

Heidi L. Coleman, Office of Chief Counsel, NCC-30, telephone (202) 366-1834.

In FHWA: Byron Dover, Office of Highway Safety Infrastructure, HMHS-1, telephone (202) 366-2161; or Mr. Raymond W. Cuprill, HCC-20, telephone (202) 366-0834.

SUPPLEMENTARY INFORMATION:

Background

The CRA, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States.

The effective date of the final rule on Operation of Motor Vehicles by Intoxicated Persons, published at 64 FR 35568, is corrected from July 1, 1999 to August 30, 1999 in order to comply with the CRA.

Administrative Procedure Act

The Administrative Procedure Act provides that an agency may dispense with prior notice and opportunity for comment when the agency for good cause finds that such procedures are impracticable, unnecessary or contrary to the public interest, 5 U.S.C. 553(b)(3)(B). NHTSA has determined that prior notice and comment are unnecessary, because NHTSA is merely correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the CRA as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The agency finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

Issued on: August 25, 1999.

Adele Derby,

Associate Administrator, State and Community Services, National Highway Traffic Safety Administration.

Karen E. Skelton,

Chief Counsel, Federal Highway Administration.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 2 and 14

RIN 2900-AJ31

Delegations of Authority; Tort Claims

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) regulations regarding delegations of authority for determining and reconsidering claims under the Federal Tort Claims Act. We believe these amendments will facilitate the processing of claims. This document also makes miscellaneous nonsubstantive changes to various regulatory provisions by revising or adding authority citations, updating titles of positions and VA subunits, correcting typographical errors, and making other nonsubstantive changes for the purpose of clarification.

DATES: Effective Date: August 30, 1999.

FOR FURTHER INFORMATION CONTACT: E. Douglas Bradshaw, Jr., Assistant General Counsel (021), Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC 20420, (202) 273-6481.

SUPPLEMENTARY INFORMATION:

Administrative Procedure Act

This final rule consists of delegations of authority and nonsubstantive changes. Accordingly, it is exempt from the notice-and-comment and delayed effective date provisions of 5 U.S.C. 553.

Regulatory Flexibility Act

The Secretary of Veterans Affairs 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. The final rule consists of delegations of authority and nonsubstantive changes that will not have an economic effect on entities. Accordingly, 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.

There are no Catalog of Federal Domestic Assistance numbers associated with this rule.

List of Subjects

38 CFR Part 2

Authority delegations (Government agencies).

38 CFR Part 14

Administrative practice and procedure, Claims, Government employees, Lawyers, Legal services, Organization and functions (Government agencies).

Approved: August 11, 1999.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons stated above, 38 CFR parts 2 and 14 are amended as set forth below:

PART 2—DELEGATIONS OF AUTHORITY

1. The authority citation for part 2 is revised to read as follows:

Authority: 5 U.S.C. 302, 552a; 38 U.S.C. 501, 512, 515, 1729, 1729A, 5711; 44 U.S.C. 3702, unless otherwise noted.

2. Sections 2.1 and 2.2 are redesignated as §§ 2.2 and 2.3, respectively; and a new § 2.1 is added to read as follows:

§ 2.1 General provisions.

In addition to the delegations of authority in this part, numerous delegations of authority are set forth throughout this title.

(Authority: 38 U.S.C. 512)

3. Section 2.6 is amended as follows:

a. The introductory text of paragraph (a) is amended by removing "Chief Medical Director" and adding, in its place, "Under Secretary for Health";

b. The heading for paragraph (a), and paragraphs (a)(1), (a)(3), and (a)(7), are amended by removing "Veterans Health Services and Research Administration" and adding, in its place, "Veterans Health Administration";

c. Paragraphs (a)(3) and (a)(7) are amended by removing "Deputy Chief Medical Director" and adding, in its place, "Deputy Under Secretary for Health";

d. Paragraph (e)(1) is removed and reserved; and

e. The authority citation following paragraph (g) is revised to read as follows:

§ 2.6 Secretary's delegations of authority to certain officials (38 U.S.C. 512).

* * * * *

(Authority: 5 U.S.C. 552a)

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

4. The heading for part 14 is revised to read as set forth above.

5. The authority citation for part 14 is revised 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, 5902-5905; 28 CFR part 14, appendix to part 14, unless otherwise noted.

6. Section 14.600 is revised to read as follows:

§ 14.600 Federal Tort Claims Act—general.

(a) *Federal Tort Claims Act—overview.* The Federal Tort Claims Act (28 U.S.C. 1291, 1346, 1402, 2401, 2402, 2411, 2412, and 2671 through 2680) prescribes a uniform procedure for handling of claims against the United States, for money only, on account of damage to or loss of property, or on account of personal injury or death, caused by the negligent or wrongful act or omission of a Government employee while acting within the scope of his or her office or employment, under circumstances where the United States, if a private person, would be liable in accordance with the law of the place where the act or omission occurred.

(b) *Applicable regulations.* The regulations issued by the Department of Justice at 28 CFR part 14 are applicable to claims asserted under the Federal Tort Claims Act, including such claims that are filed with VA. The regulations in §§ 14.600 through 14.605 of this part supplement the regulations at 28 CFR part 14.

(c) *Delegations of authority concerning claims.* Subject to the limitations in 28 CFR 14.6(c), (d), and (e), authority to consider, ascertain, adjust, determine, compromise, and settle claims asserted under the Federal Tort Claims Act (including the authority to execute an appropriate voucher and other necessary instruments in connection therewith) is delegated as follows:

(1) To the Under Secretary for Health, the Deputy Under Secretary for Health, Veterans Integrated Service Network (VISN) Directors, and VA Medical Facility Directors; with respect to any claim for \$2,500 or less that arises out of the operations of the Veterans Health Administration.

(2) To the General Counsel, Deputy General Counsel, and Assistant General Counsel (Professional Staff Group I) with respect to any claim; provided that any award, compromise, or settlement in excess of \$200,000 shall be effected only with the prior written approval of the Attorney General or his or her designee.

(3) To the Regional Counsels and Deputy Assistant General Counsel (Professional Staff Group I) with respect to any claim; provided that:

(i) Any award, compromise, or settlement in excess of \$100,000 but not more than \$200,000 shall be effected only with the prior written approval of the General Counsel, Deputy General Counsel, or Assistant General Counsel (Professional Staff Group I); and

(ii) Any award, compromise, or settlement in excess of \$200,000 shall be effected only with the prior written

approval of the General Counsel, Deputy General Counsel, or Assistant General Counsel (Professional Staff Group I) and with the prior written approval of the Attorney General or his or her designee.

(d) *Delegations of authority to reconsider final denial of a claim.* Subject to the limitations in 28 CFR 14.6(c), (d), and (e), authority under 28 CFR 14.9 to reconsider final denials of claims under the Federal Tort Claims Act is delegated as follows:

(1) To the Regional Counsel with jurisdiction over the geographic area where the occurrence complained of arose, with respect to any claim for \$2,500 or less that arises out of the operations of the Veterans Health Administration.

(2) To the General Counsel, Deputy General Counsel, and Assistant General Counsel (Professional Staff Group I) with respect to any claim; provided that any award, compromise, or settlement in excess of \$200,000 shall be effected only with the prior written approval of the Attorney General or his or her designee.

Note (1) to paragraph (c)(2): For any award, compromise, or settlement in excess of \$100,000 but not more than \$200,000 a memorandum fully explaining the basis for the action taken shall be sent to the Department of Justice.

Note (2) to paragraph (c)(3)(i): For any award, compromise, or settlement under paragraph (c)(3)(i) of this section a memorandum fully explaining the basis for the action taken shall be sent to the Department of Justice.

Note (3) to paragraph (d)(2): For any award, compromise, or settlement in excess of \$100,000 but not more than \$200,000 a memorandum fully explaining the basis for the action taken shall be sent to the Department of Justice.

(Authority: 28 U.S.C. 1291, 1346, 1402, 2401, 2402, 2411, 2412, 2671–2680; 38 U.S.C. 512, 515; 28 CFR part 14, appendix to part 14)

7. The undesignated center heading immediately preceding § 14.601 is removed.

8. Section 14.601 is amended as follows:

a. The heading for paragraph (a) is revised,

b. A heading for paragraph (b) is added, and

c. An authority citation at the end of the section is added, to read as follows:

§ 14.601 Investigation and development.

(a) *Development of untoward incidents.* * * *

(b) *Development of medical malpractice claims.* * * *

(Authority: 28 U.S.C. 2671–2680; 38 U.S.C. 512, 515; 28 CFR part 14, appendix to part 14)

§ 14.602 [Amended]

9. In § 14.602, paragraph (a) is amended by removing “shall be” and adding, in its place, “shall”.

10. Section 14.604 is amended as follows:

a. Paragraph (a) is amended by removing “, who will transmit forthwith to the appropriate agency” and adding, in its place, “for appropriate action in accord with 28 CFR 14.2”;

b. Paragraph (c) is amended by removing “(see § 14.600(b)(1))”; and

c. An authority citation is added at the end of the section to read as follows:

§ 14.604 Filing a claim.

* * * * *

(Authority: 28 U.S.C. 1346(b)(1), 2401(b), 2671–2680; 38 U.S.C. 512, 515; 28 CFR part 14, appendix to part 14)

11. The undesignated center heading immediately preceding § 14.605 is removed.

12. Section 14.605 is amended as follows:

a. Paragraph (b) is amended by removing “Veterans Health Services and Research Administration” and adding, in its place, “Veterans Health Administration” and by removing “unsolved” and adding, in its place, “involved”;

b. Paragraph (d) is amended by removing “employment” and adding, in its place, “employment”; and

c. An authority citation is added at the end of the section to read as follows:

§ 14.605 Suits against Department of Veterans Affairs employees arising out of a wrongful act or omission or based upon medical care and treatment furnished in or for the Veterans Health Administration.

* * * * *

(Authority: 28 U.S.C. 2671–2680; 38 U.S.C. 512, 515, 7316; 28 CFR part 14, appendix to part 14)

13. In § 14.615, paragraph (a) is amended by removing “Veterans’” and adding, in its place, “Veterans”, and an authority citation is added at the end of the section to read as follows:

§ 14.615 General.

* * * * *

(Authority: 28 U.S.C. 2671–2680; 38 U.S.C. 512, 515, 7316; 28 CFR part 14, appendix to part 14)

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