

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

Claims, Administrative Regulations Amendment

AGENCY: Office of the Secretary of Agriculture, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This document proposes to amend the Administrative Regulations of the United States Department of Agriculture (USDA) relating to claims submitted pursuant to the Federal Tort Claims Act (FTCA) contained in 7 CFR Part 1, Subpart D, as part of the USDA regulatory reinvention initiative to improve its regulations.

DATES: Comments must be received by May 13, 1996.

ADDRESSES: Comments should be sent to: Robert L. Siegler, Deputy Assistant General Counsel, Research and Operations Division, Office of the General Counsel, USDA, room 2321, South Building, 14th Street and Independence Avenue SW., Washington, DC 20250, (202) 720-6035.

FOR FURTHER INFORMATION CONTACT: Robert L. Siegler at the above address.

SUPPLEMENTARY INFORMATION:

Background

The President directed the heads of all departments and agencies to review all regulations and eliminate or revise regulations that are outdated or otherwise in need of reform. This proposed rule updates the USDA regulation contained in 7 CFR § 1.51 relating to claims submitted under the FTCA to remove those provisions relating to claims submitted prior to 1967 and to update the procedure for filing FTCA claims.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not

significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule will not have any economic impact.

Under these circumstances, the Secretary has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This proposed rule: (1) preempts all state and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 1

Administrative practice and procedure, Agriculture, Claims.

Accordingly, it is proposed to amend 7 CFR part 1, subpart D as follows:

PART 1—ADMINISTRATIVE REGULATIONS

Subpart D—Claims

1. The authority citation for Subpart D continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 2671-2680; 28 CFR part 14.

2. Section 1.51 is revised to read as follows:

§ 1.51 Claims based on negligence, wrongful act or omission.

(a) *Authority of the Department.* Under the provisions of the Federal Tort Claims Act (FTCA), as amended, 28 U.S.C. 2671-2680, and the regulations issued by the Department of Justice contained in 28 CFR part 14, the Department may, subject to the provisions of the FTCA and regulations, consider, ascertain, adjust, determine, compromise, and settle claims for money damages against the United States for personal injury, death, or property loss or damage caused by the

negligent or wrongful act or omission of any employee of the United States Department of Agriculture (USDA) while acting within the scope of his or her office or employment, under circumstances where the United States, if it were a private person, would be liable, in accordance with the law of the place where the act or omission occurred.

(b) *Procedure for filing claims.* Claims must be presented by the claimant, or by his or her duly authorized agent or legal representative as specified in 28 CFR 14.3. Standard Form 95, Claim for Damage or Injury, may be obtained from the agency within USDA that employs the employee who allegedly committed the negligent or wrongful act or omission. The completed claim form, together with appropriate evidence and information, as specified in 28 CFR 14.4, shall be filed with the agency from which it was obtained.

(c) *Determination of claims.* (1) *Delegation of authority to determine claims.* The General Counsel, and such employees of the Office of the General Counsel as may be designated by the General Counsel, are hereby authorized to consider, ascertain, adjust, determine, compromise, and settle claims pursuant to the FTCA, as amended, and the regulations contained in 28 CFR part 14 and in this section.

(2) *Disallowance of claims.* If a claim is denied the General Counsel, or his or her designee, shall notify the claimant, or his or her duly authorized agent or legal representative.

Done in Washington, DC, this 5th day of April 1996.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 96-9114 Filed 4-11-96; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF JUSTICE**Office of the Attorney General****28 CFR Part 36****ARCHITECTURAL AND
TRANSPORTATION BARRIERS
COMPLIANCE BOARD****36 CFR Part 1191****DEPARTMENT OF TRANSPORTATION****Office of the Secretary****49 CFR Part 37****Americans With Disabilities Act
Accessibility Guidelines; Detectable
Warnings**

AGENCIES: Architectural and Transportation Barriers Compliance Board, Department of Justice, and Department of Transportation.

ACTION: Joint notice of proposed rulemaking.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board), the Department of Justice, and the Department of Transportation propose to extend the suspension of the requirements for detectable warnings at curb ramps, hazardous vehicular areas, and reflecting pools in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) from July 26, 1996 to July 26, 1998. The Access Board has established an advisory committee to conduct a comprehensive review of ADAAG, including the detectable warning requirements, and plans to initiate rulemaking to revise and update ADAAG based on the advisory committee's recommendations. Extending the suspension date for the detectable warning requirements will allow the Access Board to consider the advisory committee's recommendations and available research data, and to address the detectable warning requirements in the rulemaking to revise and update ADAAG.

DATES: Comments should be received by May 13, 1996. Comments received after this date will be considered to the extent practicable.

ADDRESSES: Comments should be sent to the Office of the General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004-1111. The Access Board will provide copies of all comments received to the Department of Justice and the Department of Transportation.

Comments will be available for inspection at the above address from 9:00 a.m. to 5:30 p.m. on regular business days.

FOR FURTHER INFORMATION CONTACT:

Access Board: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004-1111. Telephone (202) 272-5434 extension 16 or (800) 872-2253 extension 16 (voice), and (202) 272-5449 (TTY) or (800) 993-2822 (TTY).

Department of Justice: The ADA Information Line, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, Washington, DC 20530. Telephone (800) 514-0301 (voice) or (800) 514-0383 (TTY).

Department of Transportation: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street, SW., room 10424, Washington, DC 20590. Telephone (202) 366-9306 (voice) or (202) 755-7687 (TTY).

SUPPLEMENTARY INFORMATION:**Availability of Alternate Formats**

Copies of this proposed rule are available in the following formats: standard print, large print, Braille, audio cassette tape, and computer disk. Single copies may be obtained at no cost by calling the Access Board's automated publications order line (202) 272-5434 or (800) 872-2253, pressing 1 on the telephone keypad, then 1 again and requesting publication DW1 (Detectable Warnings Notice of Proposed Rulemaking). Persons using a TTY should call (202) 272-5449 or (800) 993-2822. Please give your name, address, and telephone number when ordering publications. Persons who want a copy in large print, Braille, audio cassette tape, or computer disk should specify the type of format they want.

The proposed rule is available on electronic bulletin board at (202) 272-5448 (Access Board) and (202) 514-6193 (Department of Justice). These telephone numbers are not toll-free numbers.

The proposed rule is also available on the Internet. It can be accessed with World Wide Web software (<http://www.usdoj.gov>).

Background

The Access Board is responsible for issuing guidelines to assist the Department of Justice and the Department of Transportation in establishing accessibility standards for newly constructed and altered facilities under the Americans with Disabilities

Act. In 1991, the Access Board issued the Americans with Disabilities Act Accessibility Guidelines (36 CFR part 1191), which is commonly referred to as ADAAG. Sections 1 through 10 of ADAAG have been adopted as the accessibility standards for the Americans with Disabilities Act by the Department of Justice (28 CFR part 36) and the Department of Transportation (49 CFR part 37).

As issued in 1991, ADAAG required that a pattern of small, raised truncated domes be built in or applied to walking surfaces at certain locations on a site to warn pedestrians who are blind or visually impaired of hazards on a circulation path. The detectable warnings were required at:

- Curb ramps (ADAAG 4.7.7);
- Hazardous vehicular areas (i.e., where pedestrian ways adjoin vehicular ways and there are no curbs, railings, or other elements separating the pedestrian and vehicular ways) (ADAAG 4.29.5); and
- Reflecting pool edges that are not protected by railings, walks, or curbs (ADAAG 4.29.6).¹

In April 1994, the Access Board, the Department of Justice, and the Department of Transportation issued a joint rule that suspended the requirements for detectable warnings at curb ramps, hazardous vehicular areas, and reflecting pools until July 26, 1996. 59 FR 17442 (April 12, 1994). This action was taken to allow the agencies to consider the results of a research project on the need for detectable warnings at vehicular-pedestrian intersections. The research project, which was sponsored by the Access Board and was conducted by the Virginia Polytechnic Institute and State University, was completed in January 1995.

The research project showed that vehicular-pedestrian intersections are very complex environments and that pedestrians who are blind or visually impaired use a combination of cues to detect and cross intersections. The research project also showed that the travel skills and experience of the pedestrian who is blind or visually impaired are also important factors in negotiating an intersection. The research project found that detectable warnings helped some pedestrians who are blind or visually impaired locate and identify curb ramps. However, the detectable warnings had only a modest impact on

¹ Detectable warnings were also required at platform edges in train stations that are not protected by platform screens or guard rails (ADAAG 10.3.1 (8)). The requirement for detectable warnings at platform stations in train stations is not affected by this rulemaking action.

overall performance because, in their absence, pedestrians who are blind or visually impaired used whatever other cues were available to detect and cross the intersection. The research project indicated that there may be a need for additional cues at some types of intersections. The research project did not identify the specific conditions where such cues should be provided. The research project suggested that other technologies be explored for providing information about intersections, which may be less costly and equally or more effective than detectable warnings.²

The Access Board, in cooperation with Project ACTION, has taken steps to further define specific areas of research that are necessary in order to provide adequate information for pedestrians who are blind or visually impaired at crossings, intersections, hazardous vehicular areas, and reflecting pools. A panel of experts representing people who are blind or visually impaired, designers and engineers, educators, researchers, and State and local governments was assembled in June 1995 to review the existing research on pedestrians who are blind or visually impaired and to develop a statement of research needs. It is anticipated that a final statement of research needs will be available by the summer of 1996.

The Access Board has also established an advisory committee to conduct a comprehensive review of ADAAG. The advisory committee has formed several subcommittees, including a communications subcommittee which considered the detectable warning requirements. The subcommittees have presented their recommendations to the full advisory committee which is reviewing the recommendations and will issue a final report to the Access Board by September 1996. The Access Board plans to initiate rulemaking to revise and update ADAAG based on the advisory committee's report in fiscal year 1997. The Access Board intends to address the requirements for detectable warnings in the planned rulemaking to revise and update ADAAG, after considering the advisory committee's recommendations and available research data.

In view of advisory committee's activities and the planned rulemaking to revise and update ADAAG, the Access Board, the Department of Justice, and the Department of Transportation propose to extend the suspension of the

detectable warnings requirements at curb ramps, hazardous vehicular areas, and reflecting pools from July 26, 1996 to July 26, 1998. This extension will allow the Access Board to consider the recommendations of the advisory committee that is currently reviewing ADAAG and available research data, and to address the requirements in the planned rulemaking to update and revise ADAAG.

Regulatory Process Matters

The Access Board, the Department of Justice, and the Department of Transportation have independently determined that this proposed rule is not a significant regulatory action under Executive Order 12866. Accordingly, a regulatory analysis is not required. It is a significant rule under the Department of Transportation's regulatory policies and procedures since it amends the agency's Americans with Disabilities Act regulations, which are a significant rule. The Department of Transportation expects the economic impacts to be minimal and has not prepared a full regulatory evaluation.

Executive Order 12875 prohibits agencies from promulgating any regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government unless certain conditions are met. This proposed rule creates no new mandate. Consistent with the spirit of Executive Order 12875, this proposed rule continues the suspension of an existing regulatory requirement to allow for further review of the requirement.

The Access Board, the Department of Justice, and the Department of Transportation have also independently certified under section 605(b) of the Regulatory Flexibility Act that this proposed rule is not expected to have a significant economic impact on a substantial number of small entities because it continues the suspension of an existing regulatory requirement and does not impose any new requirement. Therefore, an initial regulatory flexibility analysis is not required.

Text of Proposed Common Rule

The text of the common rule is revised to read as follows:

§ _____. _____ Temporary suspension of certain detectable warning requirements.

The detectable warning requirements contained in §§ 4.7.7, 4.29.5, and 4.29.6 of appendix A to this part are suspended temporarily until July 26, 1998.

Adoption of Proposed Common Rule

The agency specific proposals to adopt the proposed common rule, which appears at the end of the common preamble, are set forth below.

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 36

List of Subjects in 28 CFR Part 36

Administrative practice and procedure, Alcoholism, Buildings and facilities, Business and industry, Civil rights, Consumer protection, Drug abuse, Historic preservation, HIV/AIDS, Individuals with disabilities, Reporting and recordkeeping requirements, Transportation.

Authority and Issuance

By the authority vested in me as Attorney General by 28 U.S.C. 509, 510; 5 U.S.C. 301; and 42 U.S.C. 12186, and for the reasons set forth in the common preamble, part 36 of chapter I of title 28 of the Code of Federal Regulations is proposed to be amended as follows:

PART 36—NONDISCRIMINATION ON THE BASIS OF DISABILITY BY PUBLIC ACCOMMODATIONS AND IN COMMERCIAL FACILITIES

1. The authority citation for 28 CFR part 36 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510; 42 U.S.C. 12186(b).

§ 36.407 [Revised]

2. Section 36.407 is revised to read as set forth at the end of the common preamble.

Janet Reno,
Attorney General.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1191

List of Subject in 36 CFR Part 1191

Buildings and facilities, Civil rights, Individuals with disabilities.

Authority and Issuance

For the reasons set forth in the common preamble, part 1191 of title 36 of the Code of Federal Regulations is proposed to be amended as follows:

²The research project also examined whether detectable warnings introduce barriers to other pedestrians. The research project found that most pedestrians ignored the detectable warnings and no major problems were encountered.

PART 1191—AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

1. The authority citation for 36 CFR part 1191 continues to read as follows:

Authority: 42 U.S.C. 12204.

§ 1191.2 [Revised]

2. Section 1191.2 is revised to read as set forth at the end of the common preamble.

Authorized by vote of the Access Board on February 23, 1996.

John H. Catlin,

Chairman, Architectural and Transportation Barriers Compliance Board.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 37

List of Subjects in 49 CFR Part 37

Buildings and facilities, Buses, Civil rights, Individuals with disabilities, Mass transportation, Railroads, Reporting and recordkeeping requirements, Transportation.

Authority and Issuance

For the reasons set forth in the common preamble, part 37 of title 49 of the Code of Federal Regulations is proposed to be amended as follows:

PART 37—TRANSPORTATION SERVICES FOR INDIVIDUALS WITH DISABILITIES (ADA)

1. The authority citation for 49 CFR part 37 continues to read as follows:

Authority: The Americans with Disabilities Act of 1990 (42 U.S.C. 12101–12213); 49 U.S.C. 322.

§ 37.15 [Revised]

2. Section 37.15 is revised to read as set forth at the end of the common preamble.

Dated: April 5, 1996.

Nancy E. McFadden,

Acting Secretary of Transportation.

[FR Doc. 96–8974 Filed 4–11–96; 8:45 am]

BILLING CODES 4410–01–P, 8150–01–P, 4910–62–P]

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5453–9]

National Oil and Hazardous Substances Pollution Contingency Plan, National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete Liquid Gold Oil Corporation Site (EPA ID# CAT000646208) from the National Priorities List, request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region 9 announces its intent to delete the Liquid Gold Oil Corporation Site (the Site) in Richmond, California, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 400 CFR Part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) of 1980, as amended. EPA and the State of California Department of Toxic Substances Control have determined that the Site poses no significant threat to human health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning the proposed deletion of this Site from the NPL may be submitted by May 13, 1996.

ADDRESSES: Comments may be mailed to: Keith Takata, Director, Superfund Programs, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105.

Comprehensive information on this Site is available through the EPA Region 9 public docket which is located at EPA Region 9's Superfund Records Center, at the address above, and is available for viewing between 8 a.m. and 5 p.m., Monday through Friday, excluding holidays. Additional information on the Liquid Gold Superfund Site, including that contained in the public docket, is also available for viewing at the Site repository located at: State of California, Department of Toxic Substances Control, 700 Heinz Avenue, 2nd floor, Berkeley, CA 94710–2737.

FOR FURTHER INFORMATION CONTACT:

Andrew Lincoff, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–2245

or

Ben Hargrove, Department of Toxic Substances Control, 700 Heinz Avenue, 2nd floor, Berkeley, CA 94710–2737, (510) 540–3845.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The Environmental Protection Agency (EPA), Region 9, announces its intent to delete the Liquid Gold Oil Corporation Site, located in Richmond, California, from the National Priorities List (NPL) and requests comments on this deletion. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300. EPA identifies sites that present a significant risk to public health, welfare, or the environment and maintains the NPL as a list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

EPA will accept comments on the proposal to delete this Site for thirty days after publication of this notice in the Federal Register.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Liquid Gold Oil Corporation Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from, or recategorized on the NPL when no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required; or

(ii) All appropriate response under CERCLA has been implemented and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment, and therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and