

(adjusted annually for inflation) in any given year. This rule has no such effect on state, local and tribal governments, or on the private sector.

#### 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 Order classifies a “significant regulatory action,” requiring review by the Office of Management and Budget (OMB), as a 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, state, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action planned or taken 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 the Executive Order.

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

#### Paperwork Reduction Act

This rule does not contain any collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

#### Regulatory Flexibility Act

The Secretary hereby certifies that this rule does 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 rule only affects individuals, not 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 for the programs affected by this document are 64.009, Veterans Medical Care Benefits; 64.011, Veterans Dental Care; 64.012,

Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; and 64.022, Veterans Home Based Primary 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, approved this document on February 24, 2011 for publication.

#### 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.

Dated: February 25, 2011.

**William F. Russo,**

*Director, Regulations Management,  
Department of Veterans Affairs.*

For the reasons stated in the preamble, VA amends 38 CFR part 17 as follows:

#### PART 17—MEDICAL

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

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

■ 2. Revise § 17.38(c)(5) to read as follows:

#### § 17.38 Medical benefits package.

\* \* \* \* \*

(c) \* \* \*

(5) Hospital and outpatient care for a veteran who is either a patient or inmate in an institution of another government agency if that agency has a duty to give the care or services. This exclusion does not apply to veterans who are released from incarceration in a prison or jail into a temporary housing program (such as a community residential re-entry center or halfway house).

\* \* \* \* \*

[FR Doc. 2011–4686 Filed 3–1–11; 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:** Final rule.

**SUMMARY:** This document adopts as a final rule without change the proposed rule to amend the Department of Veterans Affairs (VA) regulations governing the physical environment of State Home facilities. The final rule will require State Home facilities that receive a per diem for providing nursing home care to eligible veterans to meet certain provisions of the 2009 edition of the National Fire Protection Association’s NFPA 101, Life Safety Code. The change is designed to assure that State Home facilities meet current industry-wide standards regarding life safety and fire safety.

**DATES:** *Effective Date:* This final rule is effective April 1, 2011.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this rule as of April 1, 2011.

#### 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:** In a document published in the **Federal Register** on April 7, 2010 (75 FR 17644), VA proposed to amend 38 CFR 51.200, which governs the physical environment of facilities for which VA pays per diem to a state for providing nursing home care to eligible veterans. We proposed to update the regulation to require State Home facilities to meet certain provisions of the National Fire Protection Association’s NFPA 101, Life Safety Code (2009 edition) (NFPA 101), and proposed to incorporate that edition by reference. We provided a 60-day comment period and received one comment.

The comment was from the National Fire Protection Association. The commenter noted that there are several differences between the 2006 and 2009 editions of NFPA 101. The commenter noted that the 2009 edition clarifies the circumstances in which a “change in occupancy” classification would be considered when an existing building is

converted into a nursing home; clarifies the provisions for multiple and separate occupancy for nursing homes; enhances door locking provisions based on clinical need or specialized security measures; recognizes the use of aerosol-based alcohol hand rub dispensers; and clarifies latching provisions for certain doors that open into/onto corridors. In the proposed rule, we noted that we were not aware of any significant changes from the 2006 edition to the 2009 edition. The commenter acknowledged that the differences between the two editions are insignificant. Because none of the applicable updates to the 2009 edition of NFPA 101 require costly or significant changes to the facilities governed by this rule, we make no changes based on this comment.

This final rule amends § 51.200 as proposed without changes, and incorporates by reference NFPA 101, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

#### 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 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 year. This final rule will have no such effect on state, local, and tribal governments, or on the private sector.

#### Paperwork Reduction Act of 1995

This document contains no new 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 (OMB) unless OMB waives such review, 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 otherwise 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 the Executive Order.

VA has examined the economic, interagency, budgetary, legal, and policy implications of this final rule and has concluded that it does not constitute a significant regulatory action under the Executive Order.

#### Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment 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. This rulemaking will affect veterans and State Homes. The State Homes that will 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 amendment 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 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 February 8, 2011, 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, Incorporation by reference, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Dated: February 23, 2011.

**Robert C. McFetridge,**

*Director, Regulations Policy and Management, Department of Veterans Affairs.*

For the reasons stated above, VA amends 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.

■ 2. Amend § 51.200, by removing the phrase “NFPA 101, Life Safety Code (2006 edition)” each place it appears and adding, in its place, “NFPA 101, Life Safety Code (2009 edition)”.

[FR Doc. 2011–4430 Filed 3–1–11; 8:45 am]

**BILLING CODE 8320–01–P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 180

[EPA–HQ–OPP–2009–0996; FRL–8859–5]

#### Potassium Hypochlorite; Exemption From the Requirement of a Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes the exemption from the requirement of a tolerance for residues of Potassium hypochlorite. Enviro Tech Chemical Services, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting that Potassium hypochlorite in end-use products be eligible for the exemption from the requirement of a tolerance.