

Proposed Rules

Federal Register

Vol. 61, No. 72

Friday, April 12, 1996

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the heads of all departments and agencies to review all regulations and eliminate or revise regulations that are outdated or otherwise in need of reform.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