one of the following:

(1) Key-locking devices that restrict access to the room from the corridor and that are operable only by staff from the corridor side shall be permitted, provided that such devices do not restrict egress from the room.

(2) Locks complying with 19.2.2.2.5 shall be permitted.

19.2.2.2.3 Doors not located in a required means of egress shall be permitted to be subject to locking.

19.2.2.2.4 Doors within a required means of egress shall not be equipped with a latch or lock that requires the use of a tool or key from the egress side, unless otherwise permitted by one of the following:

(1) Locks complying with 19.2.2.2.5 shall be permitted.

(2)* Delayed-egress locks complying with 7.2.1.6.1 shall be permitted.

(3)* Access-controlled egress doors complying with 7.2.1.6.2 shall be permitted.

(4) Elevator lobby exit access door locking in accordance with 7.2.1.6.3 shall be permitted.

(5) Approved existing door-locking installations shall be permitted.

19.2.2.2.5 Door-locking arrangements shall be permitted in accordance with either 19.2.2.2.5.1 or 19.2.2.2.5.2.

19.2.2.2.5.1* Door-locking arrangements shall be permitted where the clinical needs of patients require specialized security measures or where patients pose a security threat, provided that staff can readily unlock doors at all times in accordance with 19.2.2.2.6.

19.2.2.2.5.2* Door-locking arrangements shall be permitted where patient special needs require specialized protective measures for their safety, provided that all of the following are met:

(1) Staff can readily unlock doors at all times in accordance with 19.2.2.2.6.

(2) A total (complete) smoke detection system is provided throughout the locked space in accordance with 9.6.2.9, or locked doors can be remotely unlocked at an approved, constantly attended location within the locked space.

(3)*The building is protected throughout by an approved, supervised automatic sprinkler system in accordance with 19.3.5.1.

(4) The locks are electrical locks that fail safely so as to release upon loss of power tothe device.

(5) The locks release by independent activation of each of the following:

(a) Activation of the smoke detection system required by 19.2.2.2.5.2(2)
(b) Waterflow in the automatic sprinkler system required by 19.2.2.2.5.2(3)

19.2.2.2.6 Doors that are located in the means of egress and are permitted to be locked under other provisions of 19.2.2.2.5 shall comply with all of the following:

(1) Provisions shall be made for the rapid removal of occupants by means of one of the following:
(a) Remote control of locks
(b) Keying of all locks to keys carried by staff at all times
(c) Other such reliable means available to the staff at all times

(2) Only one locking device shall be permitted on each door.

(3) More than one lock shall be permitted on each door, subject to approval of the authority having jurisdiction.

Categorical Waiver Available:

3. Emergency Generators and Standby Power Systems

Section 9.1.3 of the 2000 LSC requires emergency generators and standby power systems to be installed, tested, and maintained in accordance with 1999 NFPA 110, *Standard for Emergency and Standby Power Systems*. Section 6-4.2.2 of the 1999 NFPA 110 requires diesel-powered generators that do not meet the monthly testing requirements under section 6-4.2 to be run annually with various loads for a total of two (2) continuous hours. Shorter generator run times will reduce undue cost burden and negative environmental impacts. In the 2010 NFPA 110, the NFPA began to allow for total test duration of one hour and 30 minutes (1-1/2 continuous hours). Accordingly, we are permitting a waiver to allow for a reduction in the annual diesel-powered generator exercising requirement from two (2) continuous hours to one hour and 30 minutes (1-1/2 continuous hours), but only if the provider/supplier is in compliance with all other applicable 1999 NFPA 110 operational inspection and testing provisions, as well as with section 8.4.2.3 of the 2010 NFPA 110.

2010 NFPA 110, Section 8.4.2.3 Diesel-powered EPS installations that do not meet the requirements of section 8.4.2 shall be exercised monthly with the available EPSS load and shall be exercised annually with supplemental loads at not less than 50 percent of the EPS nameplate kW rating for 30 continuous minutes and at not less than 75 percent of the EPS nameplate kW rating for 1 continuous hour for a total test duration of not less than 1.5 continuous hours.

Categorical Waiver Available:

2. Openings in Exit Enclosures

The 2000 LSC limits opening in exit enclosures (e.g., stairwells) to doors from normally occupied spaces and corridor, and doors for egress from the enclosure, with a few exceptions. Existing health care facilities often have unoccupied mechanical equipment spaces that have an exit access door to an exit enclosure. Providing an alternative exit access to these areas is typically impractical and unduly burdensome with respect to the cost of the reconstruction that would be required. With the 2003 LSC, the NFPA began to permit existing unoccupied openings to mechanical equipment spaces with fire-rated doors to open into exit enclosures, and continuation of this policy is reflected in section 7.1.3.2(9)(c) of the 2012 LSC. Accordingly, we are permitting a waiver to allow existing openings in exit enclosures to mechanical equipment spaces that are protected by fire-rated door assemblies. These mechanical equipment spaces must be used only for non-fuel-fired mechanical equipment, must contain no storage of combustible materials, and must be located in sprinklered buildings. This waiver allowance will be permitted only if the provider/supplier is in compliance with all other applicable 2000 LSC exit provisions, as well as with section 7.1.3.2.1(9)(c) of the 2012 LSC.

2012 NFPA 101, Section 7.1.3.2.1(9)(c)

(9)*Openings in exit enclosures shall be limited to door assemblies from normally occupied spaces and corridors and door assemblies for egress from the enclosure, unless one of the following conditions exists:

> **(c)** Existing openings to mechanical equipment spaces protected by approved existing fire protection–rated door assemblies shall be permitted, provided that the following criteria are met:
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> i. The space is used solely for non-fuel-fired mechanical equipment.
> ii. The space contains no storage of combustible materials.
> iii. The building is protected throughout by an approved, supervised automatic sprinkler system in accordance with Section 9.7.

Facility Name:

We are in compliance with the following Health Care Facility

Categorical Waivers Available

Y	N	N/A	
☐	☐	☐	1. Medical Gas Master Alarms - 2012 NFPA 99 - 5.1.9.4 (K77)
☐	☐	☐	2. Openings in Exit Enclosures - 2012 NFPA 101 - 7.1.3.2.1(9)(c) (K33)
☐	☐	☐	3. Emergency Generators and Standby Power Systems - 2010 NFPA 110 - 8.4.2.3 (K144)
☐	☐	☐	4. Doors - 2012 NFPA 101 – 18/19.2.2.2 (K038)
☐	☐	☐	5. Suites - 2012 NFPA 101 - 18/19.2.5.7 (K042)
☐	☐	☐	6. Extinguishing Requirements - 2011 NFPA 25 - 5.3 & 8.3 (K062)
☐	☐	☐	7. Clean Waste & Patient Record Recycling Containers – 2012 NFPA 101 - 18/19.7.5.7.2 (K075)
☐	☐	☐	8. Capacity of Means of Egress - 2012 NFPA 101 – 18/19.2.3.4 (K072)
☐	☐	☐	9. Cooking Facilities -2012 NFPA 101 – 18/19.3.2.5 (K069)
☐	☐	☐	10. Fireplaces - 2012 NFPA 101 - 18/19.5.2.3 (K067)
☐	☐	☐	11. Combustible decorations on walls, doors and ceilings - 2012 NFPA 101 - 18/19 7.5.6 (K073)
☐	☐	☐	12. Fire/smoke dampers inspected every 6 years HOSPITALS ONLY 2007 NFPA 80 19.4 and 2007 NFPA 105 6.5 (K067)
☐	☐	☐	13. Operating room relativity humidity 2012 NFPA 99 (K078)

Deputy State Fire Marshal _____Date_____