

Rules and Regulations

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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 Date: Effective May 6, 2005.

FOR FURTHER INFORMATION CONTACT:

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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, and 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 Order 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).

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■ 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).

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Dated: April 11, 2005.

Mike Johanns

Secretary of Agriculture.

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