



Long-Term Care Regulatory Provider Letter

Number: PL 18-18 (ICF/IID) (Replaces PL 16-44)
Title: Attic Protection Required for a Facility with a Fire Sprinkler System
Provider Types: Intermediate Care Facility for Individuals with an Intellectual Disability or Related Conditions (ICF/IID)
Date Issued: September 5, 2018

1.0 Subject and Purpose

The purpose of this letter, which replaces PL 16-44, is to inform providers that an ICF/IID that has a fire sprinkler system must have the attic protection described in this letter installed **before July 5, 2019**. The Health and Human Services Commission (HHSC) will survey to determine compliance with this requirement starting July 5, 2019.

An ICF/IID that does not have a fire sprinkler system is not required to provide additional attic protection. **Therefore, this letter does not apply to an ICF/IID that does not have a fire sprinkler system.**

2.0 Policy Details & Provider Responsibilities

Code of Federal Regulations, Part 42, §483.470(j)(1)(iv) and Texas Administrative Code, Title 40, Part 1, Chapter 90, Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions, [§90.61\(d\)\(9\)](#) require an ICF/IID to be in compliance with Chapter 33.2.3.5.7.1, Sprinklers in attics¹, or Chapter 33.2.3.5.7.2, Heat detection systems in attics,² of NFPA 101, Life Safety Code, beginning July 5, 2019.

An ICF/IID that was **certified as of November 1, 2016, and has a fire sprinkler system or installs a fire sprinkler system on or after November 1, 2016, will have until July 5, 2019, to comply** with the attic protection requirements listed below.

An ICF/IID **seeking licensure or approval for a relocation on or after November 1, 2016, is required to have a fire sprinkler system and must have protected attics** per NFPA 101, 2012 Edition, Chapter 32.³ This means an ICF/IID seeking licensure or approval for relocation on or after November 1, 2016, must have an automatic fire sprinkler system installed and the sprinkler system must include the attic protection requirements per

NFPA 101, Chapter 32. The ICF/IID seeking licensure or relocation **does not have until July 5, 2019, to comply** with the attic protection requirements. Rather, the ICF/IID must comply with the attic protection requirements prior to approval for licensure or relocation.

The attic protection requirements also apply to residential portions of a **State Supported Living Center (SSLC) or community center** if the building falls under the requirements of NFPA 101, Chapter 32, New Residential Board and Care Occupancies or Chapter 33, Existing Residential Board and Care Occupancies. If the building has a fire sprinkler system and the attic in the residential building is constructed of wood, then the attic must be protected as described in this PL. If the building has a fire sprinkler system and the attic is constructed of noncombustible or limited-combustible material, or fire-retardant-treated wood, then the attic would only require further protection if there is gas-fired equipment in the attic. An SSLC or community center that has questions regarding the NFPA occupancy classification of any residential building should contact the Life Safety Code program manager for the region where their facility is located.

NFPA 101 Attic Protection Requirements:

If an ICF/IID has an automatic sprinkler system and **has gas-fired equipment in the attic** (e.g., a gas-fired furnace or water heater), it must protect the attic with automatic sprinklers that are part of the approved automatic sprinkler system.

If an ICF/IID has an automatic sprinkler system and **does not have gas-fired equipment in the attic** (e.g., a gas-fired furnace or water heater), it must protect the attic in one of the following ways:

- (1) by protecting the attic throughout with a heat detection system arranged to activate the building fire alarm system;
- (2) by protecting the attic throughout with automatic sprinklers that are part of the approved automatic sprinkler system;
- (3) by ensuring the attic is made of noncombustible or limited-combustible construction; or
- (4) by ensuring the attic is constructed of fire-retardant-treated wood in accordance with NFPA 703, *Standard for Fire-Retardant Treated Wood and Fire-Retardant Coatings for Building Materials*.

Please note that NFPA 101 refers to attics that are used for living purposes or storage, but 40 TAC [§9.212](#) and [§90.69\(d\)](#) do not allow an ICF/IID to use an attic for storage purposes. In addition, this letter assumes an attic does not and cannot meet the living space requirements found at 40 TAC [§90.68](#), making an attic unusable as living space. HHSC would not permit an attic to be used as living space.

3.0 Background/History

CMS published Survey and Certification Letter [16-29](#), *Adoption of the 2012 edition of the National Fire Protection Association (NFPA) 101 - Life Safety Code (LSC) and 2012 edition of the NFPA 99 - Health Care Facilities Code (HCFC)* on June 20, 2016. This letter announced the adoption by regulation of the NFPA 2012 LSC and 2012 HCFC by regulation, effective July 5, 2016. Providers may view the notice of the final rule published by CMS in the [Federal Register](#).

4.0 Forms/Appendices

None

5.0 Contact Information

If you have any questions about this letter, please contact the Policy, Rules and Training Section at (512) 438-3161.

[signature on file]

Mary T. Henderson
Associate Commissioner
Long-term Care Regulatory

MTH:ca

¹ **NFPA 101, Life Safety Code, 2012 Edition, 33.2.3.5.7.1** – Where an automatic sprinkler system *is installed*, attics used for living purposes, storage, or fuel-fired equipment shall be protected with automatic sprinklers that are part of the required, approved automatic sprinkler system in accordance with 9.7.1.1.

² **NFPA 101, Life Safety Code, 2012 Edition, 33.2.3.5.7.2** – Where an automatic sprinkler system is installed, attics not used for living purposes, storage, or fuel-fired equipment shall meet one of the following criteria:

- (1) Attics shall be protected throughout by a heat detection system arranged to activate the building fire alarm system in accordance with Section 9.6.
- (2) Attics shall be protected with automatic sprinklers that are part of the required, approved automatic sprinkler system in accordance with 9.7.1.1.
- (3) Attics shall be of noncombustible or limited-combustible construction.
- (4) Attics shall be constructed of fire-retardant-treated wood in accordance with NFPA 703, *Standard for Fire Retardant– Treated Wood and Fire-Retardant Coatings for Building Materials*.

³ **NFPA 101, Life Safety Code, 2012 Edition, 32.2.3.5.7.1** – Where an automatic sprinkler system is required by 32.2.3.5, attics used for living purposes, storage, or fuel-fired equipment shall be protected with automatic sprinklers that are part of the required, approved automatic sprinkler system in accordance with 9.7.1.1.

NFPA 101, Life Safety Code, 2012 Edition, 32.2.3.5.7.2 – Where an automatic sprinkler system is required by 32.2.3.5, attics not used for living purposes, storage, or fuel-fired equipment shall meet one of the following criteria:

- (1) Attics shall be protected throughout by a heat detection system arranged to activate the building fire alarm system in accordance with Section 9.6.
- (2) Attics shall be protected with automatic sprinklers that are part of the required, approved automatic sprinkler system in accordance with 9.7.1.1.
- (3) Attics shall be of noncombustible or limited-combustible construction.
- (4) Attics shall be constructed of fire-retardant-treated wood in accordance with NFPA703, *Standard for Fire Retardant–Treated Wood and Fire-Retardant Coatings for Building Materials*.