

Credit Corporation for such purposes in fiscal year 1998.

(Pub. L. 106-387, §1(a) [title VII, §714], Oct. 28, 2000, 114 Stat. 1549, 1549A-30.)

#### Editorial Notes

##### CODIFICATION

Section was enacted as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001, and not as part of the Department of Agriculture Reorganization Act of 1994, which in part comprises this chapter.

#### § 6963. Repealed. Pub. L. 115-334, title XII, § 12414(a)(5), Dec. 20, 2018, 132 Stat. 4981

Section, Pub. L. 103-354, title II, §247, Oct. 13, 1994, 108 Stat. 3225, related to reorganization of Forest Service.

#### SUBCHAPTER VI—RESEARCH, EDUCATION, AND ECONOMICS

#### § 6971. Under Secretary of Agriculture for Research, Education, and Economics

##### (a) Authorization

The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Research, Education, and Economics (referred to in this section as the “Under Secretary”).

##### (b) Confirmation required

The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, from among distinguished scientists with specialized training or significant experience in agricultural research, education, and economics.

##### (c) Chief Scientist

The Under Secretary shall—

(1) hold the title of Chief Scientist of the Department; and

(2) be responsible for the coordination of the research, education, and extension activities of the Department.

##### (d) Functions of Under Secretary

###### (1) Principal function

The Secretary shall delegate to the Under Secretary those functions and duties under the jurisdiction of the Department that relate to research, education, and economics.

###### (2) Specific functions and duties

The Under Secretary shall—

(A) identify, address, and prioritize current and emerging agricultural research, education, and extension needs (including funding);

(B) ensure that agricultural research, education, and extension programs are effectively coordinated and integrated—

(i) across disciplines, agencies, and institutions; and

(ii) among applicable participants, grantees, and beneficiaries;

(C) promote the collaborative use of all agricultural research, education, and extension resources from the local, State, tribal, regional, national, and international levels to address priority needs; and

(D) foster communication among agricultural research, education, and extension beneficiaries, including the public, to ensure the delivery of agricultural research, education, and extension knowledge.

##### (3) Additional functions

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

##### (e) Office of the Chief Scientist

###### (1) Establishment

The Under Secretary shall organize within the office of the Under Secretary 6 Divisions, to be known collectively as the “Office of the Chief Scientist”, which shall coordinate the research programs and activities of the Department.

###### (2) Division designations

The Divisions within the Office of the Chief Scientist shall be as follows:

(A) Renewable energy, natural resources, and environment.

(B) Food safety, nutrition, and health.

(C) Plant health and production and plant products.

(D) Animal health and production and animal products.

(E) Agricultural systems and technology.

(F) Agricultural economics and rural communities.

##### (3) Division Chiefs

###### (A) Selection

The Under Secretary shall select a Division Chief for each Division using available personnel authority under title 5, including—

(i) by term, temporary, or other appointment, without regard to—

(I) the provisions of title 5 governing appointments in the competitive service;

(II) the provisions of subchapter I of chapter 35 of title 5 relating to retention preference; and

(III) the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates;

(ii) by detail, notwithstanding any Act making appropriations for the Department of Agriculture, whether enacted before, on, or after the date of enactment of this paragraph, requiring reimbursement for those details unless the appropriation Act specifically refers to this subsection and specifically includes these details;

(iii) by reassignment or transfer from any other civil service position; and

(iv) by an assignment under subchapter VI of chapter 33 of title 5.

###### (B) Selection guidelines

To the maximum extent practicable, the Under Secretary shall select Division Chiefs under subparagraph (A) in a manner that—

(i) promotes leadership and professional development;

(ii) enables personnel to interact with other agencies of the Department; and

(iii) maximizes the ability of the Under Secretary to allow for rotations of Department personnel into the position of Division Chief.

**(C) Term of service**

Notwithstanding title 5, the maximum length of service for an individual selected as a Division Chief under clauses (i) and (iii) of subparagraph (A) shall be for not less than 3 years.

**(D) Qualifications**

To be eligible for selection as a Division Chief, an individual shall have—

(i) conducted exemplary research, education, or extension in the field of agriculture or forestry; and

(ii) earned an advanced degree at an institution of higher education (as defined in section 1001 of title 20).

**(E) Duties of Division Chiefs**

Except as otherwise provided in this Act, each Division Chief shall—

(i) assist the Under Secretary in identifying and addressing emerging agricultural research, education, and extension needs;

(ii) assist the Under Secretary in identifying and prioritizing Department-wide agricultural research, education, and extension needs, including funding;

(iii) assess the strategic workforce needs of the research, education, and extension functions of the Department, and develop strategic workforce plans to ensure that existing and future workforce needs are met;

(iv) communicate with research, education, and extension beneficiaries, including the public, and representatives of the research, education, and extension system, including the National Agricultural Research, Extension, Education, and Economics Advisory Board, to promote the benefits of agricultural research, education, and extension;

(v) assist the Under Secretary in preparing and implementing the roadmap for agricultural research, education, and extension, as described in section 7614a of this title; and

(vi) perform such other duties as the Under Secretary may determine.

**(4) Additional leadership duties**

In addition to selecting the Division Chiefs under paragraph (3), using available personnel authority under title 5, the Under Secretary shall select personnel—

(A) to oversee implementation, training, and compliance with the scientific integrity policy of the Department;

(B)(i) to integrate strategic program planning and evaluation functions across the programs of the Department; and

(ii) to help prepare the annual report to Congress on the relevance and adequacy of programs under the jurisdiction of the Under Secretary;

(C) to assist the Chief Scientist in coordinating the international engagements of the

Department with the Department of State and other international agencies and offices of the Federal Government; and

(D) to oversee other duties as may be required by Federal law or Department policy.

**(5) General administration**

**(A) Funding**

**(i) Authorization of appropriations**

There is authorized to be appropriated such sums as are necessary to fund the costs of Division personnel.

**(ii) Additional funding**

In addition to amounts made available under clause (i), notwithstanding any Act making appropriations for the Department of Agriculture, whether enacted before, on, or after the date of enactment of this paragraph unless the appropriation Act specifically refers to this subsection and specifically includes the administration of funds under this section, the Secretary may transfer funds made available to an agency in the research, education, and economics mission area to fund the costs of Division personnel.

**(B) Limitation**

To the maximum extent practicable—

(i) the Under Secretary shall minimize the number of full-time equivalent positions in the Divisions; and

(ii) at no time shall the aggregate number of staff for all Divisions exceed 30 full-time equivalent positions.

**(C) Rotation of personnel**

To the maximum extent practicable, and using the authority described in paragraph (3)(A), the Under Secretary shall rotate personnel among the Divisions, and between the Divisions and agencies of the Department, in a manner that—

(i) promotes leadership and professional development;

(ii) enables personnel to interact with other agencies of the Department; and

(iii) provides strong staff continuity to the Office of the Chief Scientist.

**(6) Organization**

The Under Secretary shall integrate leadership functions of the national program staff of the research agencies into the Office of the Chief Scientist in such form as is required to ensure that administrative duplication does not occur.

**(f) National Institute of Food and Agriculture**

**(1) Definitions**

In this subsection:

**(A) Advisory Board**

The term “Advisory Board” means the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123).

**(B) Applied research**

The term “applied research” means research that includes expansion of the find-

ings of fundamental research to uncover practical ways in which new knowledge can be advanced to benefit individuals and society.

**(C) Capacity and infrastructure program**

The term “capacity and infrastructure program” means each of the following agricultural research, extension, education, and related programs for which the Secretary has administrative or other authority as of the day before the date of enactment of the Food, Conservation, and Energy Act of 2008:

(i) Each program providing funding to any of the 1994 Institutions under sections 533, 534(a), and 535 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103-382).

(ii) The program established under section 536 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103-382) providing research grants for 1994 Institutions.

(iii) Each program established under subsections (b) and (c) of section 343 of this title.

(iv) Each program established under the Hatch Act of 1887 (7 U.S.C. 361a et seq.).

(v) Each program established under section 1417(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(b)).

(vi) The animal health and disease research program established under subtitle E of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3191 et seq.)<sup>1</sup> except for the competitive grant program under section 1433(b) [7 U.S.C. 3195(b)].

(vii) Each extension program available to 1890 Institutions established under section 1444 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221).

(viii) The program established under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222).

(ix) The program providing grants to upgrade agricultural and food sciences facilities at 1890 Institutions established under section 1447 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b).

(x) The program providing distance education grants for insular areas established under section 1490 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3362).

(xi) The program providing resident instruction grants for insular areas established under section 1491 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3363).

(xii) Each research and development and related program established under Public Law 87-788 (commonly known as the “McIntire-Stennis Cooperative Forestry Act”) (16 U.S.C. 582a et seq.).

(xiii) Each program established under the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 et seq.).

(xiv) Each program providing funding to Hispanic-serving agricultural colleges and universities under section 1456 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 [7 U.S.C. 3243].

(xv) The program providing capacity grants to NLGCA Institutions under section 1473F of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 [7 U.S.C. 3319i].

(xvi) Other programs that are capacity and infrastructure programs, as determined by the Secretary.

**(D) Competitive program**

The term “competitive program” means each of the following agricultural research, extension, education, and related programs for which the Secretary has administrative or other authority as of the day before the date of enactment of the Food, Conservation, and Energy Act of 2008:

(i) The Agriculture and Food Research Initiative established under section 3157(b) of this title.

(ii) The program providing competitive grants for risk management education established under section 1524(a) of this title.

(iii) The program providing community food project competitive grants established under section 2034 of this title.

(iv) The beginning farmer and rancher development grant program established under subsection (d) of section 2279 of this title.

(v) The program providing grants under section 1417(j) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(j)).

(vi) The program providing grants for Hispanic-serving institutions established under section 1455 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241).

(vii) The program providing competitive grants for international agricultural science and education programs under section 1459A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b).

(viii) The research and extension projects carried out under section 5811 of this title.

(ix) The organic agriculture research and extension initiative established under section 5925b of this title.

(x) The specialty crop research initiative under section 7632 of this title.

(xi) The research, extension, and education programs authorized by section 7627 of this title relating to the competitiveness, viability and sustainability of small- and medium-sized dairy, livestock, and poultry operations.

(xii) Other programs that are competitive programs, as determined by the Secretary.

<sup>1</sup> So in original. Probably should be followed by a comma.

**(E) Director**

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

**(F) Fundamental research**

The term “fundamental research” means research that—

- (i) increases knowledge or understanding of the fundamental aspects of phenomena and has the potential for broad application; and
- (ii) has an effect on agriculture, food, nutrition, or the environment.

**(G) Institute**

The term “Institute” means the National Institute of Food and Agriculture established by paragraph (2)(A).

**(2) Establishment of National Institute of Food and Agriculture****(A) Establishment**

The Secretary shall establish within the Department an agency to be known as the “National Institute of Food and Agriculture”.

**(B) Transfer of authorities**

The Secretary shall transfer to the Institute, effective not later than October 1, 2009, the authorities (including all budget authorities, available appropriations, and personnel), duties, obligations, and related legal and administrative functions prescribed by law or otherwise granted to the Secretary, the Department, or any other agency or official of the Department under—

- (i) the capacity and infrastructure programs;
- (ii) the competitive programs;
- (iii) the research, education, economic, cooperative State research programs, cooperative extension and education programs, international programs, and other functions and authorities delegated by the Under Secretary to the Administrator of the Cooperative State Research, Education, and Extension Service pursuant to section 2.66 of title 7, Code of Federal Regulations (or successor regulations); and
- (iv) any and all other authorities administered by the Administrator of the Cooperative State Research, Education, and Extension Service.

**(3) Director****(A) In general**

The Institute shall be headed by a Director, who shall be an individual who is—

- (i) a distinguished scientist; and
- (ii) appointed by the President.

**(B) Supervision**

The Director shall report directly to the Secretary, or the designee of the Secretary.

**(C) Functions of the Director**

The Director shall—

- (i) serve for a 6-year term, subject to reappointment for an additional 6-year term;
- (ii) periodically report to the Secretary, or the designee of the Secretary, with re-

spect to activities carried out by the Institute; and

- (iii) consult regularly with the Secretary, or the designee of the Secretary, to ensure, to the maximum extent practicable, that—

(I) research of the Institute is relevant to agriculture in the United States and otherwise serves the national interest; and

(II) the research of the Institute supplements and enhances, and does not supplant, research conducted or funded by other Federal agencies.

**(D) Compensation**

The Director shall receive basic pay at a rate not to exceed the maximum amount of compensation payable to a member of the Senior Executive Service under subsection (b) of section 5382 of title 5, except that the certification requirement in that subsection shall not apply to the compensation of the Director.

**(E) Authority and responsibilities of Director**

Except as otherwise specifically provided in this subsection, the Director shall—

- (i) exercise all of the authority provided to the Institute by this subsection;
- (ii) formulate and administer programs in accordance with policies adopted by the Institute, in coordination with the Under Secretary;
- (iii) establish offices within the Institute;
- (iv) establish procedures for the provision and administration of grants by the Institute; and
- (v) consult regularly with the Advisory Board.

**(4) Regulations**

The Institute shall have such authority as is necessary to carry out this subsection, including the authority to promulgate such regulations as the Institute considers to be necessary for governance of operations, organization, and personnel.

**(5) Administration****(A) In general**

The Director shall organize offices and functions within the Institute to administer fundamental and applied research and extension and education programs.

**(B) Research priorities**

The Director shall ensure the research priorities established by the Under Secretary through the Office of the Chief Scientist are carried out by the offices and functions of the Institute, where applicable.

**(C) Fundamental and applied research**

The Director shall—

- (i) determine an appropriate balance between fundamental and applied research programs and functions to ensure future research needs are met; and
- (ii) designate staff, as appropriate, to assist in carrying out this subparagraph.

**(D) Competitively funded awards**

The Director shall—

(i) promote the use and growth of grants awarded through a competitive process; and

(ii) designate staff, as appropriate, to assist in carrying out this subparagraph.

#### (E) Coordination

The Director shall ensure that the offices and functions established under subparagraph (A) are effectively coordinated for maximum efficiency.

#### (6) Funding

##### (A) In general

In addition to funds otherwise appropriated to carry out each program administered by the Institute, there are authorized to be appropriated such sums as are necessary to carry out this subsection for each fiscal year.

##### (B) Allocation

Funding made available under subparagraph (A) shall be allocated according to recommendations contained in the roadmap described in section 7614a of this title.

(Pub. L. 103-354, title II, §251, Oct. 13, 1994, 108 Stat. 3226; Pub. L. 110-234, title VII, §7511(a), May 22, 2008, 122 Stat. 1259; Pub. L. 110-246, §4(a), title VII, §7511(a), June 18, 2008, 122 Stat. 1664, 2021; Pub. L. 113-79, title VII, §§7111(b)(2), 7212(b), Feb. 7, 2014, 128 Stat. 874, 886; Pub. L. 115-334, title XI, §11125(b), title XII, §§12301(a)(2)(B), 12411(a), (b)(1), Dec. 20, 2018, 132 Stat. 4936, 4950, 4978, 4979.)

#### Editorial Notes

##### REFERENCES IN TEXT

The date of enactment of this paragraph and the date of enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsecs. (e)(3)(A)(ii), (5)(A)(ii), and (f)(1)(C), (D), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

This Act, referred to in subsec. (e)(3)(E), is Pub. L. 103-354, Oct. 13, 1994, 108 Stat. 3178, known as the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

The Hatch Act of 1887, referred to in subsec. (f)(1)(C)(iv), is act Mar. 2, 1887, ch. 314, 24 Stat. 440, which is classified generally to sections 361a to 3611 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977, referred to in subsec. (f)(1)(C)(vi), is title XIV of Pub. L. 95-113, Sept. 29, 1977, 91 Stat. 913. Subtitle E of the Act is classified generally to subchapter V (§3191 et seq.) of chapter 64 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

Public Law 87-788, referred to in subsec. (f)(1)(C)(xii), is Pub. L. 87-788, Oct. 10, 1962, 76 Stat. 806, popularly known as the “McIntire-Stennis Act of 1962” and also as the “McIntire-Stennis Cooperative Forestry Act”, which is classified generally to subchapter III (§582a et seq.) of chapter 3 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 582a of Title 16 and Tables.

The Renewable Resources Extension Act of 1978, referred to in subsec. (f)(1)(C)(xiii), is Pub. L. 95-306, June

30, 1978, 92 Stat. 349, which is classified generally to subchapter III (§1671 et seq.) of chapter 36 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1978 Amendments note set out under section 1600 of Title 16 and Tables.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

Section is comprised of section 251 of Pub. L. 103-354. Subsec. (g), formerly (e), of section 251 of Pub. L. 103-354, as redesignated by Pub. L. 110-246, §7511(a)(3), amended section 5314 of Title 5, Government Organization and Employees.

#### AMENDMENTS

2018—Subsec. (e). Pub. L. 115-334, §12411(a)(1), substituted “Office of the Chief Scientist” for “Research, Education, and Extension Office” in heading.

Subsec. (e)(1). Pub. L. 115-334, §12411(a)(2), substituted “Office of the Chief Scientist” for “Research, Education, and Extension Office”.

Subsec. (e)(2). Pub. L. 115-334, §12411(a)(3), substituted “Office of the Chief Scientist” for “Research, Education, and Extension Office” in introductory provisions.

Subsec. (e)(3)(C). Pub. L. 115-334, §12411(a)(4), substituted “clauses (i) and (iii) of subparagraph (A) shall be for not less than 3 years” for “subparagraph (A) shall not exceed 4 years”.

Subsec. (e)(4). Pub. L. 115-334, §12411(a)(6), added par. (4). Former par. (4) redesignated (5).

Subsec. (e)(5). Pub. L. 115-334, §12411(a)(5), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (e)(5)(A). Pub. L. 115-334, §12411(a)(7)(A), designated existing provisions as cl. (ii), inserted heading, substituted “In addition to amounts made available under clause (i), notwithstanding” for “Notwithstanding”, and added cl. (i).

Subsec. (e)(5)(C)(iii). Pub. L. 115-334, §12411(a)(7)(B), added cl. (iii).

Subsec. (e)(6). Pub. L. 115-334, §12411(a)(5), (8), redesignated par. (5) as (6) and substituted “Office of the Chief Scientist” for “Research, Education, and Extension Office”.

Subsec. (f)(1)(D)(ii). Pub. L. 115-334, §11125(b), substituted “section 1524(a) of this title” for “section 1524(a)(3) of this title”.

Subsec. (f)(1)(D)(iv). Pub. L. 115-334, §12301(a)(2)(B), added cl. (iv) and struck out former cl. (iv) which read as follows: “The program providing grants for beginning farmer and rancher development established under section 3319f of this title.”

Subsec. (f)(5)(B). Pub. L. 115-334, §12411(b)(1), substituted “Office of the Chief Scientist” for “Research, Education and Extension Office”.

2014—Subsec. (f)(1)(C)(vi). Pub. L. 113-79, §7111(b)(2), inserted “except for the competitive grant program under section 1433(b)” before period at end.

Subsec. (f)(1)(D)(xi) to (xiii). Pub. L. 113-79, §7212(b), redesignated cls. (xii) and (xiii) as (xi) and (xii), respectively, and struck out former cl. (xi) which read as follows: “The administration and management of the Agricultural Bioenergy Feedstock and Energy Efficiency Research and Extension Initiative carried out under section 5925e of this title.”

2008—Subsec. (a). Pub. L. 110-246, §7511(a)(1), inserted “(referred to in this section as the ‘Under Secretary’)” before period at end.

Subsecs. (b) to (f). Pub. L. 110-246, §7511(a)(2), (4), added subsecs. (b) to (f) and struck out former subsecs. (b) to (d) which related to Senate confirmation, functions of the Under Secretary, and establishment and functions of the Cooperative State Research, Education, and Extension Service.

**Statutory Notes and Related Subsidiaries****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. Repealed. Pub. L. 115-334, title XII, § 12414(a)(6), Dec. 20, 2018, 132 Stat. 4981**

Section, Pub. L. 103-354, title II, § 262, Oct. 13, 1994, 108 Stat. 3227, related to program staff.

**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.)

**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.