



CMS Policies and Procedures

1. How do I get a WAIVER from CMS?

CMS grants waivers of specific provisions of the Life Safety Code in a specific facility if the two criteria for a waiver are met:

Unreasonable hardship; and No adverse effect on health and safety.

Unreasonable hardship means that a facility has to show that it would be a financial hardship to repair or replace something.

No adverse effect on Health and Safety means that, even though a requirement is NOT MET, the facility achieves safety by alternate means or compensating features.

JCAHO-accredited hospitals must apply to JCAHO for an equivalency. CMS would consider waivers in J-accredited hospitals in cases where CMS did the survey (a complaint or validation survey).

ASC's accredited by AAAHC or AAAASF must still apply to CMS for a waiver. The accrediting organizations for ASCs CANNOT grant CMS waivers.

Where CMS is the AHJ for waivers, the facility would indicate the request for a waiver and document unreasonable hardship and no adverse effect on health and safety on the CMS 2567 (Statement of Deficiencies/Plan of Correction). The State recommends waiver or denial, the CMS regional office approves or denies the waiver.

2. **ABHR's (Alcohol Based Hand Rubs).** In March, 2005, the NFPA issued a TIA (Tentative Interim Amendment) to amend BOTH the 2000 and 2003 editions of the Life Safety Code (LSC) to permit the use of ABHRs in exit access corridors. We then issued regulations to adopt the 2000 Code as amended. One of the criteria under which ABHRs are permitted is that "dispensers shall not be installed over or directly adjacent to an ignition source". We have received many inquiries as to the distance from an outlet. Neither the TIA nor the LSC defines the distance. This is a judgment call. These units should not be placed where they could drip into an outlet or switch.

3. **Smoke Detectors:** The CMS regulation which adopted the amended 2000 LSC also requires that **existing non-sprinklered nursing homes** install single station battery operated smoke detectors in patient sleeping rooms. It is anticipated that sprinklers will be required in all existing nursing homes in the near future.

4. **Generators in Nursing Homes** - NFPA 99, 1999 requires a Type I EES in a hospital and in an "other" (an ASC) where patients are on life support. CMS SNF regulations (483.70) require a generator in facilities with life support equipment. ASCs utilizing life support or general anesthesia need a Type I EES, which may be powered by batteries under certain limited circumstances. An All-states letter is presently being prepared to outline when batteries may be acceptable.

5. **Liquid Germicides** – NFPA has issued a TIA to permit liquid germicides in OR's when given sufficient time to dissipate. At this time, aerosol germicides are permitted by NFPA 99, provided sufficient time is given for the vapor to dissipate.

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