

compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule and concluded that under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. Paragraph 32(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of the National Environmental Policy Act (NEPA). Since this proposed regulation would alter the normal operating conditions of the drawbridge, it falls within this exclusion. A “Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Effective 7:30 a.m. to 11:30 a.m. on September 28, 2003, § 117.T395 is added to read as follows:

§ 117.T395 Upper Mississippi River.

Rock Island Railroad and Highway Drawbridge, Mile 482.9, Upper Mississippi River.

From 7:30 a.m. to 11:30 a.m. on September 28, 2003 the drawspan need not open for river traffic and may be maintained in the closed-to-navigation position.

Dated: July 10, 2003.

R.F. Duncan,

Rear Admiral, Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 03–19257 Filed 7–28–03; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AK94

Payment for Non-VA Physician Services Associated With Either Outpatient or Inpatient Care Provided at Non-VA Facilities

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend Department of Veterans Affairs (VA) medical regulations concerning payment for non-VA physician services that are associated with either outpatient or inpatient care provided to eligible VA beneficiaries at non-VA facilities. Currently, the medical regulations require all VA facilities to reimburse for non-VA physician services based upon the Centers for Medicare and Medicaid Services (CMS) physician fee schedule in effect at the time the services are provided. However, it appears that special circumstances exist in the state of Alaska. If the standard payment methodology is implemented in Alaska, VA payments will be significantly less than the usual and customary charges for the state. This, in turn, may potentially limit VA patient access to non-VA health care. Since a large portion of VA health care provided in Alaska is obtained from non-VA sources, this could negatively impact the quality of care provided veterans living in that state. Therefore, to ensure that amounts paid to physicians better represent the local cost to furnish a service, while continuing to achieve program cost reductions, we propose to establish an Alaska-specific payment methodology for inpatient and outpatient non-VA physician services within that state.

DATES: Comments must be received by VA on or before September 29, 2003.

ADDRESSES: Mail or hand-deliver written comments to: Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1064, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to OGCRegulations@mail.va.gov.

Comments should indicate that they are submitted in response to "RIN 2900-AK94." All comments received will be available for public inspection at the above address 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 202 273-9515 for an appointment.

FOR FURTHER INFORMATION CONTACT: Rex Gilmore, Chief Business Office (16), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-0321. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The VA Healthcare System converted to a Centers for Medicare and Medicaid Services (CMS) Resource Based Relative Value System (RBRVS) payment schedule for outpatient care purchased from community providers in 1999. At that time, because of concerns regarding the high cost of care in the state of Alaska, the state was granted an exemption that kept payments for non-VA health care in that state under the previous system. That system created a fee schedule each year based upon the 75th percentile of at least eight billed amounts received in the previous year. This resulted in significant fee schedule changes each year, and a schedule that was not comprehensive.

Following an actuarial study completed in 2001 and subsequent meetings with VA Alaska officials and community providers, VA determined that special circumstances still exist in Alaska. If the standard payment methodology is implemented in Alaska, VA payments will be significantly less than the usual and customary charges for the state. As a result, community practitioners may be unwilling to accept VA patients. Since a large portion of VA health care provided in Alaska is obtained from non-VA sources, this may limit VA patient access to health care and negatively impact the quality of care provided veterans living in that state. Therefore, to ensure that amounts paid to physicians better represent the local cost to furnish a service, VA proposes to establish a special payment methodology for inpatient and outpatient non-VA care provided in Alaska. Under the proposed methodology, the VA Fee Schedule would include, in the new § 17.56(d), a payment system for non-VA care in Alaska that does not compromise access to care for veterans, is comprehensive for all Current Procedural Terminology (CPT) codes, and accounts for the

geographic and specialty care challenges of Alaska.

In Alaska, VA proposes to pay for services in accordance with a fee schedule that uses CPT codes utilized by CMS. VA would pay a specific amount for each service for which there is a corresponding CPT code. Under the VA Fee Schedule, the amount paid in Alaska for each CPT code would be 90 percent of the average amount VA actually paid in Alaska for the same services in Fiscal Year (FY) 2002. For services that VA did not have occasion to pay for in Alaska in FY 2002, and for services represented by CPT codes established after FY 2002, VA would take the CMS rate for each unpaid code and multiply it times the average percentage paid by VA in Alaska for CMS like codes. VA would increase the amounts on the VA Fee Schedule for Alaska annually in accordance with annual inflation rate adjustments published by CMS.

Finally, this document would make non-substantive revisions in paragraphs (a) and (b) of § 17.56 to reflect the name change of the former Health Care Financing Administration to Centers for Medicare and Medicaid Services.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, in 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 proposed rule would have no consequential effect on State, local, or tribal governments, or the private sector.

Paperwork Reduction Act

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

Executive Order 12866

The Office of Management and Budget has reviewed this document under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed 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 through 612. The proposed rule would not cause a significant economic impact on health care providers, suppliers, or entities since only a small portion of the business of such entities concerns VA beneficiaries. Therefore, pursuant to 5

U.S.C. 605(b), the proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance Numbers are 64.009, 64.010 and 64.011.

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, Government programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing home care, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: April 21, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, VA proposes to amend 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, 1721, unless otherwise noted.

2. Section 17.56 is amended by:

A. In paragraph (a), first sentence, removing "Except for anesthesia services," and adding, in its place, "Except for anesthesia services, and services provided in the State of Alaska under paragraph (d) of this section,"; removing "Department of Health and Human Services, Health Care Financing Administration (HCFA) under Medicare's participating" and adding, in its place, "Centers for Medicare and Medicaid Services' participating"; and in the third sentence, removing "calculated under Medicare's participating" and adding, in its place, "calculated under Centers for Medicare and Medicaid Services' participating".

B. In paragraph (b), removing "Medicare's participating" and adding, in its place, "Centers for Medicare and Medicaid Services' participating"; and removing "calculating the Medicare fee" and adding, in its place, "calculating the Centers for Medicare and Medicaid Services' fee".

C. Redesignating paragraphs (d) and (e) as paragraphs (e) and (f),

respectively. In newly redesignated paragraph (f), removing the phrase "paragraphs (a) through (d)" and adding, in its place, "paragraphs (a) through (e)".

D. Adding a new paragraph (d).
The addition reads as follows:

§ 17.56 Payment for non-VA physician services associated with outpatient and inpatient care provided at non-VA facilities.

* * * * *

(d) In Alaska, VA will pay for services in accordance with a fee schedule that uses CPT codes utilized by Centers for Medicare and Medicaid Services. VA will pay a specific amount for each service for which there is a corresponding CPT code. Under the VA Fee Schedule the amount paid in Alaska for each CPT code will be 90 percent of the average amount VA actually paid in Alaska for the same services in Fiscal Year (FY) 2002. For services that VA did not have occasion to pay for in Alaska in FY 2002, and for services represented by CPT codes established after FY 2002, VA will take the Centers for Medicare and Medicaid Services' rate for each unpaid code and multiply it times the average percentage paid by VA in Alaska for Centers for Medicare and Medicaid Services-like codes. VA will increase the amounts on the VA Fee Schedule for Alaska annually in accordance with annual inflation rate adjustments published by Centers for Medicare and Medicaid Services. Payment for non-VA physician services in Alaska shall be the lesser of the amount billed, or the amount calculated under this subpart.

(Authority: 38 U.S.C. 513, 1703, 1728)

* * * * *

[FR Doc. 03-19174 Filed 7-28-03; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA-D-7570]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA),

Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Doug Bellomo, P.E., FEMA, 500 C Street SW., Washington, DC 20472, (202) 646-2903.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood

insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows: