

functions of the Cooperative State Research, Education, and Extension Service.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

**§ 6972. Program staff**

In making the personnel reductions required under section 6913 of this title, the Secretary shall reduce the number of Federal research and education personnel of the Department by a percentage equal to at least the percentage of overall Department personnel reductions. The Secretary shall achieve such reduction in research and education personnel in a manner that minimizes duplication and maximizes coordination between Federal and State research and extension activities.

(Pub. L. 103-354, title II, §252, Oct. 13, 1994, 108 Stat. 3227.)

SUBCHAPTER VII—FOOD SAFETY

**§ 6981. Under Secretary of Agriculture for Food Safety**

**(a) Establishment**

There is established in the Department of Agriculture the position of Under Secretary of Agriculture for Food Safety. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals with specialized training or significant experience in food safety or public health programs.

**(b) Functions of Under Secretary**

**(1) Principal functions**

The Secretary shall delegate to the Under Secretary of Agriculture for Food Safety those functions and duties under the jurisdiction of the Department that are primarily related to food safety.

**(2) Additional functions**

The Under Secretary of Agriculture for Food Safety shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

**(c) Omitted**

**(d) Technical and scientific review groups**

The Secretary, acting through the Under Secretary for Research, Education, and Economics, may, without regard to the provisions of title 5 governing appointment in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates—

(1) establish such technical and scientific review groups as are needed to carry out the functions of the Department; and

(2) appoint and pay the members of the groups, except that officers and employees of the United States shall not receive additional compensation for service as a member of a group.

(Pub. L. 103-354, title II, §261, Oct. 13, 1994, 108 Stat. 3227.)

CODIFICATION

Section is comprised of section 261 of Pub. L. 103-354. Subsec. (c) of section 261 of Pub. L. 103-354 amended section 5314 of Title 5, Government Organization and Employees.

**§ 6982. Conditions for implementation of alterations in the level of additives allowed in animal diets**

**(a) Conditions**

The Food and Drug Administration shall not implement or enforce the final rule described in subsection (b) of this section to alter the level of selenium allowed to be used as a supplement in animal diets unless the Commissioner of the Food and Drug Administration makes a determination that—

(1) selenium additives are not essential, at levels authorized in the absence of such final rule, to maintain animal nutrition and protect animal health;

(2) selenium at such levels is not safe to the animals consuming the additive;

(3) selenium at such levels is not safe to individuals consuming edible portions of animals that receive the additive;

(4) selenium at such levels does not achieve its intended effect of promoting normal growth and reproduction of livestock and poultry; and

(5) the manufacture and use of selenium at such levels cannot reasonably be controlled by adherence to current good manufacturing practice requirements.

**(b) Final rule described**

The final rule referred to in subsection (a) of this section is the final rule issued by the Food and Drug Administration and published in the Federal Register on September 13, 1993 (58 Fed. Reg. 47962), in which the Administration stayed 1987 amendments to the selenium food additive regulations, and any modification of such rule issued after October 13, 1994.

(Pub. L. 103-354, title II, §262, Oct. 13, 1994, 108 Stat. 3227.)

SUBCHAPTER VIII—NATIONAL APPEALS DIVISION

**§ 6991. Definitions**

For purposes of this subchapter:

**(1) Adverse decision**

The term “adverse decision” means an administrative decision made by an officer, employee, or committee of an agency that is adverse to a participant. The term includes a denial of equitable relief by an agency or the failure of an agency to issue a decision or otherwise act on the request or right of the participant. The term does not include a decision over which the Board of Contract Appeals has jurisdiction.

**(2) Agency**

The term “agency” means any agency of the Department designated by the Secretary or a

successor agency of the Department, except that the term shall include the following (and any successor to the following):

(A) The Consolidated Farm Service Agency (or other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under section 6932 of this title).

(B) The Commodity Credit Corporation, with respect to domestic programs.

(C) The Farmers Home Administration.

(D) The Federal Crop Insurance Corporation.

(E) The Rural Development Administration.

(F) The Natural Resources Conservation Service (or other office, agency, or administrative unit of the Department assigned the functions authorized for the Natural Resources Conservation Service under section 6962(b) of this title).

(G) A State, county, or area committee established under section 590h(b)(5) of title 16.

### (3) Appellant

The term “appellant” means a participant who appeals an adverse decision in accordance with this subchapter.

### (4) Case record

The term “case record” means all the materials maintained by the Secretary related to an adverse decision.

### (5) Director

The term “Director” means the Director of the Division.

### (6) Division

The term “Division” means the National Appeals Division established by this chapter.

### (7) Hearing officer

The term “hearing officer” means an individual employed by the Division who hears and determines appeals of adverse decisions by any agency.

### (8) Implement

The term “implement” refers to those actions necessary to effectuate fully and promptly a final determination of the Division not later than 30 calendar days after the effective date of the final determination.

### (9) Participant

The term “participant” shall have the meaning given that term by the Secretary by regulation.

(Pub. L. 103-354, title II, §271, Oct. 13, 1994, 108 Stat. 3228.)

#### REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this subtitle”, meaning subtitle H (§§271-283) of title II of Pub. L. 103-354, Oct. 13, 1994, 108 Stat. 3228, which enacted this subchapter, amended sections 2006 and 5101 to 5106 of this title and section 2202e of Title 12, Banks and Banking, and repealed sections 1433e and 1983b of this title.

This chapter, referred to in par. (6), was in the original “this title”, meaning title II of Pub. L. 103-354, Oct. 13, 1994, 108 Stat. 3209, known as the Department of Ag-

riculture Reorganization Act of 1994. For complete classification of title II to the Code, see Short Title note set out under section 6901 of this title and Tables.

## § 6992. National Appeals Division and Director

### (a) Establishment of Division

The Secretary shall establish and maintain an independent National Appeals Division within the Department to carry out this subchapter.

### (b) Director

#### (1) Appointment

The Division shall be headed by a Director, appointed by the Secretary from among persons who have substantial experience in practicing administrative law. In considering applicants for the position of Director, the Secretary shall consider persons currently employed outside Government as well as Government employees.

#### (2) Term and removal

The Director shall serve for a 6-year term of office, and shall be eligible for reappointment. The Director shall not be subject to removal during the term of office, except for cause established in accordance with law.

#### (3) Position classification

The position of the Director may not be a position in the excepted service or filled by a noncareer appointee.

### (c) Direction, control, and support

The Director shall be free from the direction and control of any person other than the Secretary. The Division shall not receive administrative support (except on a reimbursable basis) from any agency other than the Office of the Secretary. The Secretary may not delegate to any other officer or employee of the Department, other than the Director, the authority of the Secretary with respect to the Division.

### (d) Determination of appealability of agency decisions

If an officer, employee, or committee of an agency determines that a decision is not appealable and a participant appeals the decision to the Director, the Director shall determine whether the decision is adverse to the individual participant and thus appealable or is a matter of general applicability and thus not subject to appeal. The determination of the Director as to whether a decision is appealable shall be administratively final.

### (e) Division personnel

The Director shall appoint such hearing officers and other employees as are necessary for the administration of the Division. A hearing officer or other employee of the Division shall have no duties other than those that are necessary to carry out this subchapter.

(Pub. L. 103-354, title II, §272, Oct. 13, 1994, 108 Stat. 3229.)

## § 6993. Transfer of functions

There are transferred to the Division all functions exercised and all administrative appeals pending before the effective date of this subchapter (including all related functions of any officer or employee) of or relating to—