Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation because we are establishing a security zone. A ''Categorical Exclusion Determination'' and checklist are available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record-keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Add new temporary § 165.T11–042 is added to read as follows:

§ 165.T11–042 Security Zone; National City Marine Terminal, San Diego, CA.

(a) *Location.* The security zone consists of the navigable waters surrounding the National City Marine Terminal and encompassing Sweetwater Channel. The limits of this security zone are more specifically defined as the area enclosed by the following points: starting on shore at 32°39′25″ N 117°07′15″ W, then extending northerly to 32°39′32″ N 117°07′16″ W, then extending westerly to 32°39′29″ N 117°07′36″ W, then southerly to 32°39′05″ N 117°07′34″ W, and then easterly to shore at 32°39′06″ N 117°07′14.5″ W. All coordinates are North American Datum 1983.

(b) *Effective dates.* This security zone will be in effect from 12 p.m. (noon) (PDT) on January 17, 2003 to 12 p.m. (noon) (PDT) on March 17, 2003.

(c) *Enforcement.* This security zone is necessary to protect a military outload evolution which directly impacts national security. If the need for the security zone ends before the scheduled termination time, the Captain of the Port will cease enforcement of this security zone and will announce that fact via Broadcast Notice to Mariners.

(d) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into, transit through, or anchoring within the security zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. All other general regulations of § 165.33 of this part apply in the security zone established by this section.

(e) The U.S. Coast Guard may be assisted in the patrol and enforcement of this security zone by the San Diego Harbor Police.

Dated: January 15, 2003.

S.P. Metruck,

Commander, U.S. Coast Guard, Captain of the Port, San Diego, California.

[FR Doc. 03–1599 Filed 1–23–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AK08

Payment or Reimbursement for Emergency Treatment Furnished at Non-VA Facilities

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document affirms amendments to VA's medical regulations establishing provisions for payment or reimbursement for certain non-VA emergency services furnished to veterans for nonservice-connected conditions. Those amendments were made by an interim final rule and were necessary to implement provisions of ''The Veterans Millennium Health Care and Benefits Act.'' Based on comments received from the public in response to the interim final rule, some changes are added for purposes of clarity.

DATES: Effective Date: March 25, 2003.

FOR FURTHER INFORMATION CONTACT: Roscoe Butler, Chief, Policy & Operations, Health Administration Service (10C3), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8302. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: An interim final rule amending VA's medical regulations at 38 CFR 17.1000–1008 was published in the **Federal Register** on July 12, 2001. These amendments implemented the provisions of section 111 of Public Law 106–117, The Veterans Millennium Health Care and Benefits Act. These statutory provisions, which are set forth at 38 U.S.C. 1725, authorize VA to establish provisions regarding payment of or reimbursement for the reasonable value of non-VA emergency services provided for nonservice-connected conditions of certain veterans who have no medical insurance and no other recourse for payment.

We provided a 60-day comment period that ended September 10, 2001 for comments on the interim final rule, including comments on the information collection provisions (except for the emergency information collection approval provisions which had a deadline for comments of July 19, 2001). We received no comments as to the emergency approval. Nevertheless, we did receive comments on the interim final rule and on the information collection provisions.

Conditions for Reimbursement or Payment for Emergency Services

One commenter requested clarification regarding when a facility will be considered to have held itself out as providing emergency care pursuant to § 17.1002(a). They believe that this language is unclear as currently written. No changes are made based on this comment. We believe that the current language is sufficiently descriptive to identify appropriate facilities that provide emergency services to the public without being unduly restrictive, especially in regard to facilities located in rural areas.

This commenter further stated agreement that veterans should be encouraged to seek care at the closest emergency department, regardless of whether it is a VA or other Federal facility, when they believe this is necessary. The commenter further stated that VA should also be aware that state and local Emergency Medical Services (EMS) regulations or ordinances may require that a patient always be taken to the closest emergency department, regardless of his or her status as a veteran. In such cases, they indicated that § 17.1002 (c) should be met. We concur with the comment, but no changes are made since, in our opinion, § 17.1002 (c) states that proposition and reasonably permits that interpretation under those facts.

Another commenter suggested that the inclusion of the parenthetical information in § 17.1002(d) may be redundant and therefore unnecessary. No change is made based on this comment. In our opinion, § 17.1002(d) appropriately interprets the legislative authority.

Another commenter suggested that VA clarify in § 17.1002(d) that the determination of a safe transfer is to be made solely by the attending emergency care physician provider. No change to § 17.1002 is made based on this comment. Section 17.1002(d) is concerned with review of claims for payment, not with clinical determinations concerning transfer of patients. Moreover, § 17.1006 already identifies the appropriate VA clinical officials who are responsible for making all needed medical determinations in connection with VA's review of a claim for reimbursement or payment of the costs of non-VA emergency treatment rendered to a veteran.

This commenter also suggested that VA clarify that payment or reimbursement may be made in situations where the veteran is discharged (as opposed to transfer). The commenter is concerned that § 17.1002(d) could be interpreted to preclude payment or reimbursement where the veteran was discharged after receiving emergency treatment. We agree and have incorporated that term as appropriate.

One commenter suggested that VA remove the 24-month requirement in § 17.1002(e) because otherwise VA may process numerous claims which will have to be denied due to the providers' inability to determine whether the veterans had received care during that time-period. Based on the comment, we believe modifying the certification requirement in § 17.1004(b) to exclude confirmation of enrollment status and receipt of VA care within the previous 24 months preceding the furnishing of the emergency care will clarify that the onus is not on the provider but, rather, on VA to certify this information. We believe this satisfies the commenter's concern.

Delegations of Authority

One commenter agrees that VA's physicians must make all clinical determinations required for purposes of § 17.1002. However, the commenter advises VA to instruct its physicians to apply a prudent lay person standard, not the higher standard of a medical professional, when making determinations under § 17.1002(b) and (c). No changes are made based on this comment. We believe the existing regulation adequately provides that the prudent lay person standard applies to both the initial evaluation and treatment of the emergent medical condition.

48-Hour Notice

One commenter stated that the 48-hour notice provision was too broad and should be amended to apply only to patients who are admitted to a facility for inpatient care. We concur and have changed that provision accordingly.

Claims

One commenter believes that the false claims notice in § 17.1004(b) should be eliminated since the current HCFA 1500 form includes a similar false claims notice. While we agree that the additional certification would not be necessary when the HCFA 1500 form is submitted, the rule allows for claims to be submitted on other standard medical billing forms, such as the UB92 form. Consequently, we have amended the rule to require the additional certification only when the form used does not contain a similar false claims notice.

Another commenter stated that requiring a separate written certification would preclude filing claims electronically. This commenter suggests that provisions be made to accept claims centrally and electronically to limit claims filing and processing costs. No changes are made based on this comment. VA is currently exploring centralizing the payment process and utilizing industry standards, such as electronic claims processing, fraud detection, and claims scrubbing.

One commenter states that VA's regulations provide for detailed timeframes for filing claims, but that there are no corresponding provisions establishing prompt payment by VA to claimants. No changes are made based on this comment. VA is studying the feasibility of centralizing the payment process, which would take into account prompt payment requirements.

One commenter indicated that filing a claim within the time periods of § 17.1004(d) is unrealistic. In support of his position, the commenter explains that in many emergency conditions the patient is unable to communicate coverage information to the provider when presenting for emergency care services. The commenter therefore recommends adding a provision to § 17.1004(d) to allow for claims to be submitted within 90-days after the date the veteran provided evidence to the facility/provider of emergency treatment of the veteran's eligibility for coverage under this rule.

No changes are made based on this comment. Adding such a provision would be at cross-purposes with this rule, which was designed to help ensure that claims are decided in a reasonable period of time. We believe that the rule provides ample time for the veteran, the veteran's family, or the veteran's legal representative to provide the required information, as the 90-day periods do not generally begin until after seminal events, *e.g.*, the veteran's discharge or death, by which time the veteran, the veteran's family, or the veteran's legal representative has been made aware of the veteran's personal liability for the non-VA emergency medical treatment rendered and the need to gather the veteran's insurance and other payment information.

Payment Limitations

Several commenters stated that § 17.1005(b) provides that reimbursement for payment for emergency treatment may be made only for the period from the beginning of the treatment until such time as the veteran could be transferred safely to a VA facility or other federal facility. They asked that we modify this statement by adding ''initial evaluation and'' before ''treatment.'' We concur with these

comments and have changed that provision accordingly.

Another commenter suggested that VA provide payment for emergency treatment sought by veterans under the prudent layperson standard in § 17.1002(b) from the beginning of treatment (including the evaluation) until the attending emergency physician provider determines the veteran is stabilized and may be safely transferred to a VA facility, other Federal facility, or discharged. No change to § 17.1002 is made based on this comment. Section 17.1006 already identifies the appropriate VA clinical officials who are responsible for making all needed medical determinations in connection with VA's review of a claim for reimbursement or payment for the costs of non-VA emergency treatment rendered to a veteran.

Further, this commenter believes that ''emergency treatment'' should be clarified to include ''evaluation'' of the condition. No change is made based on this comment. This is covered by the prudent layperson standard.

Another commenter strongly believes that VA should periodically re-examine the reimbursement rate under § 17.1005(a). That provision currently provides that VA will pay the lesser of the amount for which the veteran is personally liable or 70% of the amount under the applicable Medicare fee schedule. No change is made based on this comment. Medicare rates are adjusted annually. Consequently, VA's 70% rule will effectively reflect annual adjustments made to applicable Medicare rates.

Emergency Transportation

One commenter recommended that VA pay for emergency transportation services in cases where a ''prudent lay person'' would reasonably expect that the absence of such transport would result in placing the health of such individual in serious jeopardy. In the commenter's view, it would be unjust to hold the veteran liable for the cost of emergency transportation if they erroneously but reasonably believed those services were needed. No change is made based on this comment, which we interpret as essentially seeking to delete the limitations in § 17.1003. A claim for reimbursement for payment of emergency transport services under this section must, similar to other emergency medical services which are the subject of a claim under this rule, meet all the conditions of 38 U.S.C. 1725 to be reimbursable or payable at VA expense. We therefore do not make the recommended changes as the rule is consistent with statutory authority. We also note that because emergency transportation is subject to the requirements of 38 U.S.C. 1725, this section already incorporates a prudent lay person standard.

Paperwork Reduction Act

OMB has approved the information collections in §§ 17.004, 17.1007, and 17.1008 under control number 2900–0620. VA is not authorized to impose a penalty on persons for failure to comply with information collection requirements which do not display a current OMB control number, if required.

Compliance With the Congressional Review Act and E.O. 12866—Cost-Benefit Analysis

This rule is necessary to implement the provisions of section 111 of Public Law 106–117, The Veterans Millennium Health Care and Benefits Act. These provisions, which are set forth at 38 U.S.C. 1725, authorize VA to establish a mechanism for payment of or reimbursement for the reasonable value of non-VA emergency services provided for nonservice-connected conditions of certain veterans who have no medical insurance and no other recourse for payment. This rule would directly impact these veterans positively by avoiding full recourse or payment responsibility for medical care and resulting potential debt collection repercussions. This rule implements a detailed statutory mandate, and we found no potentially effective and reasonably feasible alternatives.

We estimate that the five-year cost of this rule from appropriated funds would be $2.1 billion in benefits costs and $21 million in government operating expenses. Since it is likely that the adoption of the rule may have an annual effect on the economy of $100 million or more, the Office of Management and Budget has designated this rule as a major rule under the Congressional Review Act, 5 U.S.C. 802, and an economically significant regulatory action under Executive Order 12866, Regulatory Planning and Review. The following information is provided pursuant to the Congressional Review Act and Executive Order 12866.

I. Benefits Costs

The estimated cost for implementation of the emergency care provisions of the Millennium Act are based on enrollment projections developed by a private actuarial firm and contained in the FY 2001 Enrollment Level Decision Analysis. This baseline population was adjusted, using a survey of enrollees and existing enrollment databases, to calculate the projected number of veterans who had no private or public insurance and who had used VA care within the previous 24 months. These adjustments reflect the criteria contained in the Millennium Act.

Private sector ER-related health care utilization was adjusted to reflect veteran enrollee demographics and relative morbidity, as well as uninsured enrollee reliance on the VA health care system. These utilization estimates, along with Medicare allowable charge levels, were applied to the estimated 990,000 veteran enrollees affected by the emergency care provisions. This resulted in projected estimates for emergency room visits ($93,480,145), ambulance use ($34,108,803), and ER-related inpatient care ($468,221,072). The total of $595,810,019 was then multiplied by the 70 percent reimbursement rate VA will use to pay emergency care providers. This comes to $417,067,014.

This total, however, reflects full implementation of the emergency care provisions. VA believes that it will take time before both providers and eligible veterans are aware of these new benefits and begin to submit acceptable bills to VA for reimbursement. Current experience shows that without widespread dissemination of information, there is limited use of these benefits. VA believes that with the publication of final regulations the submission of claims will increase significantly and could reach 50 percent of the full implementation costs in the first full year after the rule is in effect. Only experience will demonstrate the real demand for this new benefit.

II. Administrative Costs

The administrative workload caused by this rule is expected to be 241,457 claims filed in 2001. Administrative workloads assume that not all claims would be granted; it is probable that non-VA related claims will be received from veterans who are not eligible. Medical Care costs are computed on the average cost of a GS4/5 @ $12/hour × 30 minutes × 241,457 claims/60 which equals $1,448,742.00. In addition, the clinical review costs are estimated at $46/hour × 15 minutes × 241,457 claims/60 which equals $2,776,755.00 for total Medical Care costs of $4,225,497.

OMB Review

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule would apply only to an extremely small amount of the business of a hospital or health care provider. Otherwise, the rule would only apply to individuals. Accordingly, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the programs affected by this rule are 64.005, 64.007, 64.008, 64,009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, and 64.025.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: October 11, 2002.

Anthony J. Principi,

Secretary of Veterans Affairs.

Accordingly, the interim final rule amending 38 CFR part 17 which was published at 66 FR 36467 on July 12, 2001 is adopted as a final rule with the following changes:

PART 17—MEDICAL

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

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

§ 17.1000 [Amended]

2. The Note following § 17.1000 is amended by removing ''Health'' and adding, in its place, ''In cases where a patient is admitted for inpatient care, health''; and removing ''the veteran begins receiving'' and adding, in its place, ''admission for''.

§ 17.1002 [Amended]

3. In § 17.1002, paragraph (d) is amended by removing ''safely'' and adding, in its place, ''safely discharged or''.

§ 17.1004 [Amended]

4. In § 17.1004, paragraph (b) is amended by removing ''1500). The'' and adding, in its place, ''1500). Where the form used does not contain a false claims notice, the''; and by removing ''and 17.1003.'' and adding, in its place, ''(except for paragraph (e)) and 17.1003.''

§ 17.1005 [Amended]

5. In § 17.1005, paragraph (b) is amended by removing ''beginning of the'' and adding, in its place, ''beginning of the initial evaluation''; and by removing, ''transferred safely'', and adding, in its place, ''safely discharged or transferred''.

[FR Doc. 03–1577 Filed 1–23–03; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI112–01–7342b, FRL–7411–5]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Northern Engraving Environmental Cooperative Agreement

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a June 12, 2002, request from Wisconsin to revise its State Implementation Plan (SIP) for a source specific revision for Northern Engraving Corporation (NEC). Section 110 of the Clean Air Act (Act), 42 U.S.C. 7410, provides the authority for a state to provide a plan for the implementation, maintenance, and enforcement of the national ambient air quality standards in each air quality control region. The Wisconsin Department of Natural Resources (WDNR) and EPA entered into a memorandum of agreement concerning implementation of a joint cooperative pilot program and agreed to pursue regulatory innovation at two NEC facilities in Holmen, Wisconsin and Sparta, Wisconsin. Because portions of the Environmental Cooperative Agreement with NEC supercedes portions of rules in the Wisconsin SIP, a source-specific SIP revision is required.

DATES: This rule is effective on March 25, 2003, unless EPA receives adverse written comments by February 24, 2003. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You may inspect copies of the documents relevant to this action during normal business hours at the following location: United States Environmental Protection Agency Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Send written comments to: Robert Miller, Chief, Permits and Grants Section, United States Environmental Protection Agency (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Constantine Blathras at (312) 886–0671.

SUPPLEMENTARY INFORMATION: On March 25, 1999, the WDNR and the EPA entered into a memorandum of agreement concerning implementation of the joint state/EPA agreement to pursue regulatory innovation and the Wisconsin Environmental Cooperation Pilot Program. On June 7, 2002, Thomas V. Skinner, Regional Administrator, EPA Region 5, sent a letter to Darrell Bazzell, Secretary, WDNR, containing EPA's final response to the WDNR's innovation proposal for alternative permit conditions at the NEC facilities. The NEC facilities affected by this agreement are the Holmen facility, located at 1023 Sand Lake Road, Holmen, La Crosse County, Wisconsin, and the Sparta facility, located at 803 South Black River Street, Sparta, Monroe County, Wisconsin. Both La Crosse and Monroe counties are classified as unclassifiable/attainment for ozone, as of November 15, 1990. Volatile organic compounds are a precursor to ozone. Each facility's permit includes facility-wide emission rates for volatile organic compounds and hazardous air pollutants.

The innovative components of the proposal for the NEC Sparta and Holmen facilities include: (1) Waiver from the requirements that facilities obtain a new permit prior to