

§2.61 Chief, Natural Resources Conservation Service.

(a) *Delegations.* Pursuant to §2.20 (a)(1), (a)(3), (a)(5), (a)(6), (a)(7)(ii) and (a)(8), subject to reservations in §2.20(b)(1), the following delegations of authority are made by the Under Secretary for Natural Resources and Environment to the Chief of the Natural Resources Conservation Service:

(1) Provide national leadership in the conservation, development and productive use of the Nation's soil, water, and related resources. Such leadership encompasses soil, water, plant, and wildlife conservation; small watershed protection and flood prevention; and resource conservation and development. Integrated in these programs are erosion control, sediment reduction, pollution abatement, land use planning, multiple use, improvement of water quality, and several surveying and monitoring activities related to environmental improvement. All are designed to assure:

(i) Quality in the natural resource base for sustained use;

(ii) Quality in the environment to provide attractive, convenient, and satisfying places to live, work, and play; and

(iii) Quality in the standard of living based on community improvement and adequate income.

(2) Provide national leadership in evaluating and coordinating land use policy, and administer the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*), including the Farms for the Future Program authorized by sections 1465-1470 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 4201 note), except as otherwise delegated to the Administrator, Agricultural Research Service in §2.65(a)(80) and the Administrator, Cooperative State Research, Education, and Extension Service in §2.66(a)(76).

(3) Administer the basic program of soil and water conservation under Pub. L. No. 46, 74th Congress, as amended, and related laws (16 U.S.C. 590a-f, 1-1, q, q-1; 42 U.S.C. 3271-3274; 7 U.S.C. 2201), including:

(i) Technical and financial assistance to land users in carrying out locally adapted soil and water conservation programs primarily through soil and

water conservation districts in the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and Federally recognized Native American tribes, but also to communities, watershed groups, Federal and State agencies, and other cooperators. This authority includes such assistance as:

(A) Comprehensive planning assistance in nonmetropolitan districts;

(B) Assistance in the field of income-producing recreation on rural non-Federal lands;

(C) Forestry assistance, as part of total technical assistance to private land owners and land users when such services are an integral part of land management and such services are not available from a State agency; and forestry services in connection with windbreaks and shelter belts to prevent wind and water erosion of lands;

(D) Assistance in developing programs relating to natural beauty; and

(E) Assistance to other USDA agencies in connection with the administration of their programs, as follows:

(1) To the Farm Service Agency in the development and technical servicing of certain programs, such as the Agricultural Conservation Program and other such similar conservation programs;

(2) To the Rural Housing Service in connection with their loan and land disposition programs.

(ii) Soil Surveys, including:

(A) Providing leadership for the Federal part of the National Cooperative Soil Survey which includes conducting and publishing soil surveys;

(B) Conducting soil surveys for resource planning and development; and

(C) Performing the cartographic services essential to carrying out the functions of the Natural Resources Conservation Service, including furnishing photographs, mosaics, and maps.

(iii) Conducting and coordinating snow surveys and making water supply forecasts pursuant to Reorganization Plan No. IV of 1940 (5 U.S.C. App.);

(iv) Operating plant materials centers for the assembly and testing of plant species in conservation programs, including the use, administration, and

disposition of lands under the administration of the Natural Resources Conservation Service for such purposes under title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010-1011); and

(v) Providing leadership in the inventorying and monitoring of soil, water, land, and related resources of the Nation.

(4) Administer the Watershed Protection and Flood Prevention Programs, including:

(i) The eleven authorized watershed projects authorized under 33 U.S.C. 702b-1, except for responsibilities assigned to the Forest Service;

(ii) The emergency flood control work under 33 U.S.C. 701b-1, except for responsibilities assigned to the Forest Service;

(iii) The Cooperative River Basin Surveys and Investigations Programs under 16 U.S.C. 1006, except for responsibilities assigned to the Forest Service;

(iv) The pilot watershed projects under 16 U.S.C. 590a-f, and 16 U.S.C. 1001-1009, except for responsibilities assigned to the Forest Service;

(v) The Watershed Protection and Flood Prevention Program under 16 U.S.C. 1001-1010, including rehabilitation of water resource structural measures constructed under certain Department of Agriculture programs under 16 U.S.C. 1012, except for responsibilities assigned to the Rural Housing Service and the Forest Service.

(vi) The joint investigations and surveys with the Department of the Army under 16 U.S.C. 1009; and

(vii) The Emergency Conservation Program and the Emergency Watershed Protection Program under sections 401-405 of the Agricultural Credit Act of 1978, 16 U.S.C. 2201-2205, except for the provisions of sections 401 and 402, 16 U.S.C. 2201-2202, as administered by the Farm Service Agency.

(5) Administer the Great Plains Conservation Program and the Critical Lands Resources Conservation Program under 16 U.S.C. 590p(b).

(6) Administer the Resource Conservation and Development Program under 16 U.S.C. 590a-f; 7 U.S.C. 1010-1011; and 16 U.S.C. 3451-3461, except for

responsibilities assigned to the Rural Utilities Service.

(7) Responsibility for entering into long-term contracts for carrying out conservation and environmental measures in watershed areas.

(8) Provide national leadership for and administer the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001 *et seq.*), except for responsibilities assigned to other USDA agencies.

(9) Administer Rural Clean Water Program and other responsibilities assigned under section 35 of the Clean Water Act of 1977 (33 U.S.C. 1251 *et seq.*).

(10) Monitor actions and progress of USDA in complying with Executive Order 11988, Flood Plain Management, 3 CFR, 1977 Comp., p. 117, and Executive Order 11990, Protection of Wetlands, 3 CFR, 1977 Comp., p. 121, regarding management of floodplains and protection of wetlands; monitor USDA efforts on protection of important agricultural, forest and rangelands; and provide staff assistance to the USDA Natural Resources and Environment Committee.

(11) Administer the search and rescue operations authorized under 7 U.S.C. 2273.

(12) Administer section 202(c) of the Colorado River Basin Salinity Control Act, 43 U.S.C. 1592(c) including:

(i) Identify salt source areas and determine the salt load resulting from irrigation and watershed management practices;

(ii) Conduct salinity control studies of irrigated salt source areas;

(iii) Provide technical and financial assistance in the implementation of salinity control projects including the development of salinity control plans, technical services for application, and certification of practice applications;

(iv) Develop plans for implementing measures that will reduce the salt load of the Colorado River;

(v) Develop and implement long-term monitoring and evaluation plans to measure and report progress and accomplishments in achieving program objectives; and

(vi) Enter into and administer contracts with program participants and waive cost-sharing requirements when such cost-sharing requirements would

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result in a failure to proceed with needed on-farm measures.

(13) Administer natural resources conservation authorities, including authorities related to programs of the Commodity Credit Corporation that provide assistance with respect to natural resources conservation, under Title XII of the Food Security Act of 1985 (the Act), as amended (16 U.S.C. 3801 *et seq.*), including the following:

(i) Technical assistance related to the conservation of highly erodible lands and wetlands pursuant to sections 1211-1223 of the Act (16 U.S.C. 3811-3823);

(ii) Technical assistance related to the Conservation Reserve Program authorized by sections 1231-1235A of the Act (16 U.S.C. 3831-3835a);

(iii) The Wetlands Reserve Program and the Emergency Wetlands Reserve Program authorized by sections 1237-1237F of the Act (16 U.S.C. 3837-3837f) and the Emergency Supplemental Appropriations for Relief from the Major, Widespread Flooding in the Midwest Act, Pub. L. 103-75;

(iv) The Conservation Security Program authorized by sections 1238-1238C (16 U.S.C. 3838-3838c) and the Conservation Stewardship Program authorized by sections 1238D-1238G (16 U.S.C. 3838d-3838g).

(v) The Farmland Protection Program authorized by sections 1238H-1238I of the Act (16 U.S.C. 3838h-3838i);

(vi) The Farm Viability Program authorized by section 1238J of the Act (16 U.S.C. 3838j);

(vii) The Environmental Easement Program authorized by sections 1239-1239D of the Act (16 U.S.C. 3839-3839d);

(viii) The Environmental Quality Incentives Program authorized by sections 1240-1240I of the Act (16 U.S.C. 3839aa-3839aa-9);

(ix) The conservation of private grazing lands authorized by section 1240M of the Act (16 U.S.C. 3839bb);

(x) The Wildlife Habitat Incentives Program authorized by section 1240N of the Act (16 U.S.C. 3839bb-1);

(xi) The program for soil erosion and sedimentation control in the Great Lakes basin authorized by section 1240P of the Act (16 U.S.C. 3839bb-3);

(xii) The delivery of technical assistance under section 1242 of the Act (16

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U.S.C. 3842), including the approval of persons or entities outside of USDA to provide technical services;

(xiii) The authority for partnerships and cooperation provided by section 1243 of the Act (16 U.S.C. 3843), except for responsibilities assigned to the Under Secretary for Farm and Foreign Agricultural Services; and

(xiv) The incentives for certain farmers and ranchers and Indian tribes and the protection of certain proprietary information related to natural resources conservation programs as provided by section 1244 of the Act (16 U.S.C. 3844), except for responsibilities assigned to the Administrator, Farm Service Agency.

(xv) The Agriculture Conservation Experienced Services Program authorized by section 1252 of the Act (16 U.S.C. 3851).

(xvi) The authority under sections 1261-1262 of the Act (16 U.S.C. 3861-3862) to establish and utilize State Technical Committees.

(xvii) Those portions of the Grassland Reserve Program under sections 1238N-1238Q of the Act (16 U.S.C. 3838n-3838q) that are or become the responsibility of the Under Secretary for Natural Resources and Environment.

(xviii) The authority in section 1241 of the Act (16 U.S.C. 3841) to accept and use voluntary contributions of non-Federal funds in support of natural resources conservation programs under subtitle D of title XII of the Act with respect to authorities delegated to the Chief, Natural Resources Conservation Service.

(14) Approve and transmit to the Congress comprehensive river basin reports.

(15) Provide representation on the Water Resources Council and river basin commissions created by 42 U.S.C. 1962, and on river basin interagency committees.

(16) Jointly administer the Forestry Incentives Program with the Forest Service, in consultation with State Foresters, under section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103).

(17) Administer the Water Bank Program under the Water Bank Act (16 U.S.C. 1301 *et seq.*).

(18) Administer the agricultural management assistance provisions of section 524(b) of the Federal Crop Insurance Act, as amended (7 U.S.C. 1524(b)), except for responsibilities assigned to the Administrator, Risk Management Agency.

(19) Administer the Healthy Forests Reserve Program authorized by sections 501–508, Title V of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6571–6578).

(20) Coordinate USDA input and assistance to the Department of Commerce and other Federal agencies consistent with section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456), and coordinate USDA review of qualifying state and local government coastal management plans or programs prepared under such Act and submitted to the Secretary of Commerce, consistent with section 306(a) and (c) of such Act (16 U.S.C. 1455(a) and (c)).

(21) Administer responsibilities and functions assigned under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*), and title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 *et seq.*), relating to agricultural lands and water.

(22) Administer the Abandoned Mine Reclamation Program for Rural Lands and other responsibilities assigned under the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*), except for responsibilities assigned to the Forest Service.

(23) With respect to land and facilities under his or her authority, to exercise the functions delegated to the Secretary by Executive Order 12580, 3 CFR, 1987 Comp., p. 193, under the following provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“the Act”), as amended:

(i) Sections 104(a), (b), and (c)(4) of the Act (42 U.S.C. 9604(a), (b), and (c)(4)), with respect to removal and remedial actions in the event of release or threatened release of a hazardous substance, pollutant, or contaminant into the environment;

(ii) Sections 104(e)–(h) of the Act (42 U.S.C. 9604 (e)–(h)), with respect to information gathering and access requests and orders; compliance with

Federal health and safety standards and wage and labor standards applicable to covered work; and emergency procurement powers;

(iii) Section 104(i)(11) of the Act (42 U.S.C. 9604(i)(11)), with respect to the reduction of exposure to significant risk to human health;

(iv) Section 104(j) of the Act (42 U.S.C. 9604(j)), with respect to the acquisition of real property and interests in real property required to conduct a remedial action;

(v) The first two sentences of section 105(d) of the Act (42 U.S.C. 9605(d)), with respect to petitions for preliminary assessment of a release or threatened release;

(vi) Section 105(f) of the Act (42 U.S.C. 9605(f)), with respect to consideration of the availability of qualified minority firms in awarding contracts, but excluding that portion of section 105(f) of the Act pertaining to the annual report to Congress;

(vii) Section 109 of the Act (42 U.S.C. 9609), with respect to the assessment of civil penalties for violations of section 122 of the Act (42 U.S.C. 9622) and the granting of awards to individuals providing information;

(viii) Section 111(f) of the Act (42 U.S.C. 9611(f)), with respect to the designation of officials who may obligate money in the Hazardous Substances Superfund;

(ix) Section 113(k) of the Act (42 U.S.C. 9613(k)), with respect to establishing an administrative record upon which to base the selection of a response action and identifying and notifying potentially responsible parties;

(x) Section 116(a) of the Act (42 U.S.C. 9616(a)), with respect to preliminary assessment and site inspection of facilities;

(xi) Section 117(a) and (c) of the Act (42 U.S.C. 9617(a) and (c)), with respect to public participation in the preparation of any plan for remedial action and explanation of variances from the final remedial action plan for any remedial action or enforcement action, including any settlement or consent decree entered into;

(xii) Section 119 of the Act (42 U.S.C. 9619), with respect to indemnifying response action contractors;

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(xiii) Section 121 of the Act (42 U.S.C. 9621), with respect to cleanup standards; and

(xiv) Section 122 of the Act (42 U.S.C. 9622), with respect to settlement, but excluding section 122(b)(1) of the Act (42 U.S.C. 9633(b)(1)), related to mixed funding agreements.

(24) With respect to facilities and activities under his or her authority, to exercise the authority of the Secretary of Agriculture pursuant to section 1-102 related to compliance with applicable pollution control standards and section 1-601 of Executive Order 12088, 3 CFR, 1978 Comp., p. 243, to enter into an inter-agency agreement with the United States Environmental Protection Agency, or an administrative consent order or a consent judgment in an appropriate United States District Court with an appropriate State, interstate, or local agency, containing a plan and schedule to achieve and maintain compliance with applicable pollution control standards established pursuant to the following:

(i) Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Hazardous and Solid Waste Amendments, and the Federal Facility Compliance Act (42 U.S.C. 6901 *et seq.*);

(ii) Federal Water Pollution Prevention and Control Act, as amended (33 U.S.C. 1251 *et seq.*);

(iii) Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.*);

(iv) Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*);

(v) Noise Control Act of 1972, as amended (42 U.S.C. 4901 *et seq.*);

(vi) Toxic Substances Control Act, as amended, (15 U.S.C. 2601 *et seq.*);

(vii) Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 *et seq.*); and

(viii) Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9601 *et seq.*).

(25) Administer the following provisions of the Farm Security and Rural Investment Act of 2002 with respect to functions otherwise delegated to the Chief, Natural Resources and Environment:

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(i) The equitable relief provisions of section 1613 (7 U.S.C. 7996);

(ii) The tracking of benefits under section 1614 (7 U.S.C. 7997); and

(iii) The development of a plan and related report to coordinate land retirement and agricultural working land conservation programs under section 2005 (16 U.S.C. 3801 note).

(26) Implement the information disclosure authorities of section 1619(b)(3)(A) of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8791(b)(3)(A)).

(27) In coordination with the Administrator, Farm Service Agency, issue receipts under section 2501A(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279-1(e)).

(28) Authorize employees of the Natural Resources Conservation Service to carry and use firearms for personal protection while conducting field work in remote locations in the performance of their official duties (7 U.S.C. 2274a).

(b) *Reservations.* The following authorities are reserved to the Under Secretary for Natural Resources and Environment:

(1) Executing cooperative agreements and memoranda of understanding for multi-agency cooperation with conservation districts and other districts organized for soil and water conservation within States, territories, possessions, and American Indian Nations.

(2) Approving additions to authorized Resource Conservation and Development Projects that designate new project areas in which resource conservation and development program assistance will be provided, and withdrawing authorization for assistance, pursuant to 16 U.S.C. 590a-f; 7 U.S.C. 1010-1011; 16 U.S.C. 3451-3461.

(3) Giving final approval to and transmitting to the Congress watershed work plans that require congressional approval.

[60 FR 56393, Nov. 8, 1995, as amended at 62 FR 1031, Jan. 8, 1997; 68 FR 27444, May 20, 2003; 74 FR 3409, Jan. 21, 2009]