

subparagraphs (i) through (iv) as (1) through (4).

**§ 139.317 [Corrected]**

■ 8. On page 6431, in column 3, on line six of § 139.317(k), add the date, “June 9, 2004”, at the end of the sentence after the word “after”.

**§ 139.319 [Corrected]**

■ 9. On page 6432, in column 1, on line three of § 139.319(g)(3), correct the reference “(h)(1)” to read “(g)(1)”.

Issued in Washington, DC, on, May 27, 2004.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

[FR Doc. 04–12615 Filed 6–1–04; 12:58 pm]

BILLING CODE 4910–13–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:** Final rule.

**SUMMARY:** This document affirms the interim final rule amending 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:* This final rule is effective June 4, 2004.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:** In a document published in the **Federal Register** on September 12, 2003 (68 FR 53681), we published an interim final rule with request for comments, which amended the Board’s Rule of Practice 1405(a) (38 CFR 20.1405(a)). Rule 1405(a) requires that motions challenging decisions of the Board on the grounds of CUE be decided in accordance with their place on the Board’s docket. While appeals are subject to the same requirement, 38 U.S.C. 7107(a)(1), we noted that both section 7107(a)(2) and its implementing regulation provide for earlier

consideration of appeals if good cause is shown. 38 CFR 20.900(c) (Rule 900(c)). Rule 900(c) sets forth the good cause reasons for advancing an appeal on the Board’s docket and the requirements for filing a motion to advance an appeal on the docket. However, because CUE motions are not appeals, and thus not subject to the various rules relating to appeals, we realized there was no regulatory provision for advancing CUE motions.

We therefore amended Rule 1405(a) to provide that a CUE motion may be advanced on the docket subject to the substantive and procedural requirements of Rule 900(c). We asked interested parties to submit comments on or before October 14, 2003. We received no comments. Based on the rationale noted above and as set forth in the interim final rule, we are adopting the interim final rule as a final rule without change.

#### **Administrative Procedure Act**

This document affirms without any changes an interim final rule that is already in effect. Accordingly, we have concluded under 5 U.S.C. 553 that there is good cause for dispensing with a delayed effective date based on the conclusion that such procedure is impracticable and unnecessary.

#### **Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before 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 final rule would have no such effect on State, local, or tribal governments, or the private sector.

#### **Executive Order 12866**

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

#### **Paperwork Reduction Act**

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

#### **Regulatory Flexibility Act**

The Secretary hereby certifies that this regulatory amendment 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 affects only the processing of claims by VA and does not affect small businesses, to include law firms.

Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Approved: April 22, 2004.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

Accordingly, the interim final rule amending 38 CFR part 20 which was published at 68 FR 53681 on September 12, 2003 is adopted as a final rule without change.

[FR Doc. 04–12625 Filed 6–3–04; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### **Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition to Delist *Astragalus magdalenae* var. *peirsonii* (Peirson’s Milk-vetch)**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 12-month petition finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service) announce a 12-month finding for a petition to delist *Astragalus magdalenae* var. *peirsonii* (Peirson’s milk-vetch) under the Endangered Species Act (Act) of 1973, as amended, (16 U.S.C. 1531 *et seq.*). After reviewing the best scientific and commercial information available, we find that the petitioned action is not warranted. We ask the public to submit to us any new information that becomes available concerning the status of, or threats to, the species. This information will help us monitor and encourage the conservation of this species.

**DATES:** The finding announced in this document was made on May 28, 2004. Although no further action will result from this finding, we request that you submit new information concerning the status of, or threats to, this species, whenever it becomes available.

**ADDRESSES:** The complete file for this finding is available for inspection, by appointment, during normal business hours, at Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Carlsbad, California 92009. Submit new information, materials, comments, or questions concerning this plant to us at the above address.

**FOR FURTHER INFORMATION CONTACT:** Jim Bartel, Field Supervisor, Carlsbad Fish