CMS Proposed Rule §482.41

CMS: 2012 Life Safety Code Adoption
Important Dates

- Publication of the proposed rule: April 16, 2014
- Comments due: June 16, 2014

www.regulations.gov
Search: “Fire Safety”

Comment Now!

ASHE
A personal membership group of the American Hospital Association
Support 2012 Adoption

• On the whole, ASHE supports the adoption of current codes. The new codes:
  – Incorporate lessons learned
  – Reduce conflicts
  – Are consistent with other codes
  – Recognize changes in health care delivery
  – Provide greater flexibility
  – Incorporate categorical waivers
Support 2012 Adoption

http://www.coalition4safety.org/
Support 2012 Adoption

ASHE Strategic Imperative - Unified Codes

While regulations are a critical part of keeping patients, staff, and visitors safe, current codes and standards still have much room for improvement.

ASHE is working to improve outdated codes, conflicting codes, codes not based on science, and inappropriate code interpretations.
Why do we use consensus codes?

OMB Circular A-119 (1998) intended to:

• Encourage federal agencies to benefit from the expertise of the private sector
• Promote federal agency participation in such bodies to ensure creation of standards that federal agencies can use
• Reduce reliance on government-unique standards where an existing voluntary standard would suffice
Overview

PROPOSED RULE
Adoption, change in definition

§482.41 (b)(2)(i)

- Changes definition of “health care occupancy” from applying to “4 or more patients” to “regardless of the number of patients served”
- Would apply to hospital outpatient depts.
  - Based on billing of hospital-based provider services in outpatient buildings
  - Do your buildings comply with “health care occupancy” requirements?
Roller Latches
§482.41 (b)(2)(ii)

- Does not allow the exception in the LSC that permits use of roller latches
- CMS standards have permitted use of roller latches for more than 20 years
- Roller latches have become common in behavioral health
Alcohol Based Hand Rubs

§482.41 (b)(7)

- 2012 LSC allows ABHRs
- Accepts 2012 LSC requirements but adds “if installed to prohibit inappropriate access”
  - Interpretive guidance is needed to determine what this means.
Sprinkler 4-hour rule
§482.41 (b)(8)

- NFPA 25 formerly required evacuation or fire watch of facilities if a sprinkler system was out of service for more than 4 hours in a 24-hour period.
- This has been changed in NFPA 25 to 10 hours to accommodate a “work day.”
- CMS proposes going back to the 4-hour period.
OR Smoke Vents
§482.41 (b)(9)

• Required when flammable anesthetics were used
• Removed as operating room ACH increased, sprinkler requirements were added, severity of fire risk and extent decreased
• ECRI data suggests 250 fires annually
  – Surgical fires are extremely rare: .00092%
  – Potential cost nationwide: ?
36" Sill Height

§482.41 (b)(10)

- Okay for new construction
- As written will apply to existing construction
  - How many existing facilities will this affect?
  - What is the cost to fix this condition?
- Is it worth it?
  - Staff should not break out windows during a fire
  - Patients should not be evacuated through windows

ASHE
A personal membership group of the American Hospital Association
Adoption of NFPA 99, 2012 edition
§482.41 (c)(1)

Directly adopts NFPA 99: Health Care Facilities Code

Except chapters:

- Chapter 7 = IT and Nurse Call
- Chapter 8 = Plumbing
- Chapter 12 = Emergency Preparedness
- Chapter 13 = Security
Waivers for NFPA 99
§482.41 (c)(2)

- Gives CMS authority to grant waivers to NFPA 99 requirements
- Same requirement as for NFPA 101
Guidance on

MAKING COMMENTS
Making Comments

You are more likely to have an impact on regulatory decision-making if your comment:

• Is constructive
• Is information-rich
• Clearly communicates and supports your claims

Begin by reading and understanding the regulatory document you are commenting on.
Making Comments

Tips for writing comments:

- Be concise but be sure to support your claims.
- Base your justification on sound reasoning, scientific evidence, and/or how the proposal will affect your facility.
- Address trade-offs and opposing views.
- Provide as much information as needed to support your point of view; there is no minimum or maximum length for an effective comment.
Making Comments

• The comment process is not a vote – one well-supported comment is often more influential than a thousand form letters.

• This is not a “Me Too!” vote

• Duplicating comments by others lessens the value of both comments
Making Comments

Clearly identify the issues. If you are commenting on a particular word, phrase, or sentence, provide the page number, column, and paragraph citation from the *Federal Register* document.

Do not feel obligated to comment on every issue – select those that concern you the most, affect you the most, and/or you understand the best.
Making Comments

Identify credentials and experience that may distinguish your comments from others.

If you are commenting in an area in which you have relevant personal or professional experience (e.g., facility manager, recent construction project, attorney, etc.), say so.
Making Comments

Consider including examples of how the proposed rule would negatively and/or positively affect your facility.

Comments that include quantitative and qualitative data on the economic effects of rules are especially helpful.
Question

• How many levels in your facility and what is the total square footage?
Question

• How will your facility be impacted by the CMS proposal requiring providers to meet the applicable provisions of the 2012 edition of NFPA 101, regardless of the number of patients the hospital serves?
Question

• In order to utilize your outpatient departments for inpatient use, do you currently discharge patients, use the service, and then re-admit patients?
Question

• Does your organization provide hospital services in buildings constructed as business or ambulatory health care occupancies?
Question

• What do you think of CMS’s expectation that all hospital outpatient surgical departments should be required to meet the at least the provisions applicable to ambulatory health care occupancy chapters, regardless of the number of patients served?
Question

• Does your facility have windowless anesthetizing locations (windowless operating rooms)?
Question

• If so, do you have a dedicated exhaust system that automatically vents smoke and prevents the circulation of smoke entering the system intake? If you have a dedicated system, do the controls shut down your surgical suite air-handling units?
Question

• If so, would the shut down of the air handling unit shut down ventilation of multiple operating rooms?
Question

• Is your facility fully sprinklered?
Question

• How many sprinkler system impairments do you have each year that are over 4 hours and less than 10 hours? How many sprinkler system impairments do you have each year that are over 10 hours?
Question

• Typically, what does your local authority require you to do to perform a fire watch?
Question

• How much on average does it cost your facility to provide a fire watch per hour?
Provide Feedback to ASHE

Share your feedback
Share your evidence
Share your comments
Suggest other resources

To:

firesafetyfeedback@aha.org
Comments Due: June 16, 2014

www.regulations.gov
Search: “Fire Safety”