

comment period was provided for in the proposed rule.

#### List of Subjects

##### 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

##### 7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

■ For the reasons set forth above, 7 CFR parts 915 and 944 are amended as follows:

■ 1. The authority citation for 7 CFR parts 915 and 944 continues to read as follows:

*Authority:* 7 U.S.C. 601–674.

#### PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

■ 2. A new paragraph (a)(3) is added to § 915.332 to read as follows:

##### § 915.332 Florida avocado maturity regulation.

(a) \* \* \*

(3) Avocados which fail to meet the maturity requirements specified in this section must be maintained under the supervision of the Federal or Federal-State Inspection Service using the Positive Lot Identification program, and when presented for reinspection, must meet the maturity requirements which correspond to the date of the original inspection.

\* \* \* \* \*

#### PART 944—FRUITS; IMPORT REGULATIONS

■ 3. A new paragraph (a)(3) is added to § 944.31 to read as follows:

##### § 944.31 Avocado import maturity regulation.

(a) \* \* \*

(3) Avocados which fail to meet the maturity requirements specified in this section must be maintained under the supervision of the Federal or Federal-State Inspection Service using the Positive Lot Identification program, and when presented for reinspection, must meet the maturity requirements which correspond to the date of the original inspection.

\* \* \* \* \*

Dated: May 6, 2008.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E8–10462 Filed 5–9–08; 8:45 am]

BILLING CODE 3410–02–P

#### DEPARTMENT OF VETERANS AFFAIRS

##### 38 CFR Part 17

RIN 2900–AM40

#### Provision of Hospital Care and Medical Services During Certain Disasters or Emergencies

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) hereby establishes regulations regarding the provision of hospital care and medical services under the VA Emergency Preparedness Act of 2002, to individuals responding to, involved in, or otherwise affected by certain disasters or emergencies (including individuals who otherwise do not have VA eligibility for such care and services).

**DATES:** *Effective Date:* This final rule is effective May 12, 2008.

**FOR FURTHER INFORMATION CONTACT:** Tony A. Guagliardo, Director, Business Policy, Chief Business Office (163), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 254–0406. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** This document amends VA medical regulations to implement provisions of Public Law 107–287, the VA Emergency Preparedness Act of 2002, regarding hospital care and medical services provided to individuals responding to, involved in, or otherwise affected by certain disasters or emergencies (including individuals who otherwise do not have VA eligibility for such care and services).

This final rule adopts, without change, the provisions of the corresponding proposed rule published in the **Federal Register** on July 12, 2007 (72 FR 38042), based on the rationale set forth in the proposed rule and this document. The proposed rule provided for a 60-day comment period which ended September 10, 2007. We received comments from three individuals. The comments are discussed below.

One commenter merely expressed agreement with the provisions of the proposed rule.

A second commenter asserted that free care should be provided by the Federal government to anyone who needs it when a disaster occurs. We made no changes based on this comment. As proposed and under this final rule at § 17.86(e), individuals who receive hospital care or medical services

under the emergency provisions are responsible for the cost of the hospital care or medical services when charges are mandated by Federal law (including applicable appropriation acts) or when the cost of care or services is not reimbursed by other-than-VA Federal departments or agencies. This is intended to help ensure that funding will be available to VA for hospital care and medical services for veterans eligible for such care and services and in some instances is required by Federal law.

A third commenter expressed support for the proposed rule changes. The commenter also expressed views concerning how VA should prepare for and act in response to disasters. Those statements concern matters not within the scope of this rulemaking. Accordingly, we made no changes based on this comment.

#### Administrative Procedure Act

Pursuant to 5 U.S.C. 553(d), we find that there is good cause to dispense with a 30-day delay in the effective date of this rule. We find that delay in its effective date would be contrary to the public interest. A disaster or emergency requiring the use of this rule could occur at any time and it is in the public interest that we have in place regulations to implement the emergency program under 38 U.S.C. 1785, in compliance with the provisions of section 205 of division I of Public Law 110–161, the Consolidated Appropriations Act, 2008, if and when the need arises. Further, we find that this rule's provisions are not ones for which members of the public would need a delay in effective date to prepare for the changes made by the rule.

#### 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 the 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 given year. This rule will have no such effect on State, local, and tribal governments, or the private sector.

#### Paperwork Reduction Act of 1995

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

#### Executive Order 12866

Executive Order 12866 directs agencies to assess all 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, and other advantages; distributive impacts; and equity). The Executive Order classifies a "significant regulatory action," requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, 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 the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and it has been determined to be a significant regulatory action under the Executive Order because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

#### Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. In addition to affecting individuals, this document will affect mainly large insurance companies. Further, where small entities are involved, they will not be impacted significantly since an inconsequential portion of their business will be with VA. Accordingly, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

#### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.005, Grants to States for the Construction of State Homes; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009,

Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.016, Veterans State Hospital Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; and 64.022, Veterans Home Based Primary Care.

#### 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: February 5, 2008.

**Gordon H. Mansfield,**

*Deputy Secretary of Veterans Affairs.*

■ For the reasons set forth in the preamble, the Department of Veterans Affairs 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, 1721, and as noted in specific sections.

■ 2. Add an undesignated center heading and § 17.86 to read as follows:

#### Care During Certain Disasters and Emergencies

##### § 17.86 Provision of hospital care and medical services during certain disasters and emergencies under 38 U.S.C. 1785.

(a) This section sets forth regulations regarding the provision of hospital care and medical services under 38 U.S.C. 1785.

(b) During and immediately following a disaster or emergency referred to in paragraph (c) of this section, VA under 38 U.S.C. 1785 may furnish hospital care and medical services to individuals (including those who otherwise do not have VA eligibility for such care and services) responding to, involved in, or otherwise affected by that disaster or emergency.

(c) For purposes of this section, a *disaster or emergency* means:

(1) A major disaster or emergency declared by the President under the

Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) (Stafford Act); or

(2) A disaster or emergency in which the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh-11(b)) is activated either by the Secretary of Health and Human Services under paragraph (3)(A) of that section or as otherwise authorized by law.

(d) For purposes of paragraph (b) of this section, the terms *hospital care* and *medical services* have the meanings given such terms by 38 U.S.C. 1701(5) and 1701(6).

(e) Unless the cost of care is charged at rates agreed upon in a sharing agreement as described in § 17.102(e), the cost of hospital care and medical services provided under this section to an officer or employee of a department or agency of the United States (other than VA) or to a member of the Armed Forces shall be calculated in accordance with the provisions of § 17.102(c) and (h). Other individuals who receive hospital care or medical services under this section are responsible for the cost of the hospital care or medical services when charges are mandated by Federal law (including applicable appropriation acts) or when the cost of care or services is not reimbursed by other-than-VA Federal departments or agencies. When individuals are responsible under this section for the cost of hospital care or medical services, VA will bill in the amounts calculated in accordance with the provisions of § 17.102(h), without applying the exception provided in the first paragraph of § 17.102.

(f) VA may furnish care and services under this section to a veteran without regard to whether that individual is enrolled in the VA healthcare system under 38 U.S.C. 1705 and § 17.36 of this part.

(Authority: 38 U.S.C. 501, 1785)

#### § 17.102 [Amended]

■ 3. Amend § 17.102 by:

■ a. In paragraph (b)(1), removing “§ 17.43(c)(1)” and adding, in its place, “§ 17.43(b)(1)”.

■ b. In the first sentence of paragraph (h), adding “§ 17.86 and under” after “charges under”; removing “Cost Distribution Report” and adding, in its place, “Monthly Program Cost Report (MPCR)”; and removing “and outpatient visit” and adding, in its place, “, and actual basic costs and rates for outpatient care visits or prescriptions filled”.

■ c. In the fifth sentence of paragraph (h), removing “Cost Distribution

Report” and adding, in its place, “MPCR”.

[FR Doc. E8-10488 Filed 5-9-08; 8:45 am]

BILLING CODE 8320-01-P

## GENERAL SERVICES ADMINISTRATION

### 48 CFR Parts 6101, 6102, 6103, 6104, and 6105

[GSA BCA Amendment 2006-01; BCA Case  
2006-61-1]

RIN 3090-AI29

### Board of Contract Appeals; BCA Case 2006-61-1; Rules of Procedure of the Civilian Board of Contract Appeals

**AGENCIES:** General Services  
Administration (GSA), Civilian Board of  
Contract Appeals.

**ACTION:** Final rule.

**SUMMARY:** This document contains final revisions to the interim rules of procedure of the Civilian Board of Contract Appeals (Board), which was published in the *Federal Register* at 72 FR 36794, July 5, 2007. These rules will govern all proceedings before the Board, and will be contained in 48 CFR parts 6101 through 6105. These rules of procedure supersede the current interim rules of the Board.

**DATES:** Effective Date: May 12, 2008.

**FOR FURTHER INFORMATION CONTACT**  
Margaret S. Pfunder, Chief Counsel,  
Civilian Board of Contract Appeals,  
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clarification of content. For information  
pertaining to status or publication  
schedules, contact the Regulatory  
Secretariat at (202) 501-4755. Please  
cite BCA Case 2006-61-1.

#### SUPPLEMENTARY INFORMATION:

##### A. Executive Summary

Part 6101 contains the rules governing proceedings involving contract disputes - both standard proceedings of the Board and expedited proceedings, including alternative dispute resolution. Part 6102 contains the rules governing the resolution of disputes between insurance companies and the Department of Agriculture's Risk Management Agency (RMA) involving actions of the Federal Crop Insurance Corporation (FCIC). Part 6103 contains rules governing proceedings involving requests by carriers or freight forwarders to review actions taken by the Audit Division of the General Services Administration's Office of Transportation and Property

Management. Part 6104 contains the rules governing the Board's resolution of claims by Federal civilian employees for certain travel or relocation expenses. And part 6105 governs the Board's issuance of decisions, upon the request of an agency disbursing or certifying official, or an agency head, on questions involving payment of certain travel or relocation expenses. The Board has adopted these rules pursuant to its authority contained in the Contract Disputes Act of 1978 (41 U.S.C. 601-613).

##### B. Background

The Civilian Board of Contract Appeals (Board) published in the *Federal Register* at 72 FR 36794, July 5, 2007, interim rules of procedure along with a notice inviting comments on those rules. This notice announced the intention to promulgate final rules of procedure, following the Board's review and consideration of all comments, to govern all proceedings before the Board. The period for comments closed on September 28, 2007. The Board has considered all comments received, revising the interim rules, in part, as explained in part D below, and now promulgates its final rules of procedure.

##### C. Summary of Comments and Changes:

The Board received comments from six commentators. Commentators included two federal agencies, one law firm, one non-profit association, one bar association, and one group of attorneys. The Board carefully considered each comment and adopted several of the suggestions made by the commentators. All comments received by the Board pertained specifically to part 6101 of the Rules. The more significant of those comments are discussed below.

##### Part 6101

*General.* In response to one commentator's suggestion, the Board amends the Rules throughout to change all references to “panel chair” to “presiding judge” in order to maintain a consistent terminology. Similarly, the Board accepts the suggestion of another commentator and amends the Rules to substitute the term “electronically stored information” for “electronic records” in order to conform to the language in the Federal Rules of Civil Procedure.

Several of the rules which pertain to contract disputes (sections 6101.1(a), 6101.2(a) and (b), 6101.4(a), 6101.5(a), 6101.12(a), and 6101.54(a)) use the term “contracting officer”. Cases which arise under the Indian Self-Determination Act, 25 U.S.C. 450m-1, are heard and decided in the same manner as contract

disputes, but the agency decisions from which these appeals are taken may have been made by someone other than a contracting officer. For these cases, the term “contracting officer” refers to the individual who rendered the decision at issue.

The Board also received comments from a bar association, a non-profit association, and a law firm suggesting that electronic filing of cases and submissions be permitted. The Board agrees that electronic filing would be beneficial in that it would permit parties—wherever they are in the world—to transmit pleadings and other submissions quickly, easily, economically, and reliably. We are exploring means of instituting electronic filing and anticipate that before long we will be able to adopt one of them. At the present time, however, we are unable to accept filings electronically (other than by facsimile transmission). As soon as we are able to do so, we expect to propose amendments to the rules which explain how such filings may be made.

*6101.1 [Scope of rules; definitions; construction; rulings, orders, and directions; panels; location and address].* Two commentators suggested changes to the definition of when a document is “filed” with the Board. Section 6101.1(b)(5)(i) provides: “Any document, other than a notice of appeal or an application for award of fees and other expenses, is filed when it is received by the Office of the Clerk of the Board during the Board's working hours. A notice of appeal or an application for award of fees and other expenses is filed upon the earlier of its receipt by the Office of the Clerk of the Board or if mailed, the date on which it is mailed.” One commentator suggested expanding the definition to provide that any document is considered “filed” when delivered to the Office of the Clerk or, if mailed or to be delivered by a delivery service, when deposited with the United States Postal Service or delivery service. A second commentator suggested that the closing time for receipt of a document by the Office of the Clerk be 4:30 local time of the party's representative rather than 4:30 Eastern Time. The Board declines to make either proposed change. The Board's practice concerning the filing of documents other than a notice of appeal or an application for award of fees and other expenses is consistent with the practice of courts which consider documents “filed” only when they are in the hands of the clerk. As for the second suggestion, it would place an undue burden on the clerk and the judges to allow filing times to vary according to the time zone of a party's