

notice that it is a significant regulatory action because it exceeds the \$100 million threshold.

**Paperwork Reduction Act**

The collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521) referenced in this final rule has been approved under OMB control number 2900–0671.

**Regulatory Flexibility Act**

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). Only service members and their beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the final regulatory flexibility analysis requirements of 5 U.S.C. 604.

**Catalog of Federal Domestic Assistance Numbers**

The Catalog of Federal Domestic Assistance Program number for this regulation is 64.103, Life Insurance for Veterans.

**List of Subjects in 38 CFR Part 9**

Life insurance, Military personnel, Veterans.

Approved: November 30, 2006.

**Gordon H. Mansfield,**  
*Deputy Secretary of Veterans Affairs.*

■ For the reasons set out in the preamble, the interim final rule amending 38 CFR part 9, which was published at 70 FR 75940 on December 22, 2005, is adopted as a final rule with the following changes:

**PART 9—SERVICEMEMBERS’ GROUP LIFE INSURANCE AND VETERANS’ GROUP LIFE INSURANCE**

■ 1. The authority citation for part 9 is revised to read as follows:

**Authority:** 38 U.S.C. 501, 1965–1980A.

■ 2. Section 9.20 is amended by:

- a. Revising paragraph (d)(1).
- b. Revising paragraph (d)(4).
- c. Revising paragraph (f)
- d. Adding paragraph (j).
- e. Adding an information collection approval parenthetical number immediately following the authority citation.

The revisions and additions read as follows:

**§ 9.20 Traumatic injury protection.**

\* \* \* \* \*

(d) \* \* \*

(1) You must be a member of the uniformed services who is insured by

Servicemembers’ Group Life Insurance under section 1967(a)(1)(A)(i), (B) or (C)(i) of title 38, United States Code, on the date you sustained a traumatic injury, except if you are a member who experienced a traumatic injury on or after October 7, 2001, through and including December 1, 2005, and your scheduled loss was a direct result of injuries incurred in Operation Enduring Freedom or Operation Iraqi Freedom. (For this purpose, you will be considered a member of the uniformed services until midnight on the date of termination of your duty status in the uniformed services that established your eligibility for Servicemembers’ Group Life Insurance, notwithstanding an extension of your Servicemembers’ Group Life Insurance coverage under section 1968(a) of title 38, United States Code.)

\* \* \* \* \*

(4) You must suffer a scheduled loss under paragraph (e)(7) of this section within two years of the traumatic injury.

\* \* \* \* \*

(f) *Who will determine eligibility for traumatic injury protection benefits?* Each uniformed service will certify its own members for traumatic injury protection benefits based upon section 1032 of Public Law 109–13, section 501 of Public Law 109–233, and this section. The uniformed service will certify whether you were at the time of the traumatic injury insured under Servicemembers’ Group Life Insurance and whether you have sustained a qualifying loss.

\* \* \* \* \*

(j) The Traumatic Servicemembers’ Group Life Insurance program will be administered in accordance with this rule, except to the extent that any regulatory provision is inconsistent with subsequently enacted applicable law.

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0671.)

[FR Doc. E7–4141 Filed 3–7–07; 8:45 am]

**BILLING CODE 8320–01–P**

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 17**

**RIN 2900–AM21**

**Medical: Informed Consent—Designate Health Care Professionals To Obtain Informed Consent**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends U.S. Department of Veterans Affairs (VA) medical regulations on informed consent. The final rule authorizes VA to designate additional categories of health care professionals to obtain the informed consent of patients or their surrogates for clinical treatment and procedures and to sign the consent form.

**DATES:** *Effective Date:* April 9, 2007.

**FOR FURTHER INFORMATION CONTACT:** Ruth Cecire, PhD, Policy Analyst, National Center for Ethics in Health Care (10E), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; 202–501–2012 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** In a document published in the **Federal Register** on February 1, 2006 (71 FR 5204), VA proposed to amend 38 CFR 17.32 to authorize the designation of additional categories of health care professionals to obtain the informed consent of patients or their surrogates and to sign the consent form. The comment period for this proposed rule ended April 3, 2006. We received one comment and now issue this final rule.

This rule amends VA medical regulations on informed consent and brings VA practice in line with current professional standards of care. Specifically, it allows VA to designate appropriately trained health care professionals (e.g., advanced practice nurses and physician assistants), who have primary responsibility for the patient or who will perform a particular procedure or provide a treatment, to conduct the informed consent discussion and sign the consent form. These changes and the specific requirements that define “appropriately trained health care professionals” will be documented in a revision to VHA Handbook 1004.1, Informed Consent for Clinical Treatments and Procedures.

The current definition of practitioner encompasses any health care professional who has been granted specific clinical privileges to perform the treatment or procedure. It also includes medical and dental residents who may not be clinically privileged but who, under the current regulation, may obtain the informed consent and sign the consent form. This rule extends the exception regarding clinical privileging to other appropriately trained health care professionals, which will be clearly defined in national VA policy.

This change is required because clinical privileges are not granted to all health care professionals in VA who provide treatments and procedures.

Some health care professionals work under specific "scope of practice" agreements or other formal delineations of job responsibility that specify which treatments and procedures the individual can provide based on his or her training, certification, knowledge, skills, and/or licensure. These agreements are developed and signed at the local facility level based on national policy requirements. Under the current regulatory definition of practitioner, physician assistants, advanced practice nurses and other appropriately trained health care professionals who are not clinically privileged but are performing procedures or providing treatments, as approved by their facility and supported by the standards of their respective professions, may not obtain informed consent from the patient. This rule would allow these treating practitioners to obtain informed consent from the patient and sign the consent form. This scope of practice will be limited to those specific individuals who meet detailed requirements set by VA national policy and who also gain approval from their local facility to carry out these duties.

No change is made to the general requirements for informed consent in this rule. The practitioner, who has primary responsibility for the patient or who will perform the particular procedure or provide the treatment, must obtain consent from the patient as described in the regulation.

VA received one comment asking that we omit reference to designated "health care professionals" and expand the definition of "practitioner" to include advanced practice nurses and physician assistants only. The commenter suggested that other health care professionals may lack the qualifications necessary to obtain patients' informed consent. VA recognizes that many health care professionals may lack appropriate qualifications to obtain informed consent. Indeed, some advanced practice nurses and physician assistants may not be qualified to do so. However, the commenters' proposed change neither ensures quality nor allows VA to remedy the problem that non-privileged providers are currently prohibited from obtaining consent from the patients they treat. We believe that promoting direct communication between the treating practitioner and the patient improves informed consent and improves patient care. Ensuring that providers are appropriately qualified to conduct informed consent discussions with patients will be addressed through establishing national requirements in VA policy and holding local VHA facilities accountable for making certain

that each individual provider assigned those duties is competent to perform them. In our view, the rule's proviso, that designation is authorized only for other appropriately trained health care professionals, when combined with the regulation's requirement that consent be obtained by the health care professional who has primary responsibility for the patient or who will perform the particular procedure or provide the treatment, allows VA a necessary level of control over quality through the specification in policy and certification in practice of "appropriately trained health care professionals." Accordingly, we made no change based on this comment.

We are also making nonsubstantive changes to make the terminology used in the regulation consistent with current Department practice. These include changing "health-care" to "health care" and "medical record" to "health record" throughout the section.

Based on the rationale set forth in the proposed rule and those contained in this document, we are adopting the provisions of the proposed rule as a final rule without change.

#### **Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any given year. This rule would have no such effect on State, local, and tribal governments, or the private sector.

#### **Paperwork Reduction Act of 1995**

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521). The existing information collections associated with the informed consent process have been approved by OMB under control number 2900–0583.

#### **Executive Order 12866—Regulatory Planning and Review**

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Order classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if

it meets any one of a number of specified conditions, including: having an annual affect on the economy of \$100 million or more, creating a serious inconsistency or interfering with an action of another agency, materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues. VA has examined the economic, legal, and policy implications of this final rule and has concluded that it is a significant regulatory action because it raises novel policy issues.

#### **Regulatory Flexibility Act**

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). The rule will affect only individuals and will not directly affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

#### **Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance numbers and titles are 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; and 64.011, Veterans Dental Care.

#### **List of Subjects in 38 CFR Part 17**

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: October 24, 2006.

**Gordon H. Mansfield,**

*Deputy Secretary of Veterans Affairs.*

■ For the reasons set forth in the preamble, 38 CFR part 17 is amended as set forth below:

#### **PART 17—MEDICAL**

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 38 U.S.C. 501, 1721, and as stated in specific sections.

■ 2. Section 17.32 is amended by:  
 ■ a. Removing "health-care" each time it appears and adding in its place "health care".

- b. Removing “medical record” each time it appears and adding in its place “health record”.
- c. In the list of definitions in paragraph (a), revising the definition of “Practitioner”.

The revision reads as follows:

**§ 17.32 Informed consent and advance care planning.**

(a) \* \* \*

*Practitioner.* Any physician, dentist, or health care professional who has been granted specific clinical privileges to perform the treatment or procedure. For the purpose of obtaining informed consent for medical treatment, the term practitioner includes medical and dental residents and other appropriately trained health care professionals designated by VA regardless of whether they have been granted clinical privileges.

\* \* \* \* \*

[FR Doc. E7-4142 Filed 3-7-07; 8:45 am]

BILLING CODE 8320-01-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 51**

[EPA-HQ-OAR-2001-0004; FRL-8283-9]

RIN 2060-AM59

**Nonattainment New Source Review (NSR)**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is finalizing revisions to the regulations governing the nonattainment new source review

(NSR) program mandated by section 110(a)(2)(C) of the Clean Air Act (CAA or Act). These revisions implement changes to the preconstruction review requirements for major stationary sources in nonattainment areas in interim periods between designation of new nonattainment areas and adoption of a revised State Implementation Plan (SIP). The revisions conform the nonattainment permitting rules that apply during the SIP development period following nonattainment designations before SIP approval to the Federal permitting rules applicable to SIP-approved programs. The changes are intended to provide a consistent national program for permitting major stationary sources in nonattainment areas under section 110(a)(2)(C) and part D of title I of the Act. In particular, these changes conform the regulations to the NSR reform provisions that EPA promulgated by notice dated December 31, 2002, except that these changes do not include the NSR reform provisions for “clean units” or “pollution control projects,” which the U.S. Court of Appeals for the D.C. Circuit vacated in *New York v. EPA*, 413 F.3d 3 (DC Cir. 2005). In addition, these changes include an interim interpretation of the NSR reform provision for a “reasonable possibility” standard for recordkeeping and reporting requirements, in accordance with that court decision. This interim interpretation to the “reasonable possibility” standard applies for appendix S purposes, pending the completion of rulemaking to develop a more complete interpretation.

**DATES:** This final rule is effective on May 7, 2007.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2001-0004. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lisa Sutton, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504-03), Environmental Protection Agency, Research Triangle Park, NC 27711; *telephone number:* (919) 541-3450; *fax number:* (919) 541-5509; *e-mail address:* [sutton.lisa@epa.gov](mailto:sutton.lisa@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does This Action Apply to Me?*

Entities affected by this rule include sources in all industry groups. The majority of sources potentially affected are expected to be in the following groups:

| Industry Group                        | SIC <sup>a</sup> | NAICS <sup>b</sup>  |
|---------------------------------------|------------------|---|
| Electric Services .....               | 491              | 221111, 221112, 221113, 221119, 221121, 221122.   |
| Petroleum Refining .....              | 291              | 324110.   |
| Industrial Inorganic Chemicals .....  | 281              | 325181, 325120, 325131, 325182, 211112, 325998, 331311, 325188.                                 |
| Industrial Organic Chemicals .....    | 286              | 325110, 325132, 325192, 325188, 325193, 325120, 325199.   |
| Miscellaneous Chemical Products ..... | 289              | 325520, 325920, 325910, 325182, 325510.   |
| Natural Gas Liquids .....             | 132              | 211112.   |
| Natural Gas Transport .....           | 492              | 486210, 221210.   |
| Pulp and Paper Mills .....            | 261              | 322110, 322121, 322122, 322130.   |
| Paper Mills .....                     | 262              | 322121, 322122.   |
| Automobile Manufacturing .....        | 371              | 336111, 336112, 336211, 336992, 336322, 336312, 336330, 336340, 336350, 336399, 336212, 336213. |
| Pharmaceuticals .....                 | 283              | 325411, 325412, 325413, 325414.   |

<sup>a</sup> Standard Industrial Classification.

<sup>b</sup> North American Industry Classification System.

Entities affected by the rule also include States, local permitting authorities, and Indian tribes whose

lands contain new and modified major stationary sources.

*B. Where Can I Obtain Additional Information?*

In addition to being available in the docket, an electronic copy of this final