

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 6100 through 6106

[CBCA Case 2025-61-01; Docket No. GSA-CBCA-2025-0069;

Sequence No. 1]

RIN 3090-AL15

**Civilian Board of Contract Appeals; Rules of Procedure of
the Civilian Board of Contract Appeals; Administrative
Changes to Agency Rules of Practice and Procedure**

AGENCY: Civilian Board of Contract Appeals; General
Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The Civilian Board of Contract Appeals (Board) is making minor, noncontroversial amendments to its rules of practice and procedure to incorporate language that accounts for technological developments, to clarify differences between efilings and filings pleadings through the Board's Electronic Docketing System (EDS), to change definitions where necessary to integrate EDS filing, to delete obsolete terminology, and to enhance integration of the Board's new procedural rules proposed pursuant to recent amendments to the Administrative False Claims Act (AFCA) and the Contract Disputes Act (CDA).

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

FOR FURTHER INFORMATION CONTACT: Tara Mehrbach, Chief Counsel, Civilian Board of Contract Appeals, at 202-606-8790 or tara.mehrbach@cbca.gov. For information

pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov. Please cite RIN 3090-AL15.

SUPPLEMENTARY INFORMATION:

I. Background

The Board was established within GSA by section 847 of the National Defense Authorization Act for Fiscal Year 2006, Pub. L. 109-163. Board members are administrative judges appointed by the Administrator of General Services under 41 U.S.C. 7105(b)(2) with the concurrence of the Office of Federal Procurement Policy.

On December 23, 2024, the National Defense Authorization Act (NDAA) for Fiscal Year 2025 (FY 2025 NDAA) (P.L. 118-159) was signed into law. The FY 2025 NDAA expands the Administrative False Claims Act of 2023 (AFCA), 31 U.S.C. 3801 et seq. This Act, previously known as the Program Fraud Civil Remedies Act of 1986, offers an administrative remedy for addressing false claims and statements made to the United States that the Department of Justice opts not to prosecute. The FY 2025 NDAA also amended the CDA (41 U.S.C. 7101-7109). The CDA amendment expanded the jurisdiction of certain agency boards of contract appeals, including the Board, to hear cases referred to the Board under AFCA (41 U.S.C. 7105). The new statutory language requires the Board to amend procedural regulations within 180 days of enactment of the FY 2025 NDAA (31 U.S.C. 3801 note).

The Board's new procedural rules associated with

AFCA jurisdiction, 48 CFR 6107, will govern the Board's processing of cases under AFCA. In drafting the new AFCA-related procedural rules, the Board had to make some amendments to its existing rules of practice and procedure to accommodate the AFCA-specific rules. The Board has also amended its rules of practice and procedure to integrate terms and provisions related to the Board's transition to an Electronic Docketing System (EDS).

The Board's minor proposed amendments to its rules of practice and procedure fall into several categories. A new provision at 48 CFR 6100 provides an introduction to the Board's rules and procedures. Other categories of these amendments to the Board's rules of practice and procedure include changes necessitated by the Board's transition to EDS filing, editorial changes, removal of obsolete language, updates to address the evolution of technology, alignment of language to accommodate new or amended rules, and miscellaneous changes.

Rule changes necessitated by the Board's transition to EDS filing include Rules 6101.1 (updating definitions related to business day, e filing, service, and timeliness), 6101.4 (setting forth procedure for e filing of appeal files), and 6101.7 (defining how service is achieved when filing in EDS) as well as Rule 6106.604 and 6106.605 (requiring the filing of all documents in EDS except upon permission of the Clerk and for voluminous attachments, setting forth methods for filing voluminous

attachments, and updating service for Federal Emergency Management Agency (FEMA) arbitration disputes).

Editorial changes were made to Rules 6101.1, 6101.2, 6101.3, 6101.4, 6101.5, 6101.6, 6101.8, 6101.9, 6101.12, 6101.13, 6101.16, 6101.19, 6101.24, 6101.25, 6101.26, and 6101.53. Editorial changes were also made to Rules 6102.201 and 6102.202; 6103.301, 6103.302, 6103.303, 6103.304, 6103.306, and 6103.307; 6104.401, 6104.402, 6104.403, 6104.406, and 6104.407; 6105.501, 6105.502, 6105.503, 6105.505, and 6105.506; and 6106.604, 6106.605, 6106.607, 6106.609, 6106.610, and 6106.611.

Obsolete language was removed from Rules 6101.36 (removing the rule regarding the Board's seal which is no longer used to authenticate filings), 6102.202 (removing paper filing and other obsolete requirements in Federal Crop Insurance Corporation (FCIC) disputes), 6103.302 (removing information about filing by facsimile for transportation rate claims), 6104.402 (removing information about filing by facsimile for travel and relocation claims), and 6105.502 (removing information about filing by facsimile for travel and relocation requests for advisory opinions).

Many rules were updated to address the evolution of technology including Rules 6101.1 (explaining efilings, transmission of electronic records, EDS, computation of time, and what constitutes service; removing the Board's facsimile information; and clarifying email addresses), 6101.4 (setting forth the procedure for efilings appeal

files and removing paper filing of appeal files), 6101.9 (explaining that parties in a CDA case can access case records in EDS), and 6101.22 (restricting the recording of hearings regardless of whether the hearing is conducted in person or virtually); 6102.202 (updating e-filing provisions for FCIC disputes); 6103.301 (updating e-filing methods and computation of time for transportation rate claims), 6103.302 (updating when a transportation rate claim is considered filed), and 6103.303, 6103.304, and 6103.307 (setting forth uniform 30-day response, reply, and reconsideration request time requirements for transportation rate claims regardless of location of claimant or agency office); 6104.401 (updating e-filing methods and computation of time for travel and relocation claims) and 6104.403, 6104.404, and 6104.407 (setting forth uniform 30-day response, reply, and reconsideration request time requirements for transportation rate claims regardless of location of claimant or agency office); 6105.502 (updating e-filing methods and computation of time for travel and relocation requests for advisory opinions) and 6105.503 and 6105.506 (setting forth uniform 30-day additional submission and reconsideration request time requirements regardless of the location of the affected employee or agency for matters related to an agency's request for a decision on questions involving payment of travel or relocation expenses); 6106.604 (cross-referencing updated definitions in the CDA rules related to business day,

filing in EDS, e-filing, and filing methods for exhibits), 6106.611 (expanding FEMA "hearing" options under streamlined procedures in FEMA arbitrations to include in person, virtual, hybrid, and/or on the written record), and 6106.612 (expanding the "hearing" options to include in person, virtual, or hybrid hearings).

Several rules were amended to align existing rule language with statutory or regulatory language or new or amended rule language including Rule 6101.36-50 (reserved) and 6101.55 (adding effective date); 6102.201 (updating statutory reference) and 6102.203 (adding effective date); 6103.309 (adding effective date); 6104.409 (adding effective date); 6105.507 (adding effective date); 6106.602 (aligning minimum dispute amount with statutory language), 6106.603 (aligning with regulatory language and adding cross-reference to time computation), 6106.604 (updating language to comport with EDS filing requirements), and 6106.614 (adding effective date).

Miscellaneous changes were made to Rules 6101.5 (addressing withdrawals of appearance); 6101.8 (explaining weighing of factual assertions and undisputed facts); 6104.406 (addressing publication of travel and relocation decisions); 6105.505 (addressing publication of travel and relocation requests for advisory opinions); 6106.605 (explaining the Board's preferred method of assembling and submitting exhibits and clarifying citation requirements); and 6106.608 and 6106.611

(addressing confidentiality).

II. Rules of Agency Procedure and Practice

Under the Administrative Procedure Act, rules of agency procedure or practice are exempt from the act's notice and comment rulemaking requirements. 5 U.S.C. 553(b)(A). As this rule constitutes revisions to the Board's existing procedural rules and practice requirements, the rule is exempt from notice and comment requirements.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) has determined that this rule is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866.

IV. Executive Order 14192

This rule is not an E.O. 14192 regulatory action because this rule is not significant under E.O. 12866.

V. Congressional Review Act

OIRA has determined that this is not a "major rule" as defined by 5 U.S.C. section 804(2).

VI. Regulatory Flexibility Act

As this final rule is exempt from the Administrative Procedure Act's public notice requirements pursuant to 5 U.S.C. 553(b) (A) (rules of agency procedure or practice), a Regulatory Flexibility Analysis is not required.

VII. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 et seq., does not apply because this rule does not impose any new or modified information collection requirements that require the approval of the Office of Management and Budget.

VIII. Unfunded Mandates Reform Act of 1995

This rule will not impose a federal mandate 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 in any one year.

List of Subjects

48 CFR Part 6100

Administrative practice and procedure, Rules of procedure.

48 CFR Part 6101

Administrative practice and procedure, Claims, Government procurement.

48 CFR Part 6102

Administrative practice and procedure, Agriculture.

48 CFR Part 6103

Administrative practice and procedure, Freight forwarders.

48 CFR Parts 6104 and 6105

Administrative practice and procedure, Travel and relocation expenses.

48 CFR Part 6106

Administrative practice and procedure, Disaster assistance.

Erica S. Beardsley,
Chair, Civilian Board of Contract Appeals,
General Services Administration.

For the reasons set forth in the preamble, GSA amends 48 CFR chapter 61 as set forth below:

1. Add part 6100 to read as follows:

PART 6100—RULES OF PROCEDURE OF THE CIVILIAN BOARD OF CONTRACT APPEALS

Sec.

6100.1 General.

6100.2 [Reserved]

Authority: 5 U.S.C. 504; 7 U.S.C. 1501 et. seq.; 31 U.S.C. 3529; 31 U.S.C. 3702; 31 U.S.C. 3726(i)(1); 31 U.S.C. 3803(d); 41 U.S.C. 438(c)(2); 41 U.S.C. 7101-7109; 42 U.S.C. 5189a(d).

6100.1 General.

(a) *Scope.* The parts in this chapter address different types of matters brought before the Board. The rules in each part apply only to matters brought under that part unless otherwise specified. Board judges also preside in matters not covered by this chapter.

(b) *Effective date.* Unless otherwise provided in a part of this chapter the rules of this chapter govern cases filed with the Board on or after **[Insert date 30 days after date of publication in the *Federal Register*]**, and all further proceedings in cases then pending, unless the Board decides that using the rules in this chapter in a case pending on their effective date would be inequitable or infeasible.

(c) *Use of Electronic Docketing System (EDS).* Some, but not all, of the matters covered by this chapter

require parties to submit certain filings in EDS (see Rule 1(b) (48 CFR 6101.1(b))). The matters requiring filing in EDS are set forth in the applicable parts and are posted on the Board's website: <https://www.cbca.gov>.

6100.2 [Reserved]

PART 6101—CONTRACT DISPUTES

2. Revise the heading for part 6101 to read as set forth above.

3. The authority citation for part 6101 is revised to read as follows:

Authority: 41 U.S.C. 7101-7109; 5 U.S.C. 504.

4. Revise section 6101.1 to read as follows:

6101.1 General information; definitions [Rule 1].

(a) *Scope and purpose.* The rules of procedure in this part apply to matters filed with the Board under the Contract Disputes Act (CDA), 41 U.S.C. 7101-7109, under a non-CDA contract that allows for Board review, and under the Equal Access to Justice Act (EAJA), 5 U.S.C. 504 (see Rule 1(b) (48 CFR 6101.1(b))). The Board may alter the procedures on its own initiative or on request of a party to promote the just, informal, expeditious, and inexpensive resolution of a case.

(b) *Definitions.* As used in this part:

Appeal; appellant. "Appeal" means a contract dispute filed with the Board under the CDA or under a non-CDA contract that allows for Board review. An "appellant" is the contractor filing an appeal.

Appeal file. "Appeal file" means the submissions to

the Board under Rule 4 (48 CFR 6101.4).

Application; applicant. "Application" means a submission to the Board under Rule 30 (48 CFR 6101.30) of a request for an award of fees and other expenses under EAJA or another provision authorizing such an award. An "applicant" is a party filing an application.

Attorney. "Attorney" means a person licensed to practice law in a state, commonwealth, or territory of the United States or in the District of Columbia.

Board judge; judge. "Board judge" or "judge" means a member of the Board.

Business days. The Board's business days are days other than Saturdays, Sundays, Federal holidays, and days on which the Board, for any reason, does not open or is required to close before 4:30 p.m. (Eastern Time).

Case. "Case" means an appeal, petition, or application.

Clerk of the Board. The "Clerk" of the Board receives filings, docket cases, and prepares official correspondence for the Board.

Efile; efile. To "efile" a document means to submit it to the Board by emailing it to *cbca.efile@cbca.gov*, as allowed by rule or permission of the Clerk. A document so filed is an "efiling." Protected material shall not be efiled unless a Board judge has entered a protective order. Classified material cannot be efiled. Efiling occurs upon receipt by the Board's email server. Parties shall review the Board's website for

filing format, size, and other requirements.

Electronic storage medium. "Electronic storage medium" includes, but is not limited to, hard disks, compact discs (CDs), Universal Serial Bus (USB) flash drives, and digital versatile discs (DVDs).

Electronically stored information. "Electronically stored information" means information created, manipulated, communicated, stored, and best used in digital form with computer hardware and software.

Electronic Docketing System (EDS). "EDS" is the Board's automated system by which the parties may upload and access documents electronically. The Board posts EDS instructions and manuals on its website. Parties shall review the website for filing format, size, and other requirements.

Equal Access to Justice Act (EAJA), 5 U.S.C. 504. This statute governs applications for awards of fees and other expenses in certain CDA cases.

File; filing. To "file" a document means to submit it to the Board by means authorized by rule or permission of the Clerk. "Filing" types include as permitted: hand deliveries, including by courier, to the Clerk; United States Postal Service (USPS) mail; efilings; upload in EDS; and transfers via a secure file transfer method. Documents filed electronically should usually be in portable document format (PDF). The Board prefers that documents are enabled to allow word searches through text recognition. See the Board's website for additional

information on filing documents, including appeal file exhibits. Efilings and EDS uploads received by 11:59:59 p.m. (Eastern Time) are same-day filings. Efilings and EDS uploads received at or after midnight (12:00 a.m. Eastern Time) are next-business day filings. Transfers via a secure file transfer method are received when the Clerk receives the party's notice that a transfer has been made to the portal. The date the Clerk receives the secure file transfer notice is determined by the same timing rules as applied to efilings and EDS uploads. A notice of appeal or application is filed upon the earlier of its receipt by the Clerk or, if mailed through the USPS, the mailing date. A USPS postmark is prima facie evidence of a mailing date.

Party. "Party" means an appellant, applicant, petitioner, or respondent.

Petition; petitioner. "Petition" means a request that the Board direct a contracting officer to issue a written decision on a claim. A "petitioner" is a party submitting a petition.

Receipt. The Board deems a party's "receipt" of a document to occur upon the earlier of the sending party's emailing of the document to the receiving party's email address of record (without notice of delivery failure) or the receiving party's possession of a document sent by other means.

Respondent. A "respondent" is the government agency whose decision, action, or inaction is the subject of an

appeal, petition, or application.

Secure file transfer method. Secure file transfer methods allow for the secure transfer of files between systems. The requirements for transferring documents to the Board via a secure file transfer method are posted on the Board's website.

Upload. To "upload" a document means to submit it successfully through EDS.

(c) *Construction.* The Board construes this part to promote the just, informal, expeditious, and inexpensive resolution of every case. The Board may apply principles of the Federal Rules of Civil Procedure (28 U.S.C. App.) to resolve issues not covered by this part.

(d) *Panels.* The Board assigns each case to a panel of three judges, one of whom presides. The presiding judge sets the case schedule, oversees discovery, and conducts conferences, hearings, and other proceedings. The presiding judge may, without participation by other panel members:

(1) Decide any appeal under the small claims procedure of Rule 52 (48 CFR 6101.52), any nondispositive motion, or any petition; and

(2) Dismiss a case as permitted by Rule 12(c) (48 CFR 6101.12(c)). Rule 53(c) (48 CFR 6101.53(c)) provides the composition of panel members required for decisions under the Board's accelerated procedure. The Board decides all other matters by majority vote of a panel unless the full Board decides a matter under Rule 28 (48

CFR 6101.28). Only panel and full Board decisions are precedential.

(e) *Location and addresses.* The Board's physical and mailing address is 1800 M Street NW, 6th Floor, Washington, DC 20036. The Clerk's telephone number is (202) 606-8800. The Clerk's email address for efilings is *cbca.efile@cbca.gov*. The Clerk's email address for purposes other than efilings is *cbcaclerk@cbca.gov*.

(f) *Clerk's office.* The Clerk's office is open to the public and for physical deliveries from 8:00 a.m. to 4:30 p.m. (Eastern Time) on business days (see Rule 1 (b) (48 CFR 6101.1(b))).

5. Amend section 6101.2 by revising paragraphs (a) and (b) to read as follows:

6101.2 Filing appeals, petitions, and applications; consolidation [Rule 2].

(a) *Filing an appeal.* A notice of appeal shall be:

(1) In writing;

(2) Signed by the appellant, the appellant's attorney, or an authorized representative (see Rule 5 (48 CFR 6101.5)); and

(3) Filed with the Board, with a copy to the contracting officer who received or issued the claim or the successor contracting officer. A notice of appeal should include:

(i) The name, telephone number, and mailing and email addresses of the appellant and/or its attorney or authorized representative;

(ii) The contract number;

(iii) The name, telephone number, and mailing and email addresses of the contracting officer who received or issued the claim;

(iv) A copy of the claim with any certification; and

(v) A copy of the contracting officer's decision on the claim or a statement that the appeal is from a failure to issue a decision ("a deemed denial").

(b) *Filing a petition.* A petition shall be:

(1) In writing;

(2) Signed by the petitioner, the petitioner's attorney, or an authorized representative (see Rule 5 (48 CFR 6101.5)); and

(3) Filed with the Board, with a copy to the contracting officer who received the claim or the successor contracting officer. A petition shall ask the Board to order the contracting officer to issue a decision and should include:

(i) The name, telephone number, and mailing and email addresses of the petitioner and/or its attorney or authorized representative;

(ii) The contract number;

(iii) The name of the contracting officer who received the claim, with that person's telephone number, mailing address, and email address; and

(iv) A copy of the claim with any certification.

* * * * *

6. Amend section 6101.3 in paragraph (a) by removing "A period ends on" and adding "A period must end on" in its place.

7. Revise section 6101.4 to read as follows:

6101.4 Appeal file [Rule 4].

(a) *Filing.* Within 30 days after receiving the Board's docketing notice, the respondent shall file and serve all documents relevant to the appeal, including:

- (1) The contracting officer's decision on the claim;
- (2) The contract, including all pertinent specifications, amendments, plans, drawings, and incorporated proposals or parts thereof;
- (3) All correspondence between the parties relevant to the appeal;
- (4) The claim with any certification;
- (5) Relevant affidavits, witness statements, or transcripts of testimony taken before the appeal;
- (6) All documents relied on by the contracting officer to decide the claim; and
- (7) Relevant internal memoranda, reports, and notes.

(b) *Submission and assembly of appeal file.* (1) Appeal file exhibits may be efiled (see the Board's website for size requirements), transferred via a secure file transfer method, or submitted on electronic storage medium. Appeal file exhibits may not be filed in EDS.

(2) Appeal file exhibits shall be in .pdf format or will be rejected. The appeal file index and each exhibit shall be separate documents with no subfolders or

embedded documents.

(3) Appeal file exhibits shall be complete, legible, arranged in chronological order, numbered, and indexed. Parties shall avoid filing duplicative exhibits and shall number exhibits continuously and consecutively from one filing to the next, so that a complete appeal file consists of one set of consecutively numbered exhibits.

(4) Parties shall number the pages of each exhibit consecutively, unless an exhibit is already paginated in another logical manner.

(5) The appeal file index shall describe each exhibit by date and content.

(6) Parties may file documents *in camera* only by permission of the Board.

(7) Parties shall include in the appeal file all documents relevant to the merits of the case.

(c) *Supplementing.* Within the time set by the Board in an appeal, a party may file non-duplicative documents relevant to the claim, organized as instructed in Rule 4(b) (paragraph (b) of this section), starting with the next available exhibit number.

(d) *Submission by order.* The Board may order a party to supplement the appeal file, including by filing an exhibit in another format.

(e) *Status of exhibits.* The Board considers appeal file exhibits part of the record for decision under Rule 9(a) unless a party objects to an exhibit within the time

set by the Board and the Board sustains the objection.

(f) *Other procedures.* The Board may postpone or waive the filing of an appeal file.

8. Amend section 6101.5 by:

- a. Removing from the introductory text of paragraph (a) "the Board -" and adding "the Board-" in its place;
- b. Removing from the last sentence of paragraph (b) "each State bar" and adding "each state bar" in its place;
- c. Revising paragraph (c); and
- d. Adding paragraph (d).

The revision and addition read as follows:

6101.5 Appearing; notice of appearance [Rule 5].

* * * * *

(c) *Appellant, applicant, and petitioner withdrawals of appearance.* (1) A representative of an appellant, applicant, or petitioner who has filed a notice of appearance, or is deemed to have done so under Rule 5 (b) (paragraph (b) of this section), and wishes to withdraw from a case must file a motion identifying by name, telephone number, mailing address, and email address the person who will assume responsibility for representing the party in question. The motion must state grounds for withdrawal, unless the motion represents that the party in question will meet the existing case schedule.

(2) If an appellant, applicant, or petitioner wishes to withdraw a representative who is unable or unwilling to file a motion to withdraw, the party may file a motion

to remove the individual as a representative. The party must provide notice to the individual, who will have fourteen days to show cause why the motion should not be granted. The Board will consider the motion only if at least one remaining or replacement representative has entered an appearance in accordance with Rules 5(a) and (b) (paragraphs (a) and (b) in this section).

(d) *Respondent withdrawals of appearance.* A respondent may withdraw or substitute an attorney or representative at any time by filing a notice of withdrawal and/or substitution of the attorney or representative that is signed by a remaining attorney or representative or a newly designated attorney or representative.

6101.6 [Amended]

9. Amend section 6101.6 in the first sentence of paragraph (a) by removing "complaint stating in simple, concise, and direct terms" and adding "complaint with a simple, concise, and direct statement of" in its place.

10. Revise section 6101.7 to read as follows:

6101.7 Service of documents [Rule 7].

A party filing any document not submitted *in camera* (see Rule 9(d)(2) (48 CFR 6101.9(d)(2))) shall send a copy to the other party by the same method as used for the filing or by a faster method. EDS automatically serves documents on parties with active EDS accounts to whom the Clerk has granted matter-specific access. For any documents not filed in EDS, including appeal file

exhibits, the parties shall serve such documents. Parties shall certify to the Board:

(a) The method of filing; and

(b) The recipient's physical address or email address when filing outside of EDS. The Board may consider a document not served or not properly filed if served in a manner inconsistent with this rule.

11. Amend section 6101.8 by:

a. Removing from paragraph (a) "(48 CFR 6101.23(b))" and adding "(48 CFR 6101.23(b))" in its place;

b. Removing from paragraph (c) "(48 CFR 6101.3(b))" and adding "(48 CFR 6101.3(b))" in its place; and

c. Revising paragraph (f).

The revision reads as follows:

6101.8 Motions [Rule 8].

* * * * *

(f) *Summary judgment motions*—(1) *Generally*. A party may move for summary judgment on all or part of a claim or defense if the party believes in good faith it is entitled to judgment as a matter of law based on undisputed material facts. In deciding motions for summary judgment, the Board looks to Rule 56 of the Federal Rules of Civil Procedure for guidance.

(2) *Additional filings with briefs*—(i) *Statement of undisputed material facts*. The movant shall file with its brief a separate document titled, "Statement of

Undisputed Material Facts." This document shall set forth in numbered paragraphs all facts necessary to support the motion. Undisputed material facts shall be supported by citations to appeal file exhibits, admissions in pleadings, and/or evidence filed with the brief. The Board may disregard factual assertions not made in conformity with this rule.

(ii) *Statement of genuine issues.* The opposing party shall file with its brief a separate document titled, "Statement of Genuine Issues." This document shall respond in correspondingly numbered paragraphs to the Statement of Undisputed Material Facts by admitting, denying, or admitting with qualification the facts stated. Factual disputes may be shown by citing appeal file exhibits, admissions in pleadings, and/or evidence filed with either brief. The Board may treat as undisputed a fact presented in conformity with Rule 8(f)(2)(i) (paragraph (f)(2) of this section) that the opposing party admits, ignores, or denies without adequate support and/or explanation.

* * * * *

12. Amend section 6101.9 by revising paragraphs (a)(2)(v) and (e) to read as follows:

6101.9 Record; content and access [Rule 9].

(a) * * *

(2) * * *

(v) Illustrative aids; and

* * * * *

(e) *Access*. Parties may access case records in EDS. The Clerk may refer non-parties seeking case records to the parties or Board staff, as appropriate.

13. Amend section 6101.12 by revising paragraphs (b) (1) and (3), and adding paragraph (b) (5) to read as follows:

6101.12 Stays and dismissals [Rule 12].

* * * * *

(b) * * *

(1) *Generally*. The Board may dismiss a case or part of a case either on motion of a party or after permitting a response to an order to show cause.

* * * * *

(3) *For lack of jurisdiction*. If the Board finds that it lacks jurisdiction to decide all or part of a case, the Board will dismiss without prejudice the case or the part of the case, regardless of the parties' positions on jurisdiction or dismissal.

* * * * *

(5) *Prejudice*. Except for dismissals for lack of jurisdiction, dismissals are with prejudice unless a Board order or other applicable law provides otherwise.

* * * * *

6101.16 [Amended]

14. Amend section 6101.16 in paragraph (b) by removing "imposing undue burden" and adding "imposing an undue burden" in its place.

6101.19 [Amended]

15. Amend section 6101.19 in paragraph (b) by removing "(or makes a hybrid election under Rule 18(b) (48 CFR 6101.18(b))" and adding "(or makes a hybrid election under Rule 18(b) (48 CFR 6101.18(b)))" in its place.

16. Revise section 6101.22 to read as follows:

6101.22 Transcripts [Rule 22].

The Board arranges transcription of hearings, other than hearings under the small claims procedure of Rule 52 (48 CFR 6101.52). The Board may, but generally does not, arrange transcription of conferences or other proceedings. No one may record, either in person or virtually, or transcribe a Board proceeding without the Board's permission. The Board may order or acknowledge corrections to an official transcript. Each party is responsible for obtaining its own copy of a transcript.

6101.24 [Amended]

17. Amend section 6101.24 in paragraph (a) by removing "hearing under Rule 20" and adding "hearing under Rule 20 (48 CFR 6101.20)" in its place.

18. Amend section 6101.25 by revising paragraph (b) to read as follows:

6101.25 Decisions and settlements [Rule 25].

* * * * *

(b) *Settlements*. Parties may settle a case by stipulating to the amount of an award. The Board may issue a decision awarding the stipulated amount if:

(1) The Board is satisfied that it has jurisdiction;
and

(2) The stipulation states that no party will seek reconsideration of, seek relief from, or appeal the Board's decision.

19. Amend section 6101.26 by revising paragraph (b) to read as follows:

6101.26 Reconsideration [Rule 26].

* * * * *

(b) *Time limit for motion.* A party may move for reconsideration of a decision or order on an appeal or petition within 30 days after that party receives the decision or order. A party may move for reconsideration of a decision or order on an application within 7 days after receiving the decision or order. The Board does not extend these time limits absent good cause or if the decision has become final as a matter of law.

* * * * *

6101.36 [Removed and Reserved]

20. Remove and reserve section 6101.36.

6101.53 [Amended]

21. Amend section 6101.53 in paragraph (c) by removing "the panel will decide the appeal" and adding "the full panel will decide the appeal" in its place.

22. Add section 6101.55 to read as follows:

6101.55 Effective date [Rule 55].

The effective date of these rules is identified in 48 CFR 6100.1(b).

PART 6102—CROP INSURANCE CASES

23. The authority citation for part 6102 continues

to read as follows:

AUTHORITY: 7 U.S.C. 1501 *et seq.*; 41 U.S.C. 438(c)(2).

24. Revise section 6102.201 heading and text to read as follows:

6102.201 Scope. [Rule 201].

These procedures govern the Board's 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). Prior to the creation of this Board, the Department of Agriculture Board of Contract Appeals resolved these disputes pursuant to statute, 7 U.S.C. 1501 *et seq.* (the Federal Crop Insurance Act), and regulations, 7 CFR 24.4(b) and 400.169. The Board has this authority to resolve these disputes under the Contract Disputes Act, 41 U.S.C. 7105(b)(4)(B).

25. Revise section 6102.202 to read as follows:

6102.202 Rules for crop insurance cases [Rule 202].

The rules of procedure for these cases are the same as the rules of procedure for Contract Disputes Act appeals (48 CFR 6101) with these exceptions:

(a) *Rule 1(b) (Definitions) (48 CFR 6101.1(b)).* (1) The term "appeal" means a dispute between an insurance company that is a party to a Standard Reinsurance Agreement (or other reinsurance agreement) and the RMA, and the term "appellant" means the insurance company filing an appeal.

(2) The terms "petition" and "petitioner" do not

apply to FCIC cases.

(3) Unless otherwise authorized by the Clerk, parties shall efile all submissions in accordance with Rule 1(b) ("efile; efilings") (48 CFR 6101.1(b)).

(b) *Rule 1(d) (Panels)*. The procedures in Rule 1(d) (48 CFR 6101.1(d)) regarding small claims under Rule 52 (48 CFR 6101.52) and accelerated procedures under Rule 53 (48 CFR 6101.53) do not apply.

(c) *Rule 2(a) (Filing an appeal)*. In place of Rule 2(a) (48 CFR 6101.2(a)), substitute the following: A notice of appeal shall be in writing and signed by the appellant or by the appellant's attorney or authorized representative. If the appeal is from a determination by the Deputy Administrator of Insurance Services regarding an action alleged not to be in accordance with the provisions of a Standard Reinsurance Agreement (or other reinsurance agreement) or if the appeal is from a determination by the Deputy Administrator of Compliance concerning a determination regarding a compliance matter, the notice of appeal should describe the determination in enough detail to enable the Board to differentiate that decision from any other. The appellant can satisfy this requirement by attaching to the notice of appeal a copy of the Deputy Administrator's determination. If an appeal is taken from the failure of the Deputy Administrator to make a timely determination, the notice of appeal should describe in detail the matter that the Deputy Administrator has failed to determine. The appellant can

satisfy this requirement by attaching to the notice of appeal a copy of the written request for a determination it sent to the Deputy Administrator. The notice of appeal shall also contain:

(1) The name, telephone number, and mailing and email addresses of the appellant and/or its attorney or authorized representative; and

(2) The name, telephone number, and mailing and email addresses of the Deputy Administrator who received or issued the claim. The appellant shall provide the Deputy Administrator a copy of the notice of appeal and attachments.

(d) *Rule 2(b) (Filing a petition)*. Rule 2(b) (48 CFR 6101.2(b)) does not apply to FCIC cases.

(e) *Rule 2(d) (Time limits)*. (1) In place of Rule 2(d)(1) (48 CFR 6101.2(d)(1)), substitute the following: An appeal from a determination of a Deputy Administrator shall be filed no later than 90 calendar days after the date the appellant receives that determination. The Board is authorized to resolve only those appeals that are timely filed.

(2) In place of Rule 2(d)(2) (48 CFR 6101.2(d)(2)), substitute the following: An appeal may be filed with the Board if the Deputy Administrator fails or refuses to issue a determination within 90 days after the appellant submits a request for a determination.

(3) Rule 2(d)(3) (48 CFR 6101.2(d)(3)) does not apply to FCIC cases.

(f) *Rule 4 (Appeal file)*. In place of Rule 4(a) (48 CFR 6101.4(a)), substitute the following: Within 30 days after receiving the Board's docketing notice, the respondent shall file and serve all documents relevant to the appeal, including:

(1) The determination of the Deputy Administrator that is the subject of the dispute;

(2) The reinsurance agreement (with amendments or modifications) at issue in the dispute;

(3) Pertinent correspondence between the parties that is relevant to the dispute, including prior administrative determinations and related submissions;

(4) Documents and other tangible materials on which the Deputy Administrator relied in making the underlying determination; and

(5) Any additional material pertinent to the authority of the Board or the resolution of the dispute.

(g) *Rule 5 (Appearing; notice of appearance)*. In Rule 5(a)(2) (48 CFR 6101.5(a)(2)), replace "contracting officer or the contracting officer's authorized representative" with "Deputy Administrator."

(h) *Rule 7 (Service of documents)*. The second sentence of Rule 7 (48 CFR 6101.7) does not apply to FCIC cases.

(i) *Rule 16 (Subpoenas)*. Rules 16 (b) through (h) (48 CFR 6101.16(b) through (h)) do not apply. Instead, upon the written request of any party filed with the Clerk of the Board, or upon the initiative of a judge, a

judge is authorized by delegation from the Secretary of Agriculture to request the appropriate United States Attorney to apply to the appropriate United States District Court for the issuance of subpoenas pursuant to 5 U.S.C. 304.

(j) *Rule 25 (Decisions and settlements)*. In Rule 25(a) (48 CFR 6101.25(a)), the phrase, "except as allowed by Rule 52," does not apply to FCIC cases.

(k) *Rule 32 (Appeal from Board decision)*. In place of Rules 32 (a) through (c) (48 CFR 6101.32(a) through (c)), substitute the following:

(1) *Finality of Board decision*. A decision of the Board is a final administrative decision.

(2) *Appeal permitted*. An appellant may file suit in the appropriate United States District Court to challenge the Board's decision. An appellant filing such a suit shall provide the Board with a copy of the complaint.

(l) *Rule 51 (Alternative procedures)*. Rule 51 (48 CFR 6101.51) does not apply to FCIC cases, except for the availability of alternative dispute resolution under Rule 54 (48 CFR 6101.54).

(m) *Rule 52 (Small claims procedure)*. Rule 52 (48 CFR 6101.52) does not apply to FCIC cases.

(n) *Rule 53 (Accelerated procedure)*. Rule 53 (48 CFR 6101.53) does not apply to FCIC cases.

26. Add section 6102.203 to read as follows:

6102.203 Effective date [Rule 203].

The effective date of these rules is identified in

48 CFR 6100.1(b).

PART 6103—TRANSPORTATION RATE CASES

27. The authority citation for part 6103 is revised to read as follows:

AUTHORITY: 31 U.S.C. 3726(i)(1); 41 U.S.C. 7101-7109; Sec. 201(o), Pub. L. 104-316, 110 Stat. 3826, 3842-44.

28. Amend section 6103.301 by:

a. Removing from paragraph (b) "These procedures are applicable to" and adding "These procedures apply to" in its place; and

b. Adding paragraphs (c) and (d) to read as follows:

6103.301 Scope [Rule 301].

* * * * *

(c) *Filing method and computation of time.* Unless otherwise authorized by the Clerk, parties shall efile all submissions in accordance with Rule 1(b) ("efile; efilings") (48 CFR 6101.1(b)). Time periods are computed in accordance with Rule 3(a) (48 CFR 6101.3(a)). See Rule 1(b) ("business days") (48 CFR 6101.1(b)). Efilings received by 11:59:59 p.m. (Eastern Time) are same-day filings. Efilings received at or after midnight (12:00 a.m. Eastern Time) are next-business day filings.

(d) *Location and hours.* See Rule 1(e) (48 CFR 6101.1(e)) for the Board's location, telephone number, and email address and Rule 1(f) (48 CFR 6101.1(f)) for the Clerk's office hours.

29. Revise sections 6103.302 through 6103.304 to

read as follows:

6103.302 Filing claims [Rule 302].

(a) *Form.* A claim must be in writing and signed by the claimant or by the claimant's attorney or authorized representative. No particular form is required. The request should describe the basis for the claim and state the amount sought. The request should also include—

(1) The name, address, telephone number, and email address of the claimant;

(2) The Government bill of lading or Government transportation request number;

(3) The claimant's bill number;

(4) The Government voucher number and date of payment;

(5) The Audit Division claim number;

(6) The agency for which the services were provided and, if known, the name, address, telephone number, and email address of the agency's contact person; and

(7) Any other identifying information.

(b) *When claim is considered filed.* A claim is filed when it is received by the Clerk of the Board.

(c) *Notice of docketing.* The Clerk of the Board shall docket the claim and promptly provide a written notice of docketing to the claimant, the Director of the Audit Division, and the agency for which the services were provided. The notice of docketing will identify the judge to whom the claim has been assigned.

(d) *Service of copy.* The claimant shall provide the Audit Division and the agency identified in paragraph (a) (6) of this section copies of all material provided to the Board. The claimant shall indicate that copies have been provided to the Audit Division and the agency.

6103.303 Responses to claims [Rule 303].

(a) Content of responses. Within 30 calendar days, the Audit Division and the agency for which the services were provided shall each submit to the Board:

(1) A simple, concise, and direct statement of its response to the claim;

(2) Citations to applicable statutes, regulations, and cases; and

(3) Any additional information deemed necessary to the Board's review of the claim.

(b) *Service of copy.* Submissions to the Board shall indicate that a copy has been provided to the claimant and to the Audit Division or the agency, as appropriate. To expedite proceedings, if either the Audit Division or the agency will not file a response (e.g., it believes its reasons for denying the claim were sufficiently explained in the material filed by the claimant), it should notify the Board, the claimant, and the Audit Division or the agency, as appropriate, that it does not intend to file a response.

6103.304 Reply to the audit division and agency responses [Rule 304].

A claimant may file a reply to the Audit Division

and agency responses within 30 calendar days after receiving the responses. The claimant shall provide a copy of the response to the Audit Division and the agency. To expedite proceedings, if the claimant does not wish to respond, the claimant should so notify the Board, the Audit Division, and the agency.

30. Revise sections 6103.306 and 6103.307 to read as follows:

6103.306 Decisions [Rule 306].

The judge will issue a written decision based upon the record, which includes submissions by the claimant, the Audit Division, and the agency, and information provided during conferences. The Board will provide the claimant, the Audit Division, and the agency a copy of the decision. In addition, all Board decisions are posted weekly on the Board's website.

6103.307 Reconsideration of Board decision [Rule 307].

The claimant, the Audit Division, or the agency may request reconsideration. A request must be received by the Board within 30 calendar days after the date the decision was issued. The request should state the reasons why the Board should consider the request. Mere disagreement with a decision or re-argument of points already made is not a sufficient ground for reconsideration.

31. Add section 6103.309 to read as follows:

6103.309 Effective date [Rule 309].

The effective date of these rules is identified in

48 CFR 6100.1(b).

PART 6104—TRAVEL AND RELOCATION EXPENSES CASES

32. The authority citation for part 6104 is revised to read as follows:

AUTHORITY: Secs. 202(n), 204, Pub. L. 104-316, 110 Stat. 3826, 3842-44; Sec. 211, Pub. L. 104-53, 109 Stat. 535; 31 U.S.C. 3702; 41 U.S.C. 7101-7109.

33. Amend section 6104.401 by:

a. Removing from paragraph (b) introductory text “These procedures are applicable to” and adding “These procedures apply to” in its place; and

b. Adding paragraphs (d) and (e).

The additions read as follows:

6104.401 Scope [Rule 401].

* * * * *

(d) *Filing method and computation of time.* Unless otherwise authorized by the Clerk, parties shall efile all submissions in accordance with Rule 1(b) (“efile; efilings”) (48 CFR 6101.1(b)). Time periods are computed in accordance with Rule 3(a) (48 CFR 6101.3(a)). See Rule 1(b) (“business days”) (48 CFR 6101.1(b)). Efilings received by 11:59:59 p.m. (Eastern Time) are same-day filings. Efilings received at or after midnight (12:00 a.m. Eastern Time) are next-business day filings.

(e) *Location and hours.* See Rule 1(e) (48 CFR 6101.1(e)) for the Board’s location, telephone number, and email address and Rule 1(f) (48 CFR 6101.1(f)) for the Clerk’s office hours.

34. Revise sections 6104.402 through 6104.404 to read as follows:

6104.402 Filing claims [Rule 402].

(a) *Filing claims.* A claim may be sent to the Board in either of the following ways:

(1) *Claim filed by claimant.* A claim shall be in writing and must be signed by the claimant or by the claimant's attorney or authorized representative. No particular form is required. The request should describe the basis for the claim and state the amount sought. The request should also include—

(i) The name, address, telephone number, and email address of the claimant;

(ii) The name, address, telephone number, and email address of the agency employee who denied the claim;

(iii) A copy of the denial of the claim; and

(iv) Any other information which the claimant believes the Board should consider.

(2) *Claim forwarded by agency on behalf of claimant.* If an agency has denied a claim for travel or relocation expenses, it may, at the claimant's request, forward the claim to the Board. The agency shall include the information required by paragraph (a)(1) of this section and by Rule 403 (48 CFR 6104.403).

(3) *Where claims are filed.* Claims should be filed with the Clerk of the Board. See Rule 401(d) (48 CFR 6104.401(d)) for filing methods and requirements.

(b) *Notice of docketing.* The Clerk of the Board shall docket the request for review and promptly provide a written notice of docketing to the claimant and the agency. The notice of docketing will identify the judge to whom the claim has been assigned.

(c) *Service of copy.* The claimant shall provide the agency employee identified in paragraph (a)(1)(ii) of this section, or the individual otherwise identified by the agency to handle the claim, copies of all material provided to the Board. If an agency forwards a claim to the Board, it shall, at the same time, provide the claimant a copy of all material sent to the Board.

6104.403 Response to claim [Rule 403].

(a) *Content of response.* When a claim has been filed with the Board by a claimant, within 30 calendar days after docketing by the Board, the agency shall submit to the Board:

(1) A simple, concise, and direct statement of its response to the claim;

(2) Citations to applicable statutes, regulations, and cases; and

(3) Any additional information the agency considers necessary to the Board's review of the claim.

(b) *Service of copy.* The agency shall provide claimant a copy of these submissions. To expedite proceedings, if the agency believes its reasons for denying the claim were sufficiently explained in the material filed by the claimant, it should notify the

Board and the claimant that it does not intend to file a response.

6104.404 Reply to agency response [Rule 404].

A claimant may file a reply to the agency response within 30 calendar days after receiving the response. If the claim has been forwarded by the agency, the claimant shall have 30 calendar days from the time the claim is docketed by the Board to reply. To expedite proceedings, if the claimant does not wish to reply, the claimant should so notify the Board and the agency.

35. Revise sections 6104.406 and 6104.407 to read as follows:

6104.406 Decisions [Rule 406].

The judge will issue a written decision based upon the record, which includes submissions by the claimant and the agency, and information provided during conferences. The Board will provide the claimant and the agency a copy of the decision. In addition, all Board decisions are posted weekly on the Board's website. Published decisions will identify only first names of claimants and the first initial of their surnames.

6104.407 Reconsideration of Board decision [Rule 407].

The claimant or the agency may request reconsideration. A request must be received by the Board within 30 calendar days after the date the decision was issued. The request should state the reasons why the Board should consider the request. Mere disagreement with a decision or re-argument of points already made is not a

sufficient ground for reconsideration.

36. Add section 6104.409 to read as follows:

6104.409 Effective date [Rule 409].

The effective date of these rules is identified in 48 CFR 6100.1(b).

PART 6105—DECISIONS AUTHORIZED UNDER 31 U.S.C. 3529

37. The authority citation for part 6105 is revised to read as follows:

AUTHORITY: 31 U.S.C. 3529; 31 U.S.C. 3702; 41 U.S.C. 7101-7109; Secs. 202(n), 204, Pub. L. 104-316, 110 Stat. 3826, 3842-44; Sec. 211, Pub. L. 104-53, 109 Stat. 535.

38. Revise sections 6105.501 through 6105.503 to read as follows:

6105.501 Scope [Rule 501].

These procedures govern the Board's issuance of decisions, upon the request of an agency disbursing or certifying official, or agency head, on questions involving payment of travel or relocation expenses; these decisions were formerly issued by the Comptroller General under 31 U.S.C. 3529. Section 204 of the General Accounting Office Act of 1996, Pub. L. 104-316, transfers the authority to issue these decisions to the Director of the Office of Management and Budget and authorizes the Director to delegate the authority to perform this function to another agency or agencies. The Director has delegated the authority to issue these decisions to the Administrator of General Services, who has redelegated that function to the Civilian Board of Contract Appeals.

6105.502 Request for decision [Rule 502].

(a) Request for decision. (1) A disbursing or certifying official of an agency, or the head of an agency, may request from the Board a decision (referred to as a "Section 3529 decision") on a question involving a payment the disbursing official or head of agency will make, or a voucher presented to a certifying official for certification, which concerns the following type of claim made against the United States by a federal civilian employee:

(i) A claim for reimbursement of expenses incurred while on official temporary duty travel; and

(ii) A claim for reimbursement of expenses incurred in connection with relocation to a new duty station.

(2) A request for a Section 3529 decision must be in writing and refer to a specific payment or voucher, though no particular form is required. The request may not seek general legal advice and should—

(i) Explain why the official is seeking a Section 3529 decision, rather than taking action on his or her own regarding the matter;

(ii) State the question presented and include citations to applicable statutes, regulations, and cases;

(iii) Include—

(A) The name, address, telephone number, and email address of the official making the request;

(B) The name, address, telephone number, and email address of the employee affected by the specific payment

or voucher; and

(C) Any other information the official believes the Board should consider.

(iv) Unless otherwise authorized by the Clerk, parties shall efile all submissions in accordance with Rule 1(b) ("efile; efilings") (48 CFR 6101.1(b)). Time periods are computed in accordance with Rule 3(a) (48 CFR 6101.3(a)). Efilings received by 11:59:59 p.m. (Eastern Time) are same-day filings. Efilings received at or after midnight (12:00 a.m. Eastern Time) are next-business day filings. See Rule 1(b) ("business days") (48 CFR 6101.1(b)); Rule 1(e) ("Location and addresses") (48 CFR 6101.1(e)); and Rule 1(f) ("Clerk's office") (48 CFR 6101.1(f)).

(b) Notice of docketing. The Clerk of the Board will docket the request for a Section 3529 decision and promptly provide a written notice of docketing to the official and the affected employee. The notice of docketing will identify the judge to whom the request has been assigned.

(c) Service of copy. The official submitting a request for a Section 3529 decision shall provide the affected employee copies of all material provided to the Board. All submissions to the Board shall indicate that a copy has been provided to the affected employee and the method of service.

6105.503 Additional submissions [Rule 503].

If the affected employee wishes to submit any

additional information to the Board, he or she must submit such information within 30 calendar days after receiving the copy of the request for decision and supporting material. See Rule 502(a)(2)(iv) (48 CFR 6105.502(a)(2)(iv)) for filing requirements. To expedite proceedings, if the employee does not wish to make an additional submission, the employee should so notify the Board and the agency.

39. Revise sections 6105.505 and 6105.506 to read as follows:

6105.505 Decisions [Rule 505].

The judge will issue a written decision based upon the record, which includes submissions by the agency and the affected employee, and information provided during conferences. The Board will provide a copy of the decision to the agency and affected employee. In addition, all Board decisions are posted weekly on the Board's website. Published decisions will identify only first names of claimants and the first initial of their surnames.

6105.506 Reconsideration of Board decision [Rule 506].

The agency or the affected employee may request reconsideration. A request must be received by the Board within 30 calendar days after the date the decision was issued. The request should state the reasons why the Board should consider the request. Mere disagreement with a decision or re-argument of points already made is not a sufficient ground for reconsideration.

40. Add section 6105.507 to read as follows:

6105.507 Effective date [Rule 507].

The effective date of these rules is identified in 48 CFR 6100.1(b).

PART 6106—ARBITRATION OF PUBLIC ASSISTANCE ELIGIBILITY OR REPAYMENT

41. Revise the heading for part 6106 to read as set forth above.

42. The authority citation for part 6106 continues to read as follows:

AUTHORITY: 42 U.S.C. 5189a(d).

43. Revise sections 6106.602 through 6106.604 to read as follows:

6106.602 Authority [Rule 602].

The Board is authorized by section 423 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5189a(d), to arbitrate disputes between applicants and FEMA as to eligibility for public assistance (or repayment of past public assistance). Minimum dispute amounts are set forth in 42 U.S.C. 5189a(d).

6106.603 Purpose [Rule 603].

Under the Stafford Act, the Board acts for the United States Government to resolve public assistance eligibility and repayment disputes by arbitration, a speedy and flexible method of impartial dispute resolution. An arbitration decision under these rules is the final action by the Executive Branch in a dispute.

These rules facilitate the creation of an arbitration record sufficient to allow the Board to issue a prompt, just, and reasoned decision. Time periods are computed in accordance with Rule 3(a) (48 CFR 6101.3(a)).

6106.604 Arbitration request [Rule 604].

(a) *Requesting arbitration.* An applicant for public assistance may request arbitration by following applicable FEMA guidance implementing section 423 of the Stafford Act. Upon the Board's receipt of an arbitration request, the Clerk issues a notice of docketing to all parties.

(b) *Definitions.* The following terms in Board Rule 1(b) (48 CFR 6101.1(b)) apply to arbitrations under this part: "Board judge; judge," "business days," "Clerk of the Board," "efile; efiling," "electronic storage medium," "Electronic Docketing System (EDS)," "file; filing," "receipt," "secure file transfer method," and "upload." See Rule 604(d) (paragraph (d) of this section) for authorized filing methods.

(c) *Contacting the Board.* For the Board's location, telephone number, email address, and the Clerk's office hours, see Rules 1(e)-(f) (48 CFR 6101.1(e)-(f)).

(d) *Electronic filing.* Applicants shall file arbitration requests with the Board in EDS unless the Clerk has granted permission to efile the request. Voluminous attachments to the arbitration request may be efiled, transferred via a secure file transfer method, or submitted on electronic storage medium and must be filed

under one of these methods if the size, format, and other requirements for submission in EDS cannot be met. EDS generates electronic receipts for arbitration requests.

44. Revise section 6106.605 to read as follows:

6106.605 Filings; exhibits; parties; representation; service [Rule 605].

(a) *Filing methods.* Parties shall file all documents in EDS unless the Clerk has granted permission to efile the documents. See Rule 604(d) (48 CFR 6106.604(d)) when filing voluminous attachments.

(b) *Exhibits.* When filing exhibits, the Board prefers that parties:

- (1) Provide an exhibit index;
- (2) Consecutively number exhibits;
- (3) Place the exhibit number at the beginning of each exhibit's file name;
- (4) Identify the exhibit name and number on the first page of each exhibit;
- (5) Submit each exhibit as a separate document with no subfolders or embedded documents; and
- (6) Number the pages of each exhibit consecutively, unless the exhibit is already paginated in another logical manner. Exhibits shall be in .pdf format. The Board prefers that documents are enabled to allow word searches through text recognition. Parties shall cite to exhibits in their filings, including in the arbitration request and FEMA's response.

(c) *Parties and representatives.* The parties to an

arbitration are the applicant, the grantee (if not the applicant), and FEMA. Each party shall have one primary representative. This person need not be an attorney but must be authorized by law, formal delegation, or permission of the arbitrators to speak and act for the party in the arbitration. Unless otherwise advised, the Board deems the person who signed the arbitration request to be the applicant's primary representative. Any other primary representative or other party representative shall promptly file a notice of appearance complying with Rule 5(b) (48 CFR 6101.5(b)).

(d) *Service and certification.* Service of documents to other parties shall be by the same method as used for the filing or by a faster method. EDS automatically serves documents on parties with active EDS accounts to whom the Clerk has granted matter-specific access. For any documents, including exhibits, not filed in EDS, the parties shall serve such documents. Parties shall certify to the Board:

(1) The method of filing; and

(2) The recipient's physical or email address when filing outside of EDS. The Board may consider a document not served or properly filed if served in a manner inconsistent with this rule.

6106.607 [Amended]

45. Amend section 6106.607 by removing "summary to efile" and adding "summary to file" in its place.

46. Revise sections 6106.608 through 6106.610 to

read as follows:

6106.608 Evidence; timing [Rule 608].

No party is required to provide additional evidence. An applicant or grantee may, but need not, supplement materials it previously provided to FEMA regarding the dispute. A party may elect to present additional evidence, i.e., documents, things, or testimony tending to make a factual contention appear more or less likely to be true. Any briefs or other documents prepared for the arbitration, including recordings and transcriptions thereof, are confidential. If a party so elects, the panel will to the extent practicable allow a response. FEMA shall file its response to an arbitration request within 30 calendar days after receiving the docketing notice. A panel may not exclude as untimely evidence proffered before arbitration closes under Rule 613. A panel may consider the timing or surprise nature of evidence when assessing the significance, credibility, or probative value of the evidence.

6106.609 Other materials considered; ex parte communications [Rule 609].

Written or oral arguments or statements of experts as to how a panel should understand evidence or apply the law are not evidence but may be presented as scheduled by the panel and may be subject to page, word, or time limits. By the close of arbitration under Rule 613 (48 CFR 6106.613), parties should provide the panel with everything it needs to make a decision. Documents written

by a party for the panel shall comply with the rules in this part and with Rule 23 (48 CFR 6101.23). No member of a panel or of the Board's staff will communicate with a party about any material issue in arbitration outside of the presence of the other party or parties, and no one shall attempt such communications on behalf of a party.

6106.610 Motions [Rule 610].

Motions are strictly limited and should ordinarily be made orally during the initial conference under Rule 607. A later motion may be filed. A party may make a procedural motion, such as to extend time. An applicant may move for voluntary dismissal. No party may move for:

- (a) A prehearing merits decision (e.g., summary judgment or dismissal for failure to state a claim); or
- (b) An involuntary prehearing dismissal other than on the merits, except on the grounds that an arbitration request is untimely. A panel ordinarily issues one decision per arbitration.

47. Revise section 6106.611 to read as follows:

6106.611 Hearing: in person, virtual, hybrid, and/or on the written record [Rule 611].

Parties may conclude an arbitration by presenting their positions in a hearing. A hearing may be:

- (a) In person;
- (b) Virtual;
- (c) Hybrid (in person and virtual);
- (d) If agreed by all parties, on the written record;

or

(e) A combination of a hearing on the written record and another hearing type. The panel will begin a hearing within 60 calendar days after the initial conference under Rule 607 unless the Board Chair approves a later date. Unless agreed by the parties and the panel, all panel members will attend an in-person, virtual, or hybrid hearing sited in Washington, D.C. A single panel member may conduct an in-person or hybrid hearing sited outside Washington, D.C. Hearing procedures are at the panel's discretion with the goal of promptly, justly, and finally resolving the dispute, and need not involve traditional witness examination or cross-examination. Parties should not offer fact witnesses to read legal materials or to make legal arguments. Statements of fact in a hearing need not be sworn but are made subject to penalty for violation of 18 U.S.C. 1001. Hearings are confidential and not public and may not be recorded by any means without the Board's permission. The Board may have a hearing transcribed for the panel's use. If a transcript is made, a party may purchase a copy from the court reporter or transcription service and has 7 calendar days after a copy is available to file proposed corrections.

6106.612 [Amended]

48. Amend section 6106.612 in paragraph (c) by removing "live hearings by efilng" and adding "in person, virtual, or hybrid hearings by filing" in its place.

49. Add section 6106.614 to read as follows:

6106.614 Effective date [Rule 614].

The effective date of these rules is identified in
48 CFR 6100.1(b).

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