deviation and the NPRM as described above.

In accordance with 33 CFR 117.35(e), the drawbridges must return to their regular operating schedules immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 23, 2013.

David M. Frank,

Bridge Administrator.

[FR Doc. 2013–24318 Filed 10–21–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AO85

VA Dental Insurance Program—Federalism

AGENCY: Department of Veterans Affairs.

ACTION: Direct final rule.

SUMMARY: The Department of Veterans Affairs (VA) is taking direct final action to amend its regulations related to the VA Dental Insurance Program (VADIP), a pilot program to offer premium-based dental insurance to enrolled veterans and certain survivors and dependents of veterans. Specifically, this rule will add language to clarify the limited preemptive effect of certain criteria in the VADIP regulations.

DATES: This rule is effective on December 23, 2013, without further notice, unless VA receives a significant adverse comment by November 21, 2013.

ADDRESSES: Written comments may be submitted through *http://www.regulations.gov;* by mail or hand delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AO85–VA Dental Insurance Program—Federalism.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 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: Kristin Cunningham, Director, Business Policy, Chief Business Office (10NB), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; (202) 461–1599. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This rule amends 38 CFR 17.169 to add language to clarify the limited preemptive effect of certain criteria in the VA Dental Insurance Program (VADIP), a pilot program to offer premium-based dental insurance to enrolled veterans and certain survivors and dependents of veterans. Under VADIP, VA contracts with private insurers through the Federal contracting process to offer dental insurance, and the private insurer is then responsible for the administration of the dental insurance plan. VA's role under VADIP is primarily to form the contract with the private insurer and verify the eligibility of veterans, survivors, and dependents. VADIP is authorized, and its implementing regulations are required, by section 510 of the Caregivers and Veterans Omnibus Health Services Act of 2010, Public Law 111–163 (2010) (section 510).

''Preemption'' refers to the general principle that Federal law supersedes conflicting State law. U.S. Const. art. VI, cl. 2; *Gade* v. *Nat'l Solid Wastes Mgmt. Ass'n,* 505 U.S. 88, 98 (1992); *M'Culloch* v. *Maryland,* 17 U.S. 316, 317 (1819). However, the subject of insurance regulation is unique. Under 15 U.S.C. 1012, no Act of Congress may be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, unless such Act specifically relates to the business of insurance. Although section 510 does not include express preemption language, Congress intended to legislate about the business of insurance in several subsections of section 510, hence preempting conflicting State and local laws. See *Swanco Ins. Co.-Arizona* v. *Hager,* 879 F.2d 353, 359 (8th Cir. 1989) (''Instead of total preemption, Congress 'selected particularized means to [an] end in conscious recognition that a considerable area of state regulation would remain intact.' '') (quoting *Ins. Co. of the State of Pa.* v. *Corcoran,* 850 F.2d 88, 93 (2nd Cir. 1988)).

For example, section 510(h) requires VA to determine and annually adjust VADIP insurance premiums. Determining premium rates is an important aspect of the ''business of insurance.'' *Gilchrist* v. *State Farm Mut. Auto. Ins. Co.,* 390 F.3d 1327, 1331 (11th Cir. 2004) (citing *United States Dep't of Treasury* v. *Fabe,* 508 U.S. 491, 503 (1993); *Grp. Life & Health Ins. Co.* v. *Royal Drug Co.,* 440 U.S. 205, 224 (1979)). States strictly regulate insurance premium rates. See 5 Steven Plitt et al., Couch on Insurance § 69:13 (3d ed. 2012). If a State denies the premium rate set by VA and such rate is required by section 510(h)(1) in order ''to cover all costs associated with the pilot program,'' then the state would frustrate ''the lawful objective of a [F]ederal statute.'' *United States* v. *Composite State Bd. of Med. Exam'rs, State of Georgia,* 656 F.2d 131, 135 n.4 (5th Cir. 1981).

Applying these principles here, Congress specifically intended to legislate on the business of insurance under certain subsections of section 510. The following chart lists these subsections and their corresponding regulatory paragraphs.

Topic	Subsection of section 510	Paragraph of § 17.169
Eligibility for VADIP	510(b)	§ 17.169(b).
Duration of VADIP	510(c)	N/A.
Coverage locations	510(d)	N/A.
Plan benefits	510(f)	§ 17.169(c)(2).
Enrollment periods	510(g)	§ 17.169(d).
Establishing amounts of premiums, time frame for premium adjustments, and responsibility for payment of premiums.	510(h)	§ 17.169(c)(1).
Bases and minimum procedures for voluntary disenrollment	510(i)	§§ 17.169(e)(2)–(e)(5).

Consequently, these subsections of section 510 and their relevant regulatory counterparts preempt conflicting State and local laws.

State and local laws, including laws relating to the business of insurance, are not preempted by section 510, however, in areas where section 510 is silent. Examples of such areas of law include claims processes, licensing, underwriting, and appeals related to involuntarily disenrollment. Additionally, if State or local laws, including laws relating to the business of insurance, are not in conflict with any portion of section 510, then such State or local law may coexist with section 510.

Preemption allows for the implementation of uniform benefits in all States and may reduce the overall cost of VADIP. We therefore amend § 17.169 to add preemption language in accordance with the discussion above.

Executive Order 13132, Federalism

Section 6(c) of Executive Order 13132 (entitled ''Federalism'') requires an agency that is publishing a regulation that has federalism implications and that preempts State law to follow certain procedures. Regulations that have federalism implications, according to section 1(a) of Executive Order 13132, are those that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Because this regulation addresses a federalism issue, in particular preemption of State laws, VA conducted prior consultation with State officials in compliance with Executive Order 13132. VA solicited comment and input from State insurance regulators, through their representative national organization, the National Association of Insurance Commissioners (NAIC). In response to its request for comments, VA received a letter from the Chief Executive Officer of the NAIC, which agreed with VA's position that this rulemaking properly identifies the limited areas where the statutes and regulations implementing VADIP preempt state laws and regulations concerning the business of insurance. The NAIC also agreed with VA's position that state law and regulation should continue to apply where federal law and regulations are silent, including in the areas of licensing and claims processing. VA received no other comments from the NAIC on this rulemaking.

VA's promulgation of this regulation complies with the requirements of Executive Order 13132 by (1) in the absence of explicit preemption in the authorizing statute, identifying the clear evidence that Congress intended to preempt State law, or where the exercise of State authority conflicts with the exercise of Federal authority under a Federal statute; (2) limiting the preemption to only those areas where we find existence of a clear conflict or clear evidence of Congress' intention that Federal law preempt State law; (3) restricting the regulatory preemption to the minimum level necessary to achieve the objectives of the statute; (4) consulting with the State insurance regulators, as indicated above; and (5) providing opportunity for comment through this rulemaking and its companion proposed rulemaking, see RIN 2900–AO86.

Administrative Procedure Act

VA believes this regulatory amendment is non-controversial and anticipates that this rule will not result in any significant adverse comment, and therefore is issuing it as a direct final rule. The preemptive effect of certain criteria in this rulemaking is limited, and we have conducted formal consultation on the issue of preemption, in compliance with Executive Order 13132, Federalism. However, in the ''Proposed Rules'' section of this **Federal Register** publication, we are publishing a separate, substantially identical proposed rule document that will serve as a proposal for the provisions in this direct final rule if any significant adverse comment is filed. See RIN 2900–AO86.

For purposes of the direct final rulemaking, a significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or why it would be ineffective or unacceptable without a change. In determining whether an adverse comment is significant and warrants withdrawing a direct final rule, we will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process in accordance with section 553 of the Administrative Procedure Act (5 U.S.C. 553). Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered adverse under this procedure. For example, a comment recommending an additional change to the rule will not be considered a significant comment unless the comment states why the rule would be ineffective or unacceptable without the additional change.

Under direct final rule procedures, if no significant adverse comment is received within the comment period, the rule will become effective on the date specified above. After the close of the comment period, VA will publish a document in the **Federal Register** indicating that no significant adverse comment was received and confirming the date on which the final rule will become effective. VA will also publish a notice in the **Federal Register** withdrawing the proposed rule.

However, if any significant adverse comment is received, VA will publish in the **Federal Register** a notice acknowledging receipt of a significant adverse comment and withdrawing this direct final rule. In the event this direct final rule is withdrawn because of receipt of any significant adverse comment, VA can proceed with the proposed rulemaking by addressing the comments received and publishing a final rule. Any comments received in response to this direct final rule will be treated as comments regarding the proposed rule. Likewise, any significant adverse comment received in response to the proposed rule will be considered as a comment regarding this direct final rule. VA will consider such comments in developing a subsequent final rule.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance is read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

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. Only States, dental insurers, certain veterans and their survivors and dependents, none of which are small entities, will be affected. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility

analysis requirements of sections 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the 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 effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (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 otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.009 Veterans Medical Care Benefits and 64.011 Veterans Dental Care.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on September 16, 2013, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Dental health, Government contracts, Health care, Health professions, Health records, Veterans.

Dated: October 17, 2013.

William F. Russo,

Deputy Director, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

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

PART 17—MEDICAL

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

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

■ 2. In § 17.169, add paragraph (g) to read as follows:

§ 17.169 VA Dental Insurance Program for veterans and survivors and dependents of veterans (VADIP).

* * * * *

(g) *Limited preemption of State and local law.* To achieve important Federal interests, including but not limited to the assurance of the uniform delivery of benefits under VADIP and to ensure the operation of VADIP plans at the lowest possible cost to VADIP enrollees, paragraphs (b), (c)(1), (c)(2), (d), and (e)(2) through (5) of this section preempt conflicting State and local laws, including laws relating to the business of insurance. Any State or local law, or regulation pursuant to such law, is without any force or effect on, and State or local governments have no legal authority to enforce them in relation to, the paragraphs referenced in this paragraph or decisions made by VA or a participating insurer under these paragraphs.

* * * * *

[FR Doc. 2013–24585 Filed 10–21–13; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2012–0268; FRL–9397–1]

RIN 2070–AJ95

Perfluoroalkyl Sulfonates and Long-Chain Perfluoroalkyl Carboxylate Chemical Substances; Final Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Under the Toxic Substances Control Act (TSCA), EPA is amending a significant new use rule (SNUR) for perfluoroalkyl sulfonate (PFAS) chemical substances to add PFAS chemical substances that have completed the TSCA new chemical review process, but have not yet commenced production or import and is designating (for all listed PFAS chemical substances) processing as a significant new use. EPA is also finalizing a SNUR for long-chain perfluoroalkyl carboxylate (LCPFAC) chemical substances that designates manufacturing (including importing) and processing for use as part of carpets or for treating carpet (e.g., for use in the carpet aftercare market) as a significant new use, except for use of two chemical substances as a surfactant in carpet cleaning products. For this SNUR, EPA is also making an exemption inapplicable to persons who import or process the LCPAC chemical substances as part of an article. Persons subject to these SNURs will be required to notify EPA at least 90 days before commencing any significant new use. The required notifications will provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

DATES: This final rule is effective December 23, 2013.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2012–0268, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency