

# Rules and Regulations

Federal Register

Vol. 62, No. 144

Monday, July 28, 1997

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 2

[Docket No. HR-97-002]

#### Revisions of Delegations of Authority

**AGENCY:** Department of Agriculture.

**ACTION:** Final rule.

**SUMMARY:** This document revises the delegations of authority from the Secretary of Agriculture and general officers of the Department by delegating to the Under Secretary for Farm and Foreign Agricultural Services, the Administrator, Foreign Agricultural Service (FAS), the Assistant Secretary for Marketing and Regulatory Programs, and the Administrator, Agricultural Marketing Service (AMS), the authority to administer various programs contained in the Federal Agriculture Improvement and Reform Act of 1996, Pub. L. No. 104-127. It also reserves to the Secretary the authority to appoint members of research and promotion boards.

**EFFECTIVE DATE:** July 28, 1997.

**FOR FURTHER INFORMATION CONTACT:** Barbara Bryant, Legislative Analyst, Legislative Affairs Staff, Agricultural Marketing Service, United States Department of Agriculture, Room 3510—South Building, 1400 Independence Avenue SW, Washington, DC 20250, (202) 720-3203.

**SUPPLEMENTARY INFORMATION:** The Federal Agriculture Improvement and Reform Act of 1996, signed into law April 4, 1996, contains the following new programs:

Commodity Promotion and Evaluation, Sec. 501 (7 U.S.C. 7401) which defines commodity promotion law and provides for independent evaluation of promotion program effectiveness.

The Commodity Promotion, Research, and Information Act of 1996, Sec. 511-526 (7 U.S.C. 7411-7425) which authorizes national research and promotion programs for agricultural commodities as defined in the Act.

The Canola and Rapeseed Research, Promotion, and Consumer Information Act, Sec. 531-543 (7 U.S.C. 7441-7452); the National Kiwifruit Research, Promotion, and Consumer Information Act, Sec. 551-564 (7 U.S.C. 7461-7473); and the Popcorn Promotion, Research, and Consumer Information Act, Sec. 571-582 (7 U.S.C. 7481-7491), which authorize national research and promotion programs for canola and rapeseed, kiwifruit, and popcorn.

The Secretary of Agriculture has determined that these programs can be conducted most effectively under the jurisdiction of the Assistant Secretary for Marketing and Regulatory Programs and the Administrator of AMS and that the foreign market component of these promotion programs can be conducted most effectively under the jurisdiction of the Under Secretary for Farm and Foreign Agricultural Services and the Administrator of FAS. This rule amends the delegations of authority of the United States Department of Agriculture in 7 CFR Part 2 by delegating to the Under Secretary for Farm and Foreign Agricultural Services, the Assistant Secretary for Marketing and Regulatory Programs, the Administrator of FAS, and the Administrator of AMS, the responsibility and authority for administering the above-described programs.

In addition, this rule reserves to the Secretary the authority to appoint members of research and promotion boards.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity to comment thereon 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 E.O. 12866 and E.O. 12988. Finally, this subject is not a rule as defined by Pub. L. No. 96-354, the Regulatory Flexibility Act, and thus, is exempt from the provisions of the Act.

#### 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:** Sec. 212(a), Pub. L. 103-354, 108 Stat. 3210, 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 C—Delegations of Authority to the Deputy Secretary, the Under Secretaries and Assistant Secretaries

2. In § 2.16, paragraph (a)(3)(x) is revised to read as follows:

#### § 2.16 Under Secretary for Farm and Foreign Agricultural Services.

(a) \* \* \*

(3) \* \* \*

(x) Plan and carry out programs and activities under the foreign market promotion authority of: the Wheat Research and Promotion Act (7 U.S.C. 1292 note); the Cotton Research and Promotion Act (7 U.S.C. 2101-2118); the Potato Research and Promotion Act (7 U.S.C. 2611-2627); the Egg Research and Consumer Information Act of 1974 (7 U.S.C. 2701-2718); the Beef Research and Information Act, as amended (7 U.S.C. 2901-2918); the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401-3417); the Floral Research and Consumer Information Act of 1981 (7 U.S.C. 4301-4319); subtitle B of title I of the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 4501-4513); the Honey Research, Promotion, and Consumer Information Act of 1984, as amended (7 U.S.C. 4601-4612); the Pork Promotion, Research, and Consumer Information Act of 1985 (7 U.S.C. 4801-4819); the Watermelon Research and Promotion Act, as amended (7 U.S.C. 4901-4916); the Pecan Promotion and Research Act of 1990 (7 U.S.C. 6001-6013); the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6101-6112); the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6201-6212); the Soybean Promotion, Research, and

Consumer Information Act of 1990 (7 U.S.C. 6301–6311); the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401–6417); the Fresh Cut Flowers and Fresh Cut Greens Promotion and Consumer Information Act (7 U.S.C. 6801–6814); the Sheep Promotion, Research, and Information Act of 1994 (7 U.S.C. 7101–7111); the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411–7425); the Canola and Rapeseed Research, Promotion, and Consumer Information Act (7 U.S.C. 7441–7452); the National Kiwifruit Research, Promotion, and Consumer Information Act (7 U.S.C. 7461–7473); and, the Popcorn Promotion, Research, and Consumer Information Act (7 U.S.C. 7481–7491). This authority includes determining the programs and activities to be undertaken and assuring that they are coordinated with the overall departmental programs to develop foreign markets for U.S. agricultural products.

\* \* \* \* \*

3. Section 2.22 is revised by adding new paragraphs (a)(1)(viii) (XX) through (BBB) and by adding new paragraphs(b)(1) (iv) through (xxii) to read as follows:

**§ 2.22 Assistant Secretary for Marketing and Regulatory Programs.**

(a) \* \* \*

(1) \* \* \*

(viii) \* \* \*

(XX) Commodity Promotion and Evaluation (7 U.S.C. 7401);

(YY) The Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411–7425), except as delegated to the Under Secretary for Farm and Foreign Agricultural Services in § 2.16(a)(3)(x);

(ZZ) The Canola and Rapeseed Research, Promotion, and Consumer Information Act (7 U.S.C. 7441–7452), except as delegated to the Under Secretary for Farm and Foreign Agricultural Services in § 2.16(a)(3)(x);

(AAA) The National Kiwifruit Research, Promotion, and Consumer Information Act (7 U.S.C. 7461–7473), except as delegated to the Under Secretary for Farm and Foreign Agricultural Services in § 2.16(a)(3)(x);

(BBB) The Popcorn Promotion, Research, and Consumer Information Act (7 U.S.C. 7481–7491), except as delegated to the Under Secretary for Farm and Foreign Agricultural Services in § 2.16(a)(3)(x).

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(iv) Appoint members of the Cotton Board established by section 7(a) of the

Cotton Research and Promotion Act, as amended (7 U.S.C. 2106(a));

(v) Appoint members of the Egg Board established by section 8(a) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(a));

(vi) Appoint members of the Floraboard established by section 1707(1) of the Floral Research and Consumer Information Act (7 U.S.C. 4306(1));

(vii) Appoint members of the Honey Board established by section 7(c)(1) of the Honey Research, Promotion, and Consumer Information Act, as amended (7 U.S.C. 4606(c));

(viii) Appoint members of the Lime Board established by section 1955(b)(2) of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6204(b));

(ix) Appoint members of the Mushroom Council established by section 1925(b)(1)(B) of the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6104(b));

(x) Appoint members of the Pecan Marketing Board established by section 1910(b)(8)(E) of the Pecan Promotion and Research Act of 1990 (7 U.S.C. 6005(b));

(xi) Appoint members of the National Potato Promotion Board established by section 308(a)(4) of the Potato Research and Promotion Act as amended (7 U.S.C. 2617(a));

(xii) Appoint members of the National Watermelon Promotion Board established by section 1647(c) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(c));

(xiii) Appoint members of the PromoFlor Council established by section 5(b) of the Fresh Cut Flowers and Fresh Cut Greens Act of 1993 (7 U.S.C. 6804(b));

(xiv) Appoint members of the National Kiwifruit Board established by section 555(c)(1) of the National Kiwifruit Research, Promotion, and Consumer Information Act (7 U.S.C. 7464(c));

(xv) Appoint members of Popcorn Board established by section 575(b)(1) of the Popcorn Promotion, Research, and Consumer Information Act (7 U.S.C. 7484(b));

(xvi) Appoint members of the Wheat Industry Council established by section 1706(a) of the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3405(a));

(xvii) Appoint members of the Cattlemen's Beef Promotion and Research Board established by section 5(1) of the Beef Research and Information Act as amended (7 U.S.C. 2904(1));

(xviii) Appoint members of the National Pork Board established by section 1619(a)(1) of the Pork Promotion, Research, and Consumer Information Act of 1985 (7 U.S.C. 4808(a));

(xix) Appoint members of the United Soybean Board established by section 1969(b)(1) of the Soybean Promotion, Research, and Consumer Information Act (7 U.S.C. 6304(b));

(xx) Appoint members of the National Sheep Promotion, Research, and Information Board established by section 5(b) of the Sheep Promotion, Research, and Information Act (7 U.S.C. 7104(b)(1));

(xxi) Appoint members of the National Canola and Rapeseed Board established by section 535(b)(1) of the Canola and Rapeseed Research, Promotion, and Consumer Information Act (7 U.S.C. 7444(b));

(xxii) Appoint members of boards established by section 515(b)(2)(A) of the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7414(b)).

**Subpart F—Delegations of Authority by the Under Secretary for Farm and Foreign Agricultural Services**

4. In § 2.43, paragraph (a)(24) is revised to read as follows:

**§ 2.43 Administrator, Foreign Agricultural Service.**

(a) \* \* \*

(24) Plan and carry out programs and activities under the foreign market promotion authority of: the Wheat Research and Promotion Act (7 U.S.C. 1292 note); the Cotton Research and Promotion Act (7 U.S.C. 2101–2118); the Potato Research and Promotion Act (7 U.S.C. 2611–2627); the Egg Research and Consumer Information Act of 1974 (7 U.S.C. 2701–2718); the Beef Research and Information Act, as amended (7 U.S.C. 2901–2918); the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401–3417); the Floral Research and Consumer Information Act of 1981 (7 U.S.C. 4301–4319); subtitle B of title I of the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 4501–4513); the Honey Research, Promotion, and Consumer Information Act of 1984, as amended (7 U.S.C. 4601–4612); the Pork Promotion, Research, and Consumer Information Act of 1985 (7 U.S.C. 4801–4819); the Watermelon Research and Promotion Act, as amended (7 U.S.C. 4901–4916); the Pecan Promotion and Research Act of 1990 (7 U.S.C. 6001–6013); the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6101–6112); the Lime Research,

Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6201–6212); the Soybean Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6301–6311); the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401–6417); the Fresh Cut Flowers and Fresh Cut Greens Promotion and Consumer Information Act (7 U.S.C. 6801–6814); the Sheep Promotion, Research, and Information Act of 1994 (7 U.S.C. 7101–7111); The Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411–7425); the Canola and Rapeseed Research, Promotion, and Consumer Information Act (7 U.S.C. 7441–7452); the National Kiwifruit Research, Promotion, and Consumer Information Act (7 U.S.C. 7461–7473); and, the Popcorn Promotion, Research, and Consumer Information Act (7 U.S.C. 7481–7491). This authority includes determining the programs and activities to be undertaken and assuring that they are coordinated with the overall departmental programs to develop foreign markets for U.S. agricultural products.

\* \* \* \* \*

#### Subpart N—Delegations of Authority by the Assistant Secretary for Marketing and Regulatory Programs

5. Section 2.79 is amended by adding new paragraphs (a)(8)(lviii) through (lxii) to read as follows:

##### § 2.79 Administrator, Agricultural Marketing Service.

(a) \* \* \*

(8) \* \* \*

(lviii) Commodity Promotion and Evaluation (7 U.S.C. 7401);

(lix) Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411–7425), except as specified in § 2.43(a)(24);

(lx) The Canola and Rapeseed Research, Promotion, and Consumer Information Act (7 U.S.C. 7441–7452), except as specified in § 2.43(a)(24);

(lxi) The National Kiwifruit Research, Promotion, and Consumer Information Act (7 U.S.C. 7461–7473), except as specified in § 2.43(a)(24); and

(lxii) The Popcorn Promotion, Research, and Consumer Information Act (7 U.S.C. 7481–7491), except as specified in § 2.43(a)(24).

\* \* \* \* \*

Dated: July 21, 1997.

**Dan Glickman,**  
*Secretary of Agriculture.*

Dated: July 11, 1997.

**Dallas R. Smith,**  
*Under Secretary for Farm and Foreign Agricultural Services.*

Dated: July 9, 1997.

**Michael V. Dunn,**  
*Assistant Secretary for Marketing and Regulatory Programs.*  
[FR Doc. 97–19799 Filed 7–25–97; 8:45 am]  
BILLING CODE 3410–01–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1208

[FV–97–703]

#### Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This document removes the requirement of the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order (Order) that each qualified handler pays to the National PromoFlor Council (Council) an assessment in the amount of 0.5 percent on wholesale sales of fresh cut flowers and greens as specified in the Order. The remaining provisions of the Order and regulations issued thereunder will be terminated at a later date. This action is necessary because termination of the Order was favored by a majority of the qualified handlers voting in a referendum conducted from June 2 through 20, 1997.

**EFFECTIVE DATE:** July 29, 1997.

**FOR FURTHER INFORMATION:** Sonia N. Jimenez, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2535–S, Washington, DC 20090–6456, telephone (202) 720–9915 or (888) 720–9917.

**SUPPLEMENTARY INFORMATION:** This action is issued under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993 [7 U.S.C. 6801–6814] (Act).

Prior documents in this proceeding: Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order, December 29, 1994 [59 FR 67139]; Referendum Procedures, April 14, 1997 [62 FR 18033]; and Referendum Order, April 21, 1997 [62 FR 19301].

This action has been determined to be non-significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

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

#### Regulatory Flexibility Analysis

In accordance with the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*] (RFA), the Agricultural Marketing Service has considered the economic impact of this action on small entities.

The Act, which authorizes the creation of a generic program of promotion and information for fresh cut flowers and greens, became effective on December 14, 1993.

Section 7(a) of the Act provides that the Secretary of Agriculture (Secretary) shall conduct a referendum not later than 3 years after the issuance of an order to ascertain whether the order then in effect shall be continued. The Order was issued on December 29, 1994. Paragraph (a)(2) of § 7 of the Act requires that the Order be approved by a simple majority of all votes cast in the referendum. In addition, paragraph (b) of § 7 of the Act specifies that each qualified handler eligible to vote in the referendum shall be entitled to cast one vote for each separate facility of the person that is an eligible separate facility. The voting period for the referendum was June 2 through 20, 1997.

Only those wholesale handlers (including, but not limited to, wholesale jobbers, bouquet and floral article manufacturers, auction houses that clear the sale of cut flowers and greens, and retail distribution centers), producers, and importers who have annual sales of \$750,000 or more of fresh cut flowers and greens and who sell those products to exempt handlers, retailers, or consumers are considered qualified handlers and assessed under the Order.

There are approximately 643 qualified handlers who are covered by the program. Small agricultural service firms, which include the qualified handlers covered under the Order, have been defined by the Small Business Administration [13 CFR 121.601] as those whose annual receipts are less than \$5 million. Only 127 qualified handlers have been identified to have \$5 million in annual sales.

It is concluded that the majority of qualified handlers may be classified as small entities.