

**§ 17.63 Approval of community residential care facilities.**

\* \* \* \* \*

(a) \* \* \*

(2) Meet the requirements in the applicable provisions of NFPA 101 and NFPA 101A (incorporated by reference, see § 17.1) and the other publications referenced in those provisions. The institution shall provide sufficient staff to assist patients in the event of fire or other emergency. Any equivalencies or variances to VA requirements must be approved by the appropriate Veterans Health Administration Veterans Integrated Service Network (VISN) Director;

\* \* \* \* \*

(4) Meet the following additional requirements, if the provisions for One and Two-Family Dwellings, as defined in NFPA 101, are applicable to the facility:

(i) Portable fire extinguishers must be installed, inspected, and maintained in accordance with NFPA 10; and

(ii) The facility must meet the requirements in section 33.7 of NFPA 101.

\* \* \* \* \*

4. Amend § 17.81(a)(1) as follows:

a. Revise paragraph (a)(1)(i);

b. Remove paragraphs (a)(1)(v) through (a)(1)(viii);

c. Add a new paragraph (a)(1)(v); and

d. Redesignate paragraph (a)(1)(ix) as paragraph (a)(1)(vi).  
The revision and addition read as follows:

**§ 17.81 Contracts for residential treatment services for veterans with alcohol or drug dependence or abuse disabilities.**

(a) \* \* \*

(1) \* \* \*

(i) The building must meet the requirements in the applicable provisions of NFPA 101 (incorporated by reference, see § 17.1) and the other publications referenced in those provisions. Any equivalencies or variances to VA requirements must be approved by the appropriate Veterans Health Administration Veterans Integrated Service Network (VISN) Director.

\* \* \* \* \*

(v) The facility must meet the following additional requirements, if the provisions for One and Two-Family Dwellings, as defined in NFPA 101, are applicable to the facility:

(A) Portable fire extinguishers shall be installed, inspected, and maintained in accordance with NFPA 10.

(B) The facility shall meet the requirements in section 33.7 of NFPA 101.

\* \* \* \* \*

- 5. Amend § 17.82(a)(1) as follows:
  - a. Revise paragraph (a)(1)(i) and (iv);
  - b. Remove paragraphs (a)(1)(v) and (a)(1)(vi); and
  - c. Redesignate paragraph (a)(1)(vii) as (a)(1)(v).

The revisions read as follows:

**§ 17.82 Contracts for outpatient services for veterans with alcohol or drug dependence or abuse disabilities.**

(a) \* \* \*

(1) \* \* \*

(i) The building must meet the requirements in the applicable provisions of the NFPA 101 (incorporated by reference, see § 17.1) and the other publications referenced in those provisions. Any equivalencies or variances to VA requirements must be approved by the appropriate Veterans Health Administration Veterans Integrated Service Network (VISN) Director.

\* \* \* \* \*

(iv) As a minimum, fire exit drills must be held at least quarterly, and a written plan for evacuation in the event of fire shall be developed and reviewed annually. The plan shall outline the duties, responsibilities and actions to be taken by the staff in the event of a fire emergency. This plan shall be implemented during fire exit drills.

\* \* \* \* \*

**PART 59—GRANTS TO STATES FOR CONSTRUCTION OR ACQUISITION OF STATE HOMES**

6. The authority citation for part 59 continues to read as follows:

**Authority:** 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137.

**§ 59.130 [Amended]**

7. Amend § 59.130 as follows:

a. Remove the phrase “(2000 edition)” and add, in its place, “(2009 edition);” and

b. Remove the phrase “(1999 edition)” and add, in its place, “(2005 edition).”

[FR Doc. 2010–7810 Filed 4–6–10; 8:45 am]

**BILLING CODE 8320–01–P**

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 51**

**RIN 2900–AN59**

**Update to NFPA 101, Life Safety Code, for State Home Facilities**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to update one of

its regulations so that State home facilities that receive a per diem for providing nursing home care to eligible Veterans will be required to meet certain provisions of the 2009 edition of the National Fire Protection Association’s NFPA 101, Life Safety Code. This change is designed to ensure that State home facilities meet current industry-wide standards regarding life safety and fire safety.

**DATES:** Written comments must be received by VA on or before June 7, 2010.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to “RIN 2900–AN59—Update to NFPA 101, Life Safety Code, for State Home Facilities.” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Theresa Hayes at (202) 461–6771, Office of Geriatrics and Extended Care, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. (The telephone number above is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** This document proposes to amend 38 CFR 51.200. The regulation governs the physical environment of facilities for which VA pays per diem to a State for providing nursing home care to eligible veterans.

Currently, § 51.200 requires State home facilities to meet certain provisions of the National Fire Protection Association’s NFPA 101, Life Safety Code (2006 edition). This document has been incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. We propose to update the regulation to refer to the current 2009 edition of the NFPA code. This change would require State home facilities to meet current industry-wide standards regarding life safety and fire

safety. We will request approval of the incorporation by reference of the 2009 edition of NFPA 101 from the Office of the Federal Register. We are not aware of any significant changes from the 2006 edition to the 2009 edition.

This document for which we are seeking incorporation by reference is available for inspection by appointment (call (202) 461-4902 for an appointment) at the Department of Veterans Affairs, Office of Regulation Policy and Management, Room 1063B, 810 Vermont Avenue, NW., Washington, DC 20420 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). It is also available at the National Archives and Records Administration (NARA). For information on the availability of this document at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). In addition, copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101. (For ordering information, call toll-free 1-800-344-3555 or go to <http://www.nfpa.org>.)

#### 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 on the private sector.

#### Paperwork Reduction Act

This document contains no collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

#### Executive Order 12866

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 Executive Order classifies a "significant regulatory action" requiring review by the Office of Management and Budget as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a

material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866.

#### Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment would 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. This rulemaking would affect veterans and State homes. The State homes that would be subject to this rulemaking are State government entities under the control of State governments. All State homes are owned, operated and managed by State governments except for a small number that are operated by entities under contract with State governments. These contractors are not small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rule would be 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 for the programs affected by this document are 64.005, Grants to States for Construction of State Home Facilities; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.016, Veterans State Hospital Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.026, Veterans State Adult Day Health Care.

#### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on March 1, 2010, for publication.

#### List of Subjects in 38 CFR Part 51

Administrative practice and procedure, claims, day care, dental health, government contracts, grant programs—health, grant programs—veterans, health care, health facilities, health professions, health records, mental health programs, nursing homes, reporting and recordkeeping requirements, travel and transportation expenses, Veterans.

Dated: April 1, 2010.

**Robert C. McFetridge**,  
*Director, Regulation Policy and Management.*

For the reasons set forth in the preamble, VA proposes to amend 38 CFR part 51 as follows:

#### PART 51—PER DIEM FOR NURSING HOME CARE OF VETERANS IN STATE HOMES

1. The authority citation for part 51 continues to read as follows:

**Authority:** 38 U.S.C. 101, 501, 1710, 1741-1743, 1745.

#### § 51.200 [Amended]

2. Amend § 51.200 by removing the phrase "(2006 edition)" each place it appears and adding, in its place, "(2009 edition)".

[FR Doc. 2010-7811 Filed 4-6-10; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 761

[EPA-HQ-OPPT-2009-0757; FRL-8811-7]

RIN 2070-AJ38

#### Polychlorinated Biphenyls (PCBs); Reassessment of Use Authorizations

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

**ACTION:** Advance notice of proposed rulemaking (ANPRM).

**SUMMARY:** EPA is issuing an ANPRM for the use and distribution in commerce of certain classes of PCBs and PCB items