ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of public hearing on proposed regulations relating to the substantiation and reporting requirements for cash and noncash charitable contributions under section 170 of the Internal Revenue Code. The regulations reflect the enactment of provisions of the American Jobs Creation Act of 2004 and the Pension Protection Act of 2006. The regulations provide guidance to individuals, partnerships, and corporations that make charitable contributions, and will affect any donor claiming a deduction for a charitable contribution after the date these regulations are published as final regulations in the **Federal Register**.

DATES: The public hearing is being held on Friday, January 23, 2009, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the public hearing by Tuesday, December 23, 2008.

ADDRESSES: The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC 20224.

Send Submissions to CC:PA:LPD:PR (REG–140029–07), room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday to CC:PA:LPD:PR (REG–140029–07), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC or sent electronically via the Federal erulemaking Portal at *http://www.regulations.gov* (IRS–REG–140029–07).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Susan J. Kassell (202) 622–5020; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing Funmi Taylor at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking (REG–140029–07) that was published in the **Federal Register** on Thursday, August 7, 2008 (73 FR 45908).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing that submitted written comments by November 5, 2008, must submit an outline of the topics to be addressed and the amount of time to be denoted to each topic (Signed original and eight copies).

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or in the Freedom of Information Reading Room (FOIA RR) (Room 1621) which is located at the 11th and Pennsylvania Avenue, NW., entrance, 1111 Constitution Avenue, NW., Washington, DC.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

LaNita VanDyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E8–28212 Filed 11–26–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 51 and 58

RIN 2900–AM97

Per Diem for Nursing Home Care of Veterans in State Homes

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations which set forth a mechanism for paying per diem to State homes providing nursing home care to eligible veterans. More specifically, we are proposing to update the basic per diem rate, to implement provisions of the Veterans Benefits, Health Care, and Information Technology Act of 2006, and to make several other changes to better ensure that veterans receive quality care in State homes.

DATES: Written comments must be received on or before December 29, 2008.

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 Ave., 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–AM97 Per Diem for Nursing Home Care of Veterans in State Homes.'' 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 (for issues concerning per diem payments), and Christa Hojlo, PhD at (202) 461–6779 (for all other issues raised by this document), Office of Geriatrics and Extended Care, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. (The telephone numbers set forth above are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: This document proposes to amend the regulations at 38 CFR part 51 (referred to below as the regulations), which set forth a mechanism for paying per diem to State homes providing nursing home care to eligible veterans. Under the regulations, VA pays per diem to a State for providing nursing home care to eligible veterans in a facility if the Under Secretary for Health recognizes the facility as a State home based on a determination that the facility meets the standards set forth in subpart D of the regulations. The standards set forth minimum requirements that are intended to ensure that VA pays per diem for eligible veterans only if the State homes provide quality care. This document also proposes to make corresponding changes concerning VA forms set forth at 38 CFR part 58.

Office of Geriatrics and Extended Care

The current regulations refer to the Geriatrics and Extended Care Strategic Healthcare Group (114) in a number of places. This has been renamed the Office of Geriatrics and Extended Care (114). Accordingly, we propose to amend the regulations to reflect this change.

Recognition and Certification.

Current § 51.20(a) requires an application for recognition and certification of a State home for nursing home care to be submitted to the Under Secretary for Health (10), VA Headquarters, 810 Vermont Avenue, NW., Washington, DC 20420. We would

change this provision to have the submission instead be addressed to the Chief Consultant, Office of Geriatrics and Extended Care (114), VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420, who processes applications for the Under Secretary for Health.

Current § 51.30(a)(1) provides that the Under Secretary for Health will make the determination regarding recognition and the initial determination regarding certification after receipt of a ''tentative determination'' from the director of the VA medical center of jurisdiction regarding whether, based on a VA survey, the facility and facility management meet or do not meet the standards of subpart D of the regulations. The term ''tentative determination'' has caused confusion as to who makes the final decision that a State home meets VA standards for purposes of recognizing a State home. It was intended that the Under Secretary for Health would make this final determination. Accordingly, we propose to amend § 51.30(a)(1) to prescribe that the Under Secretary will make a final decision regarding recognition of a State home after considering the recommendation of the medical center director.

In § 51.30(a)(1), with respect to the requirement that the recommendation be ''based on a VA survey,'' we propose that VA will not conduct the recognition survey for purposes of recognizing a home until (i) the facility under consideration for recognition has at least 21 residents or (ii) the number of residents in the facility equals 50 percent or more of the new bed capacity of the facility. Because the majority of VA standards for payment of per diem are directly related to resident care, it is important that there is a representative sample of residents in the facility to be able to determine if the facility meets the standards. We need to know whether a facility can meet the standards while providing adequate services for at least a unit of average size. The average unit size in a nursing home is 21 residents. We also believe 50 percent of the total resident capacity in the facility represents a reasonable number of residents when a facility is renovating or adding a small number of beds.

Current § 51.30(d), (e), and (f) set forth appeal provisions that apply if a director of a VA medical center of jurisdiction determines that a State home facility or facility management does not meet the standards of subpart D. To clarify that these appeal provisions apply to the Under Secretary for Health's initial decision recognition and certification, as well as a director's subsequent determinations regarding a home's failure to meet the standards of subpart D, we propose to amend § 51.30(d), (e), and (f) accordingly.

Basic Rate

With respect to per diem for nursing home care, current § 51.40 prescribes that VA will pay the lesser of:

- One-half of the cost of the care for each day the veteran is in the facility, or
- $50.55 for each day the veteran is in the facility.

Payment in the amount of $50.55 was established for use in Fiscal Year 2000 and has been increased every year since in accordance with 38 U.S.C. 1741(c), which prescribes criteria for increasing basic per diem payments. We propose to change this amount to $71.42 for Fiscal Year 2008 and to state that the amounts for subsequent fiscal years would be set in accordance with the criteria in section 1741(c).

Rate Based on Service Connection

Under the provisions of 38 U.S.C. 1745(a), which were established by section 211 of the Veterans Benefits, Health Care, and Information Technology Act of 2006, the basic per diem rate no longer applies for:

- Any veteran in need of nursing home care for a service-connected disability, or
- Any veteran who has a service-connected disability rated at 70 percent or more and is in need of nursing home care.

Instead, under the provisions of 38 U.S.C. 1745(a), the rate for such veterans is the lesser of:

- The applicable or prevailing rate payable in the geographic area in which the State home is located, as determined by the Secretary, for nursing home care furnished in a non-Department nursing home (a public or private institution not under the direct jurisdiction of VA which furnishes nursing home care); or
- A rate not to exceed the daily cost of care in the State home facility, as determined by the Secretary, following a report to the Secretary by the director of the State home.

Proposed § 51.41(a) reflects these statutory provisions.

The proposal interprets the statutory eligibility provisions for veterans who have ''a service-connected disability rated at 70 percent or more'' to cover veterans with ''a singular or combined rating of 70 percent or more based on one or more service-connected disabilities or a rating of total disability based on individual unemployability.'' We believe that this reflects the statutory intent and is consistent with our other interpretation of similar statutory provisions, e.g., for enrollment purposes we interpreted percentage ratings to include all service-connected disabilities combined, as well as a rating of total disability based on individual unemployability. (See 38 CFR 17.36(b)(1)–(2)).

We propose to establish criteria for determining the applicable or prevailing rate payable in the geographic area based on the information provided below. VA's per diem rate based on service connection will be a daily rate that will include both a direct nursing home care charge and a physician charge.

The Federal Medicare program reimburses nursing homes for skilled nursing care provided to Medicare beneficiaries. The Centers for Medicare & Medicaid Services (CMS) administers the Medicare program and thus has developed a national system for paying for this care. The current system has been used and improved since 1997. In our view, this system, which does not include physician charges, comes closest to determining what the reimbursement rate per day for nursing home care should be in a manner that is analytically based and that considers the cost differences in all parts of the United States. As such, except for physician charges, we believe that it meets the statutory mandate that VA reimburse State homes at ''the applicable or prevailing rate payable in the geographic area in which the State home is located * * * for nursing home care furnished in a non-Department nursing home.'' We would thus compute a daily rate for each State home using the formula set forth in proposed § 51.41 and discussed below.

This formula is based on CMS' Medicare payment model in which per diem payments for each admission are case-mix adjusted using a resident classification system (Resource Utilization Groups, version III (RUG III)). The RUG III system is based on data from resident assessments (Minimum Data Set 2.0) and relative weights developed from staff time data. Each case mix is assigned a Federal rate with a labor portion and a non-labor portion. To adjust the amount to reflect the prevailing rate in the local geographic area, the labor portion is multiplied by the CMS hospital wage index for the local jurisdiction. The CMS information regarding these calculations is published in the **Federal Register** every summer and is effective beginning October 1 for the entire fiscal year. See 72 FR 43412 (August 3, 2007) for information for the 2008 Federal

fiscal year. VA is considering a modification to the proposed payment structure to be introduced after two or three years of experience with the RUG III approach. In the modification, VA would use the actual case-mix of the individual state veteran nursing home to determine the reimbursement rate, rather than assuming that every nursing home has an equal number of veterans in each of the 53 RUG III levels. This modification will allow for more accurate payments, reimbursing nursing homes at a higher rate for treating veterans with more intensive needs. VA is seeking public comment on this modification.

The proposed physician charge would be a daily charge based on information set forth in the SMS and Supplemental Survey PE/HR which was published by the American Medical Association until 1999 and is used by CMS to develop the practice expense portion of the Medicare physician fee schedule amounts. To find the daily charge we would use the average hourly rate for all physicians from the fee schedule and modify this hourly rate by the applicable geographic adjustment factor used under the Medicare physician fee schedule for the area where the State home is located. We would use the modified hourly rate as the monthly visit rate based on our finding that the total time for the multiple physician visits during the month would average approximately one hour. We would then multiply the modified hourly rate by 12 (months in year) and then divide it by the number of days in the year. This daily rate would be added to the average per diem, described above. We are using an hourly rate and geographic index that does not include business taxes or malpractice expenses. This is because most states provide physician services using salaried state employees. However, we are soliciting comments on this issue. The prevailing rates computed under this provision will be updated each year using the Medical Economic Index.

The rate paid to a State home for care of certain service-connected veterans would thus be the lesser of the applicable or prevailing rate payable in the geographic area in which the State home is located or a rate not to exceed the daily cost of care for the month in the State home. The actual daily cost of care would be submitted by the State home on VA Form 10–5588. Without the submission of such information VA cannot pay per diem based on service connection because VA cannot determine the amount to pay.

Section 211(a)(5) of Public Law 109–461 required the higher rate for certain service-connected veterans to take effect on March 21, 2007 (90 days after enactment of the law). Accordingly, VA proposes to make retroactive payments constituting the difference between the amount of per diem actually paid and the amount calculated under the formula set forth in these regulations for care provided to these veterans on or after March 21, 2007. However, VA would not make retroactive payments if the State home received any payment for such care from any source unless the amount received was returned to the payor. It is not administratively feasible for VA to oversee and verify accuracy of partial payments.

Moreover, to reflect 38 U.S.C. 1745(a)(3), paragraph (c) states that, as a condition of receiving payments under proposed § 51.41, a State home must agree not to accept drugs or medicines from VA on behalf of veterans provided under 38 U.S.C. 1712(d) and corresponding VA regulations. The direct nursing home care payments to be made to State homes under proposed § 51.41 include payment for drugs and medicines.

Drugs and Medicines Based on Service Connection

The provisions of 38 U.S.C. 1745(b), which were established by section 211(a)(2) of the Veterans Benefits, Health Care, and Information Technology Act of 2006, require VA to furnish recognized State homes with such drugs and medicines as may be ordered by prescription of a duly licensed physician as specific therapy in the treatment of illness or injury for certain eligible veterans. Proposed § 51.42(a) reflects the statutory provisions and, for reasons explained above, we interpreted categories of veterans based on ratings to include singular or combined ratings.

Under proposed § 51.42(b), VA would furnish a drug or medicine only if the drug or medicine is included on VA's National Formulary, unless VA determines a non-Formulary drug or medicine is medically necessary. This should result in significant savings since, insofar as possible, the VA National Formulary consists of generic medications that often cost much less than brand medications. These are the same medications used for VA nursing home patients. Under proposed § 51.42(c), VA would furnish the drugs or medicines to the State home by mail or other means determined by VA. We believe it will be most feasible to provide the drugs and medicines by mail. However, it may be more practical to provide them by other means. For example, if the State home were located next to the VA facility, it might be more practical to hand-deliver the drugs and medicines.

Section 211(a)(5) of Public Law 109–461 required that the provision of such drugs and medicines take effect on March 21, 2007 (90 days after enactment of the law). Accordingly, VA would make retroactive payments constituting the amount State homes paid for such drugs and medicines not including any administrative costs incurred by the State home. However, VA would not pay any amounts for drugs and medicines if the State home received any payment for such drugs and medicines from any source unless the amount received was returned to the payor. It is not administratively feasible for VA to oversee and verify accuracy of partial payments. To receive these retroactive payments, a State home would have to complete a VA Form 10–0460 and submit it to the VA medical center of jurisdiction.

Forms

Current § 51.40(a)(5), which we propose to move to § 51.43, provides that as a condition for receiving payment of per diem, the State home must submit to the VA medical center of jurisdiction for each veteran a completed VA Form 10–10EZ, Application for Medical Benefits and a completed VA Form 10–10SH, State Home Program Application for Care—Medical Certification. The regulations also provide that these VA Forms should be submitted at the time of admission to the home and with any request for a change in the level of care (domiciliary, hospital care or adult day health care). In many cases a completed VA Form 10–10EZ may already be on file with VA. In those cases, proposed § 51.43(a) would provide that a VA Form 10–10EZR be submitted instead. This form would not ask for any additional information. It would merely ask for an update on a portion of the information already submitted by the VA Form 10–10EZ. VA Forms 10–10EZ and 10–10SH are set forth in full at §§ 58.12 and 58.13. VA Form 10–10EZR is set forth in full at proposed § 58.12.

Bed Holds

Current § 51.40(a)(2) concerns payment of per diem for the days that a veteran is considered to be a resident at the facility and prescribes payment only for each full day that a veteran is a resident at the facility. We propose to clarify this concept by stating that per diem would be paid for each day that the veteran is receiving care and has an overnight stay.

Current § 51.40(a)(2) sets forth the VA rule regarding the payment of per diem for bed holds. Payment of per diem for bed holds assures that nursing home residents who are hospitalized or who are granted leave for other purposes are assured a nursing home bed upon return to the nursing home. The current regulations provide that VA will deem the veteran to be a resident at a facility and pay per diem during any absence from the facility that lasts for no more than 96 consecutive hours except that VA will not pay per diem when the veteran is receiving care outside the State home facility at VA expense. Also, the current regulations provide that an ''absence will be considered to have ended when the veteran returns as a resident if the veteran's stay is for at least a continuous 24-hour period.''

We propose to make changes to the bed hold rule. Proposed § 51.43(c) would provide that per diem will be paid for a bed hold only if the veteran has established residency by being in the facility for 30 consecutive days (including overnight stays) and the facility has an occupancy rate of 90 percent or greater. In addition, we propose that per diem for a bed hold will be paid only for the first ten (10) consecutive overnight absences at a VA or other hospital (this could occur more than once in a calendar year) and for the first twelve (12) other types of overnight absences in a calendar year.

We believe that State homes should receive per diem payments to hold beds only for permanent residents and only if the State home would likely fill the bed without such payments. Allowing payments for bed holds only after a veteran has been in a nursing home for at least 30 consecutive days (including overnight stays) appears to be sufficient to establish permanent residency. Further, there is no need to pay per diem for bed holds for those facilities with an occupancy of less than 90 percent because it is unlikely that those facilities would fill the bed of an absent resident.

The current 96-hour rule for absences coupled with the 24-hour return-period rule allow a State home to receive per diem payments for a veteran who spends four days per week away from the nursing home. This is inconsistent with the purpose for providing nursing home care, i.e., providing care for those unable to function outside a nursing home. This generous standard for bed holds was established when nursing home census was high. We do not propose a limit on the number of hospital stays because absences for hospital care do not suggest that an individual no longer needs nursing home care. However, a limit of ten (10) consecutive overnight hospital absences and a limit of twelve (12) other overnight absences in a calendar year are consistent with many Medicaid State plans which generally provide for bed holds of around 12 days. Further, we believe the rationale for paying for bed holds would apply whether or not a veteran's hospital care outside the State home is being provided at VA expense. We thus propose to remove this distinction in the regulations.

Miscellaneous

Under the proposed rule, the provisions of paragraphs (a)(3) through (a)(5) and paragraph (b) of current § 51.40 would be moved to proposed § 51.43 with certain non-substantive changes, including changes that correspond to those discussed above in this document.

Also, we propose to revise VA Forms 10–5588 and 10–10SH and established a new VA Form 10–0460, as set forth in the text portion of this document at 38 CFR 58.11, 58.13, and 58.18. These VA Forms would include changes that correspond to the changes discussed above in this document.

Resident Rights

Current § 51.70(c)(5) provides that ''[u]pon the death of a resident with a personal fund deposited with the facility, the facility management must convey within 30 days the resident's funds, and a final accounting of those funds, to the individual or probate jurisdiction administering the resident's estate; or other appropriate individual or entity, if State law allows.'' State home representatives have requested that the 30 day time limit be changed to 90 calendar days based on the observation that it often takes a longer period to verify which individual or entity is the appropriate recipient of the funds and to provide the final accounting. Based on the rationale set forth by State home representatives, we propose to change the 30 day time limit to a more realistic 90 calendar days.

Physician Services—Role of Advanced Practice Nurses

Current § 51.150 provides that a resident must be seen by the primary physician within specified timeframes. These regulations also state that, at the option of the primary physician, required visits in the facility after the initial visit may alternate between personal visits by the primary physician and visits by a certified physician assistant, certified nurse practitioner, or a clinical nurse specialist. The regulations further allow such visits by a clinical nurse specialist only if acting within the scope of practice as authorized by State law and only if acting under the supervision of the primary physician.

The term ''clinical nurse specialist'' is defined in current § 51.2 as ''a licensed professional nurse with a master's degree in nursing with a major in a clinical nursing specialty from an academic program accredited by the National League for Nursing and at least 2 years of successful clinical practice in the specialized area of nursing practice following this academic preparation.'' We propose to change the definition to delete the requirement that such an individual have ''at least 2 years of successful clinical practice in the specialized area of nursing practice following this academic preparation'' and require instead that the individual must be currently certified by a nationally recognized credentialing body (such as the American Nurses Credentialing Center). To obtain the master's degree, the individual would necessarily gain substantial clinical practice experience. However, the certification appears to be necessary to ensure that a clinical nurse specialist retains skills necessary for the position. Such certifying bodies require that certified individuals complete continuing education and thereby help them stay current with advances in the profession.

The term ''nurse practitioner'' is also defined in current § 51.2 as ''a licensed professional nurse who is currently licensed to practice in the State; who meets the State's requirements governing the qualifications of nurse practitioners; and who is currently certified as an adult, family, or gerontological nurse practitioner by the American Nurses' Association.'' We propose to delete the requirement of certification by the American Nurses' Association because it does not provide such certification. Instead, we propose to require certification by any nationally recognized body that provides such certification for nurse practitioners, such as the American Nurses' Credentialing Center or the American Academy of Nurse Practitioners. The certification appears to be necessary to ensure that a nurse practitioner retains skills necessary for the position. Such certifying bodies require that certified individuals complete continuing education and thereby help them stay current with advances in the profession.

Social Worker

Current § 51.100(h)(2) provides that ''[a] nursing home with 100 or more beds must employ a qualified social

worker on a full-time basis.'' This requirement was intended to ensure that the nursing home receives qualified social worker services and was not intended to require that the services be provided by one individual. We propose to clarify the regulations to specify that a nursing home with 100 or more beds would be required to employ one or more qualified social workers who work for a total period that equals at least the work time of one full-time employee (FTE). We also propose to clarify the regulations to specify that a State home must provide qualified social worker services in proportion to the total number of beds in the home, specifically one or more social worker FTE per 100 beds. For example, a nursing home with 50 beds would be required to employ one or more qualified social workers who work for a total period equaling at least one-half FTE and a nursing home with 150 beds would be required to employ qualified social workers who work for a total period equaling at least one and one-half FTE. This would give State homes more flexibility in hiring social workers and ensure that veterans in all State homes receive roughly the same amount of social work services.

Resident Assessment

Current § 51.110 (introductory text) requires facility management to ''conduct initially, annually and as required by a change in the resident's condition a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capability.'' Current § 51.110(b)(3) also requires quarterly reassessments.

Current § 51.110(b)(1)(i) requires officials conducting such assessments, among other things, to use the Health Care Financing Administration Long Term Care Resident Assessment Instrument Version 2.0 in conducting the assessment. Current § 51.110(b)(1)(iii) also requires all nursing homes to have been in compliance with use of such assessment instrument by no later than January 1, 2000. This instrument is now called the Centers for Medicare and Medicaid Services (CMS) Resident Assessment Instrument Minimum Data Set (RAI/MDS), Version 2.0, and we propose to amend our regulations to reflect this change. Also, we propose to delete the provision requiring compliance by January 1, 2000, since this requirement has been fully met.

Also, we propose to require each State home to submit to VA at an email address provided by VA to the State home, each assessment (initial, annual, change in condition, and quarterly) using the CMS assessment instrument described above within 30 days after completion of the instrument. This is the best method for VA to monitor whether adequate care is being provided to residents. Also, it appears that 30 days after completion provides ample time for the submissions to VA.

Physical Environment

Current § 51.200 requires State home facilities to meet certain provisions of the National Fire Protection Association's NFPA 101, Life Safety Code (1997 edition) and the NFPA 99, Standard for Health Care Facilities (1996 edition). These documents are incorporated by reference in accordance with the provisions of 5 U.S.C. 552(a) and 1 CFR Part 51. We propose to change the regulations to update these documents to refer to the current editions of the NFPA code and standard. This change will assure that State home facilities meet current industry-wide standards regarding life safety and fire safety. We will again request approval of the incorporation by reference from the Office of the Federal Register.

These materials for which we are seeking incorporation by reference are 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). They are also available at the National Archives and Records Administration (NARA). For information on the availability of these materials at NARA, call 202–741–6030, or go to: *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. Box 9101, Quincy, MA 02269–9101. (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 will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

The Office of Management and Budget (OMB) assigns a control number for each collection of information it approves. Except for emergency approvals under 44 U.S.C. 3507(j), VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Proposed §§ 51.43, 58.11, 58.13, and 58.18 contain collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). These regulations set forth a mechanism for State homes to obtain a per diem as well as drugs and medicines.

The proposed rule at § 51.110 contains a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). VA has already obtained OMB clearance for the use of Minimum Data Sets (initial, annual, significant change in condition, and quarterly) (OMB control Number xxxxx). However, the proposed rule would require such Minimum Data Sets to be electronically transmitted to VA.

Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking action to OMB for its review of the collection of information.

Comments on the collections of information contained in this rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1068, Washington, DC 20420; fax to (202) 273–9026; or e-mail comments through *http://www.Regulations.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AM97.''

We are requesting comments on the collection of information provisions contained in §§ 51.43, 58.11, 58.13, 58.18, and 51.110. Comments must be submitted by December 29, 2008.

Title: Submission of VA Form 10–10EZR.

Summary of collection of information: Proposed § 51.43 would allow the use of VA Form 10–10EZR instead of VA Form 10–10EZ in appropriate cases.

Description of the need for information and proposed use of information: This information is needed for VA to determine veteran eligibility for per diem.

Description of likely respondents: State homes receiving per diem for

providing nursing home care to eligible veterans.

Estimated number of respondents per year: 127.

Estimated frequency of responses per year: 4,000.

Estimated total annual reporting and recordkeeping burden: 1,600 hours.

Estimated annual burden per collection: 24 minutes.

Title: Submission of VA Form 10–5588.

Summary of collection of information: Proposed § 58.11 would revise VA Form 10–5588 for State homes to obtain Federal aid.

Description of the need for information and proposed use of information: This information is needed for VA to determine how much to pay State homes.

Description of likely respondents: State homes receiving per diem for providing nursing home care to eligible veterans.

Estimated number of respondents per year: 124.

Estimated frequency of responses per year: 1,488.

Estimated total annual reporting and recordkeeping burden: 1,488 hours.

Estimated annual burden per collection: 1 hour.

Title: Submission of VA Form 10–10SH.

Summary of collection of information: Proposed § 58.13 would revise VA Form 10–10SH concerning medical certifications required for eligibility for Federal aid.

Description of the need for information and proposed use of information: This information is needed for VA to determine eligibility for paying State homes.

Description of likely respondents: State homes receiving per diem for providing nursing home care to eligible veterans.

Estimated number of respondents per year: 127.

Estimated frequency of responses per year: 5,000.

Estimated total annual reporting and recordkeeping burden: 2,500 hours.

Estimated annual burden per collection: 30 minutes.

Title: Submission of VA Form 10–0460.

Summary of collection of information: Proposed § 58.18 would establish VA Form 10–0460 concerning drugs and medicines for eligible veterans.

Description of the need for information and proposed use of information: This information is needed for VA to determine which veterans are eligible for drugs and medicines.

Description of likely respondents: State homes requesting drugs and medicines for eligible veterans.

Estimated number of respondents per year: 420.

Estimated frequency of responses per year: 420.

Estimated total annual reporting and recordkeeping burden: 105 hours.

Estimated annual burden per collection: 15 minutes.

Title: Submission of assessments.

Summary of collection of information: Proposed § 51.110 contains provisions regarding electronic submission to VA of copies of each assessment using the Centers for Medicare and Medicaid Services (CMS) Resident Assessment Instrument Minimum Data Set, Version 2.0.

Description of the need for information and proposed use of information: This information is needed for VA to monitor whether adequate care is being provided to residents.

Description of likely respondents: State homes receiving per diem for providing nursing home care to eligible veterans.

Estimated number of respondents per year: 119.

Estimated frequency of responses per year: 72,000.

Estimated total annual reporting and recordkeeping burden: 36,000 hours.

Estimated annual burden per collection: 30 minutes.

The Department considers comments by the public on collections of information in—

- Evaluating whether the collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including responses through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comment Period

VA believes, based upon its many contacts with interested members of the public including the families of veterans in State homes, State veterans' homes and State departments of veterans affairs, and members of Congress, that there is strong interest in implementation of this rule as soon as possible. VA is aware of the many veterans and State nursing homes that will be assisted by the adoption of this rule. In order to implement the legislation and benefit these homes and veterans as quickly as possible, it is very important that VA takes action as soon as practicable. Accordingly, VA has determined that it would not be in the public interest to provide a 60-day comment period for this proposed rule and has instead specified that comments must be received within 30 days of publication in the **Federal Register**.

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 OMB, 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 entitlement recipients; (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 to be a significant regulatory action under Executive Order 12866 because it may result in a rule that raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in 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, State homes, and pharmacies. The State homes that are 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. Also, this rulemaking will have only an insignificant impact on a small number pharmacies that could be considered 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.

List of Subjects in 38 CFR Parts 51 and 58

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.

Approved: September 17, 2008.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

For the reasons set forth in the preamble, we propose to amend 38 CFR parts 51 and 58 as follows:

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

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

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

2. Amend part 51 by removing the phrase ''Geriatrics and Extended Care Strategic Healthcare Group'' each place it appears and adding, in its place, ''Office of Geriatrics and Extended Care''.

Subpart A—General

3. Amend § 51.2 by revising the definitions of the terms ''Clinical nurse specialist'' and ''Nurse practitioner'' to read as follows:

§ 51.2 Definitions.

* * * * *

Clinical nurse specialist means a licensed professional nurse who has a Master's degree in nursing with a major in a clinical nursing specialty from an academic program accredited by the National League for Nursing and who is certified by a nationally recognized credentialing body (such as the National League for Nursing, the American Nurses Credentialing Center, or the Commission on Collegiate Nursing Education).

* * * * *

Nurse practitioner means a licensed professional nurse who is currently licensed to practice in the State; who meets the State's requirements governing the qualifications of nurse practitioners; and who is currently certified as an adult, family, or gerontological nurse practitioner by a nationally recognized body that provides such certification for nurse practitioners, such as the American Nurses Credentialing Center or the American Academy of Nurse Practitioners.

* * * * *

Subpart B—Obtaining Per Diem for Nursing Home Care in State Homes

4. Amend § 51.20 by revising paragraph (a) to read as follows:

§ 51.20 Application for recognition based on certification.

* * * * *

(a) Send a request for recognition and certification to the Chief Consultant, Office of Geriatrics and Extended Care (114), VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420. The request must be in the form of a letter and must be signed by the State official authorized to establish the State home;

* * * * *

5. Amend § 51.30 as follows:

a. Revise paragraph (a)(1).

b. Revise paragraphs (d), (e), and (f).

The revision and addition read as follows:

§ 51.30 Recognition and certification.

(a)(1) The Under Secretary for Health will make the determination regarding recognition and the initial determination regarding certification, after receipt of a recommendation from the director of the VA medical center of jurisdiction regarding whether, based on a VA survey, the facility and facility management meet or do not meet the standards of subpart D of this part. The recognition survey will be conducted only after the new facility has at least 21 residents or the number of residents consists of at least 50 percent of the new bed capacity of the facility.

* * * * *

(d) If, during the process for recognition and certification, the director of the VA medical center of jurisdiction recommends that the State home facility or facility management does not meet the standards of this part or if, after recognition and certification have been granted, the director of the VA medical center of jurisdiction determines that the State home facility or facility management does not meet the standards of this part, the director will notify the State home facility in writing of the standards not met. The director will send a copy of this notice to the State official authorized to oversee operations of the facility, the VA Network Director (10N 1–22), the Chief Network Officer (10N), and the Chief Consultant, Geriatrics and Extended Care Strategic Healthcare Group (114). The letter will include the reasons for the recommendation or decision and indicate that the State has the right to appeal the recommendation or decision.

(e) The State must submit the appeal to the Under Secretary for Health in writing, within 30 days of receipt of the notice of the recommendation or decision regarding the failure to meet the standards. In its appeal, the State must explain why the recommendation or determination is inaccurate or incomplete and provide any new and relevant information not previously considered. Any appeal that does not identify a reason for disagreement will be returned to the sender without further consideration.

(f) After reviewing the matter, including any relevant supporting documentation, the Under Secretary for Health will issue a written determination that affirms or reverses the previous recommendation or determination. If the Under Secretary for Health decides that the facility does not meet the standards of subpart D of this part, the Under Secretary for Health will withdraw recognition and stop

paying per diem for care provided on and after the date of the decision (or not grant recognition and certification and not pay per diem if the appeal occurs during the recognition process). The decision of the Under Secretary for Health will constitute a final VA decision. The Under Secretary for Health will send a copy of this decision to the State home facility and to the State official authorized to oversee the operations of the State home.

* * * * *

Subpart C—Per Diem Payments

6. Revise § 51.40 to read as follows:

§ 51.40 Basic per diem.

Except as provided in § 51.41 of this part,

(a) During Fiscal Year 2008 VA will pay a facility recognized as a State home for nursing home care the lesser of the following for nursing home care provided to an eligible veteran in such facility:

(1) One-half of the cost of the care for each day the veteran is in the facility; or

(2) $71.42 for each day the veteran is in the facility.

(b) During Fiscal Year 2009 and during each subsequent Fiscal Year, VA will pay a facility recognized as a State home for nursing home care the lesser of the following for nursing home care provided to an eligible veteran in such facility:

(1) One-half of the cost of the care for each day the veteran is in the facility; or

(2) The basic per diem rate for the Fiscal Year established by VA in accordance with 38 U.S.C. 1741(c).

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1744)

7. Amend part 51 by adding new §§ 51.41 through 51.43, to read as follows:

§ 51.41 Per diem for certain veterans based on service-connected disabilities.

(a) VA will pay a facility recognized as a State home for nursing home care at the per diem rate determined under paragraph (b) of this section for nursing home care provided to an eligible veteran in such facility, if the veteran:

(1) Is in need of nursing home care for a VA adjudicated service-connected disability, or

(2) Has a singular or combined rating of 70 percent or more based on one or more service-connected disabilities or a rating of total disability based on individual unemployability and is in need of nursing home care.

(b) For purposes of paragraph (a) of this section, the rate is the lesser of the amount calculated under the paragraph (b)(1) or (b)(2) of this section.

(1) The amount determined by the following formula. Calculate the daily rate for the CMS RUG III (resource utilization groups version III) 53 case-mix levels for the applicable metropolitan statistical area if the facility is in a metropolitan statistical area, and calculate the daily rate for the CMS Skilled Nursing Prospective Payment System 53 case-mix levels for the applicable rural area if the facility is in a rural area. For each of the 53 case-mix levels, the daily rate for each State home will be determined by multiplying the labor component by the nursing home wage index and then adding to such amount the non-labor component and an amount based on the CMS payment schedule for physician services. The amount for physician services, based on information published by CMS, is the average hourly rate for all physicians, with the rate modified by the applicable urban or rural geographic index for physician work, and then with the modified rate multiplied by 12 and then divided by the number of days in the year.

Note to paragraph (b)(1): The amount calculated under this formula reflects the applicable or prevailing rate payable in the geographic area in which the State home is located for nursing home care furnished in a non-Department nursing home (a public or private institution not under the direct jurisdiction of VA which furnishes nursing home care).

(2) A rate not to exceed the daily cost of care for the month in the State home facility, as determined by the Chief Consultant, Office of Geriatrics and Extended Care, following a report to the Chief Consultant, Office of Geriatrics and Extended Care under the provisions of § 51.43(b) of this part by the director of the State home.

(c) Payment under this section to a State home for nursing home care provided to a veteran constitutes payment in full to the State home by VA for such care furnished to that veteran. Also, as a condition of receiving payments under this section, the State home must agree not to accept drugs and medicines from VA on behalf of veterans provided under 38 U.S.C. 1712 (d) and corresponding VA regulations (payment under this section includes payment for drugs and medicines).

§ 51.42 Drugs and medicines for certain veterans.

(a) In addition to per diem payments under § 51.40 of this part, the Secretary shall furnish drugs and medicines to a facility recognized as a State home as may be ordered by prescription of a duly licensed physician as specific therapy in the treatment of illness or injury for a veteran receiving care in a State home, if:

(1) The veteran:

(i) Has a singular or combined rating of less than 50 percent based on one or more service-connected disabilities and is in need of such drugs and medicines for a service-connected disability; and

(ii) Is in need of nursing home care for reasons that do not include care for a VA adjudicated service-connected disability, or

(2) The veteran:

(i) Has a singular or combined rating of 50 or 60 percent based on one or more service-connected disabilities and is in need of such drugs and medicines; and

(ii) Is in need of nursing home care for reasons that do not include care for a VA adjudicated service-connected disability.

(b) VA may furnish a drug or medicine under paragraph (a) of this section only if the drug or medicine is included on VA's National Formulary, unless VA determines a non-Formulary drug or medicine is medically necessary.

(c) VA may furnish a drug or medicine under paragraph (a) of this section by having the drug or medicine delivered to the State home in which the veteran resides by mail or other means determined by VA.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1744)

§ 51.43 Per diem and drugs and medicines—principles.

(a) As a condition for receiving payment of per diem under this part, the State home must submit to the VA medical center of jurisdiction for each veteran a completed VA Form 10–10EZ, Application for Medical Benefits (or VA Form 10–10EZR, Health Benefits Renewal Form, if a completed Form 10–10EZ is already on file at VA), and a completed VA Form 10–10SH, State Home Program Application for Care—Medical Certification. These VA Forms must be submitted at the time of admission and with any request for a change in the level of care (domiciliary, hospital care or adult day health care). In case the level of care has changed or contact information is outdated, VA Forms 10–10EZ and 10–10EZR are set forth in full at § 58.12 and VA Form 10–10SH is set forth in full at § 58.13. If the facility is eligible to receive per diem payments for a veteran, VA will pay per diem under this part from the date of receipt of the completed forms required by this paragraph, except that VA will pay per diem from the day on which the

veteran was admitted to the facility if the completed forms are received within 10 days after admission.

(b) VA pays per diem on a monthly basis. To receive payment, the State must submit to the VA medical center of jurisdiction a completed VA Form 10–5588, State Home Report and Statement of Federal Aid Claimed. This form is set forth in full at § 58.11 of this part.

(c) Per diem will be paid under §§ 51.40 and 51.41 for each day that the veteran is receiving care and has an overnight stay. Per diem will be paid when there is no overnight stay if the veteran has resided in the facility for 30 consecutive days (including overnight stays) and the facility has an occupancy rate of 90 percent or greater. These payments will be made only for the first 10 consecutive days during which the veteran is admitted as a patient in a VA or other hospital (this could occur more than once in a calendar year) and only for the first 12 days in a calendar year during which the veteran is absent for purposes other than receiving hospital care.

(d) Initial per diem payments will not be made until the Under Secretary for Health recognizes the State home. However, per diem payments will be made retroactively for care that was provided on and after the date of the completion of the VA survey of the facility that provided the basis for determining that the facility met the standards of this part.

(e) The daily cost of care for an eligible veteran's nursing home care for purposes of §§ 51.40(a)(1) and 51.41(b)(2) consists of those direct and indirect costs attributable to nursing home care at the facility divided by the total number of residents at the nursing home. Relevant cost principles are set forth in the Office of Management and Budget (OMB) Circular number A–87, dated May 4, 1995, ''Cost Principles for State, Local, and Indian Tribal Governments.''

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1744).

(f) As a condition for receiving drugs and medicines under this part, the State must submit to the VA medical center of jurisdiction a completed VA Form 10–0460 for each eligible veteran. This form is set forth in full at § 58.18 of this part. The corresponding prescriptions described in § 51.42 also should be submitted to the VA medical center of jurisdiction.

Subpart D—Standards

§ 51.70 [Amended]

8. Amend § 51.70, in paragraph (c)(5), by removing ''30 days'' and adding, in its place, ''90 calendar days''.

9. Amend § 51.100, by revising paragraph (h)(2) to read as follows:

§ 51.100 Quality of life.

* * * * *

(h) * * *

(2) For each 100 beds, a nursing home must employ one or more qualified social workers who work for a total period that equals at least the work time of one full-time employee (FTE). A State home that has more or less than 100 beds must provide qualified social worker services on a proportionate basis (for example, a nursing home with 50 beds must employ one or more qualified social workers who work for a total period equaling at least one-half FTE and a nursing home with 150 beds must employ qualified social workers who work for a total period equaling at least one and one-half FTE).

* * * * *

10. Amend § 51.110 by:

a. Revising paragraph (b)(1)(i).

b. Removing paragraph (b)(1)(iii).

c. Redesignating paragraphs (d) and (e) as paragraphs (e) and (f), respectively.

d. Adding a new paragraph (d).

The revision and addition read as follows:

§ 51.110 Resident assessment.

* * * * *

(b) * * *

(1) * * *

(i) Using the Centers for Medicare and Medicaid Services (CMS) Resident Assessment Instrument Minimum Data Set, Version 2.0; and

* * * * *

(d) *Submission of assessments.* Each assessment (initial, annual, change in condition, and quarterly) using the Centers for Medicare and Medicaid Services (CMS) Resident Assessment Instrument Minimum Data Set, Version 2.0 must be electronically submitted to VA at the email address provided by VA to the State within 30 days after completion of the assessment document.

* * * * *

§ 51.200 [Amended]

11. Amend § 51.200, by:

a. Removing the phrase ''(1997 edition)'' each place it appears and adding, in its place, ''(2006 edition)''; and

b. Removing the phrase ''(1996 edition)'' each place it appears and adding, in its place, ''(2006 edition)''.

PART 58—FORMS

12. The authority citation for part 58 is revised to read as follows:

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

13. Amend § 58.11 by revising VA Form 10–5588 to read as follows:

§ 58.11 VA Form 10–5588—State Home Report and Statement of Federal Aid Claimed

BILLING CODE 8320–01–P

Department of Veterans Affairs	STATE HOME REPORT AND STATEMENT OF FEDERAL AID CLAIMED		
TO	VA FACILITY	FROM	NAME AND ADDRESS OF STATE HOME
PAY TO		FOR MONTH ENDING	

CHANGES IN RESIDENCY FOR THE MONTH

LINE NO.	ITEM		DOMICILIARY (A)	NURSING HOME CARE (B)	HOSPITAL (C)	ADULT DAY HEALTH CARE (D)
1	TOTAL VETERAN RESIDENTS REMAINING AT END OF PRIOR MONTH					
2	GAINS	ADMISSIONS *(Change of status)*				
3	GAINS	ADMISSIONS *(Other)*				
4	GAINS	RETURNS FROM LEAVE OF ABSENCE OF MORE THAN 96HOURS				
5	LOSSES	DISCHARGES *(Change of status)*				
6	LOSSES	DISCHARGES *(Other)*				
7	LOSSES	DEATHS				
8	LOSSES	LEAVES OF ABSENCE OF MORE THAN 96 HOURS				
9	TOTAL VETERAN RESIDENTS AT END OF THE MONTH					

STATUS AS OF THE END OF THE MONTH

LINE NO.	ITEM	DOMICILIARY (A)	NURSING HOME CARE (B)	HOSPITAL (C)	ADULT DAY HEALTH CARE (D)
10	TOTAL NON-VETERAN RESIDENTS AT THE END OF THE MONTH				
11	TOTAL NURSING HOME CARE VETS THAT ARE 70% OR MORE SC OR IN NEED OF NH CARE FOR A SC CONDITION				
12	FEMALE VETERAN RESIDENTS REMAINING AT THE END OF THE MONTH				

TOTAL DAYS OF CARE FOR THE MONTH

LINE NO.	ITEM	DOMICILIARY (A)	NURSING HOME CARE (B)	HOSPITAL (C)	ADULT DAY HEALTH CARE (D)
13	TOTAL DAYS OF CARE FURNISHED TO VETERANS WHO ARE ELIGIBLE FOR PER DIEM PAYMENTS				
13a	TOTAL DAYS OF CARE FURNISHED TO VETERANS 70% OR MORE SC OR IN NEED OF CARE FOR A SC CONDITION				

VA FORM **10-5588**
JUL 2008

STATE HOME REPORT AND STATEMENT OF FEDERAL AID CLAIMED CONTINUED

CLAIM FOR BASIC PER DIEM PAYMENTS FOR ELIGIBLE VETERANS

LINE NO.	FEDERAL AID CLAIMED UNDER SEC.1741, TITLE 38, U.S.C., AS AMENDED	DAYS OF CARE (E)	AVERAGE DAILY CENSUS (F)	DAILY COST OF CARE FOR THE MONTH* (G)	PER DIEM CLAIMED (H)	TOTAL AMOUNT CLAIMED (I)
14	DOMICILIARY CARE					
15	NURSING HOME					
16	HOSPITAL CARE					
17	ADULT DAY HEALTH CARE					
18	TOTAL AMOUNT CLAIMED					

CLAIM FOR PER DIEM PAYMENTS FOR CERTAIN SC VETERANS IN STATE NURSING HOMES

LINE NO.	VETERAN CATEGORY	DAYS OF CARE (J)	AVERAGE DAILY CENSUS (K)	PREVAILING RATE FROM CHART OR (G) 15 WHICHEVER IS LESS (L)	AMOUNT CLAIMED (M)
19	HAS A SINGULAR OR COMBINED RATING OF 70% OR MORE BASED ON 1 OR MORE SERVICE-CONNECTED DISABILITIES OR A RATING OF TOTAL DISABILITY BASED ON INDIVIDUAL UNEMPLOYABILITY				
20	IS IN NEED OF NH CARE FOR A VA ADJUDICATED SC DISABILITY				
21	TOTALS:				

FOR UNITED STATES DEPARTMENT OF VETERANS AFFAIRS USE ONLY

I certify that this report is correct based on documentation provided to VA and that the bed capacity approved by VA is correct.

BED CAPACITY APPROVED BY VA

DOMICILIARY CARE	NURSING HOME CARE	HOSPITAL CARE	ADULT DAY HEALTH CARE

RECEIVING REPORT

- Services authorized under provisions of Sec. 1741, 1742, 1743 and 1745, Title 38, U.S.C., have been rendered in the quantity claimed and payment is recommended except as follows:

TOTAL AMOUNT APPROVED BY VA FOR PAYMENT (add block 18i and 21M)

SIGNATURE AND TITLE OF VA STATE HOME COORDINATOR | DATE

ACCOUNTING CERTIFICATION - AUDIT BLOCK

AMOUNT DUE	DATE	VOUCHER AUDITOR

SIGNATURE AND TITLE OF AUDITOR | DATE

The daily cost of care per veteran is the direct cost plus the indirect cost for the month, divided by patients or residents days of care. Compute this cost in accordance with relevant cost principles set forth in the Office of Management and Budget (OMB) Circular number A-87, dated ay 4, 1995, :Cost Principles for State, Local, and Indian Tribal Governments.

VA FORM **10-5588**
JUL 2008

STATE HOME REPORT AND STATEMENT OF FEDERAL AID CLAIMED CONTINUED

TOTAL STATE OPERATING BEDS AT END OF THE MONTH

DOMICILIARY CARE	NURSING HOME CARE	HOSPITAL CARE	ADULT DAY HEALTH CARE

I certify that this report is correct, that all residents included in the report were physically present during the period for which Federal aid is claimed, except for authorized absences of 96 hours or less, and that facility management has complied with all provisions of Title VI, Public Law 88-352, entitled Civil Rights Act of 1964.

SIGNATURE OF STATE HOME ADMINISTRATOR	DATE

SIGNATURE OF STATE EMPLOYEE WHEN APPLICABLE	DATE

REMARKS

The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB number. We anticipate that the time expended by all individuals who must complete this form will average 30 minutes. This includes the time it will take to read instructions, gather the necessary facts and fill out the form. Although completion of this form is voluntary, VA will be unable to provide reimbursement for services rendered without a completed form. Failure to complete the form will have no effect on any other benefits to which you may be entitled. This information is collected under the authority of Title 38 CFR Parts 51 and 52.

VA FORM **10-5588**
JUL 2008

14. Revise § 58.12 to read as follows:

§ 58.12 VA Forms 10–10EZ and 10–10EZR—Application for Health Benefits and Renewal Form.

OMB Approved No. 2900-0091
Estimated Burden Avg. 45 min.

Department of Veterans Affairs — **APPLICATION FOR HEALTH BENEFITS**

SECTION I - GENERAL INFORMATION

Federal law provides criminal penalties, including a fine and/or imprisonment for up to 5 years, for concealing a material fact or making a materially false statement. (See 18 U.S.C. 1001)

1. VETERAN'S NAME *(Last, First, Middle Name)*
2. OTHER NAMES USED
3. MOTHER'S MAIDEN NAME
4. GENDER ☐ MALE ☐ FEMALE
5. ARE YOU SPANISH, HISPANIC, OR LATINO? ☐ YES ☐ NO
6. WHAT IS YOUR RACE? *(You may check more than one.) (Information is required for statistical purposes only.)* ☐ AMERICAN INDIAN OR ALASKA NATIVE ☐ BLACK OR AFRICAN AMERICAN ☐ ASIAN ☐ WHITE ☐ NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER
7. SOCIAL SECURITY NUMBER
8. CLAIM NUMBER
9. DATE OF BIRTH *(mm/dd/yyyy)*
9A. PLACE OF BIRTH *(City and State)*
10. RELIGION
11. PERMANENT ADDRESS *(Street)*
11A. CITY
11B. STATE
11C. ZIP CODE *(9 digits)*
11D. COUNTY
11E. HOME TELEPHONE NUMBER *(Include area code)*
11F. E-MAIL ADDRESS
11G. CELLULAR TELEPHONE NUMBER *(Include area code)*
11H. PAGER NUMBER *(Include area code)*
12. TYPE OF BENEFIT(S) APPLIED FOR *(You may check more than one)* ☐ HEALTH SERVICES ☐ NURSING HOME ☐ DOMICILIARY ☐ DENTAL
13. IF APPLYING FOR HEALTH SERVICES OR ENROLLMENT, WHICH VA MEDICAL CENTER OR OUTPATIENT CLINIC DO YOU PREFER?
14. DO YOU WANT AN APPOINTMENT WITH A VA DOCTOR OR PROVIDER AS SOON AS ONE BECOMES AVAILABLE? ☐ YES ☐ NO I am only enrolling in case I need care in the future.
15. HAVE YOU BEEN SEEN AT A VA HEALTH CARE FACILITY? ☐ YES, **LOCATION:** ☐ NO
16. CURRENT MARITAL STATUS *(Check one)* ☐ MARRIED ☐ NEVER MARRIED ☐ SEPARATED ☐ WIDOWED ☐ DIVORCED ☐ UNKNOWN
17. NAME, ADDRESS AND RELATIONSHIP OF NEXT OF KIN
17A. NEXT OF KIN'S HOME TELEPHONE NUMBER *(Include area code)*
17B. NEXT OF KIN'S WORK TELEPHONE NUMBER *(Include area code)*
18. NAME, ADDRESS AND RELATIONSHIP OF EMERGENCY CONTACT
18A. EMERGENCY CONTACT'S HOME TELEPHONE NUMBER *(Include area code)*
18B. EMERGENCY CONTACT'S WORK TELEPHONE NUMBER *(Include area code)*
19. INDIVIDUAL TO RECEIVE POSSESSION OF YOUR PERSONAL PROPERTY LEFT ON PREMISES UNDER VA CONTROL AFTER YOUR DEPARTURE OR AT THE TIME OF DEATH. NOTE: THIS DOES NOT CONSTITUTE A WILL OR TRANSFER OF TITLE *(Check one)* ☐ EMERGENCY CONTACT ☐ NEXT OF KIN

VA FORM JUL 2008 **10-10EZ** *PREVIOUS EDITIONS OF THIS FORM ARE NOT TO BE USED* **PAGE 1**

APPLICATION FOR HEALTH BENEFITS, Continued

VETERAN'S NAME *(Last, First, Middle)*

SOCIAL SECURITY NUMBER

SECTION II - INSURANCE INFORMATION *(Use a separate sheet for additional information)*

1. ARE YOU COVERED BY HEALTH INSURANCE? *(Including coverage through a spouse or another person)* ☐ YES ☐ NO

2. HEALTH INSURANCE COMPANY NAME, ADDRESS AND TELEPHONE NUMBER

3. NAME OF POLICY HOLDER

4. POLICY NUMBER

5. GROUP CODE

	YES	NO	
6. ARE YOU ELIGIBLE FOR MEDICAID?	☐	☐	
7. ARE YOU ENROLLED IN MEDICARE HOSPITAL INSURANCE PART A?	☐	☐	7A. EFFECTIVE DATE *(mm/dd/yyyy)*
8. ARE YOU ENROLLED IN MEDICARE HOSPITAL INSURANCE PART B?	☐	☐	8A. EFFECTIVE DATE *(mm/dd/yyyy)*

9. NAME EXACTLY AS IT APPEARS ON YOUR MEDICARE CARD

10. MEDICARE CLAIM NUMBER

11. IS NEED FOR CARE DUE TO ON THE JOB INJURY? *(Check one)* ☐ YES ☐ NO

12. IS NEED FOR CARE DUE TO ACCIDENT? *(Check One)* ☐ YES ☐ NO

SECTION III - EMPLOYMENT INFORMATION

1. VETERAN'S EMPLOYMENT STATUS *(Check one)*
If employed or retired, complete item 1A
☐ FULL TIME ☐ NOT EMPLOYED
☐ PART TIME ☐ RETIRED
Date of retirement (mm/dd/yyyy)

1A. COMPANY NAME, ADDRESS AND TELEPHONE NUMBER

2. SPOUSE'S EMPLOYMENT STATUS *(Check one)*
If employed or retired, complete item 2A
☐ FULL TIME ☐ NOT EMPLOYED
☐ PART TIME ☐ RETIRED
Date of retirement (mm/dd/yyyy)

2A. COMPANY NAME, ADDRESS AND TELEPHONE NUMBER

SECTION IV - MILITARY SERVICE INFORMATION

1. LAST BRANCH OF SERVICE	1A. LAST ENTRY DATE	1B. LAST DISCHARGE DATE	1C. DISCHARGE TYPE	1D. MILITARY SERVICE NUMBER

2. CHECK YES OR NO	YES	NO		YES	NO
A. ARE YOU A PURPLE HEART AWARD RECIPIENT?	☐	☐	E1. ARE YOU RECEIVING DISABILITY RETIREMENT PAY INSTEAD OF VA COMPENSATION?	☐	☐
B. ARE YOU A FORMER PRISONER OF WAR?	☐	☐	F. DO YOU NEED CARE OF CONDITIONS POTENTIALLY RELATED TO SERVICE IN SW ASIA DURING THE GULF WAR?	☐	☐
C. DO YOU HAVE A VA SERVICE-CONNECTED RATING?	☐	☐	G. WERE YOU EXPOSED TO AGENT ORANGE WHILE SERVING IN VIETNAM?	☐	☐
C1. IF YES, WHAT IS YOUR RATED PERCENTAGE? %			H. WERE YOU EXPOSED TO RADIATION WHILE IN THE MILITARY?	☐	☐
D. DID YOU SERVE IN COMBAT AFTER 11/11/1998?	☐	☐	I. DID YOU RECEIVE NOSE AND THROAT RADIUM TREATMENTS WHILE IN THE MILITARY?	☐	☐
E. WAS YOUR DISCHARGE FROM MILITARY FOR A DISABILITY INCURRED OR AGGRAVATED IN THE LINE OF DUTY?	☐	☐	J. DO YOU HAVE A SPINAL CORD INJURY?	☐	☐

SECTION V - PAPERWORK REDUCTION ACT AND PRIVACY ACT INFORMATION

The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of Section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB number. We anticipate that the time expended by all individuals who must complete this form will average 45 minutes. This includes the time it will take to read instructions, gather the necessary facts and fill out the form.

Privacy Act Information: VA is asking you to provide the information on this form under 38 U.S.C. Sections 1705, 1710, 1712, and 1722 in order for VA to determine your eligibility for medical benefits. Information you supply may be verified through a computer-matching program. VA may disclose the information that you put on the form as permitted by law. VA may make a "routine use" disclosure of the information as outlined in the Privacy Act systems of records notices and in accordance with the VHA Notice of Privacy Practices. Providing the requested information is voluntary, but if any or all of the requested information is not provided, it may delay or result in denial of your request for health care benefits. Failure to furnish the information will not have any effect on any other benefits to which you may be entitled. If you provide VA your Social Security Number, VA will use it to administer your VA benefits. VA may also use this information to identify veterans and persons claiming or receiving VA benefits and their records, and for other purposes authorized or required by law.

APPLICATION FOR HEALTH BENEFITS, Continued

VETERAN'S NAME *(Last, First, Middle)*

SOCIAL SECURITY NUMBER

SECTION VI - FINANCIAL DISCLOSURE

Disclosure allows VA to accurately determine whether certain veterans will be charged copayments for care and medications, their eligibility for other services and enrollment priority. Veterans are not required to disclose their financial information; however, VA is not currently enrolling new applicants who decline to provide their financial information unless they have a special eligibility factor. **Recent combat veterans (e.g., OEF/OIF) who were discharged within the past 5 years or were discharged more than 5 years ago and applying for enrollment by Jan. 27, 2011 are eligible for enrollment without disclosing their financial information** but like other veterans may provide it to establish their eligibility for travel reimbursement, cost-free medication and/or medical care for services unrelated to military experience.

☐ **No, I do not wish to provide financial information in Sections VII through X.** I understand that VA is not enrolling new applicants who do not provide this information and who do not have a special eligibility factor (e.g., recently discharged combat veteran, compensable service connection, receipt of VA pension or Medicaid benefits.) If I am enrolled, I agree to pay applicable VA copayments. *Sign and date the form in Section XII.*

☐ **Yes, I will provide my household financial information for last calendar year.** Complete applicable sections VII through X . *Sign and date the form in Section XII.*

SECTION VII - DEPENDENT INFORMATION *(Use a separate sheet for additional dependents)*

1. SPOUSE'S NAME *(Last, First, Middle Name)*

2. CHILD'S NAME *(Last, First, Middle Name)*

1A. SPOUSE'S MAIDEN NAME

2A. CHILD'S RELATIONSHIP TO YOU *(Check one)* ☐ Son ☐ Daughter ☐ Stepson ☐ Stepdaughter

1B. SPOUSE'S SOCIAL SECURITY NUMBER

2B. CHILD'S SOCIAL SECURITY NUMBER

2C. DATE CHILD BECAME YOUR DEPENDENT *(mm/dd/yyyy)*

1C. SPOUSE'S DATE OF BIRTH *(mm/dd/yyyy)*

1D. DATE OF MARRIAGE *(mm/dd/yyyy)*

2D. CHILD'S DATE OF BIRTH *(mm/dd/yyyy)*

1E. SPOUSE'S ADDRESS AND TELEPHONE NUMBER *(Street, City, State, ZIP)*

2E. WAS CHILD PERMANENTLY AND TOTALLY DISABLED BEFORE THE AGE OF 18? ☐ YES ☐ NO

2F. IF CHILD IS BETWEEN 18 AND 23 YEARS OF AGE, DID CHILD ATTEND SCHOOL LAST CALENDAR YEAR? ☐ YES ☐ NO

3. IF YOUR SPOUSE OR DEPENDENT CHILD DID NOT LIVE WITH YOU LAST YEAR ENTER THE AMOUNT YOU CONTRIBUTED TO THEIR SUPPORT.
SPOUSE $ CHILD $

2G. EXPENSES PAID BY YOUR DEPENDENT CHILD FOR COLLEGE, VOCATIONAL REHABILITATION OR TRAINING *(e.g., tuition, books, materials)* $

SECTION VIII - PREVIOUS CALENDAR YEAR GROSS ANNUAL INCOME OF VETERAN, SPOUSE AND DEPENDENT CHILDREN *(Use a separate sheet for additional dependents)*

	VETERAN	SPOUSE	CHILD 1
1. GROSS ANNUAL INCOME FROM EMPLOYMENT *(wages, bonuses, tips, etc.)* EXCLUDING INCOME FROM YOUR FARM, RANCH, PROPERTY OR BUSINESS	$	$	$
2. NET INCOME FROM YOUR FARM, RANCH, PROPERTY OR BUSINESS	$	$	$
3. LIST OTHER INCOME AMOUNTS *(eg., Social Security, compensation, pension interest, dividends).* EXCLUDING WELFARE.	$	$	$

SECTION IX - PREVIOUS CALENDAR YEAR DEDUCTIBLE EXPENSES

1. TOTAL NON-REIMBURSED MEDICAL EXPENSES PAID BY YOU OR YOUR SPOUSE *(e.g., payments for doctors, dentists, medications, Medicare, health insurance, hospital and nursing home) VA will calculate a deductible and the net medical expenses you may claim.*	$
2. AMOUNT YOU PAID LAST CALENDAR YEAR FOR FUNERAL AND BURIAL EXPENSES FOR YOUR DECEASED SPOUSE OR DEPENDENT CHILD *(Also enter spouse or child's information in Section VII.)*	$
3. AMOUNT YOU PAID LAST CALENDAR YEAR FOR YOUR COLLEGE OR VOCATIONAL EDUCATIONAL EXPENSES *(e.g., tuition, books, fees, materials) DO NOT LIST YOUR DEPENDENTS' EDUCATIONAL EXPENSES.*	$

SECTION X - PREVIOUS CALENDAR YEAR NET WORTH *(Use a separate sheet for additional dependents)*

	VETERAN	SPOUSE	CHILD 1
1. CASH, AMOUNT IN BANK ACCOUNTS *(e.g., checking and savings accounts, certificates of deposit, individual retirement accounts, stocks and bonds)*	$	$	$
2. MARKET VALUE OF LAND AND BUILDINGS MINUS MORTGAGES AND LIENS. *(e.g., second homes and non-income producing property. Do not count your primary home.)*	$	$	$
3. VALUE OF OTHER PROPERTY OR ASSETS *(e.g., art, rare coins, collectables)* MINUS THE AMOUNT YOU OWE ON THESE ITEMS. INCLUDE VALUE OF FARM, RANCH OR BUSINESS ASSETS. *Exclude household effects and family vehicles.*	$	$	$

SECTION XI - CONSENT TO COPAYMENTS

If you are a 0% SC veteran and do not receive VA monetary benefits or a NSC veteran (and you are not a Former POW, Purple Heart Recipient or VA pensioner) and your household income (or combined income and net worth) exceeds the established threshold, this application will be considered for enrollment, but only if you agree to pay VA copayments for treatment of your NSC conditions. **If you are such a veteran by signing this application you are agreeing to pay the applicable VA copayments as required by law.**

SECTION XII - ASSIGNMENT OF BENEFITS

I understand that pursuant to 38 U.S.C. Section 1729, VA is authorized to recover or collect from my health plan (HP) for the reasonable charges of nonservice-connected VA medical care or services furnished or provided to me. I hereby authorize payment directly to VA from any HP under which I am covered (including coverage provided under my spouse's HP) that is responsible for payment of the charges for my medical care, including benefits otherwise payable to me or my spouse.

ALL APPLICANTS MUST SIGN AND DATE THIS FORM. REFER TO INSTRUCTIONS WHICH DEFINE WHO CAN SIGN ON BEHALF OF THE VETERAN.

SIGNATURE OF APPLICANT

DATE

OMB Approved No. 2900-0091
Estimated Burden Avg. 24 min.

Department of Veterans Affairs

HEALTH BENEFITS RENEWAL FORM

SECTION I - GENERAL INFORMATION

Federal law provides criminal penalties, including a fine and/or imprisonment for up to 5 years, for concealing a material fact or making a materially false statement. (See 18 U.S.C. 1001)

1. VETERAN'S NAME *(Last, First, Middle Name)*
2. OTHER NAMES USED
3. GENDER ☐ MALE ☐ FEMALE
4. SOCIAL SECURITY NUMBER
5. DATE OF BIRTH *(mm/dd/yyyy)*
6. PERMANENT ADDRESS *(Street)*
6A. CITY
6B. STATE
6C. ZIP
6D. COUNTY
6E. HOME TELEPHONE NUMBER *(Include area code)*
6F. E-MAIL ADDRESS
6G. CELLULAR TELEPHONE NUMBER *(Include area code)*
6H. PAGER NUMBER *(Include area code)*
7. CURRENT MARITAL STATUS *(Check one)* ☐ MARRIED ☐ NEVER MARRIED ☐ SEPARATED ☐ WIDOWED ☐ DIVORCED ☐ UNKNOWN
8. NAME, ADDRESS AND RELATIONSHIP OF NEXT OF KIN
8A. NEXT OF KIN'S HOME TELEPHONE NUMBER *(Include area code)*
8B. NEXT OF KIN'S WORK TELEPHONE NUMBER *(Include area code)*
9. NAME, ADDRESS AND RELATIONSHIP OF EMERGENCY CONTACT
9A. EMERGENCY CONTACT'S HOME TELEPHONE NUMBER *(Include area code)*
9B. EMERGENCY CONTACT'S WORK TELEPHONE NUMBER *(Include area code)*
10. INDIVIDUAL TO RECEIVE POSSESSION OF YOUR PERSONAL PROPERTY LEFT ON PREMISES UNDER VA CONTROL AFTER YOUR DEPARTURE OR AT THE TIME OF DEATH. Note: This does not constitute a will or transfer of title. *(Check one)* ☐ EMERGENCY CONTACT ☐ NEXT OF KIN

SECTION II - INSURANCE INFORMATION (Use a separate sheet for additional information)

1. ARE YOU COVERED BY HEALTH INSURANCE, INCLUDING COVERAGE THROUGH A SPOUSE OR ANOTHER PERSON? ☐ YES ☐ NO
2. HEALTH INSURANCE COMPANY NAME, ADDRESS AND TELEPHONE NUMBER
3. NAME OF POLICY HOLDER
4. POLICY NUMBER
5. GROUP CODE
6. ARE YOU ELIGIBLE FOR MEDICAID? ☐ YES ☐ NO
7. ARE YOU ENROLLED IN MEDICARE HOSPITAL INSURANCE PART A? ☐ YES ☐ NO
7A. EFFECTIVE DATE *(mm/dd/yyyy)*
8. ARE YOU ENROLLED IN MEDICARE HOSPITAL INSURANCE PART B? ☐ YES ☐ NO
8A. EFFECTIVE DATE *(mm/dd/yyyy)*
9. NAME EXACTLY AS IT APPEARS ON YOUR MEDICARE CARD
10. MEDICARE CLAIM NUMBER

SECTION III - EMPLOYMENT INFORMATION

1. VETERAN'S EMPLOYMENT STATUS *(check one)* ☐ FULL TIME ☐ NOT EMPLOYED
If employed or retired, complete item 1A ☐ PART TIME ☐ RETIRED *Date of retirement (mm/dd/yyyy)*
1A. COMPANY NAME, ADDRESS AND TELEPHONE NUMBER
2. SPOUSE'S EMPLOYMENT STATUS *(check one)* ☐ FULL TIME ☐ NOT EMPLOYED
If employed or retired, complete item 2A ☐ PART TIME ☐ RETIRED *Date of retirement (mm/dd/yyyy)*
2A. COMPANY NAME, ADDRESS AND TELEPHONE NUMBER

SECTION IV - PAPERWORK REDUCTION ACT AND PRIVACY ACT INFORMATION

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Privacy Act Information: VA is asking you to provide the information on this form under 38 U.S.C. Sections 1710, 1712, and 1722 in order for VA to determine your eligibility for medical benefits. Information you supply may be verified through a computer-matching program. VA may disclose the information that you put on the form as permitted by law. VA may make a "routine use" disclosure of the information as outlined in the Privacy Act systems of records notices and in accordance with the VHA Notice of Privacy Practices. Providing the requested information is voluntary, but if any or all of the requested information is not provided, it may delay or result in denial of your request for health care benefits. Failure to furnish the information will not have any effect on any other benefits to which you may be entitled If you provide VA your Social Security Number, VA will use it to administer your VA benefits. VA may also use this information to identify veterans and persons claiming or receiving VA benefits and their records, and for other purposes authorized or required by law.

Department of Veterans Affairs

VETERAN'S NAME *(Last, First, Middle)*	SOCIAL SECURITY NUMBER

SECTION V - FINANCIAL DISCLOSURE

Disclosure allows VA to accurately determine whether certain veterans will be charged copayments for care and medications, their eligibility for other services and enrollment priority. Veterans are not required to disclose their financial information. **Recent combat veterans (e.g., OEF/OIF)** like other veterans may answer YES in Section V and complete Sections VI-IX to have their priority for enrollment and financial eligibility for cost-free medical care, medications, long-term care and beneficiary travel for treatment of nonservice-connected conditions assessed.

☐ **No, I do not wish to provide financial information in Sections VI through IX.** If I am enrolled, I agree to pay applicable VA copayments. *Sign and date the form in Section XI.*

☐ **Yes, I will provide my household financial information for last calendar year.** Complete applicable Sections VI through IX. *Sign and date the form in Section XI.*

SECTION VI - DEPENDENT INFORMATION (Use a separate sheet for additional dependents)

1. SPOUSE'S NAME *(Last, First, Middle Name)*	2. CHILD'S NAME *(Last, First, Middle Name)*
1A. SPOUSE'S MAIDEN NAME	2A. CHILD'S RELATIONSHIP TO YOU *(Check one)* ☐ Son ☐ Daughter ☐ Stepson ☐ Stepdaughter
1B. SPOUSE'S SOCIAL SECURITY NUMBER	2B. CHILD'S SOCIAL SECURITY NUMBER / 2C. DATE CHILD BECAME YOUR DEPENDENT *(mm/dd/yyyy)*
1C. SPOUSE'S DATE OF BIRTH *(mm/dd/yyyy)* / 1D. DATE OF MARRIAGE *(mm/dd/yyyy)*	2D. CHILD'S DATE OF BIRTH *(mm/dd/yyyy)*
1E. SPOUSE'S ADDRESS AND TELEPHONE NUMBER *(Street, City, State, ZIP)*	2E. WAS CHILD PERMANENTLY AND TOTALLY DISABLED BEFORE THE AGE OF 18? ☐ YES ☐ NO
	2F. IF CHILD IS BETWEEN 18 AND 23 YEARS OF AGE, DID CHILD ATTEND SCHOOL LAST CALENDAR YEAR? ☐ YES ☐ NO
3. IF YOUR SPOUSE OR DEPENDENT CHILD DID NOT LIVE WITH YOU LAST YEAR, ENTER THE AMOUNT YOU CONTRIBUTED TO THEIR SUPPORT SPOUSE $ CHILD $	2G. EXPENSES PAID BY YOUR DEPENDENT CHILD FOR COLLEGE, VOCATIONAL REHABILITATION OR TRAINING *(e.g., tuition, books, materials)* $

SECTION VII - PREVIOUS CALENDAR YEAR GROSS ANNUAL INCOME OF VETERAN, SPOUSE AND DEPENDENT CHILDREN (Use a seperate sheet for additional dependents)

	VETERAN	SPOUSE	CHILD 1
1. GROSS ANNUAL INCOME FROM EMPLOYMENT *(e.g., wages, bonuses, tips, etc.)* EXCLUDING INCOME FROM YOUR FARM, RANCH, PROPERTY OR BUSINESS.	$	$	$
2. NET INCOME FROM YOUR FARM, RANCH, PROPERTY OR BUSINESS.	$	$	$
3. LIST OTHER INCOME AMOUNTS *(e.g., Social Security, compensation, pension, interest, dividends)*. EXCLUDING WELFARE.	$	$	$

SECTION VIII - PREVIOUS CALENDAR YEAR DEDUCTIBLE EXPENSES

1. TOTAL NON-REIMBURSED MEDICAL EXPENSES PAID BY YOU OR YOUR SPOUSE LAST CALENDAR YEAR *(e.g., payments for doctors, dentists, medications, Medicare, health insurance, hospital and nursing home)* VA will calculate a deductible and the net medical expenses you may claim.	$
2. AMOUNT YOU PAID LAST CALENDAR YEAR FOR FUNERAL AND BURIAL EXPENSES FOR YOUR DECEASED SPOUSE OR DEPENDENT CHILD *(Also enter spouse or child's information in Section VI.)*	$
3. AMOUNT YOU PAID LAST CALENDAR YEAR FOR YOUR COLLEGE OR VOCATIONAL EDUCATIONAL EXPENSES *(e.g., tuition, books, fees, materials)* DO NOT LIST YOUR DEPENDENTS' EDUCATIONAL EXPENSES.	$

SECTION IX - PREVIOUS CALENDAR YEAR NET WORTH (Use a separate sheet for additional dependents)

	VETERAN	SPOUSE	CHILD 1
1. CASH, AMOUNT IN BANK ACCOUNTS *(e.g., checking and savings accounts, certificates of deposit, individual retirement accounts, stocks and bonds.)*	$	$	$
2. MARKET VALUE OF LAND AND BUILDINGS MINUS MORTGAGES AND LIENS. *(e.g., second homes and non-income producing property.)* DO NOT INCLUDE YOUR PRIMARY HOME.	$	$	$
3. VALUE OF OTHER PROPERTY OR ASSETS *(e.g., art, rare coins, collectables)* MINUS THE AMOUNT YOU OWE ON THESE ITEMS. INCLUDE VALUE OF FARM, RANCH OR BUSINESS ASSETS. *Exclude household effects and family vehicles.*	$	$	$

SECTION X - CONSENT TO COPAYMENTS

If you are a 0% SC veteran and do not receive VA monetary benefits or a NSC veteran (and you are not a Former POW, Purple Heart Recipient or VA pensioner) and your household income (or combined income and net worth) exceeds the established threshold, this application will be considered for enrollment, but only if you agree to pay VA copays for treatment of your NSC conditions. **If you are such a veteran by signing this application you are agreeing to pay the applicable VA copays as required by law.**

SECTION XI - ASSIGNMENT OF BENEFITS

I understand that pursuant to 38 U.S.C. Section 1729, VA is authorized to recover or collect from my health plan (HP) for the reasonable charges of nonservice-connected VA medical care or services furnished or provided to me. I hereby authorize payment directly to VA from any HP under which I am covered (including coverage provided under my spouse's HP) that is responsible for payment of the charges for my medical care, including benefits otherwise payable to me or my spouse.

ALL APPLICANTS MUST SIGN AND DATE THIS FORM. REFER TO INSTRUCTIONS ON WHO CAN SIGN ON BEHALF OF THE VETERAN.

SIGNATURE OF APPLICANT	DATE *(mm/dd/yyyy)*

15. Amend § 58.13 by revising VA Form 10–10SH to read as follows:

§ 58.13 VA Form 10–10SH—State Home Program Application for Veteran Care Medical Certification.

OMB Approval No. 2900-0160
Estimated Burden: Avg. 30 min.

Department of Veterans Affairs

STATE HOME PROGRAM APPLICATION FOR VETERAN CARE MEDICAL CERTIFICATION

PART I - ADMINISTRATIVE

STATE HOME FACILITY	DATE ADMITTED	GENDER ☐ M ☐ F
RESIDENT'S NAME *(Last, First, Middle) (This is a mandatory field)*	SOCIAL SECURITY NUMBER. *(Mandatory field)*	
RESIDENT'S STREET ADDRESS	AGE	DATE OF BIRTH *(mm/dd/yyyy)*
CITY, STATE AND ZIP CODE	ADVANCED MEDICAL DIRECTIVE ☐ NO ☐ YES	

PART II - HISTORY AND PHYSICAL ***(Use separate sheet if necessary)***

HISTORY

HEIGHT	WEIGHT	TEMP	PULSE	BP	HEAD/EYES/EAR/NOSE AND THROAT

NECK	CARDIOPULMONARY
ABDOMEN	GENITOURINARY
RECTAL	EXTREMITIES
NEUROLOGICAL	ALLERGY/DRUG SENSITIVITY

X-RAY/ LAB	CHEST X-RAY	DATE *(mm/dd/yyyy)*	RESULTS	CBC	DATE *(mm/dd/yyyy)*	RESULTS
	SEROLOGY					
	URINALYSIS	DATE *(mm/dd/yyyy)*	ALBUMEN	SUGAR		ACETONE

CHECK ALL BOXES THAT APPLY OR CHECK NA ☐

IS DEMENTIA THE PRIMARY DIAGNOSIS	IS THERE A DIAGNOSIS OF MENTAL ILLNESS	HAS RESIDENT RECEIVED MENTAL SERVICES WITHIN THE PAST 2 YEARS	IS CLIENT A DANGER TO SELF OR OTHERS
☐ YES ☐ NO	☐ YES ☐ NO	☐ YES ☐ NO	☐ YES ☐ NO

IS THERE ANY PRESSING EVIDENCE OF MENTAL ILLNESS SUCH AS:

☐ SCHIZOPHRENIA ☐ PARANOIA ☐ OTHER PSYCHOTIC OR MENTAL DISORDERS LEADING TO CHRONIC DISABILITY
☐ MOOD SWINGS ☐ SOMATOFORM DISORDER ☐ PANIC OR SEVERE ANXIETY DISORDER ☐ PERSONALITY DISORDER

OXYGEN				FOLEY CATHETER
☐ MASK	☐ PRN	☐ TUBE FEEDING	☐ DECUBITUS ULCERS	☐ TEMPORARY
☐ NASAL CANULAR	☐ CONTINUOUS	☐ OSTOMY	☐ DRAINING WOUND	☐ PERMANENT
		☐ TRACHOSTOMY	☐ WOUND CULTURED	

REFERRING PHYSICIAN	PRIMARY DIAGNOSIS
SECONDARY DIAGNOSIS	TERTIARY DIAGNOSIS

TYPE OF CARE RECOMMENDED: ☐ SKILLED NURSING HOME CARE ☐ DOMICILIARY CARE ☐ ADULT HEALTH CARE ☐ HOSPITAL

MEDICATION AND TREATMENT ORDERS ON ADMISSION, CONTINUE ON SEPARATE SHEET IF NECESSARY

PRINTED OR TYPED NAME OF PRIMARY PHYSICIAN ASSIGNED	SIGNATURE OF PRIMARY PHYSICIAN ASSIGNED

VA FORM JUL 2006 (R) **10-10SH** EXISTING STOCK OF VA FORM 10-10SH, DATED JUL 1998, WILL BE USED. **PAGE 1**

STATE HOME PROGRAM APPLICATION FOR VETERAN CARE - MEDICAL CERTIFICATION, CONTINUED

RESIDENT'S NAME *(Last, First, Middle)* | SOCIAL SECURITY NUMBER

EVALUATION (Select an appropriate number in each category)

COMMUNICATION	☐ 1. Transmits messages/receives information ☐ 2. Limited ability ☐ 3. Nearly or totaly unable	**SPEECH**	☐ 1. Speak clearly with others of same language ☐ 2. Limited ability ☐ 3. Unable to speak clearly or not at all
HEARING	☐ 1. Good ☐ 2. Hearing slightly impaired ☐ 3. Nearly or totaly unable ☐ 4. Virtually/completely deaf	**SIGHT**	☐ 1. Good ☐ 2. Vision adequate - Unable to read/see details ☐ 3. Vision limited - Gross object differentiation ☐ 4. Blind
TRANSFER	☐ 1. No assistance ☐ 2. Equipment only ☐ 3. Supervision only ☐ 4. Requires human transfer w/wo equipment ☐ 5. Bedfast	**AMBULATION**	☐ 1. Independence w/wo assistive device ☐ 2. Walks with supervision ☐ 3. Walks with continuous human support ☐ 4. Bed to chair (total help) ☐ 5. Bedfast
ENDURANCE	☐ 1. Tolerates distances (250 feet sustained activity) ☐ 2. Needs intermitten rest ☐ 3. Rarely tolerates short activities ☐ 4. No tolerance	**MENTAL AND BEHAVIOR STATUS**	☐ 1. Alert ☐ 2. Confused ☐ 3. Disoriented ☐ 4. Comatose ☐ 5. Agreeable ☐ 6. Disruptive ☐ 7. Apathetic ☐ 8. Well motivated
TOILETING	☐ 1. No assistance ☐ 2. Assistance to and from and transfer ☐ 3. Total assistance including personal hygiene, help with clothes ☐ A. Bathroom ☐ B. Bedside commode ☐ C. Bedpan	**BATHING**	☐ 1. No assistance ☐ 2. Supervision Only ☐ 3. Assistance ☐ 4. Is bathed ☐ A. Tub ☐ B. Shower ☐ C. Sponge bath
DRESSING	☐ 1. Dresses self ☐ 2. Minor assistance ☐ 3. Needs help to complete dressing ☐ 4. Has to be dressed	**FEEDING**	☐ 1. No assistance ☐ 2. Minor assistance, needs tray set up only ☐ 3. Help feeding/encouraging ☐ 4. Is fed
BLADDER CONTROL	☐ 1. Continent ☐ 2. Rarely incontinent ☐ 3. Occasional - once/week or less ☐ 4. Frequent - up to once a day ☐ 5. Total incontinence ☐ 6. Catheter, indwelling	**BOWEL CONTROL**	☐ 1. Continent ☐ 2. Rarely incontinent ☐ 3. Occasional - once/week or less ☐ 4. Frequent - up to once a day ☐ 5. Total incontinence ☐ 6. Ostomy
SKIN CONDITION	☐ 1. Intact ☐ 2. Dry/Fragile ☐ 3. Irritations (Rash) ☐ 4. Open wound ☐ 5. Decubitus Number _____ Stage _____	**WHEEL CHAIR USE**	☐ 1. Independence ☐ 2. Assistance in difficult maneuvering ☐ 3. Wheels a few feet ☐ 4. Unable to use ☐ NA

SIGNATURE OF REGISTERED NURSE OR REFERRING PHYSICIAN | DATE

PHYSICAL THERAPY *(To be completed by Physical Therapist or Referring Physician)* ☐ NEW REFERRAL ☐ CONTINUATION OF THERAPY

SENSATION IMPAIRED	RESTRICT ACTIVITY	PRECAUTIONS	FREQUENCY OF TREATMENT
☐ YES ☐ NO	☐ YES ☐ NO	☐ CARDIAC ☐ OTHER *(Specify)*	

TREATMENT GOALS: ☐ ACTIVE ☐ COORDINATING ACTIVITIES ☐ FULL WEIGHT BEARING ☐ WHEELCHAIR INDEPENDENT
☐ STRETCHING ☐ ACTIVE ASSISTIVE ☐ NON-WEIGHT BEARING ☐ PROGRESS BED TO WHEELCHAIR ☐ COMPLETE AMBULATION
☐ PASSIVE ROM ☐ PROGRESSIVE RESISTIVE ☐ PARTIAL WEIGHT BEARING ☐ RECOVERY TO FUL FUNCTION

ADDITIONAL THERAPIES	SIGNATURE OF AND TITLE OF THERAPIST	DATE
☐ O.T. ☐ SPEECH ☐ DIETARY		

SOCIAL WORK ASSESSMENT *(To be completed by Social Worker)*

PRIOR LIVING ARRANGEMENTS	LONG RANGE PLAN	
ADJUSTMENT TO ILLNESS OR DISABILITY	SIGNATURE OF SOCIAL WORKER	DATE

VA AUTHORIZATION FOR PAYMENT

DATE RECEIVED BY VA	ELIGIBILITY FOR PER DIEM PAYMENT	LEVEL OF CARE RECOMMENDED	
	☐ APPROVED ☐ DISAPPROVED	☐ NHC ☐ DOMICILIARY ☐ HOSPITAL ☐ ADHC	
REASON FOR DISAPPROVAL		☐ APPROVED ☐ DISAPPROVED	REASON FOR DISAPPROVAL
SIGNATURE OF VA OFFICIAL	DATE	SIGNATURE OF VA PHYSICIAN	DATE

OMB Approval No. 2900-0160
Estimated Burden: Avg. 30 min.

PAPERWORK REDUCTION ACT AND PRIVACY ACT NOTICE

The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB number. We anticipate that the time expended by all individuals who must complete this form will average 30 minutes. This includes the time it will take to read instructions, gather the necessary facts and fill out the form. The information requested on this form is solicited under the authority of Title 38, U.S.C., Sections 1741, 1742 and 1743. It is being collected to enable us to determine your eligibility for medical benefits in the State Home Program and will be used for that purpose. The income and eligibility you supply may be verified through a computer matching program at any time and information may be disclosed outside the VA as permitted by law; possible disclosures include those described in the "routine uses" identified in the VA system of records 24VA136, Patient Medical Record-VA, published in the Federal Register in accordance with the Privacy Act of 1974. Disclosure is voluntary; however, the information is required in order for us to determine your eligibility for the medical benefit for which you have applied. Failure to furnish the information will have no adverse affect on any other benefits to which you may be entitled. Disclosure of Social Security number(s) of those for whom benefits are claimed is requested under the authority of Title 38, U.S.C., and is voluntary. Social Security numbers will be used in the administration of veterans benefits, in the identification of veterans or persons claiming or receiving VA benefits and their records and may be used for other purposes where authorized by Title 38, U.S.C., and the Privacy Act of 1974 (5 U.S.C. 552a) or where required by other statute.

VA FORM
JUL 2006 (R) **10-10SH**

16. Add § 58.18 to read as follows:

§ 58.18 VA Form 10–0460—Request for Prescription Drugs from an Eligible Veteran in a State Home

Department of Veterans Affairs	Request for Prescription Drugs from an Eligible Veteran in a State Home		
To:	VA Facility	From:	Name and Address of State Home

I am a veteran who was admitted to the _____ State Nursing Home.
I request that I be furnished with prescription drugs by the United States Department of Veterans Affairs as provided for in Title 38 of the Code of Federal Regulations, Section(s) 17.96 and/or 51.42.

I am eligible for this benefit by reason of being (check any of the following):

☐ (1) a veteran in receipt of increased VA compensation, or increased VA pension because I am permanently housebound or in need of regular aid and attendance.

☐ (2) a veteran in need of regular aid and attendance who was formerly in receipt of increased pension but whose pension has been discontinued solely by reason of excess income, and whose annual income does not exceed the maximum annual income limitation by more than $1,000.

☐ (3) a veteran who
(i) Has a singular or combined rating of 50 percent or 60 percent based on one or more service-connected disabilities or unemployability and is in need of such drugs and medicines; and
(ii) Is in need of nursing home care for reasons that do not include care for a VA adjudicated service-connected disability.

☐ (4) a veteran who
(i) Has a singular or combined rating of less than 50 percent, based on one or more service-connected disabilities, and is in need of such drugs and medicines for a service-connected disability, and
(ii) Is in need of nursing home care for reasons that do not include care for a VA adjudicated service-connected disability.

Signature of Veteran Applying for Benefit **Date of Application**

Applicant Information

Veteran's Name (last, first, and middle initial):

Veteran's Social Security Number: **Date of Admission to the State Nursing Home:**

Date that A&A or Housebound was awarded by VA:

(a copy of this award ☐ is or ☐ is not attached with this request)

VA FORM FEB 2008 **10-0460**

Diagnosis/Diagnoses for which the Applicant was Admitted to the State Nursing Home		
Diagnosis Code	**Diagnosis Name**	**Category of Eligibility from page 1** *(1, 2, 3 or 4)*
Name of Prescribing Physician:		**Telephone Number:**
I certify that the following medications are prescribed for _____ . Veteran's Name		

_____
Signature of State Home Representative

VA FORM FEB 2008 **10-0460**

[FR Doc. E8–28171 Filed 11–26–08; 8:45 am]

BILLING CODE 8320–01–C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2008–0009; FRL–8746–6]

RIN 2060–AO78

Protection of Stratospheric Ozone: The 2009 Critical Use Exemption From the Phaseout of Methyl Bromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing an exemption to the phaseout of methyl bromide to meet the needs of 2009 critical uses. Specifically, EPA is proposing uses that qualify for the 2009 critical use exemption and the amount of methyl bromide that may be produced, imported, or supplied from existing pre-phaseout inventory for those uses in 2009. EPA is taking action under the authority of the Clean Air Act to reflect a recent consensus decision taken by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer at the Nineteenth Meeting of the Parties. EPA is seeking comment on the list of critical uses and on EPA's determination of the amounts of methyl bromide needed to satisfy those uses.

DATES: Comments must be submitted by December 29, 2008. Any party requesting a public hearing must notify the contact person listed below by 5 p.m. Eastern Standard Time on December 3, 2008. If a hearing is requested it will be held on December 15, 2008 and comments will be due to the Agency January 12, 2009. EPA will post information regarding a hearing, if one is requested, on the Ozone Protection Web site *http://www.epa.gov/ozone/strathome.html*. Persons interested in attending a public hearing should consult with the contact person below regarding the location and time of the hearing.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2008–0009, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-Docket@epa.gov.*
- *Fax:* 202–566–1741.
- *Mail:* Docket EPA–HQ–OAR–2008–0009, Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Mail code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Docket EPA–HQ–OAR–2008–0009, Air and Radiation Docket at EPA West, 1301 Constitution Avenue, NW., Room B108, Mail Code 6102T, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2008–0009. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

FOR FURTHER INFORMATION CONTACT: For further information about this proposed rule, contact Jeremy Arling by telephone at (202) 343–9055, or by e-mail at *arling.jeremy@epa.gov* or by mail at U.S. Environmental Protection Agency, Stratospheric Protection Division, Stratospheric Program Implementation Branch (6205J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. You may also visit the Ozone Depletion Web site of EPA's Stratospheric Protection Division at *http://www.epa.gov/ozone/strathome.html* for further information about EPA's Stratospheric Ozone Protection regulations, the science of ozone layer depletion, and related topics.

SUPPLEMENTARY INFORMATION: This proposed rule concerns Clean Air Act (CAA) restrictions on the consumption, production, and use of methyl bromide (a Class I, Group VI controlled substance) for critical uses during calendar year 2009. Under the Clean Air Act, methyl bromide consumption (consumption is defined under the CAA as production plus imports minus exports) and production was phased out on January 1, 2005, apart from allowable exemptions, such as the critical use exemption and the quarantine and preshipment exemption. With this action, EPA is proposing and seeking comment on the uses that will qualify for the 2009 critical use exemption as well as specific amounts of methyl bromide that may be produced, imported, or sold from pre-phaseout inventory for proposed critical uses in 2009.

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