

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	FMIA Docket No. 12-0182
)	FMIA Docket No. 12-0183
Paul Rosberg and Kelly Rosberg,)	
d/b/a Nebraska's Finest Meats,)	
)	Ruling Denying Respondents'
Respondents)	Motion for Extension of Time

PROCEDURAL HISTORY

On December 2, 2014, Paul Rosberg and Kelly Rosberg [Respondents] filed a motion to extend the time for filing a response to *In re Paul Rosberg* (Order Denying Late Appeal), ___ Agric. Dec. ___ (Nov. 7, 2014). On December 5, 2014, Alfred V. Almanza, Administrator, Food Safety and Inspection Service, United States Department of Agriculture [Administrator], filed Opposition to Respondents' Motion for Extension of Time. On December 31, 2014, Respondents filed a response to the Administrator's Opposition to Respondents' Motion for Extension of Time, and the Hearing Clerk transmitted the record to the Office of the Judicial Officer for a ruling on Respondents' December 2, 2014, motion for an extension of time.

DISCUSSION

The rules of practice applicable to this proceeding¹ provide that a party to a proceeding may file a petition to reconsider the decision of the Judicial Officer within 10 days after the date

¹The rules of practice applicable to this proceeding are the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130-.151) [Rules of Practice].

of service of the decision upon the party filing the petition, as follows:

§ 1.146 Petitions for reopening hearing; for rehearing or reargument of proceeding; or for reconsideration of the decision of the Judicial Officer.

(a) *Petition requisite. . . .*

. . . .

(3) *Petition to rehear or reargue proceeding, or to reconsider the decision of the Judicial Officer.* A petition to rehear or reargue the proceeding or to reconsider the decision of the Judicial Officer shall be filed within 10 days after the date of service of such decision upon the party filing the petition. Every petition must state specifically the matters claimed to have been erroneously decided and alleged errors must be briefly stated.

7 C.F.R. § 1.146(a)(3).

I find Respondents' December 2, 2014, motion to extend the time for filing a response to *In re Paul Rosberg* (Order Denying Late Appeal), __ Agric. Dec. __ (Nov. 7, 2014), constitutes a motion to extend the time for filing Respondents' petition for reconsideration of *In re Paul Rosberg* (Order Denying Late Appeal), __ Agric. Dec. __ (Nov. 7, 2014).

The Hearing Clerk served Respondents with *In re Paul Rosberg* (Order Denying Late Appeal), __ Agric. Dec. __ (Nov. 7, 2014), on November 12, 2014,² and Respondents were required to file a petition for reconsideration of the November 7, 2014, Order Denying Late Appeal no later than November 24, 2014.³ As Respondents filed the request to extend the time

²Office of Administrative Law Judges, Hearing Clerk's Office, Document Distribution Form, relating to the November 12, 2014, distribution of the Judicial Officer's Order Denying Late Appeal filed in FMIA Docket Nos. 12-0182 and 12-0183.

³Ten days after the date the Hearing Clerk served Respondents with the November 7, 2014, Order Denying Late Appeal was Saturday, November 22, 2014. The Rules of Practice provide, when the time for filing a document or paper expires on a Saturday, the time for filing shall be extended to the next business day, as follows:

§ 1.147 Filing; service; extensions of time; and computation of time.

. . . .

for filing a petition for reconsideration after Respondents' petition for reconsideration was required to be filed, Respondents' request for an extension of time to file a petition for reconsideration of *In re Paul Rosberg* (Order Denying Late Appeal), __ Agric. Dec. ____ (Nov. 7, 2014), is denied.

For the foregoing reasons, the following Ruling is issued.

RULING

Respondents' December 2, 2014, motion for an extension of time to file a petition for reconsideration of *In re Paul Rosberg* (Order Denying Late Appeal), __ Agric. Dec. ____ (Nov. 7, 2014), is denied.

Done at Washington, DC

January 2, 2015

William G. Jenson
Judicial Officer

(h) *Computation of time.* Saturdays, Sundays and Federal holidays shall be included in computing the time allowed for the filing of any document or paper: *Provided*, That, when such time expires on a Saturday, Sunday, or Federal holiday, such period shall be extended to include the next following business day.

7 C.F.R. § 1.147(h). The next business day after Saturday, November 22, 2014, was Monday, November 24, 2014.