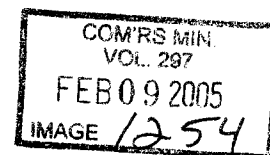


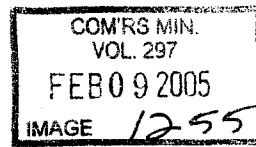
AMENDMENT: MSD RULES & REGULATIONS



Section 1216

Policy for Levying Sewer Assessments for Local Collector Sewers - Assessment Credit

- A. **Single Family or “Primary” Assessment Credit.** It is the policy of the Board to encourage public sewers and to finance sewer improvements, which provide local sewer service, by levying special assessments on the properties receiving benefit from the sewer improvement as provided in Ohio Revised Code Chapter 6117. For single family residences existing as of September 20, 1995, MSD will pay, in the form of a single-family or primary assessment credit, the special assessment for a local sewer, up to \$5,000, provided that:
- 1.) The local sewer eliminates the need for on-site sewage disposal systems and connects to the public sewer system of the Metropolitan Sewer District; or
 - 2.) The local sewer is a replacement or repair of a privately owned local sewer which connects to the public sewer system of the Metropolitan Sewer District, and the private sewer meets MSD standards and is dedicated by its owners to public use in accordance with *MSD Rules and Regulations*.
- B. **“Secondary” Assessment Credit.** It is the policy of the Board to encourage public sewers and to finance sewer improvements, which provide local sewer service, by levying special assessments on the properties receiving benefit from the sewer improvement, as provided in Ohio Revised Code Chapter 6117. For all properties so specially assessed, it is the policy of this Board that MSD will pay, in the form of a secondary assessment credit, all public improvement project costs exceeding \$12,000. **It is the policy of the Board that total actual per-benefit costs of the local public sewer improvement which remains in excess of \$12,000 per benefited property, once the single-family assessment credit has been applied, shall be funded from Metropolitan Sewer District unappropriated funds as a secondary credit.** This secondary credit is applicable to all property types as defined by the Hamilton County Auditor and subject to special assessment under the Revised Code.
- C. **Annual Credit Adjustment.** The single-family assessment credit of Section 1216 (A) will be adjusted annually in accordance with Article 25, as follows:
- 1.) Based on the September Engineering News Record Construction Cost Index (ENR CCI) for Cincinnati, Ohio, the \$5,000 credit shall be multiplied by the ratio of the current year September ENR CCI to the ENR CCI for September 2000 (5907.06), rounded to the nearest \$100.
 - 2.) The Assessment Credit determined in Section 1216 (A) shall become effective on January 1 of each year.
 - 3.) The Assessment Credit in effect at the time of adoption of the Resolution Confirming Revised Assessment shall be applied. For each single family residence, existing as of the September 20, 1995, served by a local collector sewer whose construction costs are assessed under this policy, a sewer tap-in-fee in the amount of \$480.00 will be charged by the Metropolitan Sewer District at the time of connection of the property to the public sewer.

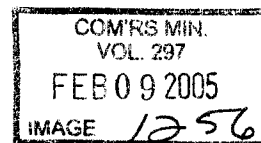


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Exhibit A

MSD IMPLEMENTATION – 1216. Per Chapter 6117 ORC, MSD will report to the Board all costs of a local public sewer improvement project. Also per Chapter 6117, the Board must assess the actual costs of a local public sewer improvement project. However, statute permits the Board to fund a portion of these actual costs from “other available funds” (§6117.06(E)). It is Board policy that the cost of special assessments for local public sewer improvements shall not exceed \$12,000 per benefited property. To this end, MSD will apply the single-family or “primary” assessment credit to the actual per-benefit cost in order to determine if the amount exceeds, is at or below \$12,000. If the amount is at or below \$12,000, this is the amount applied as a final assessment when the Board confirms special assessments (see Section 1805 (D), above). If the amount still exceeds \$12,000, MSD will apply a “secondary” assessment credit to bring the per-benefit amount to be equal to \$12,000. Sections 1805 (E) and 2502 are applicable as well in this implementation.

Costs associated with “private-side” improvements, i.e., connection to the public sewer and abandonment of the existing on-site household wastewater disposal system, are *not* a part of the local public sewer improvement costs.

AMENDMENT: MSD RULES & REGULATIONS



Section 1805

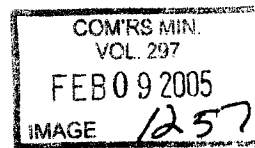
Policy on Management of Requests for Local Sewer Assessment Projects

It is the policy of the Board of County Commissioners of Hamilton County, Ohio to encourage public sewers and to finance sewer improvements which provide local sewer service by levying special assessments on the properties receiving benefit, as determined by MSD, from a public sewer improvement, as provided in Ohio Revised Code ("ORC") Chapter 6117. MSD shall develop and maintain a "Sewer Assessment Procedures Manual" that details the implementation of this policy.

A.) Types of Requests. The Board will categorize requests it receives for local sewer service according to the following classifications:

1.) **Citizen Petition.** *The Board will decide whether a local public sewer improvement shall be designed upon receipt of a written petition, initiated by a citizen or citizens of Hamilton County, to provide local sewer service to property within the MSD service area and jurisdiction. The petition will request the construction, operation and maintenance of a local public sewer improvement. In making its decision, the Board may consider one or more of the following factors as significant:*

- i) *Level of Interest: It is the policy of the Board of County Commissioners that to be considered as valid, a citizen petition shall have affirmative endorsement from 50%+1 of the property owners which benefit from the local public sewer improvement as determined per Section 1805 (D).*
- ii) *Per Section 6117.28 ORC, if the owners of all the lots and lands to be benefited by and to be assessed for a local sewer improvement petition the Board to provide for the construction, maintenance, and operation of any such improvement, consenting that their said lots and lands may be assessed to pay the cost of such improvements, and waive notice and the publication of all resolutions and legal notices, the Board may direct MSD to prepare the necessary plans, specifications, and estimates of cost of construction, and a tentative assessment. When all the owners of the lots and lands to be benefited by and assessed for the proposed improvements state in writing that they have examined the estimated cost and tentative assessment and that they have no objection thereto, then the Board may proceed to cause such improvements to be constructed and provision to be made for the payment of the cost of construction, maintenance, and operation of the local sewer improvement.*
- iii) *Sewer Lateral petitions are included in this policy.*
- iv) *Whether or not a public sewer outfall presently exists to serve the local public sewer improvement project.*



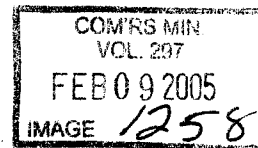
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- 2.) **Public Health Nuisance.** *If the Board receives notice that the Board of Health of a jurisdiction within the MSD found that a public nuisance exists in a specified location in the sewer district and that the public health nuisance may be remedied by the construction of a sewer improvement, the Board will consider directing MSD to prepare plans, specifications, estimate of cost, and tentative assessments for a sewer improvement to serve the specified location to remedy the public health nuisance.*
- 3.) **Order of the Director of the Ohio Environmental Protection Agency (OEPA).** *Pursuant to ORC 6117.34, if the Board receives notice from the director of the OEPA that it is necessary for the public health and welfare that sewer improvements or sewage treatment or disposal works be constructed, the Board shall obey such order and proceed to construct such sewers or treatment works, or maintain, repair, or operate the same, as are required by such order and in such manner as is satisfactory to the Director.*

MSD IMPLEMENTATION – 1805 (A). *MSD will mail sewer petitions to those property owners requesting such. The petitions will contain the project area as determined by MSD, names and addresses of properties to be served by a proposed local sewer, a signature line and a “vote” checkbox for Yes or No, supporting or opposing the sewer project. The petition will contain a statement that it is Board policy that the actual cost to the property owner will not exceed \$12,000 for the public improvement. Costs associated with “private-side” improvements, i.e., connection to the public sewer and abandonment of the existing on-site household wastewater disposal system, are not a part of the local public sewer improvement costs. It is incumbent upon a petitioner to circulate the petition.*

All petition results will be presented to the Board and entered into its record. Returned petitions that do not have a majority (50%+1) of support are not valid under Board policy. Should an outfall sewer not exist, MSD will present options to the Board for provision of trunk sewers. Petitions that have a 100% level of support will request property owners to endorse a waiver of process, per Revised Code, to expedite Board proceedings. Both multi and single property petitions are included in this policy.

Notices received from a Board of Health within Hamilton County, or, Orders received from the Ohio EPA will be presented to the County Commissioners for review, based upon the data available from the Board of Health and/or the OEPA. MSD will request the Board of Health to conduct a public informational meeting concerning the nuisance for the residents of the identified area, or, identify a petitioner in the unsewered area that has a nuisance notice. The Board may direct MSD to request a petition or polling of interest from the affected property owners for these request types. The Board may direct MSD to forego any petition or polling efforts based upon OEPA orders.



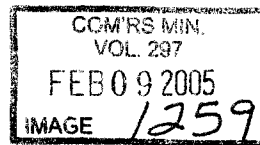
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B. Actions by the Board on Requests.

- 1.) The Board will enter into its official record all citizen petitions received for a local public sewer improvement.
- 2.) If the Board decides that a local public sewer improvement shall be designed based upon the level of interest, or if the Board decides a local public sewer improvement is necessary for the preservation and promotion of public health and welfare, or if the Board decides a local public sewer improvement is necessary as a result of a Notice of Public Health Nuisance from a local Board of Health, it will direct MSD to prepare plans, specifications, estimate of cost, and tentative assessments for a local public sewer improvement which serves the benefited properties.
- 3.) If the Board determines that a sewer improvement shall not be designed, it will direct MSD to dismiss the petition. If the Board decides that a local public sewer improvement shall not be designed, it will notify the Board of Health of its decision
- 4.) The Board will comply with orders for a local public sewer improvement issued by the Director of the Ohio EPA per Section 1805 (A)(3).

Property owners may have appeal rights as provided in Chapter 6117 ORC and other applicable law. Owners should be advised to consult an attorney.

MSD IMPLEMENTATION – 1805 (B). MSD will present petitions for entry into the Board's official record and implement Board directives as adopted under this section.



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- C.) Determination of Interest. MSD will provide to property owners in an assessment district notice of the maximum assessment cost of \$12,000 for a proposed local public sewer improvement, based on Sections 1216 and 1805 (D)-(E) (actual costs and final credit amount is based on construction costs). MSD will provide this information during the following points in the assessment project process:
- 1.) With a petition. It is the policy of the Board of County Commissioners that to be considered as valid, a citizen petition shall have affirmative endorsement from 50%+1 of the property owners that benefit from the local public sewer improvement.
 - 2.) With a "polling" of all property owners in a proposed assessment district.
 - 3.) With the notice of tentative assessments for the public hearing offering the opportunity to endorse or oppose the local public sewer improvement.
 - 4.) The Board may also request a determination of interest for the type of request contained in Section 1805 (A)(2).
 - 5.) Actions of the Board on valid or invalid petitions shall follow Section 1805 (B).

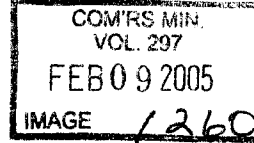
MSD IMPLEMENTATION – 1805 (C). MSD will mail sewer petitions to those property owners requesting such. The petitions will contain the project area, names and addresses of properties to be served by a proposed local sewer, a signature line and a "vote" checkbox for Yes or No, supporting or opposing the sewer project. The petition will contain a statement that it is Board policy that the actual cost to the property owner will not exceed \$12,000 for the public improvement. Costs associated with "private-side" improvements, i.e., connection to the public sewer and abandonment of the existing on-site household wastewater disposal system, are not a part of the local public sewer improvement costs. It is incumbent upon a petitioner to circulate the petition.

All petition results will be presented to the Board and entered into its record. Returned petitions that do not have a majority (50%+1) of support are not valid under Board policy. Should an outfall sewer not exist, MSD will present options to the Board for provision of trunk sewers. Petitions that have a 100% level of support will request property owners to endorse a waiver of process, per Revised Code, to expedite Board proceedings. Both multi and single property petitions are included in this policy.

For petitions that have required level of support, MSD will immediately poll all project area property owners inquiring as to their support or opposition. The polling, as compared to a petition, is distributed by MSD and will inform all property owners of a potential local public sewer improvement and afford comment to all. The polling letter will contain a statement that it is Board policy that the actual cost to the property owner will not exceed \$12,000 for the public improvement. Costs associated with "private-side" improvements, i.e., connection to the public sewer and abandonment of the existing on-site household wastewater disposal system, are not a part of the local public sewer improvement costs. MSD will present the results of the polling to the Board.

MSD will request project funding based upon the establishment of a majority of support per Board policy.

MSD will notify local public sewer improvement property owners of tentative assessments and the project's public hearing.



- D.) Determination of Benefited Properties. All properties, regardless of type and size, that abut and are specially benefited by the local public sewer improvement, will be allocated one benefit. MSD is directed to assign benefits according to the following criteria:
- 1.) *MSD will follow property current usage and assess all buildable parcels, regardless of type and size, as 1 benefit per parcel.*
 - 2.) *MSD will assess a vacant parcel, regardless of type and size, in the local public sewer improvement project area as 1 benefit, except as provided for below:*
 - i) Vacant parcels that have been placed in a land conservation easement, duly recorded with the Hamilton County Recorder **before** the date the Board adopts the resolution to proceed for the local public sewer improvement, will receive zero benefit.
 - ii) The Board will determine if a vacant parcel **not** placed in a land conservation easement is buildable and to be included in a sewer assessment district.
 - 3.) *MSD will report to the Board how it has determined and assigned benefits for each local public sewer improvement, subject to the Board's approval.*
 - 4.) *The Board will confirm benefits after a local public sewer improvement is complete and accepted for use.*
 - 5.) *Subject to the provisions of Chapter 6117 ORC, the Board's determination of benefits shall be final.*

MSD IMPLEMENTATION – 1805 (D). It is Board policy that MSD will determine local public sewer improvement benefits based upon existing property usage. It is Board policy that all parcels, regardless of property type or size, will receive one benefit. MSD will apply this policy whether the parcel is a single-family residence, a school, an industrial-use development or undeveloped property.

It is Board policy that vacant parcels that are buildable will receive one benefit. However, if a vacant parcel has been placed in a land conservation easement by the time the Board adopts a Resolution to Proceed, it will be removed from the assessment district, i.e., receive zero benefit. As this resolution establishes the Board's intent to construct the project, the property owner of a vacant parcel would need to establish the land conservation easement by this time to determine project cost and benefits.

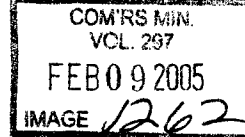
MSD will report benefits determination to the Board at the time of the local public sewer improvement project's public hearing. Benefits so determined are still subject to the provisions of §6117.09 ORC regarding objection and legal challenge.

After the acceptance and use of the local public sewer improvement, MSD will present the Board legislation to confirm the original or revised tentative assessments and benefits.

E.) Financing of Local Public Sewer Improvements. All the costs of a local public sewer improvement shall be reported to the Board by MSD. The cost of the aforesaid local public sewer improvement, per Chapter 6117 ORC, shall be paid in part by Special Assessments against the property or properties abutting on and specially benefited by the local public sewer improvement. It is the policy of the Board to structure the financing of local public sewer improvements in the following manner:

- 1.) *The total cost of said special assessment shall be the actual cost of the local public sewer improvement.*
- 2.) *Actual costs are those defined under Chapter 6117 ORC, et. seq.*
- 3.) *Total actual cost shall be divided by the number of benefited properties to determine the per-benefit cost.*
- 4.) *MSD shall apply all applicable assessment credits, per Section 1216 to the total actual per-benefit cost. It is the policy of the Board that total actual per-benefit costs of the public sewer improvement which remain in excess of \$12,000 per benefited property, once the single-family assessment credit has been applied, shall be funded from MSD unappropriated funds as a secondary credit.*
- 5.) *Actual costs per benefited property shall apply only to parcels benefited by the local public sewer improvement.*
- 6.) *Benefited parcels are determined under Section 1805 (D).*
- 7.) *MSD shall apprise property owners of their ability to apply to the Board for individual Community Block Development Grant (CDBG) funding. MSD shall apprise the political jurisdiction in which the local public sewer improvement is located of their ability to apply to the Hamilton County Department of Community Development for CDBG funding. The use and award of such funding is subject to the rules and regulations associated with it. The Board will endeavor to secure such CDBG funding where available and applicable.*

MSD IMPLEMENTATION – 1805 (E). Per Chapter 6117 ORC, MSD will report to the Board all costs of a local public sewer improvement project. Also per Chapter 6117, the Board must assess the actual costs of a local public sewer improvement project. However, statute permits the Board to fund a portion of these actual costs from “other available funds” (§6117.06(E)). It is Board policy that the cost of special assessments for local public sewer improvements shall not exceed \$12,000 per benefited property for the public sewer improvement. Costs associated with “private-side” improvements, i.e., connection to the public sewer and abandonment of the existing on-site household wastewater disposal system, are not a part of the local public sewer improvement costs. To this end, MSD will apply the single-family or “primary” assessment credit to the actual per-benefit cost in order to determine if the amount exceeds, is at or below \$12,000. If the amount is at or below \$12,000, this is the amount applied as a final assessment when the Board confirms special assessments (see Section 1805 (D), above). If the amount still exceeds \$12,000, MSD will apply a “secondary” assessment credit to bring the per-benefit amount to be equal to \$12,000. Sections 1805 (E) and 2502 are applicable as well in this implementation. MSD will work with Hamilton County Community Development and interested property owners to determine if any qualify for financial assistance per local and federal guidelines.

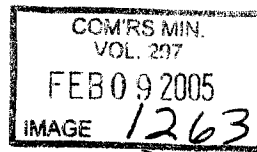


- F.) Completion of Final Plans, Specifications, Estimate of Cost, and Tentative Assessments. If the Board decides that a local sewer improvement shall be designed, upon completion of the design MSD will certify final plans, specifications, estimate of cost, and tentative assessments to the Board for its consideration.

The Board will decide whether to proceed with the necessary legislative steps, as provided in Chapter 6117 ORC, to undertake the local public sewer improvement. In making its decision, the Board will consider any notice of unsanitary conditions or public health hazard from a Board of Health, whether the sewer improvement is necessary for the preservation and promotion of public health and welfare, and the level of interest in the local public sewer improvement among the owners of properties to be served by the proposed improvement.

Per Section 1805 (C)(3), the Board will direct MSD to provide the tentative assessment amount to the property owners. This amount will be for informational purposes only. This amount will conform to the requirements outlined in Section 1805 (D)-(E), above.

MSD IMPLEMENTATION – 1805 (F). MSD will present final specifications, detailed plans, estimate of cost and tentative assessments, per Sections 1805(D)-(E), and conduct a public hearing on the local public sewer improvement project. After the adoption of the tentative assessments and the conclusion of the public hearing, project property owners have five days in which to file any objections. MSD will present any objections to the Board for their disposal of the same. Given none (or after their disposal), MSD will prepare a Resolution to Proceed for the Board's consideration. Objectors will be notified as to this legislation's date of proposed adoption. Objectors must notify the Board of their intent to appeal the Board's decisions before the adoption of the Resolution to Proceed. Also, at this time MSD may prepare any revisions to the plans, specifications, estimate and tentative assessments, if warranted, based on any changes as a result of the public hearing or objections. After waiting ten days following the adoption of the Resolution to Proceed, MSD will present resolutions to appropriate funds and advertise and bid the local public sewer improvement. The ten-day waiting period is required to allow any objectors the opportunity to file civil action against the project's progress.



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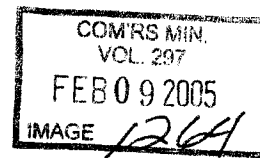
G.) Deferred Assessments. Under Section 6117.061 ORC, the Board of County Commissioners may defer collection of up to 75% of the principal amount of a local public sewer improvement assessment for up to 20 years.

- 1.) It is the policy of the Board that the ability of a property owner to place the assessed cost of the local public sewer improvement on the property tax duplicate, over 20 years, constitutes, *de-facto*, a deferment under this chapter of the Revised Code.
- 2.) Per Chapter 6117.061 ORC, the decision of the Board in this matter is final and no appeal thereof may be taken.

MSD IMPLEMENTATION – 1805 (G). Per 6117.061 ORC, property owners may petition the Board to request a deferment of up to 75% of the special assessment that may be levied by the Board for local public sewer improvements. It is Board policy that the ability to place this special assessment on the property tax duplicate, over 20 years, constitutes, *de-facto*, a deferment. MSD will report to the Board on all deferment requests received and request the Board to dispose of the same as a part of the project legislation. Decisions of the Board are final, with no avenue of judicial appeal.

H.) Pump Station Capacity. It is the policy of the Board of County Commissioners of Hamilton County, Ohio that when an existing pump station requires an upgrade to accommodate the additional flows associated with a local public sewer improvement, the costs for said upgrade should be incorporated into the local sewer public improvement's actual costs, consistent with Sections 1805 (D)-(E). The distribution of those costs among the specially benefited properties shall also follow the provisions of Section 1805 (E), above.

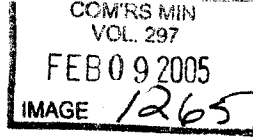
MSD IMPLEMENTATION – 1805 (H). It is Board policy that the cost of upgrading an existing pump station to accommodate a local public sewer improvement shall be included in the project's actual total costs. MSD will incorporate design and construction costs of pump station upgrades associated with the construction of local public sewer improvements into the project's actual total costs. The per-benefit cost of this additional work, given Sections 1216 and 1805(E), will comply with those sections' policies.



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Exhibit A

I.) Definitions.

- 1.) **Assessment or Special Assessment:** The amount of actual cost assessed against a property benefited by a local public sewer improvement.
- 2.) **Assessment District:** The area consisting of properties benefited from a local public sewer improvement as determined by MSD.
- 3.) **Benefited Property.** A property within the MSD service area that abuts or is adjacent to a local public sewer improvement and will receive sewer service from said public improvement, whether directly connected to the local sewer at the time of the improvement's completion or not.
- 4.) **Buildable Parcel:** A benefited property within the MSD service area that does not have a structure on it at the time the Board of County Commissioners adopt tentative assessments for a local sewer assessment project, but can be developed under existing zoning regulations
- 5.) **Land Conservation Easement:** An easement recorded to a buildable parcel that governs that parcel's development and use.
- 6.) **Local Public Sewer Improvement or Assessment Project:** A public sewer improvement designed and constructed to serve a specified number of benefited properties in an assessment district within the MSD service area. Costs are borne, in part, by the benefited properties.
- 7.) **MSD Service Area:** Hamilton County Sewer District No. 1.
- 8.) **On-Site System:** The household wastewater disposal system used to serve a property not connected to the MSD service area public sewers.
- 9.) **Petition:** A form, containing the names, addresses, parcel identifications, signatures, and per parcel vote of benefited properties of a local sewer assessment project.
- 10.) **Public Sewer Improvement:** A sewer constructed, operated, and maintained by the Board of County Commissioners of Hamilton County Ohio within the service area of the Metropolitan Sewer District of Greater Cincinnati (Sewer District No. 1) under the provisions of Chapter 6117 of the Revised Code of Ohio.
- 11.) **Tentative Assessment:** The estimated amount of cost anticipated to be assessed against a property benefited by a local public sewer improvement.
- 12.) **Vacant Parcel:** A benefited property within the MSD service area that does not have a structure on it at the time the Board of County Commissioners adopt tentative assessments for a local sewer assessment project



AMENDMENT: MSD RULES & REGULATIONS

**Section 2502 Annual Adjustment of Single-Family or “Primary”
Assessment Credit**

The following credit will be adjusted for inflation annually on January 1, beginning with January 1, 2005. The adjustment will be calculated based on the September Engineering News Record Construction Cost Index (ENR CCI) for Cincinnati, Ohio. The assessment credit shall be multiplied by the ratio of the current year September ENR CCI to the ENR CCI for September, 2000 (5907.06), rounded to the nearest \$100.

Section	Service	1/1/2005 Charge	Subject to Annual Adjustment?
1216 (A)	Single-Family Assessment Credit	\$6,100 maximum	YES

MSD IMPLEMENTATION – 2502. It is Board policy that MSD shall annually adjust the single-family or “primary” assessment credit. Section 1216 establishes this credit as applied to special assessments of local public sewer improvements. MSD will annually adjust the “primary” credit using the ENR CCI. This will be reported to the Board and implemented on January 1 annually.