

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.)

**Editorial Notes**

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) 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) 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 Farm Service Agency (or other office, agency, or administrative unit of the Department assigned the functions authorized for the 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 6936(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; Pub. L. 115-334, title XII, §§12404(b)(2), 12410(c)(2)(B), Dec. 20, 2018, 132 Stat. 4975, 4978.)

**Editorial Notes**

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

## AMENDMENTS

2018—Par. (2)(A). Pub. L. 115-334, §12404(b)(2), substituted “Farm” for “Consolidated Farm” in two places.

Par. (2)(F). Pub. L. 115-334, §12410(c)(2)(B), substituted “section 6936(b) of this title” for “section 6962(b) of this title”.

**§ 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****(1) Direction and control****(A) In general**

Except as provided in paragraph (2), the Director shall be free from the direction and control of any person other than the Secretary or the Deputy Secretary of Agriculture.

**(B) Administrative support**

The Division shall not receive administrative support (except on a reimbursable basis) from any agency other than the Office of the Secretary.

**(C) Prohibition on delegation**

The Secretary may not delegate to any other officer or employee of the Department, other than the Deputy Secretary of Agriculture or the Director, the authority of the Secretary with respect to the Division.

**(2) Exception**

The Assistant Secretary for Administration is authorized to investigate, enforce, and implement the provisions in law, Executive order, or regulations that relate in general to competitive and excepted service positions and employment within the Division, including the position of Director, and such authority may be further delegated to subordinate officials.

**(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****(1) In general**

The Director shall recommend to the Secretary persons for appointment as hearing officers as are necessary for the conduct of hearings under section 6997 of this title. The Director shall appoint such 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. Each position of the Division shall be filled by an individual who is not a political appointee.

**(2) Political appointee**

In this subsection, the term “political appointee” means an individual occupying—

(A) a position described under sections 5312 through 5316 of title 5 (relating to the Executive Schedule);