

community support review by any Bank under this part.

§ 1290.5 CRA standard.

(a) *Verification of CRA rating.* For each member that is subject to the requirements of the CRA, the Bank shall, in accordance with its community support program policies and procedures, verify the rating in the member's most recent CRA evaluation with that member's appropriate Federal banking agency or from information made publicly available by the Federal Financial Institutions Examination Council.

(b) *Compliance with CRA standard.* A member shall be in compliance with the CRA standard if the member received a rating of "Outstanding" or "Satisfactory" in its most recent CRA evaluation.

§ 1290.6 First-time homebuyer standard.

(a) *Eligible first-time homebuyer programs and activities.* The following programs and activities are eligible first-time homebuyer programs and activities for purposes of determining Bank members' compliance with the first-time homebuyer standard:

- (1) An established record of lending to first-time homebuyers;
- (2) In-house first-time homebuyer programs, such as marketing plans and outreach programs;
- (3) Other in-house lending products that serve first-time homebuyers;
- (4) Underwriting standards that are appropriate for first-time homebuyers and consistent with safe and sound lending practices;
- (5) Participation in non-governmental first-time homebuyer programs;
- (6) Participation in federal government programs that serve first-time homebuyers;
- (7) Participation in state or local government programs targeted to first-time homebuyers;
- (8) Financial support or technical assistance to community groups or organizations that assist first-time homebuyers;
- (9) Participation in loan consortia that make loans to first-time homebuyers;
- (10) Participation in or support of special counseling or homeownership education targeted to first-time homebuyers;
- (11) Participation in investments or loans that support first-time homebuyer programs; and
- (12) Other first-time homebuyer programs or activities, as determined by a Bank in its discretion.

(b) *Compliance with first-time homebuyer standard.* A member shall be in compliance with the first-time

homebuyer standard if the member has engaged in one or more eligible first-time homebuyer programs or activities in the period covered by the most recent first-time homebuyer support statement. A member that has received a rating in its most recent CRA evaluation of "Outstanding" shall be deemed to be in compliance with the first-time homebuyer standard.

(c) *First-time homebuyer support statement.* Each Bank shall prescribe the form of the first-time homebuyer support statement to be completed by its members, which shall set forth all of the eligible first-time homebuyer programs and activities under paragraph (a) of this section. The Bank shall require members to submit a completed first-time homebuyer support statement to the Bank at least once every two calendar years. The Bank shall require each member to identify and describe the eligible first-time homebuyer programs or activities engaged in by the member on the first-time homebuyer support statement. The accuracy of the first-time homebuyer support statement shall be certified by a senior officer of the member. A member that has received a rating in its most recent CRA evaluation of "Outstanding" shall not be required to submit a first-time homebuyer support statement.

§ 1290.7 Reports.

Each Bank shall submit a report annually by May 1 to FHFA that identifies the results of the Bank's community support compliance determinations for that year, including whether any members are subject to long-term advances restrictions.

Dated: November 4, 2011.

Edward J. DeMarco,
Acting Director, Federal Housing Finance Agency.

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

RIN 1219-AB65

Proximity Detection Systems for Continuous Mining Machines in Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: In response to requests from interested parties, the Mine Safety and

Health Administration (MSHA) is extending the comment period on the proposed rule addressing Proximity Detection Systems for Continuous Mining Machines in Underground Coal Mines. This extension gives commenters additional time to comment on the proposed rule. The proposal was published on August 31, 2011.

DATES: All comments must be received or postmarked by midnight Eastern Standard Time on November 28, 2011.

ADDRESSES: Comments must be identified with "RIN 1219-AB65" and may be sent by any of the following methods:

(1) *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

(2) *Facsimile:* (202) 693-9441. Include "RIN 1219-AB65" in the subject line of the message.

(3) *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939.

(4) *Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia. Sign in at the receptionist's desk on the 21st floor.

MSHA will post all comments without change, including any personal information provided. Access comments electronically on <http://www.regulations.gov> and on MSHA's

Web site at <http://www.msha.gov/currentcomments.asp>. Review comments in person at the Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia. Sign in at the receptionist's desk on the 21st floor.

MSHA maintains a list that enables subscribers to receive email notification when the Agency publishes rulemaking documents in the **Federal Register**. To subscribe, go to <http://www.msha.gov/subscriptions/subscribe.aspx>.

FOR FURTHER INFORMATION CONTACT: Roslyn B. Fontaine, Acting Director, Office of Standards, Regulations and Variances, MSHA, at Fontaine.Roslyn@dol.gov (Email), (202) 693-9440 (Voice), or (202) 693-9441 (Fax).

SUPPLEMENTARY INFORMATION:

Extension of Comment Period

On August 31, 2011 (76 FR 54163), MSHA published a proposed rule, Proximity Detection Systems for Continuous Mining Machines in Underground Coal Mines. MSHA conducted hearings on October 18, October 20, October 25, and October 27 of 2011. In response to commenters,

MSHA is providing additional time for interested parties to comment on the proposed rule. MSHA is extending the comment period from November 14, 2011 to November 28, 2011. All comments and supporting documentation must be received or postmarked by November 28, 2011.

Dated: November 7, 2011.

Joseph A. Main,

Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 2011-29128 Filed 11-9-11; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 51

RIN 2900-AO02

Technical Revisions To Update Reference to the Required Assessment Tool for State Nursing Homes Receiving Per Diem Payments From VA

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations to update the reference to the required resident assessment tool for State homes that receive per diem from VA for providing nursing home care to veterans. The proposed rule would require State nursing homes receiving per diem from VA to use the most recent version of the Centers for Medicare and Medicaid Services (CMS) Resident Assessment Instrument/Minimum Data Set (MDS), which is version 3.0. This will ensure that the standard used to assess veterans is the same as the standard applicable to Medicare and Medicaid beneficiaries.

DATES: Comments must be received by VA on or before January 9, 2012.

ADDRESSES: Written comments may be submitted through <http://www.regulations.gov>; by mail or hand delivery to the Director, Office of Regulation Policy and Management (O2REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to "RIN 2900-AO02, Technical Revisions to Update Reference to the Required Assessment Tool for State Nursing Homes Receiving Per Diem Payments From VA." 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 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Nancy Quest, Chief, State Veterans Home Clinical & Survey Oversight, Geriatrics and Extended Care Services (114), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461-6064. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: On April, 2009, VA published in the **Federal Register** a rule amending part 51 of title 38, Code of Federal Regulations, which set forth a mechanism for paying per diem to State homes providing nursing home care to eligible veterans. 74 FR 19426-01 (Apr. 29, 2009). This regulation went into effect on May 29, 2009. 38 CFR 51.110. This proposed rule would amend 38 CFR part 51 to update reference to the required resident assessment tool for State homes providing nursing home care, The Centers for Medicare and Medicaid Services (CMS) Resident Assessment Instrument/Minimum Data Set (MDS). The MDS is a core set of screening, clinical, and functional status elements that form the foundation of the comprehensive assessment for all residents of long term care facilities certified to participate in Medicare and Medicaid. While these certified facilities complete the MDS as a condition of receiving CMS payments for the provision of long term care to Medicare and Medicaid beneficiaries, the MDS is the standardized assessment instrument in long term care generally, and is designed to identify the health care needs of residents and generate a plan of care regardless of source of payment for the individual resident. VA therefore requires State homes receiving per diem for the provision of long term care to veterans to use the MDS, and to transmit data from the MDS electronically to the VA Austin Information Technology Center (AITC), for the purpose of monitoring certain care indicators for the benefit of veterans. The MDS version currently required by the regulation is MDS 2.0. 38 CFR 51.110(b)(1)(i).

On October 1, 2010, all CMS certified long term care facilities were required to update their assessment from MDS 2.0 to MDS 3.0. It is critical that VA mandate by regulation that State homes

receiving per diem to provide long term care to veterans use the most up to date version of MDS as well. This will ensure that the most comprehensive assessment is performed for all veterans in State homes receiving per diem, and thereby that the highest standard of care is provided for those veterans. Indeed, if veterans are assessed under the former 2.0 standard, VA would essentially permit State homes to care for veterans using a lower assessment standard than that afforded other Federally funded patients.

The most significant change in the MDS 3.0 update requires that a direct interview be conducted with all residents who are able to be understood at least some of the time, such that staff must directly communicate with the resident to complete certain sections of the MDS. This is in contrast to staff relying on the medical record to complete certain MDS sections, as was permitted under MDS 2.0. The sections in MDS 3.0 which now require a direct interview to complete relate to the topics of cognition, mood, daily activities and preferences, and pain. For instance, a staff member providing rehabilitation services to a resident can no longer rely on a previous entry of a Registered Nurse in the medical record regarding a resident's level of pain to complete that staff member's section of the MDS. Direct interviewing ensures firsthand, real time monitoring in the MDS, improving accuracy of the entered information. We agree with CMS's changes because we believe that MDS 3.0 provides a more accurate assessment and will help ensure that the most comprehensive care plan is developed, and will help ensure that the highest standard of care is provided.

The MDS assessment process itself generates Quality Indicators, Quality Measures, and Resource Utilization Groups (RUGs). The RUGs are used in nurse staffing methodology to determine resident case mix, or how residents may be categorized so that resources are maximized to provide the highest standard of care. The MDS 3.0 update has increased the number of RUGs from 53 to 66. This increase reflects technological advances in healthcare and changes in resident and staff mix, as well as changes in healthcare practice. For example, conditions and services such as mood assessment and the pain interview have been added, and the behavior section has been modified, which now ensures these issues are considered in care planning. Because this change should lead to improved long term care, we believe that it is appropriate to require the