

24. Revise § 1206.64(a) to read as follows:

**§ 1206.64 What formal notification will I receive, and will it contain other information?**

(a) Successful grant applicants will receive a formal grant award document. The document and attachments specify terms of the grant. NHPRC staff notifies project directors informally of awards and any conditions soon after the Archivist approves the grants.

\* \* \* \* \*

**Subpart F—[Amended]**

**§ 1206.70 [Amended]**

25. Amend § 1206.70 by removing the second sentence.

26. Amend § 1206.72 by revising paragraph (a) to read as follows:

**§ 1206.72 What are, and where can I find, the regulatory requirements that apply to NHPRC grants?**

(a) In addition to this Part 1206, NARA has issued other regulations that apply to NHPRC grants in 36 CFR Parts 1200 to 1212 and 2 CFR Part 2600. NARA also applies the principles and standards in the following regulations and Office of Management and Budget (OMB) Circular for NHPRC grants:

(1) 2 CFR Part 220 Cost Principles for Educational Institutions (OMB Circular A-21);

(2) 2 CFR Part 225 Cost Principles for State, Local, And Indian Tribal Governments (OMB Circular A-87);

(3) 2 CFR Part 230 Cost Principles for Non-Profit Organizations (OMB Circular A-122); and

(4) OMB Circular A-133, "Audits of States, Local Governments, and Nonprofit Organizations." This circular is available at [http://www.whitehouse.gov/omb/circulars\\_default](http://www.whitehouse.gov/omb/circulars_default).

\* \* \* \* \*

**§ 1206.74 [Amended]**

27. Amend § 1206.74 by removing the word "Commission" and by adding "NHPRC" in its place.

28. Revise § 1206.76 to read as follows:

**§ 1206.76 May I receive an extension to my grant project?**

Yes, requests for extensions of the grant period should be signed by the grantee's authorized representative and submitted not more than two months before the scheduled end of the grant period. The NHPRC will not allow extensions unless a project is up-to-date in its submission of financial and narrative reports.

**§ 1206.80 [Amended]**

29. Amend § 1206.80(a) by removing the word "status" from between the words "financial" and "reports."

30. Revise § 1206.82 to read as follows:

**§ 1206.82 What is the format and content of the financial report?**

Grant recipients must submit financial reports on Standard Form 425 and have them signed by the grantee's authorized representative or by an appropriate institutional fiscal officer.

31. Amend § 1206.84 by revising the second sentence of paragraph (a) and removing paragraph (c) to read as follows:

**§ 1206.84 What is the format and content of the narrative report? [Amended]**

(a) \* \* \* The report should include a summary of project activities; whether the project proceeded on schedule; any revisions of the work plan, staffing pattern, or budget; any Web address created by the project; and any other press releases, articles, or presentations relating to the grant project or its products. \* \* \*

\* \* \* \* \*

32. Revise § 1206.86 to read as follows:

**§ 1206.86 What additional materials must I submit with the final narrative report?**

You must submit the materials required in the NHPRC grant announcements and in the grant award document.

33. Amend § 1206.88 by removing the phrase "the National Archives and Records Administration (NARA)" and by adding "NARA" in its place.

Dated: March 31, 2010.

David S. Ferriero,

Archivist of the United States.

[FR Doc. 2010-7779 Filed 4-6-10; 8:45 am]

BILLING CODE 7515-01-P

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Parts 17 and 59**

**RIN 2900-AN57**

**Updating Fire Safety Standards**

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend its regulations concerning community residential care facilities, contract facilities for certain outpatient and residential services, and State home facilities to update the standards for VA

approval of such facilities, including standards for fire safety and heating and cooling systems. The proposed amendments would help ensure the safety of veterans in the affected facilities.

**DATES:** Comments on the proposed rule 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-AN57—Updating Fire Safety Standards." 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:** Brian McCarthy, Office of Patient Care Services, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, 202-461-6759. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** This document proposes to update VA's regulations concerning the codes and standards applicable to community residential care facilities, contract facilities for outpatient and residential treatment services for veterans with alcohol or drug dependence or abuse disabilities, and State homes. Currently, 38 CFR 17.63(a)(2), 17.81(a)(1), 17.82(a)(1), and 59.130(d)(1) require facilities to meet the requirements in certain provisions of specific editions of publications produced by the National Fire Protection Association (NFPA). These publications are: NFPA 10, Standard for Portable Fire Extinguishers; NFPA 99, Standard for Health Care Facilities; NFPA 101, Life Safety Code; and NFPA 101A, Guide on Alternative Approaches to Life Safety. These publications are currently incorporated by reference into §§ 17.63, 17.81, 17.82, and 59.130. However, these sections need to be updated to reflect the current editions of these publications. In addition, specific chapters of NFPA 101 that are cited in

the regulations might not apply to all facilities within the programs. The regulations that cite these chapters need to be broadened to address all facilities.

#### Changes to 38 CFR Part 17

We propose to amend §§ 17.63, 17.81, and 17.82 to refer to the 2009 edition of NFPA 101 and the 2010 edition of NFPA 101A, which are the current editions of these publications.

These regulations currently cite specific chapters of NFPA publications. For example, § 17.81(a)(1)(i) cites chapters 1–7, 22–23, and 31, and Appendix A of the 1994 edition of NFPA 101. This can be problematic if a cited chapter was intended by NFPA to apply only to facilities of a specific type or size, e.g., a residential board and care facility for four or more residents, but the VA regulation addresses facilities of varying types or sizes. Reference to a specific chapter has led to confusion as to whether VA requires smaller facilities to meet the requirements in a chapter that NFPA intended only to apply to larger facilities, or vice-versa. For example, the occupancy chapters (chapters 22–23 of NFPA 101) cited in current § 17.81(a)(1)(i) were not intended by NFPA to apply to a facility that serves fewer than four residents, but VA recognizes facilities of such size in contracts for certain residential services. The result has been confusion as to whether the regulation requires those NFPA occupancy chapters to apply to such small facilities. VA intends to apply the NFPA occupancy chapters in the manner intended by NFPA. Where VA has additional requirements, these requirements need to be identified in the regulations.

This type of confusion has not been an issue for facilities covered by 38 CFR part 59, largely because in current § 59.130(d)(1) we require facilities to “meet the applicable provisions of” NFPA 101. Hence, we propose to amend part 17 to conform to the more general and less ambiguous reference format used in part 59. This is not intended to be a substantive change and should not create new responsibilities for any facilities covered by part 17.

In addition, some of our regulations reference specific standards that are subsumed by NFPA 101. For example, current § 17.82(a)(1)(v) references NFPA 10, a specific standard related to fire extinguishers. However, NFPA provides specific standards for many other items related to fire safety, but our regulations do not reference them. This has led to confusion as to whether we intended to exclude those specific standards we do not reference in our regulations. This was not our intent. NFPA 101 contains

a chapter that lists other publications and states that those publications shall be considered part of the requirements of NFPA 101. Hence, by incorporating by reference NFPA 101, we would also be incorporating the standards NFPA 101 relies upon and references.

Specific NFPA 101 provisions would lead the user to relevant specific standards. Again using the example of § 17.82(a)(1)(v)’s current reference to NFPA 10, proposed § 17.81(a)(1)(i) would require the regulated facilities “to meet the requirements in the applicable provisions of” NFPA 101, which would include chapters 7 and 23 of NFPA 101. NFPA 101 section 23–3.3.5.3, “Portable Fire Extinguishers,” states that “Portable fire extinguishers in accordance with 7–7.4.1 shall be provided near hazardous areas.” NFPA 101 section 7–7.4, “Manual Extinguishing Equipment,” states that “[w]here required by the provisions of another section of this Code, portable fire extinguishers shall be installed, inspected, and maintained in accordance with NFPA 10.” Thus, merely requiring compliance with NFPA 101 would lead the user to the appropriate specific published standards. We note as well that the reference to a specific standard, such as NFPA 10, or a specific provision of NFPA 101 is necessary only if the applicable occupancy chapter in NFPA 101 does not reference it. Thus, the reference to NFPA 10 would be added to § 17.63 and remain for § 17.81 only for facilities that have fewer than four residents, and would be removed from § 17.82.

In order to clarify the applicability in part 17 of all standards that are required by NFPA 101, we would state in our regulatory references to NFPA 101 that we require regulated facilities to meet the requirements in the applicable provisions of NFPA 101 and the other publications referenced in those provisions. This is not intended to be a substantive change and would not lead to stricter regulatory enforcement. It would merely clarify our regulation.

Finally, we would continue to reference specifically NFPA 101A in proposed § 17.63 because NFPA 101A provides alternative approaches to the requirements in NFPA 101. In practice, most facilities being inspected would not utilize the alternatives in NFPA 101A; however, we believe in some cases it would provide useful and viable alternatives.

#### Changes to 38 CFR Part 59

We propose to amend § 59.130 to refer to the 2005 edition of NFPA 99 and the 2009 edition of NFPA 101, which are the current editions of these documents.

This update is necessary to ensure that State home facilities meet current industry-wide standards regarding fire safety. With respect to State homes, we are not aware of any significant changes from the editions referenced in current § 59.130 to the 2005 edition of NFPA 99 and the 2009 edition of NFPA 101.

#### Approval of Incorporations by Reference

The Office of the Federal Register, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, approved our incorporation by reference of previous editions of NFPA 99, 101, 101A into current regulations. We propose to amend our regulations to require facilities seeking VA approval to meet the applicable requirements of NFPA 99, Standard for Health Care Facilities (2005 edition); NFPA 101, Life Safety Code (2009 edition); and NFPA 101A, Guide on Alternative Approaches to Life Safety (2010 edition). These changes merely reflect updates to the standards that are currently incorporated by reference. This action is necessary to ensure that facilities meet current industry-wide standards regarding fire safety. We are not aware of any significant changes from the previous editions to the current editions. We will request that the Office of the Federal Register approve our incorporation by reference of updated NFPA 99, 101, and 101A.

These materials for which we are seeking incorporation by reference are available for inspection at the Department of Veterans Affairs, Office of Regulation Policy and Management (02REG), 810 Vermont Avenue, NW., Room 1063B, Washington, DC 20420. Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) These materials are also available at the National Archives and Records Administration (NARA). For information on the availability of this material 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). Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269. (For ordering information, call toll-free 1–800–344–3555.)

#### 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 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 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 proposed rule 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. In addition to having an effect on individuals (veterans), the proposed rule would have an insignificant economic impact on a few small entities. The changes to § 17.63 would likely affect fewer than 100 of the 2,800 community residential care facilities approved for referral of veterans under the regulations. Also, any additional

costs for compliance with the proposed rule would constitute an inconsequential amount of the operational costs of such facilities. The changes to §§ 17.81 and 17.82 would affect only small entities; however, most, if not all, of these entities are already in compliance with the current NFPA codes and therefore should not be significantly impacted by this rule. The changes to part 59 would affect 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 operated by entities under contract with State governments. These contractors are not small entities. Accordingly, 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.

#### 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 Parts 17 and 59

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: April 1, 2010.

**Robert C. McFetridge,**

*Director, Regulation Policy and Management.*

For the reasons set out in the preamble, VA proposes to amend 38 CFR parts 17 and 59 as follows:

#### PART 17—MEDICAL

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

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

2. Add § 17.1 to part 17 to read as follows:

##### § 17.1 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce an edition of a publication other than that specified in this section, VA will publish notice of change in the **Federal Register** and the material will be made available to the public. All approved materials are available for inspection at the Department of Veterans Affairs, Office of Regulation Policy and Management (02REG), 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420, or at the National Archives and Records Administration (NARA). For information on the availability of approved materials 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). Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269. (For ordering information, call toll-free 1–800–344–3555.)

(b) The following materials are incorporated by reference into this part.

(1) NFPA 101, Life Safety Code (2009 edition), Incorporation by Reference (IBR) approved for §§ 17.63, 17.81, 17.82.

(2) NFPA 101A, Guide on Alternative Approaches to Life Safety (2010 edition), IBR approved for § 17.63.

**Authority:** 5 U.S.C. 552(a), 38 U.S.C. 501, 1721.

3. Amend § 17.63 as follows:

- a. Revise paragraph (a)(2); and
- b. Add a new paragraph (a)(4).

The revision and addition read as follows:

**§ 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 (O2REG), 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