

13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation because we are establishing a safety zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. Add a new § 165.T11-070 to read as follows:

#### § 165.T11-070 Safety Zone; Red Baron Squadron aerobatic flight demonstration, Long Beach, CA.

(a) *Location.* The following described area constitutes a temporary safety zone: All waters of Long Beach harbor, from

surface to bottom, encompassed by lines connecting points beginning at latitude 33°45'45"N, longitude 118°10'28"W; then to 33°45'17"N, 118°09'53"W; then to 33°44'41" N, 118°10'37"W; then to 33°45'09"N, 118°11'09"W, and then returning to the point of origin (Datum: NAD 1983).

(b) *Effective period.* This section is effective from 10 a.m. to 12 p.m. (PDT) on April 12 and 13, 2003.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transit through or anchoring within the safety zone is prohibited unless authorized by the Coast Guard Captain of the Port, Los Angeles-Long Beach, or his or her designated representative.

(2) Persons desiring to transit the area of the safety zone may contact the Captain of the Port at telephone number (800) 221-8724 or the Patrol Commander on VHF-FM channel 16 (156.8 MHz). If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

Dated: March 10, 2003.

**John M. Holmes,**

*Captain, Coast Guard, Captain of the Port, Los Angeles-Long Beach, California.*

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#### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 20

RIN 2900-AK71

#### Board of Veterans' Appeals: Rules of Practice—Appeal Withdrawal

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends a Board of Veterans' Appeals Rule of Practice to remove an unnecessary restriction on who may withdraw an appeal to the Board of Veterans' Appeals and to clarify appeal withdrawal procedures.

**DATES:** *Effective Date:* April 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals (012), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202-565-5978).

**SUPPLEMENTARY INFORMATION:** Initial decisions on claims for Federal veterans' benefits are made at Department of Veterans Affairs (VA) field offices throughout the nation.

Claimants may appeal those decisions to the Board of Veterans' Appeals (Board).

On February 1, 2002, VA published in the **Federal Register** a proposed rule to amend the Board of Veterans' Appeals Rule of Practice 204(c) (38 CFR 20.204(c)) by removing the current restriction on a representative's authority to withdraw an appeal without having written consent from the appellant. 67 FR 4939. VA also proposed to amend Rule of Practice 204 to fill in currently missing details about appeal withdrawal procedures and to remove as superfluous the current provision in that rule stating that the agency of original jurisdiction may not withdraw a Notice of Disagreement or a Substantive Appeal because that restriction would be covered under revised 38 CFR 20.204(a). The amendment is intended to remove an unnecessary restriction on who may withdraw an appeal to the Board of Veterans' Appeals and to clarify appeal withdrawal procedures.

We received comments from two County veterans service officers. Both commenters opposed the proposed rule with respect to removing the restriction on a representative's authority to withdraw an appeal. The commenters maintained that the duty of a representative with the power of attorney is to assist, inform, and advise the appellant on the best course of action to take in his or her claim, but that the ultimate decision to pursue the claim should be left only to the appellant. Both commenters argued that the proposed rule would circumvent this process and potentially deprive the appellant of the opportunity to make a critical decision in his or her appeal.

We agree that the appellant is the one making the decisions. This amendment will not change that basic tenet of representation. All the rule will do is to make it possible for a representative to execute the appellant's desire to withdraw an appeal. The amendment will not result in any fundamental change in the nature of representation. Moreover, as we observed in the proposed-rule notice, an appellant could contractually limit the authority of his or her representative if such a limitation was deemed warranted by the parties. Accordingly, we make no change based on these comments. Based on the rationale set forth above and in the proposed rule, we adopt the amendments as proposed, with a nonsubstantive change to reflect the current title of the official with whom the withdrawal may be filed.

### 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 measurable monetary effect on State, local, or tribal governments.

### Regulatory Flexibility Act

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 (RFA), 5 U.S.C. 601–612. Any economic impact on service organizations or law firms would be minimal. 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.

### Paperwork Reduction Act

The Secretary hereby certifies that this final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

### List of Subjects in 38 CFR Part 20

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

Approved: March 12, 2003.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

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

### PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

**Authority:** 38 U.S.C. 501(a) and as noted in specific sections.

2. Section 20.204 is revised to read as follows:

#### § 20.204 Rule 204. Withdrawal of Appeal.

(a) *When and by whom filed.* Only an appellant, or an appellant's authorized representative, may withdraw an appeal. An appeal may be withdrawn as to any or all issues involved in the appeal.

(b) *Filing.* (1) *Form and content.* Except for appeals withdrawn on the record at a hearing, appeal withdrawals must be in writing. They must include

the name of the veteran, the name of the claimant or appellant if other than the veteran (e.g., a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf), the applicable Department of Veterans Affairs file number, and a statement that the appeal is withdrawn. If the appeal involves multiple issues, the withdrawal must specify that the appeal is withdrawn in its entirety, or list the issue(s) withdrawn from the appeal.

(2) *Where to file.* Appeal withdrawals should be filed with the agency of original jurisdiction until the appellant or representative filing the withdrawal receives notice that the appeal has been transferred to the Board. Thereafter, file the withdrawal at the following address: Director, Management and Administration (014), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420.

(3) *When effective.* Until the appeal is transferred to the Board, an appeal withdrawal is effective when received by the agency of original jurisdiction. Thereafter, it is not effective until received by the Board. A withdrawal received by the Board after the Board issues a final decision under Rule 1100(a) (§ 20.1100(a) of this part) will not be effective.

(c) *Effect of filing.* Withdrawal of an appeal will be deemed a withdrawal of the Notice of Disagreement and, if filed, the Substantive Appeal, as to all issues to which the withdrawal applies. Withdrawal does not preclude filing a new Notice of Disagreement and, after a Statement of the Case is issued, a new Substantive Appeal, as to any issue withdrawn, provided such filings would be timely under these rules if the appeal withdrawn had never been filed.

(Authority: 38 U.S.C. 7105(b) and (d))

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### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 76

[MM Docket No. 98–35; FCC 03–21]

#### Cable/Broadcast Ownership Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document eliminates the cable/broadcast cross ownership rule in response to a court decision vacating the rule and directing the Commission to

repeal the rule. The action is taken in compliance with the court's directive.

**DATES:** This document became effective on January 31, 2003.

**FOR FURTHER INFORMATION CONTACT:** Erin Dozier, Attorney, Media Bureau, 202–418–7040.

**SUPPLEMENTARY INFORMATION:** 1. As part of the 1998 Biennial Regulatory Review mandated by section 202(h) of the Telecommunications Act of 1996 (47 U.S.C. 161), the Commission reexamined the cable/broadcast cross-ownership rule and determined that the rule should be retained. (*In the Matter of 1998 Biennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, MM Docket No. 98–35, Biennial Review Report, 65 FR 4333, July 13, 2000. In *Fox Television Stations, Inc. v. FCC*, 280 F.3d 1027 (DC Cir. Feb. 19, 2002), the United States Court of Appeals for the District of Columbia Circuit found that the Commission's decision to retain the cable/broadcast cross-ownership rule was arbitrary and capricious and contrary to section 202(h). (*Fox*, 280 F.3d at 1033, 1049) The court vacated the cable/broadcast cross-ownership rule, and directed the Commission to repeal the rule.

2. Accordingly, the Commission hereby repeals section 76.501(a) of our rules. The Commission also repeals as no longer applicable section 76.501(c) of our rules, which established the effective date of the rule.

#### Ordering Clauses

3. Accordingly, paragraphs (a) and (c) of section 76.501 of the Commission's rules, 47 CFR 76.501(a), and 76.501(c) are repealed, effective upon the adoption of this Order.

4. The Commission's rules are further amended as set forth in the rule amendments section of this decision.

5. This action is taken pursuant to sections 4(i), 4(j), and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303, and section 202(h) of the Telecommunications Act of 1996, 47 U.S.C. 161. The Commission finds that notice and comment are unnecessary under 5 U.S.C. 553(b) because this is a ministerial order issued at the direction of the United States Court of Appeals for the District of Columbia Circuit.

#### List of Subjects in 47 CFR Part 76

Cable television.