



Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-07-05

**DATE:** December 7, 2006

**TO:** State Survey Agency Directors  
State Fire Authorities

**FROM:** Director  
Survey and Certification Group

**SUBJECT:** **Life Safety Code** – Exit Discharge Requirements and the Fire Safety Evaluation System (FSES)

**Letter Summary**

The FSES may be used when evaluating the level of safety provided for a Health Care occupancy that does not conform with the provisions of Section 7.7 “Discharge from Exits” NFPA, 2000 edition, including the use of unpaved exits under certain circumstances. See (NFPA 101A, Chapter 4, 2001 edition).

This memorandum clarifies the Centers for Medicare & Medicaid Services (CMS) policy regarding the use of the FSES when determining compliance with the Life Safety Code (LSC) where exit discharge paths are not paved.

“The Life Safety Code” (LSC) of the National Fire Protection Association (NFPA) (Section 7.7.1) requires that:

“...Exits shall terminate directly at a public way or at an exterior exit discharge...The principle addressed in 7.7.1 is that, once a building occupant reaches an exit (the protected portion of the means of egress), the level of protection afforded by the exit cannot be reduced or eliminated.”

The NFPA also included an annex note to s section of the LSC which observes that exterior walking surfaces within the exit discharge are not required to be paved and often are provided by grass or similar surfaces.

However, it has been unclear whether unpaved exits could also meet the requirements of another section of the LSC that establishes a requirement for maintaining full protection upon reaching an exit. Section 7.1.10 of the LSC states:

“Means of egress shall be continuously maintained free of all obstructions or impediments to full instant use in case of fire or other emergency.”

Finally, it has been unclear whether the FSES can be used in cases where not all exits are fully paved. The FSES is a point-based system that, in effect, permits stronger-than-required protections to compensate in certain areas for protections that, by themselves, would otherwise fall short of the requirements. This memorandum reconciles these features of the LSC as they apply to Medicare and Medicaid certification.

On January 10, 2006, the NFPA issued a Formal Interpretation (FI) that states that 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 with the provisions of “Discharge from Exits” (NFPA 101, Section 7.7).

CMS is adopting this NFPA formal interpretation effective immediately.

The 2001 edition of the FSES/HC (which currently is used by CMS) contains additional information on exit discharge requirements that were not included in the 1985 edition of the FSES. This additional information may be helpful to facilities using the FSES in complying with exit discharge requirements.

A facility that achieves a passing score on the FSES and submits it as a Plan of Correction may be certified based upon the FSES. Once a facility has been certified based on the FSES, it may continue to be certified on that basis in subsequent certification surveys after completion of the Form CMS-2786.

All FSESs, after review by the State Agency, are to be submitted to the CMS regional office for final review as required by S&C letter 04-33 issued May 13, 2004. Further instructions on the completion of the FSES are found in Appendix I of the State Operations Manual (SOM).

We hope this information is useful in clarifying these issues. If you have further questions regarding this matter, please contact James Merrill at [James.Merrill@cms.hhs.gov](mailto: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, State fire authorities, surveyors, their managers and the State/RO training coordinator.

/s/  
Thomas E. Hamilton

cc: Survey and Certification Regional Office Management (G-5)