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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

Claims, Administrative Regulations Amendment

AGENCY: Office of the Secretary of Agriculture, USDA.

ACTION: Final rule.

SUMMARY: This document amends the Administrative Regulations of the United States Department of Agriculture (USDA) as part of the USDA regulatory reinvention initiative to improve its regulations. This final rule removes those provisions relating to claims submitted prior to 1967 and updates the procedure for filing FTCA claims.

EFFECTIVE DATE: December 9, 1996.

FOR FURTHER INFORMATION CONTACT: 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.

SUPPLEMENTARY INFORMATION:

Background

On April 12, 1996, USDA published in the Federal Register (61 FR 16231) a proposal to revise the administrative regulations of USDA relating to claims submitted pursuant to the Federal Tort Claims Act (FTCA) contained in 7 CFR Part 1, Subpart D. No comments were received pursuant to the proposed rulemaking.

Executive Order 12866 and Regulatory Flexibility Act

This final 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 final rule will not have any economic impact.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This final 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 final rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Small Business Regulatory Enforcement Fairness Act of 1996

This final rule removes those provisions relating to claims submitted prior to 1967 and updates the procedure for filing FTCA claims. It does not affect substantially the rights of non-agency parties. Accordingly, pursuant to section 804(3)(C) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121, this rule is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 1

Administrative practice and procedure, Agriculture, Claims.

Accordingly, 7 CFR part 1, subpart D is amended 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 (DOJ) contained in 28 CFR part 14, the United States Department of Agriculture (USDA) may, subject to the provisions of the FTCA and DOJ 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 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, D.C., this 23rd day of October, 1996.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 96-27892 Filed 11-6-96; 8:45 am]

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