VA NFPA Interpretation for the State Veterans Homes Program

There have been wide variations on how National Fire Protection Association (NFPA) codes and standards are applied and enforced by various authorities and engineers. In order to ensure consistency when applying the NFPA codes and standards for the physical environment surveys of the VA State Veterans Homes program governed by title 38 CFR Part 51, §51.200, the following direction is established by the VA Geriatrics and Extended Care Program Office with support from subject matter experts from the VHA Office of Healthcare Environment and Facilities Programs (HEFP). For the Nursing Home level of care, Subpart D, life safety is in §51.200 Physical environment. For the Domiciliary level of care, Subpart E, life safety is in §51.350 Provision of certain specialized services and environment requirements. The domiciliary program must comply with the requirements of §51.200, with exception to §51.200(a), (b), (d)(1)(ii) through (x), (f), and (h)(3) concerning the physical environment. For Adult Day Health Care level of care, Subpart F, life safety is in §51.470 Physical environment. The State home must meet the applicable requirements of NFPA 101, Life Safety from fire, as incorporated by reference in § 51.200.

§ 51.200 Physical environment.

The facility management must be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel and the public.

(a) ***Life safety from fire.*** The facility must meet the applicable provisions of NFPA 101, Life Safety Code and NFPA 99, Health Care Facilities Code.

VA conducts recognition and certification surveys for nursing homes, domiciliaries, and adult day healthcare programs of State Veterans Homes only after these facilities have been previously approved by other jurisdictions and are already in operation and providing services to residents. Title 38 CFR Part 51, §51.31 states the following:

<u>§51.31 Surveys for recognition and/or certification</u>

(b) *Recognition surveys.* VA will not conduct a recognition survey unless the following minimum requirements are met:

(1) For nursing homes and domiciliaries, the home has at least 20 residents or has a number of residents consisting of at least 50 percent of the resident capacity of the home;

(2) For adult day health care programs of care, the program has at least 10 participants or has a number of participants consisting of at least 50 percent of participant capacity of the program.

When applying the NFPA codes and standards to State Veterans Home facilities, VA considers the State Veterans Home facilities to be existing facilities with installed systems that have been approved by local authorities. VA does not expect a surveyor to analyze the installation of existing systems unless a code or standard specifically requires the existing system to be addressed. Attempting to analyze existing system installations creates administrative problems for VA and does not appreciably increase the level of safety of the facilities, which have already been approved by local authorities.

When applying NFPA codes and standards, the VA intends the codes and standards to be used as identified below.

Some of the NFPA codes and standards are written to apply to new and existing facilities and systems. However, many of the codes and standards have “Retroactivity” clauses within them, or similar text in the “Applicability” section of the code or standard, that clearly show that the code or standard is not intended to be applied retroactively to existing facilities or systems, unless there is specific direction in the document to do so, or unless the authority having jurisdiction determines that there is an unacceptable degree of risk without applying a requirement retroactively. The following examples are provided to establish direction for surveying facilities in the State Veterans Homes Program.

Example 1: NFPA 101, Life Safety Code:

NFPA 101, Life Safety Code® 2012 Edition has the following text:

> **1.3 Application.**
>
> **1.3.1* New and Existing Buildings and Structures.** The *Code* shall apply to both new construction and existing buildings and existing structures.
>
> **A.1.3.1** Various chapters contain specific provisions for existing buildings and structures that might differ from those for new construction.

In accordance with the NFPA 101 references above, a surveyor should inspect a State Veterans Home in reference to the requirements for existing buildings and not new. In addition, where a chapter in NFPA 101, applicable to existing buildings, references a requirement for the installation of a system such as a sprinkler system in accordance with NFPA 13, 2010 edition, or a fire alarm system in accordance with NFPA 72, 2012 edition, or a kitchen suppression system in accordance with NFPA 96, 2011 edition, those existing systems should be surveyed in the same way as what is indicated in Example 3 below since each of those systems is covered by installation standards that have retroactivity clauses similar to that provided in Example 3. The surveyor should not try to analyze an existing installation and apply requirements from the edition referenced in NFPA 101, which might be a different edition of the installation standard than what was used for the design of the approved existing system.

Specifically: For the purposes of enforcing NFPA 101 (2012), 9.7.2.1 and requiring supervision of valves with an electrical connection to a fire alarm system in accordance with NFPA 72, one has to define where a "sprinkler system" starts and ends. The boundaries of a sprinkler system are not well defined and some consider the water supply underground piping leading into the building is part of the "sprinkler system". However, for consistency, VA has established that the underground piping outside the building on the supply side of the system riser control valve is part of the private service main and not part of the sprinkler system. While NFPA 101, 9.7.2.1 would require all valves on an existing supervised automatic sprinkler system inside the building to be electrically supervised and connected to the fire alarm system, based on the boundaries established above for a sprinkler system, it would be inappropriate to require electrical supervision in accordance with NFPA 101, 9.7.2.1 on components of the underground piping outside the building on the supply side of the system riser control valve.

From NFPA 13-2010 ed

> **3.5.12 System Riser.** The aboveground horizontal or vertical pipe between the water supply and the mains (cross or feed) that contains a control valve (either directly or within its supply pipe) and a waterflow alarm device.

From NFPA 101-2012 ed

> **9.7.2 Supervision.**
>
> **9.7.2.1* Supervisory Signals.** Where supervised automatic sprinkler systems are required by another section of this *Code*, supervisory attachments shall be installed and monitored for integrity in accordance with *NFPA 72, National Fire Alarm and Signaling Code*, and a distinctive supervisory signal shall be provided to indicate a condition that would impair the satisfactory operation of the sprinkler system. Supervisory signals shall sound and shall be displayed either at a location within the protected building that is constantly attended by qualified personnel or at an approved, remotely located receiving facility.

Valves, including post indicator valves, and backflow preventers installed outside the building on the supply side of the system riser control valve are not to be considered part of the sprinkler system when enforcing the requirements of NFPA 101, 9.7.2.1.

Example 2: NFPA 99, Health Care Facilities Code:

NFPA 99, Health Care Facilities Code, 2012 Edition has some requirements that apply to new facilities and some that apply to existing facilities. For example, NFPA 99 states the following:

Chapter 6 Electrical Systems

6.1* Applicability.

6.1.1 This chapter shall apply to new health care facilities as specified in Section 1.3.

6.1.2 The following paragraphs of this chapter shall apply to new and existing health care facilities:

(1) 6.3.2.2.4.2
(2) 6.3.2.2.6.1
(3) 6.3.2.2.6.2(F)
(4) 6.3.2.2.8.5(B)(2), (3), and (4)
(5) 6.3.2.2.8.7
(6) 6.3.4
(7) 6.4.1.1.17.5
(8) 6.4.2.2.6.2(C)
(9) 6.4.2.2.6.3
(10) 6.4.4
(11) 6.5.4
(12) 6.6.2.2.3.2
(13) 6.6.3.1
(14) 6.6.4

6.1.3 Paragraph 6.3.2.2.2.3 shall apply only to existing facilities.

1.3 Application.

1.3.1 This code shall apply to all health care facilities other than home care.

1.3.1.1 This document is intended for use by those persons involved in the design, construction, inspection, and operation of health care facilities and in the design, manufacture, and testing of appliances and equipment used in patient care rooms of health care facilities.

1.3.2 Construction and equipment requirements shall be applied only to new construction and new equipment, except as modified in individual chapters.

1.3.2.1 Only the altered, renovated, or modernized portion of an existing system or individual component shall be required to meet the installation and equipment requirements stated in this code.

1.3.2.2 If the alteration, renovation, or modernization adversely impacts the existing performance requirements of a system or component, additional upgrading shall be required.

1.3.2.3 An existing system that is not in strict compliance with the provisions of this code shall be permitted to be continued in use, unless the authority having jurisdiction has determined that such use constitutes a distinct hazard to life.

In accordance with the NFPA 99 references above, VA takes the position that for existing systems covered by NFPA 99 in existing State Veterans Homes, where the existing system has been installed and approved in accordance with a particular edition of NFPA 99 (as evidenced by the fact that the facility is in operation), it would be inappropriate for a surveyor to analyze the existing installation and apply requirements from a different edition of NFPA 99 unless there are specific requirements in NFPA 99 such as those found in NFPA 99, 6.1.2 and 6.1.3 as shown above that apply to existing

facilities. **Therefore, the surveyor is not to try to analyze an existing installation unless there is specific text in NFPA 99 that requires the code to be applied to existing systems such as the text in NFPA 99, 6.1.2 and 6.1.3.**

Specifically: Please see Tentative Interim Amendment (TIA 12-4) for revisions to Sections 5.1.1.6, 5.2.1.2, and 5.3.1.1.2 relative to the applicability of Chapter 5, Gas and Vacuum Systems for existing systems.

Example 3: NFPA 13, Standard for the Installation of Sprinkler Systems:

NFPA 13, Standard for the Installation of Sprinkler Systems 2010 edition has the following retroactivity clause.

> **1.4 Retroactivity.** The provisions of this standard reflect a consensus of what is necessary to provide an acceptable degree of protection from the hazards addressed in this standard at the time the standard was issued.
>
> **1.4.1** Unless otherwise specified, the provisions of this standard shall not apply to facilities, equipment, structures, or installations that existed or were approved for construction or installation prior to the effective date of the standard. Where specified, the provisions of this standard shall be retroactive.
>
> **1.4.2** In those cases where the authority having jurisdiction determines that the existing situation presents an unacceptable degree of risk, the authority having jurisdiction shall be permitted to apply retroactively any portions of this standard deemed appropriate.
>
> **1.4.3** The retroactive requirements of this standard shall be permitted to be modified if their application clearly would be impractical in the judgment of the authority having jurisdiction, and only where it is clearly evident that a reasonable degree of safety is provided.

In accordance with NFPA 13, 1.4.1 above, for the inspection of State Veterans Homes, VA takes the position that for existing sprinkler systems in existing State Veterans Homes, where the existing sprinkler system has been installed and approved in accordance with a particular edition of NFPA 13 (as evidenced by the fact that the facility is in operation), it would be inappropriate for a surveyor to analyze the existing installation and apply requirements from a different edition of NFPA 13. **Therefore, the surveyor is not to try to analyze an existing installation of an existing system.**

Specifically: Unsprinklered clothes closets/wardrobes/casework/lockers in existing nursing homes that have an existing sprinkler system are not required to have sprinklers added to them.

Example 4: NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems:

NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems, 2011 Edition has the following text:

> **1.1* Scope.** This document establishes the minimum requirements for the periodic inspection, testing, and maintenance of water-based fire protection systems, including land-based and marine applications.
>
> **1.1.3.1*** This standard does not require the inspector to verify the adequacy of the design of the system.
>
> **A.1.1.3.1** The requirement to evaluate the adequacy of the design of the installed system is not a part of the periodic inspection, testing, and maintenance requirements of this standard. However, such evaluation is the responsibility of the property owner or designated representative as indicated in 4.1.5 and 4.1.6.

In accordance with the NFPA 25 references above, VA takes the position that the inspection, testing, and maintenance (ITM) requirements for existing sprinkler systems are required to meet the requirements of NFPA 25 and the surveyor should ensure that the ITM is performed and documented. However, as part of the State Veterans Homes survey process, the surveyor is not to analyze or verify the adequacy of the design of any of the systems.

Specifically: For the purposes of enforcing NFPA 25 (2011), Chapter 9, the water storage tanks covered by Chapter 9 are required to be dedicated to fire protection use in accordance with 9.1.1.1. Those water storage tanks that are part of, or share with, the potable (domestic) water systems of the State Veterans Homes are not subject to the requirements of Chapter 9 of NFPA 25.

Chapter 9 Water Storage Tanks

9.1* General.

9.1.1 Minimum Requirements.

9.1.1.1 This chapter shall provide the minimum requirements for the routine inspection, testing, and maintenance of water storage tanks dedicated to fire protection use.