

should file their motions for those subpoenas with the judge. The Board has authority under 5 U.S.C. 1204(b)(2)(A) to issue a subpoena requiring the attendance and testimony of any individual regardless of location and for the production of documentary or other evidence from any place in the United States, any territory or possession of the United States, the Commonwealth of Puerto Rico or the District of Columbia. Subpoenas are not ordinarily required to obtain the attendance of Federal employees as witnesses.

* * * * *

■ 8. Section 1201.103 is amended by deleting paragraph (c)(3) and revising paragraph (c)(2) to read as follows:

§ 1201.103 Placing communications in the record; sanctions.

* * * * *

(c) * * *

(2) Other persons. The Board may invoke appropriate sanctions against other offending parties.

■ 9. Section 1201.112 is amended by revising paragraph (a) to read as follows:

§ 1201.112 Jurisdiction of the judge.

(a) After issuing the initial decision, the judge will retain jurisdiction over a case only to the extent necessary to:

(1) Correct the transcript; when one is obtained;

(2) Rule on a request by the appellant for attorney fees, consequential damages, or compensatory damages under subpart H of this part;

(3) Process any petition for enforcement filed under subpart F of this part;

(4) Vacate an initial decision before that decision becomes final under § 1201.113 in order to accept a settlement agreement into the record.

* * * * *

■ 10. Section 1201.125 is amended by revising paragraph (c)(1) to read as follows:

§ 1201.125 Administrative law judge.

* * * * *

(c) * * *

(1) In a Special Counsel complaint seeking disciplinary action against a Federal or District of Columbia government employee for a violation of 5 U.S.C. 7323 or 7324, where the administrative law judge finds that the violation does not warrant removal, the administrative law judge will issue a recommended decision to the Board in accordance with 5 U.S.C. 557.

* * * * *

■ 11. Section 1201.126 is amended by revising paragraph (c) to read as follows:

§ 1201.126 Final decisions.

* * * * *

(c) In any Hatch Act action in which the administrative law judge, or the Board on petition for review, finds that a Federal or District of Columbia government employee has violated 5 U.S.C. 7323 or 7324 and that the violation warrants removal, the administrative law judge, or the Board on petition for review, will issue a written decision ordering the employee's removal. If the administrative law judge finds a violation of 5 U.S.C. 7323 or 7324 and determines that removal is not warranted, the judge will issue a recommended decision under § 1201.125(c)(1) of this part. If the Board finds a violation of 5 U.S.C. 7323 or 7324 and determines by unanimous vote that the violation does not warrant removal, it will impose instead a penalty of not less than 30 days suspension without pay. If the Board finds by majority vote that the violation warrants removal, it will order the employee's removal.

Bentley M. Roberts, Jr.,

Clerk of the Board.

[FR Doc. 05-10652 Filed 5-26-05; 8:45 am]

BILLING CODE 7400-01-P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority from the Secretary of Agriculture in order to reflect the Secretary's designation of the General Counsel as the Department official responsible for delegating the authority to other Department heads for considering, ascertaining, adjusting, determining, compromising, and settling, pursuant to the Federal Tort Claims Act (FTCA) and regulations of the Attorney General, claims less than \$2500 that allege the negligence or wrongful act of an employee of a certain agency.

DATES: Effective May 27, 2005.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Cohen, Assistant General Counsel, General Law Division, Office of the General Counsel, Department of Agriculture, Room 3311-S, Washington, DC 20250, telephone 202-720-5565.

SUPPLEMENTARY INFORMATION: Under 28 U.S.C. 2672 of the FTCA, the head of each Federal agency, including the Secretary of Agriculture, is able to adjudicate FTCA claims brought against his or her respective agency. Furthermore, the FTCA states that an agency may effect a settlement equal to or less than \$25,000, without the "prior written approval of the Attorney General or his designee." Through 7 CFR 2.31, the Secretary of Agriculture has delegated to the General Counsel the authority to "[c]onsider, ascertain, adjust, determine, compromise, and settle claims pursuant to the Federal Tort Claims Act, as amended (28 U.S.C. 2671-2680), and the regulations of the Attorney General contained in 28 CFR part 14* * *"

The National Performance Review (NPR) determined that this limited delegation posed a barrier to the efficiency and cost-effectiveness of the USDA. Pursuant to the recommendations of NPR, on September 11, 1996, the Secretary of Agriculture enacted a pilot program, created under Secretary's Memorandum 1030-29, by delegating to the Assistant Secretary for Marketing and Regulatory Programs and the Administrator of APHIS the authority to adjudicate claims under \$2500 submitted pursuant to the FTCA. The pilot program proved to be highly successful. During this program, adjudication time for this type of FTCA claim was reduced from a period of three to six months to less than two weeks. Additionally, payment processing time was reduced from ten days to as little as one day.

Based on the success of this pilot program, the delegations of authority of the Department of Agriculture are amended so that the General Counsel is now able to delegate the authority to another agency head to consider, ascertain, adjust, determine, compromise, and settle, pursuant to the FTCA and regulations of the Attorney General, claims less than \$2500 that allege the negligence or wrongful act of an employee of a particular USDA agency.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rule making and opportunity for comment are not required and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12988 and Executive Orders 12866, amended by Executive Order 13258. In addition, this action is not a rule as defined by the Regulatory

Flexibility Act (5 U.S.C. 601 *et seq.*), and thus is exempt from the provisions of that Act. Finally, this action is not a rule as defined in 5 U.S.C. 804, and thus does not require review by Congress.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

■ Accordingly, 7 CFR Part 2 is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 7 U.S.C. 6912(a)(1), 5 U.S.C. 301; Reorganization Plan No. 2 of 1953, 3 CFR, 1949–1953 Comp., p. 1024.

Subpart D—Delegation of Authority to Other General Officers and Agency Heads

■ 2. Amend § 2.31 to revise paragraph (a) to read as follows:

§ 2.31 General Counsel.

* * * * *

(a) Consider, ascertain, adjust, determine, compromise, and settle claims pursuant to the Federal Tort Claims Act, as amended (28 U.S.C. 2671–2680), and the regulations of the Attorney General contained in 28 CFR part 14; delegate the authority to consider, ascertain, adjust, determine, compromise, and settle, pursuant to the Federal Tort Claims Act as amended (28 U.S.C. 2671–2680) and the regulations of the Attorney General contained in 28 CFR part 14, claims less than \$2500 that allege the negligence or wrongful act of an employee of a USDA agency; and consider, ascertain, adjust, determine, compromise, and settle claims pursuant to section 920 of the Federal Agriculture Improvement and Reform Act of 1996, Public Law 104–127 (7 U.S.C. 2262a).

* * * * *

Dated: April 11, 2005.

Mike Johanns,

Secretary of Agriculture.

[FR Doc. 05–10612 Filed 5–26–05; 8:45 am]

BILLING CODE 3410–14–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 993 and 999

[Docket No. FV05–993–2 IFR]

Dried Prunes Produced in California; Suspension of Handling and Reporting Requirements, Extension of the Suspension of Outgoing Inspection and Volume Control Regulations, and Extension of the Suspension of the Prune Import Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule suspends indefinitely all remaining handling and most reporting requirements under Marketing Order No. 993, beginning August 1, 2005. The marketing order regulates the handling of dried prunes produced in California and is administered locally by the Prune Marketing Committee (committee). This rule also indefinitely extends the suspensions of the outgoing inspection and prune import regulations, and volume control regulations, currently temporarily suspended until August 1, 2006, and August 1, 2008, respectively.

DATES: Effective August 1, 2005; comments received by July 26, 2005 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or E-mail: moab.docketclerk@usda.gov; or Internet: <http://www.regulations.gov>. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; Telephone: (559) 487–5901, Fax: (559) 487–5906; or Kathy Finn, Formal Rulemaking Team Leader, Marketing

Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes produced in California, hereinafter referred to as the “order.” The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.”

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA’s ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Summary

This rule suspends handling and reporting requirements under the marketing order and the prune import regulation, beginning with the 2005–2006 crop year, and continuing