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DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Parts 14 and 20

RIN 2900-AP71

Mailing Address of the Board of Veterans' Appeals

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations on representation of claimants and the Rules of Practice of the Board of Veterans' Appeals (Board) to update the Board's mailing address and titles of certain individuals and offices at the Board to whom mail is addressed. These amendments are necessary because of a mailing address change and to ensure that correct titles of certain individuals and offices at the Board are reflected in the regulations.

DATES: Effective Date: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Donnie R. Hachey, Chief Counsel for Operations, Board of Veterans' Appeals (01C2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 632-4603.

(This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Board is updating its mailing address because of new centralized mail procedures. This document amends 38 CFR parts 14 and 20 to update the Board's mailing address and titles of certain individuals and offices to whom mail is addressed. The purpose of these revisions is to ensure that the information contained in 38 CFR parts 14 and 20 is current and correct.

The new centralized mail procedures are consistent with paperless VA claims and appeals processing. The purpose of these procedures is to increase efficiency of mail processing. Centralized mail processing allows Board staff to electronically review mail related to appeals and upload that mail to a Veteran's electronic claims file in the Veterans Benefits Management System (VBMS).

Centralized mail processing allows for electronic processing of the Board's appeals-related mail. The Board also receives mail not intended to be associated with a Veteran's claims file for consideration in a specific case. For example, as indicated above, an individual seeking additional information regarding this rulemaking may contact the Board's Chief Counsel for Operations, via mail. The Board also distributes a Board of Veterans' Appeals Hearing Survey Card, VA Form 0745, which allows an appellant to provide anonymous feedback regarding his or her Board hearing. The Board Hearing Survey Card includes an attached Business Reply Mail envelope addressed to the Board. Additionally, the Board's incoming mail includes various periodicals.

The Board is presently only utilizing centralized mail procedures to process mail related to appeals, which should be mailed to the Board's new post

office box. Other types of mail should continue to be mailed to the Board at 810 Vermont Avenue, NW., Washington, DC 20420. VA is amending 38 CFR 20.100(c), to distinguish between these two different mailing addresses for these two different types of mail.

#### Administrative Procedure Act

These changes to 38 CFR parts 14 and 20 are being published without regard to notice-and-comment procedures of 5 U.S.C. 553(b) because they involve only matters of agency organization, procedure, or practice, which are exempted from such procedures by virtue of 5 U.S.C. 553(b)(A). Further, because these changes do not involve substantive rules, they are not subject to the provisions of 5 U.S.C. 553(d) providing for a 30-day delay in the effective date of substantive rules.

#### Paperwork Reduction Act

Although this action contains provisions constituting collections of information at 38 CFR 20.608, 20.702, and 20.704, under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521), no new or proposed revised collections of information are associated with this final rule. The information collection requirements for §§ 20.608, 20.702, and 20.704 are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 2900-0085.

### 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 (5 U.S.C. 601-612). This final rule will directly affect only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the final regulatory flexibility analysis requirements of section 604.

### Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the 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 effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action” requiring review by 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 this Executive Order."

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at <http://www.va.gov/orpm/>, by following the link for "VA Regulations Published From FY 2004 Through Fiscal Year to Date."

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

## Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers and titles for this rule are 64.100, Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces; 64.101, Burial Expenses Allowance for Veterans; 64.103, Life Insurance for Veterans; 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.105, Pension to Veterans Surviving Spouses, and Children; 64.106, Specially Adapted Housing for Disabled Veterans; 64.109, Veterans Compensation for Service-Connected Disability; 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death; 64.114, Veterans Housing-Guaranteed and Insured Loans; 64.115, Veterans Information and Assistance; 64.116, Vocational Rehabilitation for Disabled Veterans; 64.117, Survivors and Dependents Educational Assistance; 64.118, Veterans Housing-Direct Loans for Certain Disabled Veterans; 64.119, Veterans Housing-Manufactured Home Loans; 64.120, Post-Vietnam Era Veterans' Educational Assistance; 64.124, All-Volunteer Force Educational Assistance; 64.125, Vocational and Educational Counseling for Servicemembers and Veterans; 64.126, Native American Veteran Direct Loan Program; 64.127, Monthly Allowance for Children of Vietnam Veterans Born with Spina Bifida; and 64.128, Vocational Training and Rehabilitation for Vietnam Veterans' Children with Spina Bifida or Other Covered Birth Defects.

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. Robert D. Snyder, Chief of Staff, Department of Veterans Affairs, approved this document on March 31, 2016, for publication.

List of Subjects

38 CFR Part 14

Administrative practice and procedure, Claims, Courts, Foreign relations, Government employees, Lawyers, Legal services, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Surety bonds, Trusts and trustees, Veterans.

38 CFR Part 20

Administrative practice and procedure, Claims, Veterans.

Dated: May 18, 2016

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Michael Shores  
Acting Director,  
Office of Regulation Policy & Management,  
Office of the General Counsel,  
Department of Veterans Affairs.

For the reasons set forth in the preamble, VA amends 38 CFR parts 14 and 20 as follows:

PART 14—LEGAL SERVICES, GENERAL COUNSEL, AND MISCELLANEOUS CLAIMS

1. The authority citation for part 14 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 2671-2680; 38 U.S.C. 501(a), 512, 515, 5502, 5901-5905; 28 CFR part 14, appendix to part 14, unless otherwise noted.

2. Amend § 14.629 by revising the eighth sentence of paragraph (c)(3) to read as follows:

§ 14.629 Requirements for accreditation of service organization representatives; agents; and attorneys.

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \* In the case of appeals before the Board in Washington, DC, the signed consent must be submitted to: Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038. \* \* \*

\* \* \* \* \*

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

3. The authority citation for part 20 continues to read as follows:

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

Subpart B—The Board

4. Amend § 20.100 by revising paragraph (c) to read as follows:

§ 20.100 Rule 100. Name, business hours, and mailing address of the Board.

\* \* \* \* \*

(c) Mailing Address. Except as otherwise noted in these Rules, appeals-related mail to the Board must be addressed to: Chairman (01), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038. Mail to the Board that is not related to an appeal must be addressed to: Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420.

\* \* \* \* \*

Subpart C—Commencement and Perfection of Appeal

5. Amend § 20.204 by revising the second sentence of paragraph (b)(2) to read as follows:

§ 20.204 Rule 204. Withdrawal of Appeal.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \* Thereafter, file the withdrawal at the following address:

Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038.

\* \* \* \* \*

Subpart G—Representation

6. Amend § 20.608 by revising the fifth sentence of paragraph (b)(2) to read as follows:

§ 20.608 Rule 608. Withdrawal of services by a representative.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \* Such motions must be filed at the following address: Office of the Principal Deputy Vice Chairman (01C), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038. \* \* \*

\* \* \* \* \*

Subpart H—Hearings on Appeal

7. Amend § 20.702 by:
- a. Revising the fourth sentence of paragraph (c)(1).
  - b. Revising the eighth sentence of paragraph (c)(2).
  - c. Revising the fourth sentence of paragraph (d).
  - d. Revising the third sentence of paragraph (e).

The revisions read as follows:

§ 20.702 Rule 702. Scheduling and notice of hearings conducted by the Board of Veterans' Appeals in Washington, DC.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \* In the case of hearings to be conducted by the Board of Veterans' Appeals in Washington, DC, such requests for a new hearing date must be filed with: Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038.

(2) \* \* \* In the case of hearings to be conducted by the Board of Veterans' Appeals in Washington, DC, the motion for a new hearing date must be filed with: Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038.

\* \* \* \* \*

(d) \* \* \* In the case of hearings to be conducted by the Board of Veterans' Appeals in Washington, DC, the motion must be filed with: Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038. \* \* \*

\* \* \* \* \*

(e) \* \* \* In the case of hearings to be conducted by the Board of Veterans' Appeals in Washington, DC, the notice of withdrawal must be sent to: Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038.

\* \* \* \* \*

8. Amend § 20.704 by revising the fourth sentence of paragraph (d) to read as follows:

§ 20.704 Rule 704. Scheduling and notice of hearings conducted by the Board of Veterans' Appeals at Department of Veterans Affairs field facilities.

\* \* \* \* \*

(d) \* \* \* Such motions must be filed with: Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038. \* \* \*

\* \* \* \* \*

9. Amend § 20.708 by revising the second sentence to read as follows:

§ 20.708 Rule 708. Prehearing conference.

\* \* \* With respect to hearings to be held before the Board at Washington, DC, arrangements for a prehearing conference must be made through: Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038. \* \* \*

\* \* \* \* \*

10. Amend § 20.711 by revising paragraph (c) to read as follows:

§ 20.711 Rule 711. Subpoenas.

\* \* \* \* \*

(c) Where filed. Motions for a subpoena must be filed with the Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038.

\* \* \* \* \*

11. Amend § 20.714 by revising the fourth sentence in the parenthetical in paragraph (a)(1) to read as follows:

§ 20.714 Rule 714. Record of hearing.

(a) \* \* \*

(1) \* \* \* They must be filed with: Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038.)

\* \* \* \* \*

12. Amend § 20.715 by revising the fifth sentence to read as follows:

§ 20.715 Rule 715. Recording of hearing by appellant or representative.

\* \* \* In the case of hearings held before the Board of Veterans' Appeals in Washington, DC, arrangements must be made with the Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038.

\* \* \* \* \*

13. Amend § 20.716 by revising the fifth sentence to read as follows:

§ 20.716 Rule 716. Correction of hearing transcripts.

\* \* \* In the case of hearings held before the Board of Veterans' Appeals, whether in Washington, DC, or in the field, the motion must be filed with the Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038. \* \* \*

\* \* \* \* \*

14. Amend § 20.717 by revising paragraph (c) to read as follows:

§ 20.717 Rule 717. Loss of hearing tapes or transcripts—motion for new hearing.

\* \* \* \* \*

(c) Where motion for a new hearing is filed. In the case of hearings held before the Board of Veterans' Appeals, whether in Washington, DC, or in the field, the motion must be filed with: Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038.

\* \* \* \* \*

Subpart J—Action by the Board

15. Amend § 20.900 by revising the second sentence of paragraph (c)(2) to read as follows:

§ 20.900 Rule 900. Order of consideration of appeals.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \* The motion must be filed with: Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038.

\* \* \* \* \*

#### Subpart K—Reconsideration

16. Amend § 20.1001 by revising the second sentence of paragraph (b) to read as follows:

§ 20.1001 Rule 1001. Filing and disposition of motion for reconsideration.

\* \* \* \* \*

(b) \* \* \* Such motions must be filed at the following address:

Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038.

\* \* \* \* \*

#### Subpart N—Miscellaneous

17. Amend § 20.1301 by revising the tenth sentence of paragraph (b)(2) to read as follows:

§ 20.1301 Rule 1301. Disclosure of information.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \* These requests must be directed to the Research Center (01C1), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038.

\* \* \* \* \*

18. Amend § 20.1304 by revising the fourth sentence of paragraph (b)(1) to read as follows:

§ 20.1304 Rule 1304. Request for change in representation, request for personal hearing, or submission of additional evidence following certification of an appeal to the Board of Veterans' Appeals.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \* Such motions must be filed at the following address:

Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038. \* \* \*

\* \* \* \* \*

Subpart O—Revision of Decisions on Grounds of Clear and Unmistakable Error

19. Amend § 20.1404 by revising the second sentence of paragraph (c) to read as follows:

§ 20.1404 Rule 1404. Filing and pleading requirements; withdrawal.

\* \* \* \* \*

(c) \* \* \* Such motions should be filed at the following address:

Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038.

\* \* \* \* \*

20. Amend § 20.1405 by revising paragraph (c)(2) to read as follows:

§ 20.1405 Rule 1405. Disposition.

\* \* \* \* \*

(c) \* \* \*

(2) Submission of requests. Requests for such a hearing shall be submitted to the following address: Director, Office of Management, Planning and Analysis (014), Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038.

\* \* \* \* \*

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