

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

Issued in Washington, DC on February 23, 2004.

Beverly Cook,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 04-4359 Filed 2-26-04; 8:45 am]

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DEPARTMENT OF ENERGY

10 CFR Parts 850 and 851

[Docket No. EH-RM-03-WSH]

RIN 1901-AA99

Worker Safety and Health Program; Suspension of Rulemaking

AGENCY: Department of Energy (DOE).

ACTION: Proposed rule; notice of suspension.

SUMMARY: DOE today gives notice of the suspension of a rulemaking under the Atomic Energy Act of 1954 to promulgate worker health and safety regulations for DOE workplaces and procedures for the assessment of civil penalties for violations of standards under those regulations. Since DOE published its notice of proposed rulemaking on December 8, 2003 (68 FR 68276), DOE has become aware that the Defense Facilities Nuclear Safety Board (DFNSB), which has safety oversight responsibility with regard to DOE nuclear facilities, has concerns with regard to the proposed regulations. The purpose of today's notice of suspension is to allow time for DOE to consult with the DFNSB in order to resolve its concerns. DOE also will consider the concerns of other interested stakeholders as appropriate. Consistent with past practice, if DOE receives any significant communications from these other interested stakeholders yielding information not already in the comments that DOE has received, it will add those communications (or in the case of significant oral exchanges, memoranda summarizing those exchanges) to the public comment file in the DOE Freedom of Information Reading Room. The suspension will continue pending further notice by DOE.

FOR FURTHER INFORMATION CONTACT:

Jacqueline D. Rogers, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0270, 301-903-5684, e-mail, jackie.rogers@hq.doe.gov.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003-CE-40-AD]

RIN 2120-AA64

Airworthiness Directives; Cessna Aircraft Company 120, 140, 140A, 150, F150, 170, 172, F172, FR172, P172D, 175, 177, 180, 182, 185, A185E, 190, 195, 206, P206, U206, TP206, TU206, 207, T207, 210, T210, 336, 337, and T337 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of the comment period.

SUMMARY: The FAA proposes to revise an earlier proposed airworthiness directive (AD) to supersede AD 86-26-04 that applies to certain Cessna Aircraft Company (Cessna) 120, 140, 140A, 150, F150, 170, 172, F172, FR172, P172D, 175, 177, 180, 182, 185, A185E, 190, 195, 205, 205A, 206, P206, P206E, TP206A, TU206, TU206E, U206, U206E, 207, T207, 210, T210, 336, 337, and T337 series airplanes. The earlier NPRM proposed to retain the actions of AD 86-26-04, add additional airplanes to the applicability section, and incorporated revised manufacturer service information. This proposed AD is the result of the FAA inadvertently omitting 10 affected airplane serial numbers for Model TU206D airplanes from the applicability section of the earlier NPRM. This proposed AD would retain the actions of earlier NPRM and add additional airplanes to the applicability section of this proposed AD. Since these actions impose an additional burden over that proposed in the earlier NPRM, we are reopening the comment period to allow the public the chance to comment on these additional actions.

DATES: We must receive any comments on this proposed AD by April 9, 2004.

ADDRESSES: Use one of the following to submit comments on this proposed AD:

- *By mail:* FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003-CE-40-AD, 901 Locust, Room 506, Kansas City, Missouri 64106.
- *By fax:* (816) 329-3771.
- *By e-mail:* 9-ACE-7-Docket@faa.gov.

Comments sent electronically must contain "Docket No. 2003-CE-40-AD" in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII.

You may get the service information identified in this proposed AD from Cessna Aircraft Company, Product Support P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517-5800; facsimile: (316) 942-9006.

You may view the AD docket at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003-CE-40-AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Office hours are 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gary D. Park, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946-4123; facsimile: (316) 946-4107.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on This Proposed AD?

We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include "AD Docket No. 2003-CE-40-AD" in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it. We will date-stamp your postcard and mail it back to you.

Are There Any Specific Portions of This Proposed AD I Should Pay Attention to?

We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. If you contact us through a nonwritten communication

and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend this proposed AD in light of those comments and contacts.

Discussion

What Is the Background of the Subject Matter?

Cessna designed add-on shoulder harness assembly accessory kits for the pilot/co-pilot seats for certain Cessna airplanes. These shoulder harness assemblies incorporate a retainer spring in the adjuster on the upper and lower shoulder harness. The retainer spring may have been inadvertently installed on the belt friction pin. This installation of the spring in the upper shoulder harness adjuster will not allow the belt webbing to lock in place.

This caused us to issue AD 86-26-04, Amendment 39-5503 (52 FR 520, January 7, 1987). AD 86-26-04 currently requires the following on certain Cessna 120, 140, 140A, 150, F150, 170, 172, F172, FR172, P172D, 175, 177, 180, 182, 185, A185E, 190, 195, 205, 205A, 206, P206, P206E, TP206A, TU206, TU206E, U206, U206E, 207, T207, 210, T210, 336, 337, and T337 series airplanes:

- Inspecting the upper shoulder harness adjuster for the presence of a retainer spring;
- If retainer spring is found, removing the retainer spring; and
- Stamping out the—401 identification number.

What Happened Since AD 86-26-04 To Initiate the Earlier NPRM?

We received reports that additional airplanes have the same unsafe condition. Cessna revised the service information to include these additional airplanes.

Cessna also revised the service information to correct the reference to the part number (P/N) of the shoulder harness adjusters. The P/N referenced is referenced as 44030-401 in Cessna Single Engine Service Bulletin SEB86-8 and Cessna Multi-engine Service Bulletin MEB86-22, both dated November 21, 1986. The correct P/N is 443030-401.

What Is the Potential Impact if FAA Took No Action?

If not corrected, the shoulder harness could fail to maintain proper belt length adjustment and tension. Such failure could result in pilot/co-pilot injury.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Cessna Models 120, 140, 140A, 150, F150, 170, 172, F172, FR172, P172D, 175, 177, 180, 182, 185, A185E, 190, 195, 206, P206, U206, TP206, TU206, 207, T207, 210, T210, 336, 337, and T337 series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on November 13, 2003 (68 FR 64290). The NPRM proposed to supersede AD 86-26-04 with a new AD that would require you to:

- Inspect the upper shoulder harness adjuster for the presence of a retainer spring;
- If retainer spring is found, remove the retainer spring; and
- Stamp out the—401 identification number.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in developing this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

What Events Have Caused FAA To Issue a Supplemental NPRM?

The FAA inadvertently omitted 10 affected airplane serial numbers for Model TU206D airplanes from the applicability section of the earlier NPRM.

FAA's Determination and Requirements of This Proposed AD

What Has FAA Decided?

After examining the circumstances and reviewing all available information related to the incidents described above, we have determined that:

- The unsafe condition referenced in this document exists or could develop on other Cessna Models 120, 140, 140A, 150, F150, 170, 172, F172, FR172, P172D, 175, 177, 180, 182, 185, A185E, 190, 195, 206, P206,

U206, TP206, TU206, 207, T207, 210, T210, 336, 337, and T337 series airplanes of the same type design that are on the U.S. registry;

- We should change the NPRM to add additional affected airplane serial numbers to the applicability section; and
- We should take AD action to correct this unsafe condition.

The Supplemental NPRM

How Will the Changes to the NPRM Impact the Public?

Proposing that the NPRM apply to additional Model TU206D airplanes goes beyond the scope of what was originally proposed in the NPRM. Therefore, we are reopening the comment period and allowing the public the chance to comment on these additional actions.

What Are the Provisions of the Supplemental NPRM?

This proposed AD would require you to:

- Inspect the upper shoulder harness adjuster for the presence of a retainer spring;
- If retainer spring is found, remove the retainer spring; and
- Stamp out the—401 identification number.

How Does the Revision to 14 CFR Part 39 Affect This Proposed AD?

On July 10, 2002, we published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Costs of Compliance

How Many Airplanes Would This Proposed AD Impact?

We estimate that this proposed AD affects 75,329 airplanes in the U.S. registry.

What Would Be the Cost Impact of This Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish this proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 workhour × \$65 per hour = \$65	No parts required	\$65	\$65 × 75,329 = \$4,896,385

We estimate the following costs to accomplish any necessary modification that would be required based on the

results of this proposed inspection. We have no way of determining the number

of airplanes that may need this modification:

Labor cost	Parts cost	Total cost per airplane
1 workhour × \$65 per hour = \$65	No parts required	\$65

What Is the Difference Between the Cost Impact of the Earlier NPRM and the Cost Impact of This Proposed Supplemental NPRM?

The difference is the addition of 10 airplanes to the applicability section of this proposed AD. There is no difference in cost to perform the proposed inspection and the proposed modification.

Regulatory Findings

Would This Proposed AD Impact Various Entities?

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this proposed AD:

1. Is not a “significant regulatory action” under Executive Order 12866;
2. Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this proposed AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include “AD Docket No. 2003–CE–40–AD” in your request.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 86–26–04, Amendment 39–5503 (52 FR 520, January 7, 1987), and by adding a new AD to read as follows:

Cessna Aircraft Company: Docket No. 2003–CE–40–AD.

When Is the Last Date I Can Submit Comments on This Proposed AD?

(a) We must receive comments on this proposed airworthiness directive (AD) by April 9, 2004.

What Other ADs Are Affected by This Action?

(b) This AD supersedes AD 86–26–04, Amendment 39–5503.

What Airplanes Are Affected by This AD?

(c) This AD affects the following airplane models and serial numbers that are certificated in any category and incorporate one of the Cessna accessory kits specified in paragraph (d) of this AD.

Model	Serial No.
(1) 120	8000 through 15075.
(2) 140	8000 through 15075.
(3) 140A	15200 through 15724.
(4) 150	617, 17001 through 17999, and 59001 through 59018.
(5) 150A	628 and 15059019 through 15059350.
(6) 150B	15059351 through 15059700.
(7) 150C	15059701 through 15060087.
(8) 150D	15060088 through 15060772.
(9) 150E	644 and 15060773 through 15061532.
(10) 150F	15061533 through 15064532.
(11) 150G	15064533 through 15064969 and 15064971 through 15067198.
(12) 150H	649 and 15067199 through 15069308.
(13) 150J	15069309 through 15071128.
(14) 150K	15071129 through 15072003.
(15) 170	18000 through 18729.
(16) 170A	18730 through 19400 and 19402 through 20266.
(17) 170B	20267 through 20999 and 25000 through 27169.
(18) 172	610, 612, 615, 28000 through 29999, 36000 through 36999, and 46001 through 46754.
(19) 172A	622, 625, and 46755 through 47746.
(20) 172B	630 and 17247747 through 17248734.
(21) 172C	17248735 through 17249544.
(22) 172D	17249545 through 17250572.
(23) 172E	639 and 17250573 through 17251822.
(24) 172F	17251823 through 17253392.
(25) 172G	17253393 through 17254892.
(26) 172H	638, 17254893 through 17256492, and 17256494 through 17256512.
(27) 172I	17256513 through 17257161.

Model	Serial No.
(28) 172K	17257162 through 17258486 and 17258487 through 17259223.
(29) P172D	P17257120 through P17257188.
(30) 175	626, 640, 28700A, and 55001 through 56238.
(31) 175A	619 and 56239 through 56777.
(32) 175B	17556778 through 17557002.
(33) 175C	17557003 through 17557119.
(34) 177	661, 17700001, and 17700003 through 17701164.
(35) 177A	17701165 through 17701370.
(36) 177B	17701371 through 17701471 and 17701473 through 17701530.
(37) 180	604, 614, 30000 through 32661.
(38) 180A	32662 through 32999 and 50001 through 50355.
(39) 180B	50356 through 50661.
(40) 180C	624 and 50662 through 50911.
(41) 180D	18050912 through 18051063.
(42) 180E	18051064 through 18051183.
(43) 180F	18051184 through 18051312.
(44) 180G	18051313 through 18051445.
(45) 180H	18051446 through 18052175.
(46) 182	613 and 33000 through 33842.
(47) 182A	33843 through 34753, 34755 through 34999, and 51001 through 51556.
(48) 182B	34754, 51557 through 51622, and 51624 through 52358.
(49) 182C	631 and 52359 through 53007.
(50) 182D	51623 and 18253008 through 18253598.
(51) 182E	18253599 through 18254423.
(52) 182F	18254424 through 18255058.
(53) 182G	18255059 through 18255844.
(54) 182H	634 and 18255846 through 18256684.
(55) 182J	18256685 through 18257625.
(56) 182K	18255845, 18257626 through 18257698, and 18257700 through 18258505.
(57) 182L	18258506 through 18259305.
(58) 182M	662, 18257699, and 18259306 through 18260055.
(59) 182N	18260056 through 18260445.
(60) 185	632 and 185-0001 through 185-0237.
(61) 185A	185-0238 through 185-0512.
(62) 185B	185-0513 through 185-0653.
(63) 185C	185-0654 through 185-0776.
(64) 185D	185-0777 through 185-0967.
(65) 185E	185-0968 through 185-1149.
(66) A185E	185-0968 through 185-1599 and 18501600 through 18501832.
(67) 190	7001 through 7999 and 16000 through 16183.
(68) 195	7001 through 7999 and 16000 through 16183.
(69) 206	206-0001 through 206-0275.
(70) P206	P206-0001 through P206-0160.
(71) P206A	P206-0161 through P206-0306.
(72) P206B	P206-0307 through P206-0419.
(73) P206C	P206-0420 through P206-0519.
(74) P206D	P206-0520 through P206-0603.
(75) P206E	P20600604 through P20600647.
(76) U206	U206-0276 through U206-0437.
(77) U206A	U206-0438 through U206-0656.
(78) U206B	U206-0657 through U206-0914.
(79) U206C	U206-0915 through U206-1234.
(80) U206D	U206-1235 through U206-1444 and U20601445 through U20601587.
(81) TP206A	P206-0161 through P206-0306.
(82) TP206B	P206-0307 through P206-0419.
(83) TP206C	P206-0420 through P206-0519.
(84) TP206D	P206-0520 through P206-0603.
(85) TP206E	P20600604 through P20600647.
(86) TU206A	U206-0487 through U206-0656.
(87) TU206B	U206-0657 through U206-0914.
(88) TU206C	U206-0915 through U206-1234.
(89) TU206D	U206-1235 through U206-1444 and U20601445 through U20601587.
(90) 207	20700001 through 20700190.
(91) T207	20700001 through 20700190.
(92) 210	618 and 57001 through 57575.
(93) 210-5 (205)	641, 648, and 205-0001 through 205-0480.
(94) 210-5 (205A)	205-0481 through 205-0577.
(95) 210A	616 and 21057576 through 21057840.
(96) 210B	21057841 through 21058085.
(97) 210C	21058086 through 21058139 and 21058141 through 21058220.
(98) 210D	21058221 through 21058510.
(99) 210E	21058511 through 21058715.

Model	Serial No.
(100) 210F	21058716 through 21058818.
(101) 210G	21058819 through 21058936.
(102) 210H	21058937 through 21059061.
(103) 210J	21059062 through 21059199.
(104) 210K	21059200 through 21059351.
(105) T210F	T210-0001 through T210-0197.
(106) T210G	T210-0198 through T210-0307.
(107) T210H	T210-0308 through T210-0392.
(108) T210J	T210-0393 through T210-0454.
(109) T210K	21059200 through 21059351.
(110) F150G	F150-0068 through F150-0219.
(111) F150H	F150-0220 through F150-0389.
(112) F150J	F150-0390 through F150-0529.
(113) F150K	F15000530 through F15000658.
(114) F172D	F172-0001 through F172-0018.
(115) F172E	F172-0019 through F172-0085.
(116) F172F	F172-0086 through F172-0179.
(117) F172G	F172-0180 through F172-0319.
(118) F172H	F172-0320 through F172-0654 and F17200655 through F17200754.
(119) FR172E	FR17200001 through FR17200060.
(120) FR172F	FR17200061 through FR17200145.
(121) FR172G	FR17200146 through FR17200225.
(122) 336	633, 636, and 336-0001 through 336-0195.
(123) 337	647 and 337-0002 through 337-0239.
(124) 337A	337-0240 through 337-0305, 337-0307 through 337-0469, and 337-0471 through 337-0525.
(125) 337B	656, 337-0001, 337-0470, 337-0526 through 337-0568, and 337-0570 through 337-0755.
(126) 337C	337-0756 through 337-0978.
(127) 337D	337-0979 through 337-1193.
(128) 337E	33701194 through 33701316.
(129) T337B	337-0001, 337-0470, 337-0526 through 337-0568, and 37-0570 through 337-0755.
(130) T337C	337-0756 through 337-0978.
(131) T337D	337-0979 through 337-1193.
(132) T337E	33701194 through 33701316.

What Cessna Accessory Kits Are Affected by This AD?

(d) The following is a list of the affected Cessna accessory kits:

Cessna Accessory Kit

AK140-10	AK210-77
AK150-7	AK210-93
AK150-121	AK210-171
AK170-10	AK210-172
AK177-10	AK210-173
AK182-75	AK210-174
AK195-10	AK336-32
	AK336-36
	AK336-103

What Is the Unsafe Condition Presented in This AD?

(e) The actions specified in this AD are intended to prevent slippage of the pilot/co-pilot shoulder harness, which could result in failure of the shoulder harness to maintain proper belt length adjustment and tension. Such failure could result in pilot/co-pilot injury.

What Must I Do To Address This Problem?

(f) To address this problem, you must do the following, unless already done:

Actions	Compliance	Procedures
(1) Inspect only the upper shoulder harness adjuster (part number (P/N) 443030-401) for the presence of a retainer spring.	Within the next 25 hours time-in-service (TIS) after the effective date of this AD.	Follow Cessna Single Engine Service Bulletin SEB86-8, Revision 1, and Cessna Multi-engine Service Bulletin MEB 86-22, Revision 1, both dated July 28, 2003.
(2) If a retainer spring is found during the inspection of the upper shoulder harness adjuster (P/N 443030-401) required in paragraph (f)(1) of this AD: (i) remove the spring by cutting each side; and (ii) stamp out the -401 identification number.	Prior to further flight after the effective date of this AD.	Follow Cessna Single-Engine Service Bulletin SEB86-8, Revision 1, and Cessna Multi-engine Service Bulletin MEB 86-22, Revision 1, both dated July 28, 2003.
(3) If a retainer spring is not found during the inspection of the upper shoulder harness adjuster (P/N 443030-401) required in paragraph (f)(1) of this AD, no additional action is required.	Prior to further flight after the effective date of this AD.	Follow Cessna Single Engine Service Bulletin SEB86-8, Revision 1, and Cessna Multi-engine Service Bulletin MEB 86-22, Revision 1, both dated July 28, 2003.

Actions	Compliance	Procedures
(4) Only incorporate Cessna Accessory Kits identified in paragraph (d) of this AD that have been inspected and modified in accordance with paragraphs (f)(1), (f)(2), (f)(2)(i), and (f)(2)(ii) of this AD.	As of the effective date of this AD	Follow Cessna Single Engine Service Bulletin SEB86-8, Revision 1, and Cessna Multi-engine Service Bulletin MEB 86-22, Revision 1, both dated July 28, 2003.

(g) If you did the actions of this AD using Cessna Single Engine Service Bulletin SEB86-8 and Cessna Multi-engine Service Bulletin MEB86-22, both dated November 21, 1986, no further action is required as long as you used shoulder harness adjuster, P/N 443030-401.

May I Request an Alternative Method of Compliance?

(h) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Manager, Wichita Aircraft Certification Office (ACO), FAA. For information on any already approved alternative methods of compliance, contact Gary D. Park, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946-4123; facsimile: (316) 946-4107.

(i) You may get copies of the documents referenced in this AD from Cessna Aircraft Company, Product Support P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517-5800; facsimile: (316) 942-9006. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on February 19, 2004.

Dorenda D. Baker,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04-4375 Filed 2-26-04; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 483

[CMS-3121-P]

RIN 0938-AM55

Medicare and Medicaid Programs; Requirements for Long Term Care Facilities; Nursing Services; Posting of Nurse Staffing Information

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish a new data collection and recordkeeping requirement for skilled nursing facilities (SNFs) and nursing facilities (NFs). We are proposing that SNFs and NFs complete a CMS-specified form at the end of each shift, on a daily basis, to post the full-time equivalents (FTEs) of registered nurses, licensed practical nurses, licensed vocational nurses, and certified nurse aides who are directly responsible for resident care. We also propose that SNFs and NFs use this form to capture and display daily resident census information. These facilities would also be required to make this information available to the public upon request.

DATES: We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on April 27, 2004.

ADDRESSES: In commenting, please refer to file code CMS-3121-P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Submit electronic comments to <http://www.cms.hhs.gov/regulations/ecomments> or to www.regulations.gov. Mail written comments (one original and two copies) to the following address **ONLY:** Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-3121-P, P.O. Box 8010, Baltimore, MD 21244-8010.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays.

If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) to one of the following addresses: Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5-14-03, 7500 Security Boulevard, Baltimore, MD 21244-1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Anita Panicker, (410) 786-5646, or Jeannie Miller, (410) 786-3164.

SUPPLEMENTARY INFORMATION:

Submitting Comments: We welcome comments from the public on all issues set forth in this rule to assist us in fully

considering issues and developing policies. You can assist us by referencing the file code CMS-3121-P and the specific "issue identifier" that precedes the section on which you choose to comment.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late.

All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. After the close of the comment period, CMS posts all electronic comments received before the close of the comment period on its public Web site.

Inspection of Public Comments: Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone (410) 786-9994.

I. Background

(If you choose to comment on issues in this section, please include the caption "BACKGROUND" at the beginning of your comments.)

Approximately 3 million elderly and disabled Americans receive care in our nation's nearly 16,500 Medicare- and Medicaid-certified nursing homes. The care of nursing home residents is a high priority for this Administration, the Department of Health and Human Services (HHS), and the Centers for Medicare & Medicaid Services (CMS). Medicare- and Medicaid-participating