



Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-07-29

DATE: July 13, 2007

TO: State Survey Agency Directors
State Fire Authorities

FROM: Director
Survey and Certification Group

SUBJECT: **Life Safety Code** – Canopy and Overhang Sprinkler Requirements and the Use of the Fire Safety Evaluation System (FSES)

Memorandum Summary

- This memorandum modifies S&C-05-38 “Clarification of Life Safety Code (LSC) issues in Nursing Homes” in regards to sprinklers in canopies and overhangs.
- The LSC requires that most canopies and large overhangs be sprinklered (in facilities where the regulations require sprinklers).
- The Fire Safety Evaluation System (FSES) may be used when evaluating the level of safety provided for a Health Care occupancy where a canopy or overhang is required to be sprinklered. The FSES affords facilities the opportunity to have stronger safety features in other areas to compensate where the facility does not have sprinklers installed. The FSES can be used for this purpose until the Centers for Medicare & Medicaid Services (CMS) regulations require that the facility become fully sprinklered.
- Facilities with an existing waiver of the requirement for canopies and overhangs to be sprinklered may continue under their existing waiver if the CMS regional office (RO) finds that the waiver continues to meet all other requirements in law or regulation. These waivers are reviewed annually by the CMS RO. CMS will not approve any new waivers.

This memorandum clarifies CMS policy regarding the use of the FSES when determining compliance with the LSC where canopies or overhangs are not sprinklered. The LSC requires sprinkler systems to be installed in accordance with NFPA 13, Standard for the Installation of Sprinkler Systems, 1999 edition.

The Standard for the Installation of Sprinkler Systems, NFPA 13 (Section 5-1.1) requires:

“... (1) Sprinklers installed throughout the premises...” An annex note discusses that this standard contemplates full sprinkler protection for all areas.

At Section 5-13.8.1, NFPA 13 requires that sprinklers shall be installed under exterior roofs or canopies exceeding 4 feet in width with an exception for those with noncombustible or limited combustible construction.

Use of the FSES

The FSES/HC (NFPA 101A, Chapter 4, 2001 edition) can be used to evaluate the level of safety provided for a Health Care occupancy that does not conform to the provisions of “Automatic Sprinklers and Other Extinguishing Equipment” (NFPA 101, Section 9.7). Facilities without sprinklers installed under overhangs or canopies may meet the requirements of NFPA 13 at Section 5-1.1 and 5-13.8.1 temporarily by using the FSES.

The 2001 edition of the FSES/HC (which is currently used by CMS) contains additional information on automatic sprinkler requirements that was not included in the 1985 edition of the FSES. This additional information may be helpful to facilities using the FSES in complying with automatic sprinkler requirements. Facilities using the FSES when canopies and overhangs do not have sprinklers installed would only receive credit for “Corridors and Habitable Space” or 8 points when evaluating item 13: Automatic Sprinklers. Facilities may only use the FSES to comply with these requirements until CMS regulations require that the facility become fully sprinklered. The FSES is required to be completed annually after each prescriptive survey and submitted as part of the facility’s plan of correction. The CMS Regional Office will review the completed FSES annually.

Use of a Waiver

Generally, facilities with an existing waiver of the requirement for canopies and overhangs to be sprinklered may continue under that waiver so long as the CMS RO finds that all other applicable requirements in law and regulation continue to be met. However, requests for new waivers are not to be approved, as the FSES provides a structured evaluation showing equivalency to the LSC due to compensatory features. Existing waivers may be continued until CMS regulations require that the facility become fully sprinklered. These waivers are to be reviewed annually by the CMS Regional Office.

The date at which time facilities will be required to be fully sprinklered by installing a sprinkler system in accordance with NFPA 13 will be determined in the final version of the proposed regulation issued October 27, 2006 as a Notice of Proposed Rulemaking (NPRM).

We hope this information is useful in clarifying this issue. If you have further questions, regarding this matter, please contact James Merrill at James.Merrill@cms.hhs.gov.

Effective Date: The information contained in this memorandum is current policy and is in effect for all nursing home facilities. The State agency should disseminate this information within 30 days of the date of this memorandum.

Training: This clarification should be shared with all survey and certification staff, fire authorities, surveyors, their managers, and the State/RO training coordinator.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management