(ii) In the case of a customer who does not qualify as an ''institutional customer'' as defined in § 1.3(g) of this chapter, an introducing broker must obtain the customer's prior consent through a signed acknowledgment, which may be accomplished in accordance with § 1.55(d) of this chapter.

* * * * *

Dated: January 27, 2005.

By the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 05–1906 Filed 2–3–05; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1310 and 1313

[Docket No. DEA–137N]

RIN 1117–AA31

Chemical Mixtures; Temporary Waiver of Import/Export Requirements

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Temporary waiver of import/export requirements.

SUMMARY: On December 15, 2004, the Drug Enforcement Administration (DEA) published a final rule that implemented regulations pertaining to chemical mixtures that contain any of 27 listed chemicals regulated under the Controlled Substances Act (21 U.S.C. 801 *et seq.*). That rulemaking became effective on January 14, 2005.

Following publication of the final rule, certain segments of the chemical industry expressed concerns to DEA regarding difficulty in fully complying with DEA import/export notification requirements as specified in 21 CFR part 1313 by this deadline. Therefore, in order to avoid interruption of legitimate import/export distributions, DEA is providing a waiver of the import/export reporting requirements as specified in 21 CFR part 1313 until May 14, 2005. As such, regulated persons will temporarily not be required to submit advance notification for import, export and transshipment transactions for chemical mixtures regulated solely due to the presence of these 27 listed chemicals until May 14, 2005. This temporary waiver applies only to import, export and transshipment notification requirements; all other chemical control requirements set forth in the final rulemaking published on December 15, 2004, shall remain in full force and effect.

DATES: Effective February 4, 2005. The new deadline for providing import, export and transshipment notification for regulated chemical mixtures containing these 27 listed chemicals will be May 14, 2005.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, Ph.D., Chief, Drug & Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, telephone (202) 307–7183

SUPPLEMENTARY INFORMATION: On December 15, 2004, the Drug Enforcement Administration (DEA) published a final rule (69 FR 74957) that implemented regulations pertaining to chemical mixtures that contain any of 27 listed chemicals regulated under the Controlled Substances Act (CSA). That rulemaking became effective on January 14, 2005.

Following publication of the final rule concerns were raised by various segments of the chemical industry regarding their difficulty in fully complying with DEA import/export notification requirements as specified in 21 CFR part 1313 by this deadline. DEA received correspondence from two national chemical associations and from one major chemical producer. Additionally, DEA received verbal communication from industry that expressed concerns regarding the large number of potentially affected mixtures and the difficulty industry was having in meeting deadlines for submitting import/export notification. After carefully considering the concerns expressed by industry, DEA has decided to postpone the implementation of the import/export notification requirements as specified in 21 CFR part 1313 until May 14, 2005. This temporary waiver shall apply only to chemical mixtures which became regulated under the December 15, 2004 final rule (69 FR 74957).

While the submission of import, export and transshipment information to DEA is an important provision in countering the potential diversion of these materials, this temporary waiver is being provided to allow industry ample time to ensure their full compliance with CSA import/export regulatory requirements as specified in 21 CFR part 1313. As such, DEA will be temporarily waiving the requirement for regulated persons to submit advance notification for import, export and transshipment transactions for chemical mixtures which are regulated solely due to the presence of the 27 listed chemicals which were the subject of the December 15, 2004 final rule. This temporary waiver applies only to import, export and transshipment notification requirements. All other chemical control requirements set forth in the final rulemaking published on December 15, 2004 (69 FR 74957) shall remain in full force and effect.

The new deadline for providing import, export and transshipment notification for regulated chemical mixtures containing these 27 listed chemicals will be May 14, 2005.

Provisions of December 15, 2004 Final Rule (69 FR 74957) Which Do Not Change

For any person distributing, importing, or exporting any amount of a regulated mixture containing a List I chemical, the CSA requires that person to obtain a DEA registration. DEA recognizes that it is not possible for persons who are subject to the registration requirement to immediately complete and submit an application for registration and for DEA to immediately issue registrations for those activities. Therefore, in order to allow continued legitimate commerce in regulated mixtures, the December 15, 2004 final rule established a temporary exemption from the registration requirement (in 21 CFR 1310.09) for persons desiring to engage in activities with regulated mixtures that are subject to registration requirements, provided that DEA receives a properly completed application for registration or an application for exemption (pursuant to 21 CFR 1310.13) for their chemical mixture(s) on or before February 14, 2005. The temporary exemption from registration for such persons will remain in effect until DEA takes final action on their application(s).

Any person whose application for exemption is subsequently rejected by DEA must obtain a registration with DEA. A temporary exemption from the registration requirement will also be provided for these persons, if DEA receives a properly completed application for registration on or before 30 days following the date of official DEA notification that the application for exemption has not been approved. The deadline for submission of an application for registration, or an application for exemption, remains February 14, 2005 in order to obtain the temporary exemption from registration.

None of the temporary exemptions discussed in this rulemaking suspend applicable federal criminal laws relating to the regulated mixtures, nor does it supersede state or local laws or regulations. All handlers of a regulated

mixture must comply with applicable state and local requirements in addition to the CSA regulatory controls.

Dated: January 28, 2005.

William J. Walker,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 05–2212 Filed 2–3–05; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AK94

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

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This final rule amends the Department of Veterans Affairs (VA) medical regulations concerning payment for non-VA health care professional 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 health care professional services based upon the Centers for Medicare and Medicaid Services (CMS) physician fee schedule in effect at the time the services are provided. However, 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 may 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. This rule establishes an Alaska-specific payment methodology for inpatient and outpatient non-VA health care professional services within that state. The rule ensures that amounts paid to health care providers represent the local cost to furnish a service, while continuing to achieve program cost reductions.

DATES: *Effective Date:* This rule shall become effective on March 7, 2005.

Applicability Date: This rule shall be applicable to all claims for payment for services rendered on or after April 1, 2005.

FOR FURTHER INFORMATION CONTACT: Susan Schmetzer, Chief, Policy & Compliance Division, Health Administration Center, Department of Veterans Affairs, P.O. Box 65020, Denver, CO 80206, telephone 303–331–7552. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on July 29, 2003 (68 FR 44507) we proposed to amend VA's medical regulations at 38 CFR part 17 to provide for the payment of non-VA physician services in Alaska that are associated with either outpatient or inpatient care provided to eligible VA beneficiaries at non-VA facilities. We provided a 60-day comment period that ended on September 29, 2003. We received one comment, in which the commenter suggested that VA adopt the Official Alaska Workers' Compensation Medical Fee Schedule as a basis for such payments. No changes are made based on this comment, as adoption of the Official Alaska Workers' Compensation Medical Fee Schedule would not achieve the dual goal of ensuring that the amounts paid to health care providers better represent the local cost to furnish a service, while continuing to achieve program cost reductions.

A number of technical changes of a non-substantive nature have been made in this final rule. The proposed rule described the title of this rule as *Payment for Non-VA Physician Services Associated with Either Outpatient or Inpatient Care Provided at Non-VA Facilities.* The use of the phrase ''non-VA physician,'' both in the title of 38 CFR 17.56 and throughout the regulation, is imprecise, as the rule applies to all non-VA physician and other health care professional services associated with outpatient or inpatient care provided at non-VA facilities. In order to reconcile the terminology used in this rule with common practice in VA, the phrase ''non-VA physician'' will be replaced with ''non-VA health care professional services.'' Additionally, the language was clarified to state the rates payable are based on the geographic location of where the services were rendered.

The proposed rule stated that VA would rely on Current Procedural Terminology (CPT) codes utilized by Centers for Medicare and Medicaid Services (CMS) to pay for these non-VA services. The reference to CPT codes was too restrictive, as CMS uses other national coding sets for health care professional services. Therefore, the references to CPT codes were removed. The final rule refers generally to the use of national standard code sets.

The proposed rule referenced Fiscal Year (FY) 2002 as the base year for determining various costs. In light of the passage of time since publication of the proposed rule, and in order to reflect the most up-to-date data, this reference has been changed to FY 2003 throughout the final rule.

The proposed rule stated that 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. Applying this rule only to services that VA had no occasion to pay during the previous Fiscal Year was unnecessarily narrow and would limit VA's ability to accurately gauge a reasonable payment. It is also inconsistent with other provisions of this rule, which require a minimum of eight occurrences. Therefore, the final rule has been revised to apply this rule to services that VA provided *less than eight times* in Alaska during the previous Fiscal Year. Clarification was also made that this rule would be applicable to unit-based codes as the VA moved from a single payment per code irrespective of units to unit-based payment in FY 2004, and development of a fee schedule that is not unit-based would be inconsistent and inaccurate.

The proposed rule stated that VA would increase the amounts on the VA Fee Schedule for Alaska annually in accordance with annual inflation rate adjustments published by CMS. The VA will use the national Medicare Economic Index (MEI) for that purpose. The MEI measures inflation in physician practice cost and general wage levels. The VA will not make modifications to the MEI based on regional factors because doing so would not achieve the dual goal of ensuring that the amounts paid to health care providers represent the local cost to furnish a service, while continuing to achieve program cost reductions.

Administrative Procedure Act

The modifications in this final rule are logical and reasonable outgrowths of the proposed changes set forth in the proposed rule and are intended to clarify the intent of the proposed rule. Based on the rationales set forth in the proposed rule and those contained in this document, we are adopting the provisions of the proposed rule as a final rule with the modifications described above.