



Setting the Standard for Building Safety™

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May 24, 2005

Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-3145-IFC
PO Box 8018
Baltimore, MD 21244-8018

Subject: Comments Interim Final Rule RIN 0938-AN36
(70 Federal Register 15229 et. sec., March 25, 2005)

To whom it may concern:

The International Code Council® (ICC®) submits the attached comments regarding the interim final rule issued by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (70 Fed Reg 15229) to adopt the temporary interim amendment for Alcohol Based Hand Rub Solutions as published by the National Fire Protection Association (NFPA), as well as the new smoke detector installation requirements for nursing homes.

The ICC is a 35,000 + member association dedicated to building safety and fire prevention, whose mission is to provide the highest quality codes, standards, products, and services for all concerned with the safety and performance of the built environment.

The codes developed under the auspices of the ICC serve as a baseline for the design, construction, operation and maintenance of the majority of both public and private sector buildings in the U.S. As such the codes developed by the ICC (I-Codes®), are readily recognized and understood by building owners, product manufacturers, designers, contractors, code officials and all others involved in building design, construction, approval, and operation. The majority of U.S. state and local government agencies that adopt codes adopt and implement building safety and fire prevention codes developed by the ICC. In addition most federal agencies have building construction policies that require the use of the I-Codes or those policies refer to the state or local code proximate to the federal facility.

The ICC appreciates the opportunity to provide comments. Should additional information be needed please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink that reads "Sara C. Yerkes". The signature is written in a cursive, flowing style.

Sara C. Yerkes
Senior Vice President of Government Relations
International Code Council
Enclosure

Comments on “ABHR Safety”

ICC supports the HHS Centers for Medicare and Medicaid amendment which allows placement of Alcohol Based Hand Rub (ABHR) dispensers in egress corridors. A similar change to the International Fire Code® (IFC®) to allow ABHR dispensers in egress corridors in accordance with certain provisions was advanced to the final stage of consideration in ICC’s Governmental Consensus Process. Notable provisions in this code change proposal include:

- Use is limited to nonaerosol products
- Dispenser placement is limited to corridors that are at least 6 feet wide
- Dispenser placement is prohibited over carpet – except in fully sprinklered locations
- Dispenser placement is prohibited directly adjacent to, directly above or below an electrical receptacle, switch, appliance, device or other ignition source.

The code change has been recommended for approval by the IFC Development Committee; and will be presented for final approval by the membership during the September code hearings. If approved, section 3405.5 of the 2006 IFC would read:

3405.5 Alcohol-based hand rubs classified as Class I or Class II liquids. The use in corridors of wall-mounted dispensers containing nonaerosol, alcohol-based hand rubs classified as Class I or Class II liquids shall be in accordance with all of the following:

1. The minimum corridor width shall be 72 inches (1829 mm).
2. The maximum capacity of each dispenser shall be 41 ounces (1.2 L).
3. The minimum separation between dispensers shall be 48 inches (1219 mm).
4. The dispensers shall not be installed directly adjacent to, directly above or below an electrical receptacle, switch, appliance, device or other ignition source. The wall space between the dispenser and the floor shall remain clear and unobstructed.
5. Dispensers shall be mounted so that the bottom of the dispenser is a minimum of 42 inches (1067 mm) and a maximum of 48 inches (1219 mm) above finished floor.
6. Dispensers shall not release their contents except when the dispenser is manually activated.
7. Dispensers installed in occupancies with carpeted corridors shall only be allowed in smoke compartments or fire areas equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.
8. Projections into a corridor shall be in accordance with Section 1003.3.3.
9. Storage of alcohol-based hand rubs shall be in accordance with the applicable provisions of Section 3404.

In the early fall of 2003, the American Hospital Association (AHA) approached the International Code Council regarding the safety issues related to the use of (ABHR) products in health care occupancies. Specifically, the AHA was concerned that the fire code has prohibited the installation of the dispensers in corridors. The ICC Board of Directors appointed an ad hoc committee with broad representation to address the issue and develop appropriate code change recommendations. The committee’s goal was to provide a means for ICC to avoid the building and fire codes being utilized as a barrier to infection control while maintaining an appropriate level of safety. The committee consisted of eight building and fire officials and four industry representatives. The code change presented above is the culmination of those efforts.

Comments on “Location” of smoke detectors

The ICC agrees with the HHS Centers for Medicare and Medicaid assessment that smoke alarms¹ located in patient rooms are necessary fire safety measures when fire sprinkler systems are not present.

ICC believes that the notification of the nursing station attendant in the event that smoke or fire is detected is an essential component for nursing home safety. The International Fire Code requires that every nursing home patient room be equipped with at least one fire sprinkler head. (IFC 903.2.5) In the event one of these sprinklers is triggered, the building alarm system is activated to alert the nursing station.

ICC is concerned that battery operated smoke alarms, the minimum requirement of this HHS Centers for Medicare and Medicaid interim final rule, do not have the notification capabilities discussed above. A simple battery operated smoke alarm may not be immediately noticed by nursing staff working in another area of the nursing home. This could pose a safety risk should the alarm fail to be noticed in the first critical minutes after a fire begins.

While addressing a basic smoke alarm requirement, HHS Centers for Medicare and Medicaid may also wish to encourage or require more advanced and readily available dual sensor smoke alarms. A dual sensor alarm has both a photoelectric sensor to quickly detect slow burning smoldering fire as well as an ionization sensor to quickly detect fast flaming fires. Because it is nearly impossible to predict what type of fire could start in a patient room, installing one alarm with both sensors can enhance fire safety with only a small increase in cost.

Comments on “1 year phase-in”

If these facilities are not sprinklered as per IFC 903.2.5, then it is imperative that smoke alarms be installed in nursing home patient rooms as soon as possible. While recognizing a need for phased in compliance time, ICC believes that one year for installation compliance for this minimum measure is unnecessarily long. Nursing homes should be required to install, at a minimum, battery operated smoke alarms in patient rooms without sprinklers within a reasonably short interval following enactment of this regulation (ie. 90 days). Understandably, upgrades in the facility, such as hard-wired systems and/or fire sprinklers systems, may take up to a year for installation purposes. Battery-operated alarms, however, are inexpensive and can be purchased and installed in a short amount of time.

General comments on regulation change

The ICC is concerned that the existing set of fire code rules used and enforced by HHS Centers for Medicare and Medicaid do not fully address the fire safety needs of such a vulnerable population. The IFC currently requires nursing homes to utilize fire sprinkler systems that reach every patient room with smoke detectors as an optional additional layer of protection. ICC encourages HHS Centers for Medicare and Medicaid to implement the basic regulations in this interim final rule to protect the residents of nursing homes not currently protected by those jurisdictions enforcing the IFC. Further, ICC would encourage HHS Centers for Medicare and Medicaid to incorporate the IFC into their regulations for additional protection of nursing home patients.

¹ Please note that a correction needs to be addressed in this Federal Register notice. The battery operated devices discussed by HHS Centers for Medicare and Medicaid are actually smoke *alarms* because they are combined detection and notification devices. Smoke *detectors* simply detect smoke and use another device in the system to sound an alert.