

(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—

(1) the National Appeals Division established by section 1433e(c)<sup>1</sup> of this title (as in effect on the day before October 13, 1994);

(2) the National Appeals Division established by subsections (d) through (g) of section 1983b<sup>1</sup> of this title (as in effect on the day before October 13, 1994);

(3) appeals of decisions made by the Federal Crop Insurance Corporation; and

(4) appeals of decisions made by the Soil Conservation Service (as in effect on the day before October 13, 1994).

(Pub. L. 103-354, title II, §273, Oct. 13, 1994, 108 Stat. 3230.)

#### REFERENCES IN TEXT

The effective date of this subchapter, referred to in text, probably means the date of enactment of Pub. L. 103-354, which was approved Oct. 13, 1994.

Section 1433e of this title, referred to in par. (1), was repealed by Pub. L. 103-354, title II, §281(b), Oct. 13, 1994, 108 Stat. 3233.

Section 1983b of this title, referred to in par. (2), was repealed by Pub. L. 103-354, title II, §281(c), Oct. 13, 1994, 108 Stat. 3233.

### § 6994. Notice and opportunity for hearing

Not later than 10 working days after an adverse decision is made that affects the participant, the Secretary shall provide the participant with written notice of such adverse decision and the rights available to the participant under this subchapter or other law for the review of such adverse decision.

(Pub. L. 103-354, title II, §274, Oct. 13, 1994, 108 Stat. 3230.)

### § 6995. Informal hearings

#### (a) In general

If an officer, employee, or committee of an agency makes an adverse decision, the agency shall hold, at the request of the participant, an informal hearing on the decision.

#### (b) Farm Service Agency

With respect to programs carried out through the Consolidated Farm Service Agency (or other office, agency, or administrative unit of the Department assigned to carry out the programs authorized for the Consolidated Farm Service Agency under section 6932 of this title), the Secretary shall maintain the informal appeals process applicable to such programs, as in effect on October 13, 1994.

#### (c) Mediation

If a mediation program is available under title V of the Agricultural Credit Act of 1987 (7 U.S.C. 5101 et seq.) as a part of the informal hearing process, the participant shall—

(1) be offered the right to choose such mediation; and

(2) to the maximum extent practicable, be allowed to use both informal agency review and mediation to resolve disputes under that title.

(Pub. L. 103-354, title II, §275, Oct. 13, 1994, 108 Stat. 3230; Pub. L. 110-234, title XII, §12032, May

<sup>1</sup> See References in Text note below.