Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

AUTHORITY: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83

2. Section 520.110 is amended by revising paragraph (a) to read as follows:

§ 520.110 Apramycin sulfate soluble powder.

(a) *Specifications.* A water soluble powder used to make a medicated drinking water containing apramycin sulfate equivalent to 0.375 gram of apramycin activity per gallon of drinking water.

* * * * *

Dated: September 21, 1988.

Robert C. Livingston,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 88-22205 Filed 9-27-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 14

[Order No. 1302-88]

Administrative Claims Under the Federal Tort Claims Act; Redelegation of Authority

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This Order delegates authority to the Administrator of the Veterans Administration to settle administrative claims presented pursuant to the Federal Tort Claims Act where the amount of the settlement does not exceed $100,000. It is being done to implement Pub. L. 100-322, 38 U.S.C. 233(a). This Order will alert the general public to the Administrator's new authority, and is being codified in the C.F.R. to provide a permanent record of this delegation.

EFFECTIVE DATE: September 28, 1988.

FOR FURTHER INFORMATION CONTACT: Jeffrey Axelrad, Director, Torts Branch, Civil Division, U.S. Department of Justice, Washington, DC 20530 (202) 724-9875.

SUPPLEMENTARY INFORMATION: This Order has been issued to delegate settlement authority and is a matter solely related to division of responsibility between the Department of Justice and the Veterans Administration. It does not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). It is not a major rule within the meaning of the Executive Order No. 12291.

List of Subjects in 28 CFR Part 14

Authority delegations (government agencies), Tort claims.

By virtue of the authority vested in me, including 28 U.S.C. 509, 510, 5 U.S.C. 301, and Pub. L. 100-322, section 203(b), 38 U.S.C. 223(a), Title 28 of the Code of Federal Regulations is revised as follows:

1. The authority citation for Part 14 is revised to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 2672; 38 U.S.C. 223(a).

2. Part 14 is amended by adding an Appendix at the end of the Part to read as follows:

Appendix to Part 14—Redelegation of Authority to the Administrator of Veterans Affairs

Section 1. Authority to compromise tort claims

(a) The Administrator of Veterans Affairs shall have the authority to adjust, determine, compromise and settle a claim involving the Veterans Administration, under Section 2672 of Title 28, United States Code or Section 4116 of Title 38, United States Code, relating to the administrative settlement of federal tort claims, if the amount of the proposed adjustment, compromise, or award does not exceed $100,000. When the Administrator believes a claim pending before him presents a novel question of law or of policy, he shall obtain the advice of the Assistant Attorney General in charge of the Civil Division.

(b) The Administrator may redelegate in writing the settlement authority delegated to him under this section.

Section 2. Memorandum.

Whenever the Administrator settles any administrative claim pursuant to the authority granted by section 1 for an amount in excess of $50,000 and within the amount delegated to him under section 1, a memorandum fully explaining the basis for the action taken shall be executed. A copy of this memorandum shall be sent to the Director, FTCA Staff, Torts Branch of the Civil Division.

September 21, 1988.

Dick Thornburgh,

Attorney General

[FR Doc. 88-22203 Filed 9-27-88; 8:45 am]

BILLING CODE 4410-01-M

[Atty. Gen. Order No. 1301-88]

28 CFR Part 41

Nondiscrimination on the Basis of Handicap in Federally Assisted Programs; Suspension of Guidelines with Respect to Timeframe for Program Accessibility in Public Housing Programs

AGENCY: Department of Justice (DOJ).

ACTION: Final Rule; suspension of guidelines.

SUMMARY: DOJ is suspending its coordination regulation for agency regulations implementing section 504 of the Rehabilitation Act of 1973, as amended, with respect to timeframes for completing structural changes in public housing programs in order to achieve program accessibility. This action affects the coordination regulation implementing Executive Order 12250, which requires DOJ to coordinate the implementation of section 504. The coordination regulation currently requires that structural changes necessary to achieve program accessibility be made as soon as practicable, but in no event later than three years after the effective date of the agency regulation. The Department of Housing and Urban Development's (HUD) section 504 rule provides for four years, rather than three, to make structural changes in case of public housing programs, and allows certain extensions. Suspension of the timeframe requirements will eliminate any apparent inconsistency between HUD's rule and DOJ's coordination regulation.

EFFECTIVE DATE: September 28, 1988.

FOR FURTHER INFORMATION CONTACT: Robert J. Mather, (202) 724-2236 (voice or TDD) or Irene Bowen, (202) 724-2245 (voice or TDD).

SUPPLEMENTARY INFORMATION: Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), provides in part that

> * * * No otherwise qualified individual with handicaps in the United States * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance * * *.

Executive Order 12250 charges DOJ to coordinate the implementation of section 504. 45 FR 72995, 3 CFR, 1980 Comp., p. 298. DOJ's coordination regulation requires recipients to operate each federally assisted program or activity so that, when viewed in its entirety, it is readily accessible to and usable by persons with handicaps. 28

CFR 41.57(a). The rule provides that structural changes necessary to achieve program accessibility must be made as soon as practicable, but in no event later than three years after the effective date of the agency regulation. *Id.* at 41.57(b). The regulation, including the timeframe, must "continue in effect until revoked or modified by the Attorney General." E.O. 12250 section 1–502.

HUD published a regulation implementing section 504 for its federally assisted programs in the **Federal Register** on June 2, 1988 [53 FR 20216 (to be codified at 24 CFR Part 8)]. Paragraph 8.24(a) of HUD's rule restates paragraph 41.57(a) of the coordination regulation, with respect to all existing housing programs [53 FR at 20239]. In addition, paragraph 8.24(a)(2) makes clear that a recipient is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens [*id.*] This "undue burdens" language is based on the Supreme Court's decision in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), and the subsequent circuit court decisions interpreting *Davis* and section 504. *See Dopico* v. *Goldschmidt*, 687 F.2d 644 (2d Cir. 1982); *American Public Transit Association* v. *Lewis*, 655 F.2d 1272 (D.C. Cir. 1981); *see also Rhode Island Handicapped Action Committee* v. *Rhode Island Public Transit Authority*, 718 F.2d 490 (1st Cir. 1983). In *Davis*, the Supreme Court held that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, and stated that section 504 does not require modifications that would result in "undue financial and administrative burdens." 442 U.S. at 412. *See also Alexander* v. *Choate*, 469 U.S. 287 (1985). DOJ interprets its coordination regulation and all existing agencies' section 504 regulations to include the *Davis* limitations on actions required of recipients, whether or not those limitations are explicitly stated in the regulations.

Section 8.25 of HUD's rule set forth specific requirements for public housing programs [53 FR 20239–40]. It provides that as expeditiously as possible, but within two years, each Public Housing Agency (PHA) must (1) assess the needs of eligible persons with handicaps for accessible housing in the area it serves and (2) develop a transition plan if the needs cannot be met within four years through development, alterations otherwise contemplated, or other PHA programs. The PHA must complete any necessary structural changes "as soon as possible but in any event no later than four years after" the rule's effective date [*id.* at 20240 (to be codified at 24 CFR 8.25(c)]. The Assistant Secretary for Fair Housing and Equal Opportunity and the Assistant Secretary for Public and Indian Housing may extend the four-year period for a period not to exceed two years, on a case-by-case determination that compliance within the four years would impose undue financial and administrative burdens on the operation of the recipient's public housing program. Where the undue financial and administrative burdens continue to exist, the Secretary or Undersecretary may further extend this time period in "extraordinary circumstances" for up to one more year [*id.*]. With these possible extensions, the time period allowed by the HUD rule for structural changes in public housing programs can add up to a total of seven years.

Even with respect to public housing programs, the rule does not relieve recipients from the obligation to make structural changes as soon as possible. If the changes cannot be completed within four years, a recipient may receive limited extensions and only in carefully limited circumstances.

DOJ's coordination regulation is a redesignation of the coordination regulation originally issued by the Department of Health, Education, and Welfare (HEW) on January 13, 1978 [43 FR 2132]. When HEW issued its coordination regulation, it specifically commented upon the three-year period for achieving program accessibility in existing public housing projects. In its "Summary of Rule and Analysis of Comments," HEW recognized that special problems might be encountered in making public housing projects program accessible in a three-year period but deferred making any regulatory change pending further consultation with HUD and after re-examining whether circumstances warranted any change [*id.* at 2135–6].

DOJ officials have consulted extensively with representatives from HUD and believe that a suspension of DOJ's rule with respect to timeframe for public housing is appropriate.

Because this action is a suspension of application of part of a rule, and because there is involved a matter relating to grants, benefits, or contracts, DOJ has determined that the suspension shall be effective upon publication. DOJ has not solicited comment on this suspension because the issue of longer timeframes for making structural changes to public housing has been adequately discussed in the extension rulemaking process conducted by HUD.

This action is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that the action will not have a significant impact on small business entities.

List of Subjects in 28 CFR Part 41

Discrimination, Handicap.

Accordingly, under the authority vested in me as Attorney General by E.O. 12250, application of § 41.57(b) of Title 28 of the Code of Federal Regulations to public housing timeframes is hereby suspended.

Dated: September 21, 1988.

Dick Thornburgh,

Attorney General.

[FR Doc. 88–22202 Filed 9–27–88; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Procedural Rules

AGENCY: National Labor Relations Board.

ACTION: Final rules.

SUMMARY: The National Labor Relations Board is revising its rules that govern proceedings concerning compliance with Agency orders. These revisions are, in two instances, necessitated by Board decisions. Other changes are to conform terminology in the rules to Agency practice and to facilitate the handling of compliance issues.

EFFECTIVE DATE: November 13, 1988.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue, NW., Room 701, Washington, D.C. 20570, Telephone: (202) 254–9430.

SUPPLEMENTARY INFORMATION:

As a result of the issuance of two decisions, *Ace Beverage Co.*, 250 NLRB 646 (1980), and *Earle Equipment Co.*, 270 NLRB 827 (1984), the National Labor Relations Board undertook a review of the rules and regulations that govern backpay proceedings, §§ 102.52—102.59. In *Earle Equipment Co.*, supra, the Board held that issuance of "a combined complaint, backpay specification, and notice of hearing" was inappropriate because a backpay specification could issue only "*[a]fter* the entry of a Board order" pursuant to § 102.52. In *Ace Beverage Co.*, supra, a dispute arose between the charging party and the compliance officer as to the backpay formula used. Following a denial by the General Counsel of an appeal from the compliance officer's determination, the case was closed. In accepting jurisdiction over the charging party's motion for clarification or reconsideration of the remedy, the Board stated that, at the compliance stage, "the General Counsel does not act on his own initiative as he does in the issuance of complaints but as the Board's agent in effectuating the remedy ordered." 250 NLRB at 648. Therefore, the Board found "no jurisdictional bar to the review of the General Counsel's action in the compliance stage of this proceeding." Id.

In reviewing the rules, as an initial matter, the Board determined to change the title of the rules from "Backpay Proceedings" to "Compliance Proceedings." The present reference to "backpay" is imprecise in that it suggests the range of issues that can be covered in the supplemental portion of an unfair labor practice proceeding is far more limited than it is. The term "compliance" is broader and covers such issues as alter ego and successor employer status and good-faith bargaining determinations.

Section 102.52 establishes notification of parties to the proceeding of the Regional Director's compliance determination. Following receipt of the notice, the charging party may request a written statement of the basis for the compliance determination. Although the compliance determination may be verbal, the further request requires a written statement. This statement is intended only for use by the charging party in pursuing an *Ace Beverage* appeal.

Section 102.53 specifies an appeals process implementing *Ace Beverage*. The provision in § 102.53 for an appeal to the General Counsel prior to appeal to the Board accomplishes two purposes. First, review by the General Counsel, through the Office of Appeals, presents an opportunity to rectify errors in implementation of remedial orders at the Regional Office level. Second, the appeals process before the General Counsel ensures that the Board will have at least a minimal administrative record to review when it receives an appeal. Consistent with *Ace Beverage*, the appeal right extends to any aspect of a compliance determination.

Section 102.54(b) changes the compliance rules to provide for what the Board found in *Earle Equipment*, supra, the rules currently do not allow. The new provision states that a compliance specification may issue notwithstanding that a Board order has not been issued. This provision permits the issuance of a consolidated complaint and compliance specification and, therefore, allows the issuance of a specification prior to the issuance of a Board order that is required in the present § 102.52. The effect of this rule change is to overrule the *Earle Equipment* decision.

The second part of § 102.54(b) is drafted to ensure that initiation of compliance proceedings will not preclude other administrative or judicial proceedings, i.e., contempt, where they would otherwise be appropriate.

The remaining rules reflect primarily the changes in the procedures to deal with compliance issues other than just backpay specifications. Particularly, § 102.55(b) specifies the contents of a specification when compliance issues other than backpay matters are involved. Section 102.56 states that the respondent shall file an answer to the allegations in the compliance specification.

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the NLRB certifies that this rule will not have a significant impact on a substantial number of small businesses.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

Accordingly, 29 CFR Part 102 is amended as follows:

PART 102—RULES AND REGULATIONS

1. The authority citation for 29 CFR Part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117(c) also issued under Section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Sections 102.52 through 102.59 are revised to read as follows:

§ 102.52 Compliance with Board order; notification of compliance determination.

After entry of a Board order directing remedial action, or the entry of a court judgment enforcing such order, the Regional Director shall seek compliance from all persons having obligations thereunder. The Regional Director shall make a compliance determination as appropriate and shall notify the parties of the compliance determination. A charging party adversely affected by a monetary, make-whole, reinstatement, or other compliance determination will be provided, on request, with a written statement of the basis for that determination.

§ 102.53 Review by the General Counsel of compliance determination; appeal to the Board of the General Counsel's decision.

(a) The charging party may appeal such determination to the General Counsel in Washington, DC, within 14 days of the written statement of compliance determination provided as set forth in § 102.52. The appeal shall contain a complete statement setting forth the facts and reasons upon which it is based and shall identify with particularity the error claimed in the Regional Director's determination. The charging party shall serve a copy of the appeal on all other parties and on the Regional Director. The General Counsel may for good cause shown extend the time for filing an appeal.

(b) The General Counsel may affirm or modify the determination of the Regional Director, or may take such other action deemed appropriate, stating the gounds for the decision.

(c) Within 14 days after service of the General Counsel's decision, the charging party may file a request for review of that decision with the Board in Washington, DC. The request for review shall contain a complete statement of the facts and reasons upon which it is based and shall identify with particularity the error claimed in the General Counsel's decision. A copy of the request for review shall be served on the General Counsel and on the Regional Director.

(d) The Board may affirm or modify the decision of the General Counsel, or make such other disposition of the matter as it deems appropriate. The denial of the request for review will constitute an affirmance of the decision of the General Counsel.

§ 102.54 Initiation of formal compliance proceedings; issuance of compliance specification and notice of hearing.

(a) If it appears that controversy exists with respect to compliance with an order of the Board which cannot be resolved without a formal proceeding, the Regional Director may issue and serve on all parties a compliance specification in the name of the Board. The specification shall contain or be accompanied by a notice of hearing before an administrative law judge at a place therein fixed and at a time not less than 21 days after the service of the specification.

(b) Whenever the Regional Director deems it necessary in order to effectuate the purposes and policies of the Act or to avoid unnecessary costs or delay, the

Regional Director may consolidate with a complaint and notice of hearing issued pursuant to § 102.15 a compliance specification based on that complaint. After opening of the hearing, consolidation shall be subject to the approval of the Board or the administrative law judge, as appropriate. Issuance of a compliance specification shall not be a prerequisite or bar to Board initiation of proceedings in any administrative or judicial forum which the Board or the Regional Director determines to be appropriate for obtaining compliance with a Board order.

§ 102.55 Contents of compliance specification.

(a) *Contents of specification with respect to allegations concerning the amount of backpay due.* With respect to allegations concerning the amount of backpay due, the specification shall specifically and in detail show, for each employee, the backpay periods broken down by calendar quarters, the specific figures and basis of computation of gross backpay and interim earnings, the expenses for each quarter, the net backpay due, and any other pertinent information.

(b) *Contents of specification with respect to allegations other than the amount of backpay due.* With respect to allegations other than the amount of backpay due, the specification shall contain a clear and concise description of the respects in which the respondent has failed to comply with a Board or court order, including the remedial acts claimed to be necessary for compliance by the respondent and, where known, the approximate dates, places, and names of the respondent's agents or other representatives described in the specification.

(c) *Amendments to specification.* After the issuance of the notice of compliance hearing but prior to the opening of the hearing, the Regional Director may amend the specification. After the opening of the hearing, the specification may be amended upon leave of the administrative law judge or the Board, as the case may be, upon good cause shown.

§ 102.56 Answer to compliance specification.

(a) *Filing and service of answer; form.* Each respondent alleged in the specification to have compliance obligations shall, within 21 days from the service of the specification, file an original and four copies of an answer thereto with the Regional Director issuing the specification, and shall immediately serve a copy thereof on the other parties. The answer to the specification shall be in writing, the original being signed and sworn to by the respondent or by a duly authorized agent with appropriate power of attorney affixed, and shall contain the mailing address of the respondent.

(b) *Contents of answer to specification.* The answer shall specifically admit, deny, or explain each and every allegation of the specification, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. Denials shall fairly meet the substance of the allegations of the specification at issue. When a respondent intends to deny only a part of an allegation, the respondent shall specify so much of it as is true and shall deny only the remainder. As to all matters within the knowledge of the respondent, including but not limited to the various factors entering into the computation of gross backpay, a general denial shall not suffice. As to such matters, if the respondent disputes either the accuracy of the figures in the specification or the premises on which they are based, the answer shall specifically state the basis for such disagreement, setting forth in detail the respondent's position as to the applicable premises and furnishing the appropriate supporting figures.

(c) *Effect of failure to answer or to plead specifically and in detail to backpay allegations of specification.* If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate. If the respondent files an answer to the specification but fails to deny any allegation of the specification in the manner required by paragraph (b) of this section, and the failure so to deny is not adequately explained, such allegation shall be deemed to be admitted to be true, and may be so found by the Board without the taking of evidence supporting such allegation, and the respondent shall be precluded from introducing any evidence controverting the allegation.

(d) *Extension of time for filing answer to specification.* Upon the Regional Director's own motion or upon proper cause shown by any respondent, the Regional Director issuing the compliance specification and notice of hearing may by written order extend the time within which the answer to the specification shall be filed.

(e) *Amendment to answer.* Following the amendment of the specification by the Regional Director, any respondent affected by the amendment may amend its answer thereto.

§ 102.57 Extension of date of hearing.

Upon the Regional Director's own motion or upon proper cause shown, the Regional Director issuing the compliance specification and notice of hearing may extend the date of the hearing.

§ 102.58 Withdrawal.

Any compliance specification and notice of hearing may be withdrawn before the hearing by the Regional Director upon his or her own motion.

§ 102.59 Hearing; posthearing procedure.

After the issuance of a compliance specification and notice of hearing, the procedures provided in §§ 102.24 to 102.51 shall be followed insofar as applicable.

Dated, Washington, DC, September 23, 1988.

By direction of the Board.

National Labor Relations Board.

Joseph E. Moore,

Deputy Executive Secretary.

[FR Doc. 88-22208 Filed 9-27-88; 8:45 am]

BILLING CODE 7545-01-M

VETERANS ADMINISTRATION

38 CFR Part 9

Servicemen's and Veterans' Group Life Insurance

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The Veterans Administration (VA) is amending its regulations relating to Servicemen's and Veterans' Group Life Insurance to reflect that the law provides that members of the Individual Ready Reserve (IRR) and the Inactive National Guard (ING) are eligible to be issued Veterans' Group Life Insurance. Members of the IRR and ING will be able to obtain Veterans' Group Life Insurance (VGLI) by submitting an application together with the initial premium within 120 days of becoming a member of the IRR or ING. If the application and required premium are not submitted within the 120-day period, insurance may still be granted provided an application, the initial premium and evidence of insurability are submitted within one year of the expiration of the initial 120-day period.

EFFECTIVE DATE: September 28, 1988.