(4) For installations outside of the United States, the applicant has an appropriate host-nation authorization as necessary that allows the applicant to use the ionizing radiation source in the manner requested in the Army radiation permit application and has in place a radiation safety program that complies with applicable Army regulations and host nation laws and regulations.

(h) Applicants and permit holders shall comply with all applicable Federal, state, interstate, and local laws and regulations, status-of-forces agreements (SOFAs), and other international agreements.

(i) Each Army radiation permit will require the permit holder to remove its permitted ionizing radiation sources from Army property prior to the expiration of the permit and restore all real or personal property of the Army that was modified, altered, or otherwise changed as a result of the permit holder's activities to the condition such property was in prior to the effective date of the permit.

(j) An Army radiation permit issued pursuant to this section shall be valid for no more than 12 months.

(k) Disposal of radioactive material by non-Army entities on Army property is prohibited. However, the garrison commander may give written authorization for releases of radioactive material to the atmosphere or to the sanitary sewerage system if such releases are in compliance with all applicable Federal, State, interstate, and local laws and regulations, including but not limited to, the NRC regulations at 10 CFR part 20, Subpart K, or the equivalent requirements of an Agreement State, and regulations issued by the Army or the Department of Defense, to include compliance with any applicable requirement to obtain a permit, license, or other authorization, or to submit any information, notification, or report for such release.

[FR Doc. 2011–2748 Filed 2–7–11; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket Number USCG–2011–0029]

Drawbridge Operation Regulation; Upper Mississippi River, Keokuk, IA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Keokuk Drawbridge across the Upper Mississippi River, mile 364.0, at Keokuk, Iowa. The deviation is necessary to allow the bridge owner time to perform the needed maintenance and repairs to the bridge that is essential to the continued safe operation of the drawbridge. This deviation allows the bridge to remain in the closed-to-navigation position for thirty days.

DATES: This deviation is effective from 12:01 a.m., January 30, 2011 until 9 a.m., February 28, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0029 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0029 in the "Keyword" box and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone (314) 269–2378, e-mail *Eric.Washburn@uscg.mil*. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: The City of Keokuk, Iowa requested a temporary deviation for the Keokuk Drawbridge, across the Upper Mississippi River, mile 364.0, at Keokuk, Iowa to remain in the closed-to-navigation position in order to facilitate needed bridge maintenance and repairs. The Keokuk Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that drawbridges shall open promptly and fully for the passage of vessels when a request to open is given in accordance with the subpart. This deviation allows the bridge to remain in the closed-to-navigation position from 12:01 a.m., January 30, 2011 until 9 a.m., February 28, 2011.

There are no alternate routes for vessels transiting this section of the Upper Mississippi River.

Winter conditions on the Upper Mississippi River coupled with the closure of U.S. Army Corps of Engineer's Lock 20, mile 343.2, Lock 21, mile 324.9, and Lock 22, mile 301.2 from January 30, 2011 to February 28, 2011 will preclude any significant navigation demands for the drawspan to open.

The Keokuk Drawbridge, in the closed-to-navigation position, provides a vertical clearance of 25.0 feet above normal pool. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This temporary deviation has been coordinated with waterway users. No objections were received.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 24, 2011.

Eric A. Washburn,

Bridge Administrator.

[FR Doc. 2011–2688 Filed 2–7–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

RIN 2900–AN88

Disclosure of Medical Information to the Surrogate of a Patient Who Lacks Decision-Making Capacity

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) regulations to reflect changes made by section 504 of the Caregivers and Veterans Omnibus Health Services Act of 2010. Section 504 authorizes a VA practitioner, when the practitioner deems it necessary to ensure an informed medical decision, to share certain, otherwise protected medical information with the representative of a patient who lacks decision-making capacity. This rulemaking amends VA regulations consistent with this new authority.

DATES: *Effective Date:* February 8, 2011.

FOR FURTHER INFORMATION CONTACT: Stephania Griffin, Veterans Health Administration Privacy Officer, Office of Information (19F2), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (704) 245–2492 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: This document amends VA's regulations consistent with section 504 of the Caregivers and Veterans Omnibus

Health Service Act of 2010, Public Law 111–163. The revisions in this rulemaking restate the new statutory authority so that our regulations accurately state that practitioners can disclose certain protected information to a patient's representative under the specified circumstances. Because the revisions merely restate or interpret statutory provisions, we have not provided the public with the opportunity to comment on these changes.

Section 504 of Public Law 111–163 amended 38 U.S.C. 7332(b)(2), which governs the confidentiality of certain medical records. Generally, section 7332 bars VA from disclosing the content of any record of the identity, diagnosis, prognosis, or treatment of patient that is maintained in connection with any VA program or activity relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus, or sickle cell anemia, without first obtaining the written consent of the patient. 38 U.S.C. 7332(a)(1), (b)(1). However, under section 7332(b)(2), VA may disclose such records "[w]hether or not [the] patient * * * gives written consent" under circumstances specified in subparagraphs following subsection (b)(2). In section 504, Congress added a new subparagraph (b)(2)(F) to 38 U.S.C. 7332, which states that the records may be disclosed without consent as follows: "To a representative of a patient who lacks decision-making capacity, when a practitioner deems the content of the given record necessary for that representative to make an informed decision regarding the patient's treatment."

This rulemaking adds a new regulation, which incorporates the statutory amendment regarding disclosures to patients' representatives (38 CFR 1.484), and amends an existing VA regulation to clarify the meaning of terms used in the new section (38 CFR 1.460).

First, we are amending § 1.460, the regulation that contains definitions applicable to 38 CFR 1.460 through 1.499, which concern the confidentiality of information relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus, or sickle cell anemia in VA records and are applicable in combination with other regulations pertaining to the release of information from VA records. We are adding definitions of "decision-making capacity," "practitioner," and "surrogate" to 38 CFR 1.460. These terms appear only in 38 CFR 1.484, the new section implementing the new statutory provision; however, we are including them in the general definitions regulation because we believe that, at some point in the future, the definitions may be applicable to other disclosure of information regulations. We want to make sure that the terms will be used consistently throughout this body of regulations. We are adding these definitions for purposes of clarification and interpretation only and intend no substantive change regarding the additional authority granted by Congress in the amendment to section 7332.

In amended 38 CFR 1.460, "decision-making capacity" and "practitioner" are defined as "ha[ving] the same meaning set forth in 38 CFR 17.32(a)." This is consistent with the plain language and intent of 38 U.S.C. 7332(b)(2)(F). The purpose of § 17.32(a) is to provide definitions in the context of providing informed consent. The amendment to fnl;38 U.S.C. 7332 likewise is intended to assist a patient's representative in making "an informed decision regarding the patient's treatment." Moreover, § 17.32(a) specifically is authorized by 38 U.S.C. 7331–7334.

Under 38 U.S.C. 7332(b)(2)(F)(i), VA is authorized to release the identified medical information to a "representative," which is defined in 38 U.S.C. 7332 (b)(2)(F)(ii) as "an individual, organization, or other body authorized under [38 U.S.C. 7331] and its implementing regulations to give informed consent on behalf of a patient who lacks decision-making capacity." As noted above, 38 CFR 17.32(a) is one such "implementing regulation[ ]." Therein, we define a "surrogate" as "an individual, organization, or other body authorized under [38 CFR 17.32] to give informed consent on behalf of a patient who lacks decision-making capacity." Because the existing definition of "surrogate" is substantively identical to the statutory definition of "representative," we interpret "representative" as used by Congress in section 7332(b)(2)(F)(ii) to mean "surrogate." This will promote clarity, cohesiveness, and consistency in our regulations.

We are adding 38 CFR 1.484 to state, in a regulation, the new authority provided by 38 U.S.C. 7332(b)(2)(F). The language of the regulation is derived directly, almost verbatim, from section 7332. This language is clear on its face and easy for practitioners to apply.

We note that we are not revising 38 CFR 1.465(a), because a "court appointed legal guardian" meets the statutory definition of "surrogate" under 38 CFR 1.460 and 17.32(a). We also find it unnecessary to revise 38 CFR 1.487 through 1.496 because these regulations authorize disclosure based on authority independent of 38 U.S.C. 7332(b)(2)(F).

Administrative Procedure Act

VA finds, in accordance with 5 U.S.C. 553(b)(A) of the Administrative Procedure Act (APA), that this final rule merely incorporates statutory provisions or interprets those provisions. Therefore, the provisions of the APA regarding notice of proposed rulemaking and opportunities for public participation are not applicable. Further, pursuant to section 553(d)(2), this final rule is exempt from the APA's 30-day delayed effective date requirement.

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 an 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 final rule will have no such effect on state, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule does not contain any collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

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 regulatory action as a "significant regulatory action," requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, if it is a 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 not to be a significant regulatory action 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 final rule affects only VA beneficiaries and their VA clinicians. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604. This final rule is also exempt from the regulatory flexibility analysis requirements of sections 603 and 604 because it was not preceded by a notice of proposed rulemaking.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on February 2, 2011, for publication.

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Archives and records, Cemeteries, Claims, Courts, Crime, Flags, Freedom of Information, Government contracts, Government employees, Government property, Infants and children, Inventions and patents, Parking, Penalties, Privacy, Reporting and recordkeeping requirements, Seals and Insignia, Security measures, Wages.

Dated: February 3, 2011.

Robert C. McFetridge,

Director, Regulations Policy and Management, Department of Veterans Affairs.

For the reasons set forth in the preamble, VA amends 38 CFR part 1 as follows:

PART 1—GENERAL PROVISIONS

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

Authority: 38 U.S.C. 501(a), and as noted in specific sections.

■ 2. Amend § 1.460 by adding, in alphabetical order, the definitions of "decision-making capacity," "practitioner," and "surrogate," and by revising the authority citation at the end of the section to read as follows:

§ 1.460 Definitions.

* * * * *

Decision-making capacity. The term "decision-making capacity" has the same meaning set forth in 38 CFR 17.32(a).

* * * * *

Practitioner. The term "practitioner" has the same meaning set forth in 38 CFR 17.32(a).

* * * * *

Surrogate. The term "surrogate" has the same meaning set forth in 38 CFR 17.32(a).

* * * * *

(Authority: 38 U.S.C. 7332, 7334)

■ 3. Add § 1.484 after the undesignated center heading "Disclosures Without Patient Consent" preceding § 1.485, to read as follows:

§ 1.484 Disclosure of medical information to the surrogate of a patient who lacks decision-making capacity.

A VA medical practitioner may disclose the content of any record of the identity, diagnosis, prognosis, or treatment of a patient that is maintained in connection with the performance of any VA program or activity relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus, or sickle cell anemia to a surrogate of the patient who is the subject of such record if:

(a) The patient lacks decision-making capacity; and

(b) The practitioner deems the content of the given record necessary for the surrogate to make an informed decision regarding the patient's treatment.

(Authority: 38 U.S.C. 7331, 7332)

[FR Doc. 2011–2750 Filed 2–7–11; 8:45 am]

BILLING CODE 8320–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1816

RIN 2700–AD69

NASA Implementation of Federal Acquisition Regulation (FAR) Award Fee Language Revision

AGENCY: National Aeronautics and Space Administration.

ACTION: Interim rule.

SUMMARY: This interim rule revises the NASA FAR Supplement (NFS) to implement the FAR Award Fee revision issued in Federal Acquisition Circular (FAC) 2005–46.

DATES: *Effective Date:* February 8, 2011.

Comment Date: Interested parties should submit written comments to NASA at the address below on or before April 11, 2011 to be considered in the formulation of the final rule.

ADDRESSES: Interested parties may submit comments, identified by RIN number 2700–AD69, via the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. Comments may also be submitted to Bill Roets, NASA Headquarters, Office of Procurement, Contract Management Division, Washington, DC 20546. Comments may also be submitted by e-mail to *william.roets-1@nasa.gov.*

FOR FURTHER INFORMATION CONTACT: Bill Roets, NASA, Office of Procurement, Contract Management Division (Suite 5G86); (202) 358–4483; *e-mail: william.roets-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

Federal Acquisition Circular (FAC) 2005–46 significantly revised FAR Parts 16.305, 16.401, and 16.405–2, incorporating new requirements relative to the use of award fee incentives. Specifically, this FAR rule implements section 814 of the John Warner 2007 National Defense Authorization Act (NDAA) and section 867 of the Duncan Hunter 2009 NDAA and requires agencies to:

(1) Link award fees to acquisition objectives in the areas of cost, schedule, and technical performance;

(2) Clarify that the base fee may be included in a cost plus award fee type contract at the discretion of the contracting officer;

(3) Prescribe narrative ratings when making a percentage of award fee available;

(4) Prohibit the issuance of award fees for a rating period if the contractor's performance is judged to be below satisfactory;

(5) Conduct an analysis and consider the results of the analysis when determining whether to use an award fee type contract or not;

(6) Include specific content in the award fee plans; and

(7) Prohibit the rolling over of unearned award fees to subsequent rating periods.

These significant revisions in FAR award fee guidance resulted in the need