New CMS LSC Survey and Certification Letters

Following are the links to two new Centers for Medicare and Medicaid Services (CMS) Life Safety Code Survey and Certification Letters:

I.

Use of the Fire Safety Evaluation System (FSES), National Fire Protection Association (NFPA) 101A, Guide on Alternative Approaches to Life Safety, 2013 Edition by Health Care Occupancies and Board and Care Occupancies  12/16/16


This Letter notifies the State Agencies (SA) and other stakeholders that CMS will be using NFPA 101A, Guide on Alternative Approaches to Life Safety, 2013 Edition (referred to here as 2013 FSES), as one method for determining LSC equivalencies. The 2013 FSES will be used in place of the 2001 FSES which was previously approved for use (Survey and Certification policy memorandum, S&C-03-21, dated May 8, 2003) with the 2000

- CMS has adopted the 2012 Life Safety Code (LSC) and the 2012 Health Care Facilities Code (HCFC) through regulation (see 81 FR 26872, 5/4/16), effective July 5, 2016.
- If the FSES is being used to demonstrate compliance with the fire safety requirements, the version of the FSES for Health Care Occupancies and Board and Care Occupancies found in the 2013 edition of the Guide on Alternative Approaches to Life Safety, NFPA 101A must be used. A facility that achieves a passing score on the 2013 edition of the FSES will be considered to meet the fire safety requirements for certification and recertification with the Medicare and Medicaid programs.
- CMS began surveying for compliance with the 2012 LSC and HCFC on November 1, 2016. Facilities may now use the 2013 edition of the FSES.
- Long Term Care (LTC) facilities using the FSES may be granted a time limited waiver to correct certain deficiencies.
The 2013 FSES will be used in place of the 2001 FSES which was previously approved for use (Survey and Certification policy memorandum, S&C-03-21, dated May 8, 2003) with the 2000 LSC. The 2013 FSES has been updated by the NFPA and is calibrated to the requirements found in the recently adopted 2012 LSC. This will allow for a more accurate determination of LSC equivalencies.

For facilities that do not meet the prescriptive fire safety requirements of the 2012 LSC, they may use the 2013 FSES to achieve compliance with the Medicare and Medicaid fire safety requirements. The use of the FSES in this manner is not new, but CMS is updating which version of the FSES is to be used to demonstrate this equivalency. The FSES can be completed by the facility, a trained consultant, or by the SA at their discretion.

The 2013 FSES that is submitted by the facility for review to the SA which then sends it to the RO for final approval as part of the plan of correction (POC), must use the most recent annual LSC prescriptive survey of the facility completed by the SA as the basis of the FSES. A new FSES must be completed and submitted for review and approval each time the annual prescriptive LSC survey is completed by the SA and deficiencies are identified by the survey.

In the case of LTC facilities that utilize the FSES for Health Care Occupancies for compliance and do not achieve a passing score for the individual safety evaluation “Extinguishment Safety” (S2) (worksheet 4.7.9) requirements, the facility will be given a time-limited waiver of up to five years to correct the deficiencies and come into compliance with the prescriptive requirements of the LSC; or achieve an overall passing score on the FSES, including a passing score for “Extinguishment Safety.” To receive the time limited waiver, passing scores must be achieved in all other individual safety evaluations (worksheet 4.7.9). This time limited waiver may be granted one time as part of the RO review of the FSES material submitted by the SA.

A facility that does not meet the requirements of the LSC or achieve a passing score on the 2013 FSES at the end of the time limited waiver will be subject to termination from the Medicare and Medicaid programs.

A facility that achieves a passing score on the 2013 FSES will be considered to meet the fire safety requirements for certification into the Medicare and Medicaid programs. The 2013 FSES can be used for surveys completed after November 1, 2016.

II.
Clarification of Automatic Fire Sprinkler System Installation Requirements in Attic Spaces in Long-Term Care (LTC) Facilities 2016-12-16


- The 2012 LSC requires all existing and newly constructed health care facilities including long term care facilities to be equipped with a supervised automatic sprinkler system. This regulation requires compliance with the 2010 edition of National Fire Protection Association (NFPA) 13, Installation of Sprinkler Systems.

- CMS has received several requests for clarification concerning the installation of automatic fire sprinklers in concealed or attic spaces of health care facilities, specifically where FRTW has been installed in attic spaces or used in the construction of roofs. The NFPA Installation of Sprinkler Systems, NFPA 13, 2010 edition requires sprinkler protection in all areas of a building at Section 4.1. There are a few exceptions that permit sprinklers to be omitted in certain areas and still consider a building to be completely sprinkler protected; these exceptions are found at Section 8.15.1. The typical exceptions used in nursing homes are concealed spaces, with 12 examples; vertical shafts, with two examples; and exterior roofs or canopies. The exceptions for these locations are defined in a manner that limits their application to very specific instances.

- Concealed spaces are non-occupied spaces that can be created by construction of the building. These spaces may contain wiring, and piping for building service equipment such as HVAC equipment and may be void of any combustible material. Concealed spaces are not required to be sprinklered as long as the storage of combustible items is not permitted. Limited access to these areas by small access panels is allowed. An attic can be a concealed space if it is constructed and used as a concealed space as outlined in 8.15.1.2.1 of NFPA 13.

- Concealed spaces may be constructed of or contain noncombustible or limited combustible material such as FRTW and, spaces constructed of such material are not required to be protected by an automatic sprinkler system. FRTW is allowed to be used in both “new” and “existing” construction of an attic or concealed space by the LSC as referenced at 18.1.6.2, 18.1.6.3, 19.1.6.2 and 19.1.6.3 and section 8.15.1.2 of NFPA 13.