

May 5, 2014

**Review of Proposed CMS Regulations
 42 CFR Parts 403, 416, 418, 460, 482, 483 and 485
 Medicare and Medicaid Programs; Fire Safety Requirements for Certain Health Care Facilities**

Health Care Occupancies (Ch. 18 & 19)	2000 LSC	2012 LSC	Proposed CMS	Intent/Impact
Minor renovations & modernizations	Must comply with new construction	Chapter 43, "Building Rehabilitation" allows for degrees of compliance based on the work category such as the extent of work.	CMS proposes that alterations to existing buildings must comply with Chapter 43.	Reduces costs for minor construction projects.
Corridor projections	Maximum 3½ in. projections permitted at or below handrail height (38 in.). <i>Subsequently modified by CMS in S&C letters.</i>	Permits non-continuous projections of not more than 6 in.	CMS proposes that projections must not exceed the maximum 4-in. requirement of the 2010 ADA.	ADA compliance has been required prior to the proposed adoption of the 2012 LSC.
Suites	Maximum 5,000 sf for patient sleeping suites and 10,000 sf for non-patient sleeping suites. <i>Subsequent CMS categorical waiver for 2012 LSC.</i>	Maximum 7,500 sf for patient sleeping suites with a) quick-response sprinklers or b) standard-response sprinklers and smoke detection through the smoke compartment; and 10,000 sf for non-patient sleeping suites and patient sleeping suites with quick-response sprinklers throughout and direct visual supervision and complete smoke detection.	CMS proposes to adopt the 2012 provision.	Improves facility staffing flexibility and reduces costs by reducing number of suites.

Health Care Occupancies (Ch. 18 & 19)	2000 LSC	2012 LSC	Proposed CMS	Intent/Impact
Recycling	Maximum capacity of 32 gallons for recycling clean waste containers where containers are not located in protected hazardous areas.	Maximum capacity of 96 gallons for recycling clean waste containers or patient records where containers are not located in protected hazardous areas.	CMS proposes to adopt the 2012 provision.	Larger containers allow for less frequent emptying thus reducing housekeeping costs.
Roller latches	Existing roller latches permitted where demonstrated to keep door closed against a force of 5 lbf. CMS deleted this provision.	Where acceptable to the AHJ, existing roller latches permitted where demonstrated to keep door closed against a force of 5 lbf and corridor doors are in a fully sprinklered building.	Roller latches will remain as prohibited by CMS.	No major impact as these were not previously not permitted.
Sprinklers in existing high-rises	Reserved (no provision)	Sprinkler protection is required throughout the building within 12 years of the adoption of the 2012 LSC (except where a jurisdiction already adopted the 2009 LSC in which case installation must be within 9 years).	CMS proposes to adopt 2012 provision, but would like to solicit public comments regarding the phase-in period of 12 years.	CMS believes this requirement would affect mainly hospitals.

Health Care Occupancies (Ch. 18 & 19)	2000 LSC	2012 LSC	Proposed CMS	Intent/Impact
Door locking	Door locking is permitted where the clinical needs of the patients require specialized security measures for their safety and that keys are carried by staff and/or staff can readily unlock doors all times.	<p>Door locking is permitted where the clinical needs of the patients require specialized security measures or where patients pose a security threat provided that staff can readily unlock doors all times [§18.2.2.2.5.1] (applicable to dementia units, psych, forensic).</p> <p>Door locking is permitted where patient special needs (e.g., pediatric patients) require specialized protective measures for their safety provided that a) staff can readily unlock doors at all times, b) total (complete) smoke detection throughout locked space or doors can be remotely unlocked, c) sprinklered building, d) doors fail safe upon loss of power, e) door locks release on fire alarm or sprinkler waterflow detection.</p>	CMS proposes to adopt the 2012 provision.	Improve security of facilities with specialized needs and improve patient safety.
Alcohol-based hand rubs (ABHRs)	Gels permitted.	Aerosols also permitted in addition to gels. Automatic dispensers permitted. Clarifies placement of dispensers above, next to and below ignition sources.	CMS proposes to adopt the 2012 provision.	Allows for more hand hygiene dispenser options.

Health Care Occupancies (Ch. 18 & 19)	2000 LSC	2012 LSC	Proposed CMS	Intent/Impact
Sprinkler system outage	1998 NFPA 25 requires evacuation of a building or instituting a fire watch when a sprinkler system is out of service for more than 4 hours.	2011 NFPA 25 requires evacuation of a building or instituting a fire watch when a sprinkler system is out of service for more than 10 hours in a 24-hour period.	CMS proposes to retain 4 hour requirement.	No change is anticipated as CMS will keep an existing requirement.
Anesthetizing locations	1999 NFPA 99 requires smoke control ventilation in anesthetizing locations such as operating rooms [§5-4.1.3].	2012 NFPA 99 deletes smoke control requirement.	CMS proposes to retain smoke control ventilation requirement in 1999 NFPA 99.	No change is anticipated as CMS will keep an existing requirement.
Corridors	Storage is permitted in alcoves not exceeding 50 sf open to corridors. In use items such as linen carts, crash carts are permitted.	In addition to 2000 LSC provisions, 2012 allows for storage of wheeled medical equipment (emergency equipment, patient lift and transportation) in corridors, and fixed furniture.	CMS proposes to adopt the 2012 provision.	Equipment allows for more timely patient care. Furniture provides resting points and a more home-like setting.
Cooking facilities	Kitchens are not permitted to be open to corridors.	Allows for cooking facilities to be open to corridors where food is prepared for not more than 30 individuals based on compliance protection criteria in §18.3.2.5.3/§19.3.2.5.3	CMS proposes to adopt the 2012 provision.	Provides a more home-like setting.

Health Care Occupancies (Ch. 18 & 19)	2000 LSC	2012 LSC	Proposed CMS	Intent/Impact
Furnishings and decorations	Prohibits combustible decorations unless they are flame-retardant or of limited quantities that do not present a hazard of fire development or spread.	Expands 2000 provisions. Allows combustible décor provided that the items are flame-retardant or treated with approved fire-retardant coatings.	CMS proposes to adopt the 2012 provision.	Provides a more home-like setting.
Fireplaces	Permitted in §18.5.2.2, Ex. 2/§19.5.2.2, Ex. 2 in areas other than patient sleeping areas where fireplace is separated by 1-hour FRR.	Allows direct-vent gas fireplaces to be without 1-hour FRR. Solid fuel-burning fireplaces must be separated by 1-hour FRR.	CMS proposes to adopt the 2012 provision.	Allows for more options for locating fireplaces.
Outside windows and doors	Every patient sleeping room must have an outside window or outside door. The sill height must not exceed 36 in. except in special nursing units (60 in. AFF) and limited care (44 in.).	This requirement has been deleted.	CMS proposes to retain 2000 requirement for outside windows or doors except for newborn nurseries and rooms intended for occupancy less than 24 hours, and atrium windows. Window sill height in special nursing care areas must not exceed 60 in. AFF.	No change is anticipated as CMS will keep existing requirements applicable to long-term care.

Residential Board & Care Occupancies (Ch. 32 & 33)	2000 LSC	2012 LSC	Proposed CMS	Intent/Impact
Sprinklers	§32.2.3.5.3.2 requires sprinklers in all habitable areas and closets for slow and impractical evacuation (NFPA 13D) and for impractical evacuation (NFPA 13R).	All habitable areas, closets, roofed porches, balconies and decks must have sprinklers (NFPA 13D and NFPA 13R).	CMS proposes to adopt the 2012 provision.	CMS strongly encourages all existing facilities to be sprinklered in all habitable areas as for new construction.
Attics in Small Facilities	1999 Editions of NFPA 13D and 13R do not require sprinklers in attics.	2012 §32.2.3.5.7/§333.2.3.5.7 is a new provision requiring sprinklers in attics that are used for living purposes, storage or housing of fuel fired equipment.	CMS proposes to adopt the 2012 provision.	CMS cites the fatal 2009 Wells, NY fire as support for this requirement.
Reliability of means of escape	No provision	New provision requires designated means of escape to be continuously maintained free of all obstructions and impediments to full instant use in the case of a fire or emergency.	CMS proposes to adopt the 2012 provision.	Administrative and operational impact should be minimal as the new code reflects standard acceptable practice.
Smoke alarms in New Large Facilities	§32.3.3.4.7 requires a smoke alarm in each sleeping room.	2012 requires smoke alarms in every sleeping room, outside every sleeping area in the immediate vicinity of the bedrooms, and on all levels within a resident unit.	CMS is soliciting public comments about whether these requirements should also apply to existing facilities.	A significant cost would be incurred if smoke alarms must be provided in these other areas in addition to the sleeping rooms in existing facilities.

Residential Board & Care Occupancies (Ch. 32 & 33)	2000 LSC	2012 LSC	Proposed CMS	Intent/Impact
Staff	No provision	2012 adds provisions for staff to be on duty and in the facility at all times when residents requiring evacuation assistance are present.	CMS proposes to adopt the 2012 provision.	This increases safety for residents who are not capable of independently exiting the building.
Access-controlled egress doors in large facilities	Exception 2 of §32.3.2.2.2(3) and §33.3.2.2.2(3) permits access-controlled egress doors in accordance with §7.2.1.6.2.	2012 keeps this provision.	CMS proposes to adopt the 2012 provision.	No substantive change.
Hazardous areas in existing facilities	§33.3.3.2.2 does not specify a requirement for smoke partitions.	2012 §33.3.3.2.3 requires smoke partitions for hazardous area separation in facilities having impractical evacuation.	CMS proposes to adopt the 2012 provision.	This should be a minor upgrade in most cases.
Emergency forces notification in existing large facilities	§33.3.3.4.6 requires provisions for the immediate notification of the public fire department by either telephone or other means or to a private fire brigade in case of a fire.	2012 §33.3.3.4.6.1 retains the 2000 §33.3.3.4.6 provision where the existing fire alarm system does not provide for automatic emergency forces notification. §33.3.3.4.6.2 requires that where a new fire alarm system is installed or the existing fire alarm system is replaced, emergency forces notification in accordance with §9.6.4 is required.	CMS proposes to adopt the 2012 provision.	This provision would only apply when the fire alarm system is replaced or a new system is installed. The additional cost would be minor given current technology.

NFPA 99	1999 NFPA 99	2012 NFPA 99	Proposed CMS	Intent/Impact
Chapter 4 - Fundamentals		New risk-based methodology for application of requirements. Four categories are specified with Category 1 being the highest risk where failure of equipment or system is likely to cause death or major injury. Section 4.2 requires that each facility define its risk assessment methodology, implement the methodology and document the results.	CMS proposes not to require the use of any particular risk assessment procedure.	
Chapter 9 – HVAC		New chapter requires HVAC systems to comply with 2008 ASHRAE 170. Chapter 9 does not apply to existing HVAC systems but would apply to altered, renovated or modernized systems.	CMS proposes to adopt the 2012 provision.	
Commissioning		§9.3.3 requires HVAC commissioning to follow ASHRAE Guideline 0, 1.1 or other publically viewed documents acceptable to the AHJ.	CMS will only allow ASHRAE Guideline 0 and 1.1.	
Chapter 15 – Features of Fire Protection		Chapter 15 covers performance, maintenance, and testing of FP equipment. The provisions apply to both new and existing facilities. Highlight is Fire Loss Prevention in Operating Rooms.	CMS proposes to adopt the 2012 provision.	

Other Notes:

LTC Facilities

CMS proposes to retain §483.70(a)(7)(i), (ii), (iii), (A) and (B) for installation, inspection, testing & maintenance (ITM) of battery operated single station smoke alarms.

CMS proposes to remove the phase-in period (to March 13, 2006) of §483.70(a)(ii)(4) for compliance with emergency lighting as all facilities must be in compliance.

CMS proposes to retain §483.70(a)(6) referencing NFPA 13, however, they did not revise the edition from 1999 to 2010 which may be an error or omission.