

**§ 1280.62 When are the exhibition halls open?**

(a) The exhibition halls are open to the public during the following hours:

(1) The day after Labor Day through March 31, hours are 10 a.m. to 5:30 p.m.

(2) April 1 through the Friday before Memorial Day, hours are 10 a.m. to 7 p.m.

(3) Memorial Day weekend through Labor Day, hours are 10 a.m. to 9 p.m.

(b) The Archivist of the United States reserves the authority to close the exhibition halls to the public at any time for special events or other purposes. The building is closed on December 25.

Dated: September 4, 2003.

John W. Carlin,

Archivist of the United States.

[FR Doc. 03-23201 Filed 9-11-03; 8:45 am]

BILLING CODE 7515-01-P

**DEPARTMENT OF VETERANS AFFAIRS****38 CFR Part 20**

RIN 2900-AJ85

**Board of Veterans' Appeals: Rules of Practice—Motions for Revision of Decisions on Grounds of Clear and Unmistakable Error: Advancement on the Docket**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This document amends the Rules of Practice of the Board of Veterans' Appeals (Board) relating to challenges to Board decisions on the grounds of "clear and unmistakable error" (CUE). The amendment provides for advancing CUE motions on the docket.

**DATES:** *Effective date:* September 12, 2003.

*Comments:* Comments must be submitted by October 14, 2003.

**ADDRESSES:** Mail or hand-deliver written comments to: Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1064, Washington, DC 20420; or fax comments to (202) 273-9026; or e-mail comments to [OGCRegulations@mail.va.gov](mailto:OGCRegulations@mail.va.gov). Comments should indicate that they are submitted in response to "RIN 2900-AJ85." All written comments will be available for public inspection at the above address in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8

a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273-9515 for an appointment.

**FOR FURTHER INFORMATION CONTACT:**

Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals (01C), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565-5978.

**SUPPLEMENTARY INFORMATION:** The Board is an administrative body that decides appeals from denials of claims for veterans' benefits. There are currently 54 Board members (Veterans Law Judges), who collectively decide on average approximately 35,000 such appeals per year.

**Advancement on the Docket**

On January 13, 1999, the Department of Veterans Affairs (VA) published a final rule in the **Federal Register**, 64 FR 2134, implementing the provisions of section 1(b) of Pub. L. No. 105-111 (Nov. 21, 1997), which permits challenges to decisions of the Board on the grounds of CUE.

As published, the rules relating to CUE motions require that such motions be decided in accordance with their place on the Board's docket. 38 CFR 20.1405(a) (Rule 1405(a)). While appeals are subject to the same requirement, 38 U.S.C. 7107(a)(1), both section 7107(a)(2) and its implementing regulation provide for the earlier consideration of appeals in some circumstances, *id.* 7107(a)(2); 38 CFR 20.900(c) (Rule 900(c)). Generally, Rule 900(c) provides that a case may be advanced on the docket if it involves an interpretation of law of general application affecting other claims or for other good cause. Examples of such good cause in Rule 900(c) include serious illness, extreme financial hardship which might be relieved in whole or in part if the benefits sought on appeal were granted, and administrative error which results in significant delay in docketing the appeal. That rule also provides specific filing requirements.

However, because CUE motions are not appeals, and thus not subject to the various rules relating to appeals, 38 CFR 20.1402 (Rule 1402), we realized that there was no regulatory provision for advancing CUE motions on the docket.

Because we believe that circumstances may warrant advancing a motion on the docket, we have amended Rule 1405(a), relating to the disposition of CUE motions, by redesignating paragraph (2) as paragraph (3), and adding a new paragraph (2), which provides that a CUE motion may be advanced on the docket subject to the

substantive and procedural requirements of Rule 900(c).

VA will consider public comment submitted to the address above, but it has not published a notice of proposed rulemaking on the amendment to this regulation, as allowed by 5 U.S.C. 553(b)(A) and (B). The affected regulation is a rule of agency procedure and practice. In addition, the agency for good cause finds that notice and public procedure thereon would be unnecessary. The substantive rules (subpart O of 38 CFR) were effective February 12, 1999. To avoid delay in the application of this liberalizing benefit, this amendment is effective immediately.

**Regulatory Flexibility Act**

The Secretary hereby certifies that this rule does 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 affects only the processing of claims by VA and does not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

**Executive Order 12866**

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

**Paperwork Reduction Act**

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

**Unfunded Mandates**

The Unfunded Mandates Reform Act requires at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of \$100 million or more in any given year. This rule would have no such effect on State, local, or tribal governments, or the private sector.

**List of Subjects in 38 CFR Part 20**

Administrative practice and procedure, Claims, Lawyers, Legal services, Veterans, Authority delegations (government agencies).

Approved: August 4, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set out in the preamble, 38 CFR part 20 is amended as set forth below: