

AGRICULTURE DECISIONS

Volume 65

January - December 2006

Part Four

List of Decisions Reported (Alphabetical Listing)
Index (Subject Matter)



THIS IS A COMPILATION OF DECISIONS ISSUED BY THE
SECRETARY OF AGRICULTURE AND THE COURTS
PERTAINING TO STATUTES ADMINISTERED BY THE
UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURE DECISIONS

Agriculture Decisions is an official publication by the Secretary of Agriculture consisting of decisions and orders issued in adjudicatory administrative proceedings conducted for the Department under various statutes and regulations. Selected court decisions concerning the Department's regulatory programs are also included. The Department is required to publish its rules and regulations in the *Federal Register* and, therefore, they are not included in *Agriculture Decisions*.

Beginning in 1989, *Agriculture Decisions* is comprised of three Parts, each of which is published every six months. Part One is organized alphabetically by statute and contains all decisions and orders other than those pertaining to the Packers and Stockyards Act and the Perishable Agricultural Commodities Act, which are contained in Parts Two and Three, respectively.

The published decisions and orders may be cited by giving the volume number, page number and year, e.g., 1 Agric. Dec. 472 (1942). It is unnecessary to cite a decision's docket number, e.g., AWA Docket No. 99-0022, and the use of such references generally indicates that the decision has not been published in *Agriculture Decisions*.

Consent decisions entered subsequent to December 31, 1986, are no longer published in *Agriculture Decisions*. However, a list of consent decisions is included in the printed edition. Since Volume 62, the full text of consent decisions is posted on the USDA/OALJ website (See url below). Consent decisions are on file in portable document format (pdf) format and may be inspected upon request made to the Hearing Clerk, Office of Administrative Law Judges (ALJ).

Beginning in Volume 63, all **Initial Decisions** decided in the calendar year by the Administrative Law Judge(s) will be arranged by the controlling statute and will be published chronologically along with appeals (if any) of those ALJ decisions issued by the Judicial Officer.

Beginning in Volume 60, each part of *Agriculture Decisions* has all the parties for that volume, including consent decisions, listed alphabetically in a supplemental List of Decisions Reported. The Alphabetical List of Decisions Reported and the Subject Matter Index (from the beginning of the annual Volume) are included in a separate volume, entitled Part Four.

Volumes 57 (circa 1998) through the current volume of *Agriculture Decisions* are also available online at <http://www.usda.gov/da/oaljdecisions/>, along with links to other related websites. Volumes 39 (circa 1980) through Volume 56 (circa 1997) have been scanned and will appear in pdf on the same OALJ website. Beginning on July 1, 2003, current ALJ Decisions will be displayed in pdf format on the OALJ website in chronological order.

A compilation of past volumes on Compact Disk (CD) of *Agriculture Decisions* will be available for sale at the US Government Printing Office On-line Bookstore at <http://bookstore.gpo.gov/>.

Direct all inquiries regarding this publication to: Editor, Agriculture Decisions, Office of Administrative Law Judges, U.S. Department of Agriculture, Room 1057 South Building, Washington, D.C. 20250-9200, Telephone: (202) 720-6645, Fax (202) 690-0790, and e-mail address of Editor.OALJ@usda.gov.

LIST OF DECISIONS REPORTED

(Alphabetical Listing)

January - December 2006

ACE PROPERTY AND CASUALTY INS. CO.	140
ADAMS APPLE PRODUCE, INC.	754, 1483
ADVANCED FROZEN FOODS, INC	1229
ALDERISO BROS. INC..	766
ALHALABI, ABDUL KARIM	1108
ALMQUIST, STEVE	1418
AMALGAMATED SUGAR COMPANY L.L.C..	252
AMBORN, MARY	377
AMERICAN FAMILY FARMS, INC.	1264
AMERICAN FURNITURE WAREHOUSE, INC.	377
AMERIFRESH, INC	1426
ANIMAL PARADISE.	377
ANIMAL ENTERTAINMENT PRODUCTIONS	1229
ANIMALS, INC..	318
ARBUCKLE WILDERNESS.	318
ARBUCKLE & OZARKS DEVELOPMENT COMPANY	377
ARMITAGE, RONALD	377
ATCHISON, CAROLYN D.	377
AUSTIN, SCOTTY	1273
BAIARDI CHAIN FOOD CORP..	717
BALDHOFF, ROBERT W.	1229

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

BARNES JR., LEE A.	171
BARRERA, LOUIS A...	369
BARROWS, KENNETH E.	1257
BAUDY, ROBERT E.	879
BAYCHE COMPANIES, INC.	669
BECKEN, BRADLEY	393
BEEVILLE LIVESTOCK COMMISSION, INC.	1273
BEKEN LIVESTOCK INC.	393
BELTZ, RONALD	281, 291
BENNETT, KIM.. . . .	174, 285
BEUCKE, DONALD R..	418, 1341, 1372
BILLINGS, TERRY R.	377
BILLINGS MEATS AND PROCESSING PLANT	377
BILLINGSLEY, DOUG	1229
BILLINGSLEY, KEITH	1229
BLACK GOLD FARMS	1143
BLACK GOLD FARM, INC.	1143
BLACK II, ROBERT RAYMOND	1143
BLUE MOON SOLUTIONS, INC...	126
BOND, JEWEL	45, 92, 1175
BONDS KENNEL.	92, 1175
BRACKETT, CHARLES R.	707

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

BRAMBLETT, ANNA..	165
BRANDY MEATS, INC.	1229
BRIDGEPORT NATURE CENTER, INC.	1039
BROCK, ROBERT	993
BROCK, MICHELLE	993
BRUCE, JOHN M..	363
BURCH, DAVID .	153
BUTLER, W. E.	1273
BYRD, JERRY T.	1273
CACTUS CORNER, ET AL..	234
CAMPAIGN FOR FAMILY FARMS ..	795, 1164, 1165, 1167, 1169
CANNON SR, VOYD OTIS	1229
CANNON JR, VOYD OTIS.	1229
CANNON, THOMAS	1229
CANNON, DAE A.	1229
CAUDILL JR., JOHN N.,	87
CAUDILL III, JOHN N.	87
CERNIGLIA, JOSEPH T..	574
CHAD WAY STABLES, INC.	377
CHAMPLAIN BEEF COMPANY, INC.	377
CHAZZ COX D/B/A GATEWAY GARDENS.	377
CHIODO, VINCENT, .	1432

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

CHIODO FARMS	1432
CHOVANES. D.V.M., MICHAEL J.	377
CHUHLANTSEFF, HAROLD.	280
CIRCLE P. KENNELS	377
CITIZENS ACTION COALITION	
OF INDIANA	795, 1164, 1165, 1167, 1169
CLASON, STEVEN E..	160
COASTAL BEND ZOOLOGICAL ASSOCIATION	993
COO COO RICO OFF HOOK	1229
COOSEMANS SPECIALTIES, INC.	539
COOSEMANS, DANIEL F.	539
CORONET FOODS, INC.	474
CORPUS CHRISTI ZOO	993
CORPUS CHRISTI ZOOLOGICAL ASSOCIATION	993
CRECES, EDDY C..	539
CREECH, DAVID A.,	87
CRESCENT CUSTOMS MEATS	1229
CRESCENT CUSTOM SLAUGHTERING, INC.	1229
CRESCENT SLAUGHTERHOUSE CORPORATION	1229
CUNEO JR., JOHN F.,	87
CZIRAKY, DIANA R.	377
DAGEMJIAN, ARTHUR	377

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

DAHMAN, INMAN A.	377
DAL-DON PRODUCE CO., INC..	718, 766
DALE, BURL J.	377
DALE, BARBARA	377
DALE, CHARLES	377
DAYTON TRADING COMPANY..	766
DERICKSON, HERBERT	1143
DERICKSON, JILL	1143
DIXON, JACK	776
DIXON, LEWIS	776
DOUBLE J FARMS	377
DUNCAN, JEFFREY LON.	714,730
BENNETT, THOMAS.	714,730
DURBAHN, RENA ESTATE OF	805
DURBAHN, DON	805
EDALEEN DAIRY L.L.C...	767
EDWARDS, ANNA J...	165
ESTES, JOSEPH M.	1229
EVERS, MICHAEL	377
EXOTIC PET CO.	342, 849, 1188
FADDIS, LONNIE	1229
FALLETTA, FRANK J...	766

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

FARMING TECHNOLOGY, INC.	1432
FATTED CALF CATTLE FARMS	1273
FLEMING COMPANIES, INC..	394
FLINT RIVER FOODS, LLC	1489
FLUVANNA FRUITS AND VEGETABLES	1489
FOSTER, JOHN A.	766
FOSTER FARM FRESH PRODUCE..	766
FRESH FARE, INC.	766
FREY CATTLE COMPANY, INC	393
FRU-VEG MARKETING, INC	1452
FULLER, JR., GEORGE E.	429
FULLER, JON R....	429
G & T TERMINAL PACKAGING CO., INC.	1280
G.W. EXOTIC ANIMAL MEMORIAL FOUNDATION.	377
G.W. PALMER & CO., INC.	673
GALLO PRODUCE AND FOOD PRODUCTS, INC.	763
GARZA-LEAL, MIGUEL.	1171
GERAWAN FARMING, INC..	1
GFI AMERICA, INC.	1244, 1245
GIBBONS, JAMES	393
GIBBS, JOHN M.	393
GLOVER, RICHARD	393

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

GOLDBERGER, GARY	1244, 1245
GRAY, BILLY A.	377
GRAY, TIM	1132
GREAT CATS OF THE WORLD.	1039
GREENSPACE KENNEL	377
HALE, MARTY..	126
HALE-HALSELL COMPANY.	525,733
HALFMANN., ALAN	393
HAND, STEVE.M.	1273
HARMON, JAMES T.	1273
HARRINGTON CATTLE CO. L.L.C..	390
HARRIS, ROBERT.	280
HARVEST LOGISTICS, INC.	1460
HAUN, ALICE	1229
HAWK, JR, ROBERT.	1489
HAWTHORN CORPORATION, THE	87
HERBERT DERICKSON TRAINING FACILITY	1143
HERBERT DERICKSON STABLES	1143
HERBERT DERICKSON BREEDING -----	
AND TRAINING FACILITY.	1143
HIRSCH, MICHAEL H... ..	712
HIRSCH, BARRY J..	712

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

HOLLY SUGAR CORP. ...	245
HORNE, MARVIN D.	805
HORNE, LAURA R.	805
HOUSE OF RAEFORD FARMS OF LOUISIANA, LLC.	377
HUNTS POINT TOMATO CO., INC..	696, 729, 1297
HUTCHINS, DENNIS E.	1409
HUTCHINS DISTRIBUTING COMPANY.	1409
IDAHO POWER COMPANY-----	-
HELLS CANYON COMPLEX.	273, 275, 278
ILLINOIS STEWARDSHIP -----	
ALLIANCE	795, 1164, 1165, 1167, 1169
INDIAN ROCK PRODUCE INC.	746
IOWA CITIZENS FOR COMMUNITY IMPROVEMENT	795, 1164, 1165, 1167, 1169
J. F. PALMER & SONS PRODUCE, INC.	1452
J.H. CATTLE COMPANY	1273
JACKSON, CRIS A.	377
JOE’S VEGETABLES, INC.	1485
JOENS, JIM	795, 1164, 1165, 1167, 1169
JOHN M. GIBBS LIVESTOCK	393
JUDITH’S FINE FOODS INTERNATIONAL, INC.	1369
KEYESKI, KEITH K..	1372

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

JUSTICE, RAY.	1325
KLEIMAN & HOCHBERG, INC.	482, 720
KNAPP, BODIE	993
KNAPP, CHARLES	993
KOAM PRODUCE, INC.	398, 589, 1470
KOOI, DAVID VANDER	393
KORN, BEN.	377
LA REPACK, INC....	687
LACY, PERCY..	1157
LAIDLEY, CYNTHIA E..	372
LAMB, R. ROBERT	393
LAND STEWARDSHIP PROJECT ..	795, 1164, 1165, 1167, 1169
LASSEN VINEYARDS, ..	805
LATHAM, DON	1231
LEICHTY, KAREN C.	1229
LELENOA, FONONGA..	365
LESSARD, SHARON	1229
LEVINSON, MARK.	1026
LEWIS, JAMES O.	1489
LIGHTENING RANCH AND WILDLIFE PRESERVE, INC ..	377
LINN CREEK KENNEL.	356, 932
LION RAISINS, INC.	1205, 1207, 1214

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

LION, JEFFREY	1205, 1207, 1214
LION, BRUCE	193
LION RAISIN COMPANY	1205, 1207, 1214
LION, DANIEL	1205, 1207, 1214
LION RAISIN COMPANY.	193
LION RAISINS, INC.,.	193
LION, DANIEL,.	193
LION ENTERPRISES, INC.	1
LION HEART GROUP, INC..	766
LION PACKING COMPANY	1205, 1207, 1214
LION PACKING COMPANY.	193
LION, ISABEL	193, 1205, 1207, 1214
LION, LARRY	1205, 1207, 1214
LION JR, ALFRED	1205, 1207, 1214
LION JR., ALFRED.	193
LION, BRUCE	1205, 1207, 1214
LION, JEFFREY.	193
LION, LARRY.	193
LITTLE JOE LIVESTOCK MEATS, INC.	381
LOBRADIRA LOVIN PUPS.	377
LOPEZ, JESUS A.	1229
LOST CREEK ANIMAL SANCTUARY FOUNDATION, INC.	1229

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

LOST CREEK ANIMAL SANCTUARY	1229
LUECK, HANS JAKOB	1229
LUKE, GINGER GAIL	1229
LUSK ONION, INC.	1414
M & M LIVESTOCK	377
M & C EXOTICS	377
MAERSK SEALAND.	377
MALOUFF, JOHN R.	377
MAP PRODUCE, LLC	1489
MARGIOTTA, PHILIP J..	461, 622
MARINE PARK FARMERS MARKET INC..	757
MARTINDALE, EDWARD S..	449, 1301
MATTES JR, PHILLIP O.	1261
MAURER, STEVE.	377
MAYOLI, INC.	648
MCBARRON, MICHAEL LEE	307
MCCONNELL, CYNTHIA	1121
MCCONNELL, JACKIE	1121
MCCOURT, DIANA R.	377
MCDOWELL, MARK	795, 1164, 1165, 1167, 1169
MCGEE PRODUCE, INC.	1487
MIDWEST NATIONAL FARMERS - SIG ELLINGSON, INC.	393

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

MIEZE JET AIR SALES, INC..	740
MILETTE, DEBORAH ANN	1229
MILLER, WENDY..	374
MISSOURI RURAL CRISIS CENTER ..795, 1164, 1165, 1167, 1169	
MOBILE PRODUCE, INC.	1460
MORGAN, CHERYL	342, 849, 1188
MOUNTAIN HIGH POTATOES & ONION, INC.	1418
MUENSTER LIVESTOCK AUCTION COMMISSION, INC.	1273
NAGHAMI, JAVID F.	1229
NAVARETTE PRODUCE CO., LLC.	377
NETTLESHIP, ANDERSON	377
NETTLESHIP, MAE	377
NGUYEN, MY VAN	377
NICHOLAS MEAT PACKING	1238
NICHOLAS, EUGENE A.	1238
NICOLLET CATTLE COMPANY, INC.	1244, 1245
NICOLLET CATTLE TRADING	1244, 1245
NORTH AMERICAN MEAT PACKERS	1257
OLIVER, TOM D...	707
P.J. PRODUCE, INC..	766
PACIFICO, ADRIENNE	1229
PAGLIUSO JR., JOSEPH.	381

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

PALM, CYNTHIA	377
PARIS, LARRY	377
PENN PRODUCE, INC.	735
PERFECTLY FRESH SPECIALTIES INC..	714, 730
PERFECTLY FRESH CONSOLIDATION INC.	714, 730
PERFECTLY FRESH FARMS, INC..	714, 730
PERRY, CRAIG A.	377
PETER, JEANNINE L.	377
PGB INTERNATIONAL, LLC. CO	669
PICCIRILLO, DAVID MARTIN	1229
PIGGLY WIGGLY ALABAMA DISTRIBUTING CO., INC .	1229
PILLOW, KEITH A.	1489
PINE SPRINGS PETS, INC.	1229
PLUEGER, ROBERT	377
POOR BOY AUCTION, INC.	393
POPLAR PLAINS LIVESTOCK, INC.	1231
POSENKE, FLOYD	377
POST AND TABACK, INC	395
PUDLINER, ANDREW	1273
PUDLINER PACKING	1273
PUPPY LUV KENNEL	1229
QUIMOYOG, EMILYN..	367

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

“R” BEST PRODUCTS, INC.	377
R & R FRESH FRUITS AND VEGETABLES, INC..	766
R & D KENNELS	377
R OR M CATTLE COMPANY... ..	1261
RAINS, EDWARD	377
RAINS, JANIE	377
RAISIN VALLEY FARMS	805
RAISIN VALLEY FARMS MARKETING ASSOCIATION ...	805
RAISIN VALLEY MARKETING	805
RAMIREZ, MAURICIO A..	1221
RARE FELINE BREEDING CENTER, INC.	879
RAWLS BROKERAGE, INC..	742
RED HAWK FARMING AND COOLING	776
RICHARDSON, WILLIAM..	835
RIGGS, HEIDI M. BERRY	1039
RIGGS, JAMES LEE	1039
ROCK CREEK EXOTIC DRIVE-THRU	1229

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

RODRIGUEZ, HECTOR ELOY	1229
ROMEO, ELVIRA.	1222
ROVELO, JAIME O..	714, 730
SAAD, NAZEM	1229
SAAD, NASSER	1229
SABBOUH, CHEHADE	377
SAFARI JOE'S WILDLIFE RANCH, INC	1229
SAFARI JOE'S ZOOLOGICAL PARK	1229
SAND CREEK FARM, INC.	377
SAVAGE KINGDOM, INC.	879
SCHAEFER, THOMAS	393
SCHAEFER CATTLE COMPANY	393
SCHALLER'S MEATS	1257
SCHMIDT, JEROME	60
SCHMIDT, KAREN	70, 971
SCHOONVELD, PIETER	766
SCHREIBVOGEL, JOE	377

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

SCHROCK, MICHELLE.	1204
SCOTT, WALDO RUSHY..	1102
SCOTT INSURANCE AGENCY	1102
SCR KENNELS.	70, 971
SHAMBO, MILTON WAYNE.	318
SHEPHERD, MARILYN.	1019
SIBERIAN TIGER CONSERVATION	377
SMEAL, LARRY K.	1273
SMITH, WILLIAM D., ET AL.	377
SMITH, SANDRA L.	377
SMITH, KENNETH R.	377
SMITH, RICHARD	795, 1164, 1165, 1167, 1169
SNELL, JIM M.	1489
SOL FRESH PRODUCE, INC. ...	687
SOUTH PEAK PRODUCE, INC.	747
SOUTHERN MINNESOTA BEET SUGAR COOPERATIVE..	293
SOUZA, BETTY	1223

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

SOUZA, LOUIS	1223
SPRING DALE FARMS, INC.	377
ST. JOHN GROUP.	363
STANLEY BROTHERS.	314
STANLEY, MITCHELL	314, 822, 1171
STANLEY BROTHERS.	822, 1171
STEVE ALMQUIST SALES & BROKERAGE	1418
STEWART FARMS,	1137
STEWART, DERWOOD	1137
STEWART, FREDERICK R.	393
SUN VALLEY POTATO GROWERS, INC.	673
SUNCOAST PRIMATE	
SANCTUARY FOUNDATION, INC.,	113, 1186, 1197
SUPERIOR PRODUCE EXCHANGE, LLC.	750
T-BYRD CATTLE COMPANY	1273
T&M HORSE COMPANY	307
TELLING FIELDS EXOTIC EDUCATIONAL FACILITY ..	1229

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

THAMES JR, JAMES E.	429, 1274
THOMPSON, THOMAS M.	87
TOP OF THE OZARK AUCTION..	60
TORRES, JOSE LUIS	377
TORRES, FERNANDO	377
TRINH COMPANY	1229
TUCCILLO, ROY	1229
TUCK, GRANDY	377
UNITED AIR LINES, INC.	377
VALLEY PRIDE PACK, INC.	393
WALKER, MARJORIE	356, 932
WALKER BROTHER'S CIRCUS, INC,	87
WALKER, HAROLD.	356
WARD, TRENT WAYNE	307
WARLEY, ROBBIE	1143
WARLEY, CHRISTOPHER B.	1143
WASHINGTON LAMB, INC.	377

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

WATERMELON & PRODUCE, INC.	1489
WAY, CHAD	377
WAYNE’S WORLD SAFARI AND ANIMALS, INC..	318
WAYNE’S WORLD SAFARI	318, 993
WEIKERT'S LIVESTOCK, INC. ET AL.	393
WEIS-BUY SERVICES, INC.	648
WESA-A-GEH-YA ZOO.	377
WESTERN ROSE FOODS.	1480
WILCOX, DONNA	377
WILCOX, RICHARD	377
WILD EYES FOUNDATION	1229
WILLIAM DUBINSKY & SON, INC	1337
WILLIAMS AG COMMODITIES BROKERAGE, INC.	1426
WILLIAMS, LANCE	377
WILLIAMS, STACI.	377
WILLIAMS, MARK ARNOLD.	377
WOODY, STEVE	1229

LIST OF DECISIONS REPORTED
(Alphabetical Listing)
January - December 2006

WR FOODS, INC. 1480

ZAHND, CHRISTOPHER JEROME, 281, 291

ZAJICEK, JAMES G. 87

INDEX

(Subject Matter)

January - December 2006

ADMINISTRATIVE PROCEDURES ACT

Alternate theories of relief, timely filing of	776
APA standard of review	776
Arbitrary and capricious, when not	776
Collateral estoppel.	1157
Compelled speech, issue of, filed untimely	776
Decision defined	849
Intervention	1167
Latches	1143, 1157
Rehearings within discretion of ALJ	776
Remand, when not warranted	776
Res judicata	1143
Res judicata, when not	1157
Statute of limitations	1108
Statutory presumption	1157
Timing of initial decision	971

AGRICULTURE MARKETING AGREEMENT ACT

Administrative remedies, failure to exhaust	767
AFO	795
Anti-trust, when not	1
Assessments, unpaid, multiple crop years	805
Checkoff funds, legitimate uses of, when not	795
Collectivize	1
Commercial speech	1
Compelled subsidies	776
Conduct, not speech	1
Disorderly marketing conditions	767
First amendment	1
First Amendment, claims as applied	776
Germane speech	1
Government interests	1
Government speech	1
Handler, first, acquired possession as a trigger event	805
Interim relief.	1165
Intervention	1164, 1167, 1169
Marketing Orders	1

Packer	805
Pork Checkoff	795
PPRCIA	795, 1164
Producer-handler	767
RAC	805
Reporting requirements	805
Settlement fund	767
Severability	1
Speech not attributed to Petitioner	776
Standing	767
Substantial interest	795
Watermelon promotion	776

ANIMAL QUARANTINE ACT

Default	307, 314
Commercial Transportation of Equine for Slaughter Act	1171
Animal Health Protection Act	822, 1171
Backtags	835
Commercial Transportation of Equine for Slaughter Act	822
Intent irrelevant in civil administrative proceeding	822
Physical harm	835
Pre-existing injuries	835
Safe and humane transport, when not	835
SHTP	822, 835
Trauma	835
Unnecessary discomfort	835

ANIMAL WELFARE ACT

Allegations, unsupported.	70
Auction barn sales	60
Complaint dismissed	87
Correction of violations	45, 92, 1176
Credibility determinations	1176
Dealer, unlicensed to Euthanize	994
Dealer	1019
Default	318, 342, 356
Denial of license application	1026
Direct control	1039
Duty to develop record	1197
Employees, adequately trained	879
Euthanization	879
Exhibition, what is	1039
Exhibitor	1039

Exotic animals	1039
Foreseeability	879
Frequency of inspection	1176
General public	879, 1039
Government misconduct	971
Handling, definition of	879
Immobilizing drugs	994
Inspection, full and complete	113
Inspections, risk based, when not	60
Intrastate activities	1019
License, denial of	113, 1186
License, failure to acquire	1019
License, operating without	1019
Minimal risk	1039
Non Agricultural animals	1039
Preponderance of the evidence	87
Primates	113
Public exhibition	879
Refusal of access	60
Repeated	45, 92
Squeeze cage	879
Stay, automatic, when triggered	1186
Suspension of License	45
Trainee	1039
Transfer form	1039
Trauma	879
Unfit for AWA license	1026
Unnecessary discomfort	879
Veterinary care	994
Veterinary care, program of	879
Viewing public	1039
Violation of state law pertaining to animals	1026
VMO	879, 994
Volunteer	879, 994, 1039
Willful	45, 92, 1176

CONSTITUTIONAL

Advertisement, generic, government financed	776
Arbitrary and capricious, when not	394
Commercial speech	1
Conduct, not speech	1
Congressional expression, absence of	278
First amendment	1

Germane speech	1
Government speech	1, 776
Government interests	1
Interstate commerce, affecting	1019
“Private analogue” situs requirement	171
Sixth amendment right to speedy trial	971
Uniquely governmental function	171
 DEBARMENT & SUSPENSION (Non-Procurement)	
Grant funds, unearned	126
Overpayment	126
RUS	126
Suspension from participation, Federal grant program	126
 ENERGY POLICY ACT	
Burden of proof	278
Congressional expression, absence of	278
Default rule	278
Duty to find material facts	275
Legal issues are beyond subject matter jurisdiction	273
Material facts, duty to determine	273
Trial type hearing	275, 278
Unduly burdensome discovery, when not	275
 FARM SERVICE ACT	
Affirmative misconduct by government official, when not	160
“Delivery”, meaning of	160
Equitable estoppel	160
Federal salary offset	165
Reliance	165
 FEDERAL CROP INSURANCE ACT	
Acts detrimental to program	1102
Administrative remedies, failure to exhaust	140
Alteration of pre-approved form	1102
Debarment	1102
Futile action, when not	140
Ineligible, geographically	1102
Jurisdictional vs. non-jurisdictional statutes	140
Offering of insurance	1102
Standard Reinsurance Agreement	140
“Sweeping and direct”	140

FOOD NUTRITION SERVICE

Clearly erroneous findings, when not 153
Disqualification, permanent 153
Electronic Benefits Transfer (EBT) 153
Employee, who is an 153
Statute of limitations 1108
Trafficking 153
Wire and Food Stamp Fraud 1108

FOOD SAFETY INSPECTION SERVICE

Federal tort claims act 171
“Good Samaritan rule” 171
Negligent inspection 171
“Private analogue” situs requirement 171
Uniquely governmental function 171

HORSE PROTECTION ACT

Burden of proof not shifted 1157
Civil penalty 174, 1121
Custodian 1121
Disqualification 174, 1121
Entering 1121, 1143
Findings, conclusions, and order supported by the record 281
Inspector’s failure to testify and to prepare written statement . . . 285
Inspector’s prior conduct and reputation 285
Malicious prosecution, when not 1121
Manner of inspection 174, 285
Petition to reconsider 281
Refusal to permit inspection 174, 285
Res judicata, when not 1157
Selective prosecution, when not 1121
Shipping 1121
Soring 1121, 1132, 1137, 1157
West Nile virus 1157

INSPECTION & GRADING

Attorney of record 1205
Debarment from inspection services 193
Grading, poor testing 193
Licenses 193
Misconduct, pattern of. 193
Motion to dismiss on pleading 1208
Officially drawn 193
Settlement conference 1205

PACKERS AND STOCKYARDS ACT

Admission 1231
Default 390, 1245, 1257, 1261, 1264
Dishonored checks 381
Failure to pay when due 381, 1239
Insufficient funds 381, 1231
Payment, late 1231
Penalty, inability to pay 1239
Willful 1231,1239

PACA -- REPARATIONS

Calculations 669
Cover – expenses saved in consequence of breach 668
Fees and expenses 648
Grower’s agent 648
Interest rate 669
Jurisdiction 687
Meeting of minds 648
Order on Reconsideration 669
Requirements contract – formation 673
Requirements contract – minimum quantity not required 673
Requirements contract – definition 673
Respondent unlicensed but Operating Subject to License. 687

PERISHABLE AGRICULTURAL COMMODITIES ACT

Ability to control acts of an officer 720
Active participation 461
Actively involved in activities
 resulting in violation 482, 622, 1301, 1325, 1341, 1372
Acts of employees and agents 395, 589, 1280
Actual knowledge of bribe not required 461
Administrative Procedure Act opportunity to comply inapplicable 539
Admission 1409

Admission of monies owed	1414
Admission in Answer admitting bankruptcy	474
Admissions, failure to deny	1369
Alter ego	574, 622, 1301, 1341, 1372
APA right to notice and opportunity to achieve compliance	622
Arbitrary and capricious, when not	394, 1274
Bankruptcy not a bar to sanction	1414
“Batter rule”	394
Bribery of government official	395, 398, 482, 539, 589, 1280
Bribes	461
Burden of proof	696
Civil penalty	539
Credibility determinations	1280
de facto officer	574
Default	474, 733, 737, 739, 747
Default	1483, 1485, 1487, 1480
Default.	735, 740, 742, 745, 749, 754, 756, 762
Disciplinary proceeding	707
Due process clause of 14th Amendment inapplicable	1373
Due process	707
Employment bar applicable to multiple PACA licensees	539
Exact amount owed	696
Extortion	1280
Failure to pay, no defense to	1409
Failure to make full payment promptly	430
Failure to pay	525, 696
Failure to exercise prudent Director duties.	1274
Failure to file timely answer	525
Falsified USDA inspection certificate	539
General denial	1337
Illegal payments	1280
Implied duty not to pay bribe	1280
Interference with chosen occupation	539
Joinder of responsibly connected and disciplinary proceedings	707, 1372
Knowledge of acts of an officer	482
Liability of PACA licensee for officer’s acts	482, 720
Liability of PACA licensee not irrebuttable	482
License lapse	1297
License terminated	1297
License revocation	482, 539, 1280
Motive for bribery irrelevant	1470
Motive for payment to inspector	482

Multiple petitions for review consolidated for hearing	1341
No pay status	1409
No pay	1369
Nominal officer, director, and shareholder	430, 482, 622, 1372
Nominal officer, when not – Resignation, belated.	449
Nominal director, when not	1325
Nominal officer, director, and shareholder	1301, 1341
Non-nominal board director	1274
Opportunity to achieve compliance	1372
Preponderance of the evidence	696
Prompt payment, failure to make	1297, 1337, 1369
Prompt payment, when not	395
Publication of facts and circumstances	398, 525, 589, 696, 718, 1470
Purpose of PACA’s responsibly connected provisions	622
Res judicata, when not	395
Resignation from Board of Directors, belated.	418
Resignation ineffective	574
Respondent Superior doctrine, scope of employment elements not applicable	395
Responsibly connected	418, 430, 449, 461, 482,
Responsibly connected	1274, 1301, 1341, 1372
Responsibly connected	539, 574, 622, 707, 720, 730
Right to engage in occupation	482, 622, 720
Scope of employment	398, 482, 589
Service of default decision	1372
Settlement offers	696
Show cause order	1337
Simultaneous disciplinary and responsibly connected proceedings	539
Slow pay vs. No Pay	395
Slow pay	1297
Standard of proof	1341
Statement of witness called by respondent not covered by rules	1373
Stock ownership greater than 10%	418
Timing of employment bar	1341, 1373
Willful, flagrant, and repeated violations	589, 1280
Willful, flagrant, and repeated violations	398, 482, 525, 539
Willful	1409

PLANT PROTECTION ACT

Arbitrary and capricious, when not 234
Clementines 234
Imported from Spain 234
Medfly 234
Prohib 9 234
Threshold of risk 234

PLANT QUARANTINE ACT

Default. 363, 365, 367, 369, 372, 374

REPARATIONS

Movement of commodity across a state border not prerequisite
. 1418
Damages 1452
Interstate Commerce 1418, 1426, 1432
Jurisdiction 1418, 1426, 1432
Not Proven. 1452
Suitable Shipping Condition 1460
When Applicable at a Secondary Destination. 1460

RULES OF PRACTICE

Attorney of record 1206
Collateral estoppel 1143, 1157
Default 1223
Default decision 822, 849, 932
Discretion, ALJ has broad, to manage dockets 1132
Effective date of filing. 1214
Failure to file timely answer 822, 849, 932, 1188
Final order pending 1197
Interim relief 1165
Intervention 1167, 1169
Latches 1143
Late-filed petition to reconsider 1171
License pre-issue investigation 1197
Motion to dismiss on pleading 1208, 1214
Operative pleading 932
Oral Decision 1137
Petition to reconsider 1171
Res judicata 1143
Satisfaction of Consent Order conditions 718
Service. 714
Severance of parties is implicitly permitted in rules 1132

Soring	1137
Stay order	292, 714, 728
Time of filing established by date and time stamp	822

SANCTIONS

Ability to pay civil penalty	932
Adjustment to allocation	293
Cease and desist order	849, 932
Civil penalty	285, 822, 849, 932
Disqualification	285
Jurisdiction to consider late-filed petition for review	293
License revocation	849, 932
Severity of sanction	849
Violations, prior	1019

SUGAR MARKETING ALLOTMENT

<i>Chevron</i> two prong test	245
Commodity loans	245
Distribution of allocation upon termination of operations	252
FAIR act	245
Non-recourse loans	245
Sugar beets	252, 293
Timeliness of request for reconsideration	293
Transfer of allocation to buyer of assets	252
Treasury rate interest	245