

substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The amendments would not directly affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

There are no applicable Catalog of Federal Domestic Assistance program numbers.

List of Subjects

38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans.

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.

Approved: December 9, 1996.

Jesse Brown,
Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 parts 3 and 14 are amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.101 [Removed]

2. Section 3.101 is removed.

3. The section heading of § 3.352 is revised to read as follows:

§ 3.352 Criteria for determining need for aid and attendance and “permanently bedridden.”

PART 14—LEGAL SERVICES, GENERAL COUNSEL

4. 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), 5502, 5902–5905, unless otherwise noted.

§ 14.507 [Amended]

5. In § 14.507, the first sentence of paragraph (a) is amended by removing the words “is a change” and adding, in their place, the words “has been a material change”, and paragraph (b) is

amended by adding at the end thereof the words “An opinion designated as a precedent opinion is binding on Department officials and employees in subsequent matters involving a legal issue decided in the precedent opinion, unless there has been a material change in a controlling statute or regulation or the opinion has been overruled or modified by a subsequent precedent opinion or judicial decision.”

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BILLING CODE 8320–01–P

38 CFR Part 19

RIN 2900–AI59

Appeals Regulations: Notice of Board of Veterans’ Appeals Decisions

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

SUMMARY: This document amends the Department of Veterans Affairs’ (VA) Appeals Regulations for appeals to the Board of Veterans’ Appeals (Board) by removing provisions that do not conform to recent legislation.

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT:

Steven L. Keller, Chief Counsel, Board of Veterans’ Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202–565–5978).

SUPPLEMENTARY INFORMATION: Section 509 of the Veterans’ Benefits Improvements Act of 1996, Public Law 104–275, § 509, 110 Stat. 3322, 3344, amended 38 U.S.C. 7104(e) to permit the Board to mail copies of its decision to the claimant’s representative or to use any other means of delivery likely to result in delivery within the same time as would be expected with mailing by first-class mail. 38 CFR 19.8 previously reflected the old provisions of 38 U.S.C. 7104(e) that permitted decision delivery only by mailing. This document removes from § 19.8 material on Board decision delivery that does not conform to the new legislation and makes nonsubstantive changes to the remaining material in § 19.8 concerning preservation of claimants’ privacy interests in simultaneously contested claims.

This final rule concerns agency procedure or practice and, pursuant to 5 U.S.C. 553, is exempt from notice and comment requirements.

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 rule will affect VA beneficiaries and will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirement of sections 603 and 604.

List of Subjects in 38 CFR Part 19

Administrative practice and procedure, Claims, Veterans.

Approved: December 16, 1996.

Jesse Brown,
Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 19 is amended as set forth below:

PART 19—BOARD OF VETERANS’ APPEALS: APPEALS REGULATIONS

1. The authority citation for part 19 continues to read as follows:

Authority: 38 U.S.C. 501(a).

2. Section 19.8 is revised to read as follows:

§ 19.8 Content of Board decision, remand, or order in simultaneously contested claims.

The content of the Board’s decision, remand, or order in appeals involving a simultaneously contested claim will be limited to information that directly affects the issues involved in the contested claim. Appellate issues that do not involve all of the contesting parties will be addressed in one or more separate written decisions, remands, or orders that will be furnished only to the appellants concerned and their representatives, if any.

(Authority: 5 U.S.C. 552a(b), 38 U.S.C. 5701(a))

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DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 12

RIN 1090–AA59

Administrative and Audit Requirements and Cost Principles for Assistance Programs

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: This final rule is in response to the “Omnibus Consolidated Appropriations Act of 1997,” and the “Energy and Water Development Appropriations Act, 1997.” Section 307(a) of Public Law 104–208 required

that no funds made available in the Act may be expended by an entity unless the entity agrees that in expending the funds they will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the “Buy American Act”). As it did for awards governed by this provision made since FY 1993, the Department continues to interpret this requirement to apply to assistance programs. Section 307(b)(1) of Public Law 104–208 again states that it is the sense of Congress that all equipment and products purchased with funds made available in the Act should be American-made. Likewise, the Department is again taking the position that Congressional intent is different for awards made by the Bureau of Reclamation. As such, only the provisions in the regulation addressing the sense of Congress (section 12.700 and the notice requirements (sections 12.710) will apply to awards made by the Bureau of Reclamation using appropriated funds for FY 1997.)

In addition, a minor correction is being made to a cite in the definition of “domestic and product” in Section 12.705.

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT:

Debra E. Sonderman, (Director, Procurement and Property Management Systems), (202) 208–3336.

SUPPLEMENTARY INFORMATION: On September 30, 1996, the Omnibus Consolidated Appropriations Act of 1997 (“the Act”) was signed into law. Section 307(a) of the Act was entitled “Compliance with Buy American Act.” The section applied to funds appropriated or transferred pursuant to the Act for the purchase of any equipment or product that may be authorized to be purchased with financial assistance. Section 307(b)(1) expressed the “sense of the Congress” that entities receiving the assistance purchase only American-made equipment and products.

Section 307(b)(2) required that in providing the financial assistance under the Act, the Secretary shall provide to each recipient of the assistance a notice describing the requirement. As in prior years, no other specific guidance was given regarding the implementation of this requirement.

The Department is revising Subpart E of 43 CFR Part 12, to implement these requirements for awards made using appropriated funds for FY 1997. No specific guidance was provided by Congress, so the Department decided to continue its implementation of these requirements based upon the final rule

published in the Federal Register on July 19, 1994 (59 FR 36713).

Because of the applicability of different appropriation acts and the fact that the requirements are different, the notice in subparagraph (b) of section 12.710 has been changed to account for the reference to language in Public Law 104–208. A separate notice included in subparagraph (c) of section 12.710 has been amended to account for the reference to language in Public Law 104–206 and its use only for awards made by the Bureau of Reclamation.

Finding of Good Cause for Waiver of Proposed Rulemaking and for Making Rule Effective upon Publication

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is usually the practice of the Department to offer interested parties the opportunity to comment on proposed regulations. However, the Department waives notice and comment on these regulations under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)). This section provides that notice and comment for rulemaking is not required when the agency for good cause finds that notice and public procedures are impracticable, unnecessary, or contrary to the public interest.

The Department believes public comment on the revision of this regulation is unnecessary because the substance of these provisions is based on statutory requirements governing the award of assistance with appropriated funds for FY 1997, that the Department is unable to change.

The Administrative Procedure Act provides that rules be published at least 30 days prior to their effective date, except as otherwise provided by an agency on a finding of good cause (5 U.S.C. 553(d)(3)). In this case, because this requirement is a statutory condition of expenditure of appropriated funds in this fiscal year, the Department has determined that the rule must be effective upon publication.

Executive Order 12866, Paperwork Reduction Act, and Regulatory Flexibility Act

This rule was not subject to Office Management and Budget review under Executive Order 12866.

The Department has determined that this rule will not have a significant economic impact on small entities since it is anticipated that no additional costs will be imposed on a substantial number of small entities as a result of the rule. This rule does not contain a collection of information subject to the

Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Environmental Effects

The Department has determined that this rule does not constitute a major Federal action having a significant impact on the human environment under the National Environmental Policy Act of 1969.

List of Subjects in 43 CFR Part 12

Administrative practice and procedure, Contract programs, Cooperative agreements, Grant programs, Grants administration, Reporting and recordkeeping requirements.

Dated: December 4, 1996.

Bonnie R. Cohen,

Assistant Secretary—Policy, Management and Budget.

Title 43 of the Code of Federal Regulations, part 12 is amended as follows:

PART 12—ADMINISTRATIVE AND AUDIT REQUIREMENTS AND COST PRINCIPLES FOR ASSISTANCE PROGRAMS

1. The authority citation for part 12 is revised to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 6101 note, 7501, 41 U.S.C. 252a, 701 *et seq.*; sec. 501, Pub. L. 104–206, 110 Stat. 2984; sec. 307, Pub. L. 104–208, 110 Stat. 3009; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12674, 3 CFR, 1989 Comp., p. 215; E.O. 12689, 3 CFR, 1989 Comp., p. 235; E.O. 12731, 3 CFR, 1990 Comp., p. 306; OMB Circular A–102; OMB Circular A–110; OMB Circular A–128; and OMB Circular A–133.

2. Section 12.700 is revised to read as follows:

§ 12.700 Scope.

This subpart implements section 307 of the Omnibus Consolidated Appropriations Act of 1997 (Public Law 104–208, 110 Stat. 3009) and section 501 of the Energy and Water Development Appropriations Act, 1997 (Public Law 104–206, 110 Stat. 2984). For awards made under the authority of section 307(a) of Public Law 104–208, this subpart requires that no funds made available in the Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the “Buy American Act”). It applies to procurement contracts under grants and cooperative agreements which provide for the purchase of equipment and products. Section 501 of Public Law 104–206, 110 Stat. 2984, only applies to

awards made by the Bureau of Reclamation. In addition, for these awards, there is only a requirement that in providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the Secretary, to the greatest extent practicable, will provide to the entity a notice describing a statement within the Act made by Congress. This statement concerns the sense of the Congress that to the greatest extent practicable, all equipment and products purchased with funds made available in the Act, should be American-made. Therefore, for Fiscal Year 1997 awards, only the requirements in Section 12.700 and 12.710 will apply to awards made by the Bureau of Reclamation.

3. Section 12.705 is amended by revising the fourth sentence included in the definition of domestic end product to read as follows:

§ 12.705 Definitions.

* * * * *

*Domestic end product * * **

Components of foreign origin of the same class or kind for which determinations have been made in accordance with Section 12.710(d) (3) and (4) are treated as domestic. * * *

* * * * *

4. Paragraphs (a), (b), and (c) of Section 12.710 are revised to read as follows:

§ 12.710 Policy.

(a) In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available under Public Law 104-208, it is the sense of Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) In awarding financial assistance under Public Law 104-208, 110 Stat. 3009, bureaus and offices excluding the Bureau of Reclamation will provide to each recipient of the assistance the following notice:

Notice: Pursuant to Sec. 307 of the Omnibus Consolidated Appropriations Act of 1997, Public Law 104-208, 110 Stat. 3009, please be advised of the following:

In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(c) In awarding financial assistance using funds made available under Public Law 104-206, to the greatest extent practicable, the Bureau of

Reclamation will provide to each recipient of the assistance the following notice:

Notice: Pursuant to Sec. 501 of the Energy and Water Development Appropriations Act, 1997, Public Law 104-206, 110 Stat. 2984, please be advised of the following:

It is the sense of the Congress, that to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

* * * * *

[FR Doc. 96-33033 Filed 12-27-96; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1313

[STB Ex Parte No. 541]

Railroad Contracts

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (Board) adopts revised regulations governing contracts under 49 U.S.C. 10709 that are entered into between one or more rail carriers and one or more purchasers of rail services for the transportation of agricultural products. The revised regulations reflect the reduced regulatory oversight of rail transportation contracts introduced by the ICC Termination Act of 1995, Public Law 104-88, 109 Stat. 803 (1995) (ICCTA).

EFFECTIVE DATE: These rules are effective on January 29, 1997.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927-5660. (TDD for the hearing impaired: (202) 927-5721.)

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking (NPR) served October 17, 1996 (61 FR 54144), the Board proposed revised regulations to reflect the reduced regulatory oversight of rail transportation contracts introduced by the ICCTA. The revised regulations were proposed by the Board after consideration of comments received from major shipper and carrier interests in response to an advance notice of proposed rulemaking served March 26, 1996 (61 FR 13147).

Comments in response to the NPR were received from the Association of American Railroads, the Kansas Grain and Feed Association, the Montana Wheat and Barley Committee (MWBC), and the National Grain and Feed Association. None of the commenters

objects to the proposed regulations, and we will adopt them without substantive change.

While not objecting to the proposed regulations, *per se*, MWBC states that it is difficult and expensive for many small grain shippers to obtain timely information regarding contract summary filings, and that, in the past, many grain shippers have been unaware of contracts that might affect them until after the complaint period has passed. MWBC suggests that the Board institute a procedure to post the contract summaries filed each day on a "world wide web internet page readily accessible to the grain shippers."

The Board does not currently have the capability to disseminate information, either its own decisions or materials filed with it, over the Internet. We do, however, support improvements in the dissemination of information, and are in the process of developing capability to disseminate information electronically in the future. Nevertheless, we cannot at this time determine the feasibility of disseminating electronically materials filed with us, such as railroad contract summaries, and thus cannot grant MWBC's request at this time. However, we are certainly prepared to consider alternative requirements as they become feasible.

In the meantime, it is important to note that the filing requirements contained in the proposed regulations have been in effect for many years, and other shippers and shipper groups have apparently been able to meet their information needs under the existing filing requirements, as no commenter other than MWBC has raised the issue. We are aware of the existence of independent service providers (generally referred to as watching services) that monitor contract summary filings for their clients and advise them when filings of interest are made. MWBC might wish to investigate the feasibility of using such a service.¹ Additionally, MWBC can investigate the feasibility of obtaining the needed information directly from the rail carriers pursuant to the information availability requirements of § 1313.5(a)(2) of the proposed regulations.

Small Entities

The Board certifies that these rules will not have a significant economic effect on a substantial number of small entities. They merely eliminate obsolete

¹ MWBC states that mail delivery from Washington takes as long as 5 to 6 days, but the watching services advise us that they can and do send contract summaries to their clients by facsimile transmission.