

suppress, or control or to prevent or retard any communicable disease of animals, the designation of members of advisory committees, and the appointment of commissioners on any joint commission with these governments set up under such programs (21 U.S.C. 114b).

(iii) Approval of requests for apportionment of reserves for the control of outbreaks of insects, plant diseases, and animal diseases to the extent necessary to meet emergency conditions (31 U.S.C. 665).

(iv) Determination that an extraordinary emergency exists under the criteria in section 105(b)(1) of the Federal Plant Pest Act, as amended, (7 U.S.C. 150dd(b)(1)).

[60 FR 56393, Nov. 8, 1995, as amended at 61 FR 25776, May 23, 1996; 61 FR 68541, Dec. 30, 1996; 62 FR 40254, July 28, 1997]

### § 2.23 Assistant Secretary for Congressional Relations.

(a) The following delegations of authority are made by the Secretary of Agriculture to the Assistant Secretary for Congressional Relations:

(1) *Related to congressional affairs.* (i) Exercise responsibility for coordination of all congressional matters in the Department.

(ii) Maintain liaison with the Congress and the White House on legislative matters of concern to the Department.

(2) *Related to intergovernmental affairs.* (i) Coordinate all programs involving intergovernmental affairs including State and local government relations and liaison with:

(A) National Association of State Departments of Agriculture;

(B) Office of Intergovernmental Relations (Office of Vice President);

(C) Advisory Commission on Intergovernmental Relations;

(D) Council of State Governments;

(E) National Governors Conference;

(F) National Association of Counties;

(G) National League of Cities;

(H) International City Managers Association;

(I) U.S. Conference of Mayors; and

(J) Such other State and Federal agencies, departments and organizations as are necessary in carrying out the responsibilities of this office.

(ii) Maintain oversight of the activities of USDA representatives to the 10 Federal Regional councils.

(iii) Serve as the USDA contact with the Advisory Commission on Intergovernmental Relations for implementation of OMB Circular A-85 to provide advance notification to state and local governments of proposed changes in Department programs that affect such governments.

(iv) Act as the department representative for Federal executive board matters.

(v) Administer the implementation of the National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, Executive Order 11593, 3 CFR, 1971-1975 Comp., p. 559, and regulations of the Advisory Council on Historic Preservation, 36 CFR part 800, for the Department of Agriculture with authority to name the Secretary's designee to the Advisory Council on Historic Preservation.

(3) *Related to Indian affairs.* Coordinate the Department's programs involving assistance to American Indians except civil rights activities.

(b) [Reserved]

### § 2.24 Assistant Secretary for Administration.

(a) The following delegations of authority are made by the Secretary of Agriculture to the Assistant Secretary for Administration:

(1) *Related to administrative law judges.*

(i) Assign, after appropriate consultation with other general officers, to the Office of Administrative Law Judges proceedings not subject to 5 U.S.C. 556 and 557, involving the holdings of hearings and performance of related duties pursuant to the applicable rules of practice, when the Assistant Secretary for Administration determines that because of the nature of the proceeding it would be desirable for the proceeding to be presided over by an Administrative Law Judge and that such duties and responsibilities would not be inconsistent with those of an Administrative Law Judge.

(ii) Provide administrative supervision of the Office of Administrative Law Judges.

(iii) Maintain overall responsibility and control over the Hearing Clerk's activities which include the custody of

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and responsibility for the control, maintenance, and servicing of the original and permanent records of all USDA administrative proceedings conducted under the provisions of 5 U.S.C 556 and 557:

(A) Receiving, filing and acknowledging the receipt of complaints, petitions, answers, briefs, arguments, and all other documents that may be submitted to the Secretary or the Department of Agriculture in such proceedings;

(B) Receiving and filing complaints, notices of inquiry, orders to show cause, notices of hearing, designations of Administrative Law Judges or presiding officers, answers, briefs, arguments, orders, and all other documents that may be promulgated or issued by the Secretary or other duly authorized officials of the Department of Agriculture in such proceedings;

(C) Supervising the service upon the parties concerned of any documents that are required to be served, and where required, preserving proof of service;

(D) Keeping a docket record of all such documents and proceedings;

(E) Filing a stenographic record of each administrative hearing;

(F) Preparing for certification and certifying under the Secretary's facsimile signature, material on file in the Hearing Clerk's office;

(G) Performing any other clerical duties with respect to the documents relative to such proceedings as may be required to be performed;

(H) Cooperating with the Office of Operations in the letting of contracts for stenographic and reporting services; and forwarding vouchers to appropriate agencies for payment;

(I) Receiving and compiling data, views or comments filed in response to notices of proposed standards or rules or regulations; and

(J) Performing upon request the following services with respect to any hearings in such proceedings:

(1) Arranging for suitable hearing place; and

(2) Arranging for stenographic reporting of hearings and handling details in connection therewith.

(2) *Related to management.* (i) Administer a productivity program in accord-

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ance with Executive Order 12089, 3 CFR, 1979 Comp., p. 246, and other policy and procedural directives and laws to:

(A) Assess and improve productivity of the Department; and

(B) Assist agencies in developing, implementing and maintaining productivity measurement systems.

(ii) Responsible for the Modernization of Administrative Processes project to analyze and make recommendations to the Secretary regarding improved processes with respect to administrative and financial activities of the Department.

(iii) Designate the Department's Chief Management Improvement Officer.

(iv) Improve Departmental management by: Performing management studies and reviews in response to agency requests for assistance; enhancing management decisionmaking by developing and applying analytic techniques to address particular administrative operational and management problems; searching for more economical or effective approaches to the conduct of business; developing and revising systems, processes, work methods and techniques; and undertaking other efforts to improve the management effectiveness and productivity of the Department.

(v) Administer the Department's Management Improvement Program including the provision of assistance to agencies through management studies and planning review; review the management and operating policies and processes; search for more economical approaches to the conduct of business and provide such other assistance as will aid in improving the management effectiveness and operation of the Department's programs.

(vi) Administer the Department's Management Review Program. This authority includes the development and promulgation of departmental directives regulating the management review function.

(vii) Develop, design, install, and revise systems, processes, work methods, and techniques, and undertake other system engineering efforts to improve the management and operational effectiveness of the USDA.

(3) *Related to operations.* (i) Promulgate Departmental policies, standards, techniques, and procedures, and represent the Department, in the following:

(A) Contracting for and the procurement of administrative and operating supplies, services, equipment and construction;

(B) Socioeconomic programs relating to contracting, except matters otherwise assigned;

(C) Selection, standardization, and simplification of program delivery processes utilizing contracts;

(D) Acquisition, leasing, utilization, value analysis, construction, maintenance, and disposition of real and personal property, including control of space assignments;

(E) Acquisition, storage, distribution and disposition of forms, supplies and equipment;

(F) Mail management;

(G) Motor vehicle fleet and other vehicular transportation;

(H) Transportation of things (traffic management);

(I) Prevention, control, and abatement of pollution with respect to Federal facilities and activities under the control of the Department (Executive Order 12088, 3 CFR, 1978 Comp., p. 243);

(J) Implementation of the Uniform Relocation Assistance and Real Property Policies Act of 1970 (42 U.S.C. 4601 *et seq.*) and

(K) Develop and implement energy management actions related to the internal operations of the Department. Maintain liaison with other government agencies in these matters.

(ii) Operate, or provide for the operation of, centralized Departmental services for printing, copy reproduction, offset composition, supply, mail, automated mailing lists, excess property pool, resource recovery, shipping and receiving, forms, labor services, issuance of general employee identification cards, supplemental distribution of Department directives, space allocation and management, and related management support.

(iii) Exercise the following special authorities:

(A) Designate the Department's Debarring Officer to perform the func-

tions of 48 CFR part 9, subparts 9.406 and 9.407;

(B) Conduct liaison with the Office of the Federal Register (1 CFR part 16) including the making of required certifications pursuant to 1 CFR part 18;

(C) Maintain custody and permit appropriate use of the official seal of the Department;

(D) Establish policy for the use of the official flags of the Secretary and the Department;

(E) Coordinate collection of historical material for Presidential Libraries;

(F) Oversee the safeguarding of unclassified materials designated "For Official Use Only;"

(G) Make determinations under 48 CFR 14.406-3 (a) through (d), relating to mistakes in bids alleged after opening of bids and before award; and

(H) Make information returns to the Internal Revenue Service as prescribed by 26 U.S.C. 6050M and by 26 CFR 1.6050M-1 and such other Treasury regulations, guidelines or procedures as may be issued by the Internal Revenue Service in accordance with 26 U.S.C. 6050M. This includes executing such verifications or certifications as may be required by 26 CFR 1.6050M-1, and making the election by 26 CFR 1.6050M-1(d)(5)(i).

(iv) Exercise full Departmentwide contracting and procurement authority for automatic data processing and data transmission equipment, software, services, maintenance, and related supplies. This includes the promulgation of Department directives regulating the management or related contracting and procurement functions.

(v) Provide staff assistance for the Secretary, general officers and other Department and agency officials.

(vi) Represent the Department in contacts with the General Services Administration, the Office of Management and Budget, and other organizations or agencies on matters related to assigned responsibilities.

(vii) Serve as the Acquisition Executive in USDA to integrate and unify the management process for the Department's major system acquisitions and to monitor implementation of the policies and practices set forth in OMB

Circular A-109, Major Systems Acquisitions. This delegation includes the authority to:

(A) Insure that OMB Circular A-109 is effectively implemented in the Department and that the management objectives of the Circular are realized;

(B) Review the program management of each major system acquisition;

(C) Designate the program manager for each major system acquisition; and

(D) Designate any Departmental acquisition as a major system acquisition under OMB Circular A-109.

(viii) Pursuant to Executive Order 12352, 3 CFR, 1982 Comp., p. 137, and sections 16, 20(b), and 21 of the Office of Federal Procurement Policy Act, as amended, 41 U.S.C. 414, 418(b) and 418, designate a Senior Procurement Executive for the Department and delegate responsibility for the following:

(A) Prescribing and publishing Departmental procurement policies, regulations, and procedures;

(B) Taking any necessary actions consistent with policies, regulations, and procedures with respect to purchases, contracts, leases, and other transactions;

(C) Designating contracting officers;

(D) Establishing clear lines of contracting authority;

(E) Evaluating and monitoring the performance of the Department's procurement system;

(F) Managing and enhancing career development of the procurement work force;

(G) Participating in the development of Government-wide procurement policies, regulations, and standards and determining specific areas where Government-wide performance standards should be established and applied;

(H) Determining areas of Department-unique standards and developing unique Department-wide standards;

(I) Certifying to the Secretary that the procurement system meets approved standards;

(J) Prescribing standards for agency Procurement Executives and designating agency Procurement Executives when these standards are met;

(K) Redelegating, as appropriate, the authority in paragraph (a)(3)(viii)(A) of this section to USDA agency Procurement Executives or other qualified

agency officials with no power of further redelegation; and

(L) Redelegating the authorities in paragraphs (a)(3)(viii)(B), (C), (D), (F) and (G) of this section to USDA agency Procurement Executives or other qualified agency officials with the power of further redelegation.

(ix) Promulgate Departmental policies, standards, techniques, and procedures and represent the Department in maintaining the security of physical facilities, self-protection, and warden services.

(x) Review and approve exemptions for Department of Agriculture contracts, subcontracts, grants, subgrants, agreements, subagreements, loans and subloans from the requirements of the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*), the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*), and Executive Order 11738, 3 CFR, 1971-1975 Comp., p. 799, when he or she determines that the paramount interest of the United States so requires as provided in the above acts and Executive Order and the regulations of the Environmental Protection Act (40 CFR 15.5(c)).

(4) *Related to management services.* (i) Provide management support services for the Secretary of Agriculture and for the general officers of the Department, except the Inspector General. As used herein, such management support services shall include:

(A) Personnel services, as listed in paragraph (a)(5)(x) of this section, and organizational support services, with authority to take actions required by law or regulation to perform such services;

(B) Procurement, property management, space management, communications (telephone), messenger, and related services with authority to take actions required by law or regulation to perform such services; and

(C) Automation, forms management, files management, and directives management with authority to take actions required by law or regulation to perform such services.

(ii) Provide such services as listed in paragraph (a)(4)(i) of this section, as may be agreed, for other officers and agencies of the Department.

(5) *Related to personnel.* (i) Formulate and issue Department policy, standards, rules, and regulations relating to personnel.

(ii) Provide personnel management procedural guidance and operational instructions.

(iii) Design and establish personnel data systems.

(iv) Inspect and evaluate personnel management operations and issue instructions or take direct action to insure conformity with appropriate laws, Executive orders, Office of Personnel Management rules and regulations, and other appropriate rules and regulations.

(v) Exercise final authority in all personnel matters, including individual cases, that involve the jurisdiction of more than one General Officer.

(vi) Receive, review, and recommend action on all requests for the Secretary's approval in personnel matters.

(vii) Represent the Department in personnel matters in all contacts outside the Department.

(viii) Exercise specific authorities in the following operational matters:

(A) Authorize cash awards above \$2,500;

(B) Waive repayment of training expenses where employee fails to fulfill service agreement;

(C) Establish or change standards and plans for awards to private citizens; and

(D) Execute, change, extend, or renew:

(1) Labor-Management Agreements; and

(2) Association of Management Officials or Supervisor's Agreements.

(E) Represent any part of the Department in all contacts and proceedings with the National Offices of Labor Organizations;

(F) Change a position (with no material change in duties) from GS to a pay system other than a wage system, or vice versa;

(G) Grant restoration rights, and release employees with administrative reemployment rights;

(H) Change working hours for groups of 50 or more employees in the Washington, DC, metropolitan area;

(I) Authorize any mass dismissals of employees in the Washington, DC, metropolitan area;

(J) Approve "normal line of promotion" cases in the excepted service where not in accordance with time-in-grade criteria;

(K) Make final decisions on adverse action and performance rating appeals in all cases where the Deciding Official:

(1) Was involved directly in the adverse action, or performance rating appeal; or

(2) Made the informal decision; or

(3) Determines that the Examiner's findings or Committee's recommendations is unacceptable.

(L) Make the final decision on all classification appeals from agency appellate decisions;

(M) Authorize all employment actions (except nondisciplinary separations and LWOP) and classification actions for senior level and equivalent positions including Senior Executive Service positions and special authority professional and scientific positions responsible for carrying out research and development functions;

(N) Authorize all employment actions (except LWOP) for the following positions:

(1) Schedule C; and

(2) Administrative law judge.

(O) Authorize employment actions (accessions or extensions) for the following:

(1) Employees whose records are flagged; and

(2) Contract services.

(P) Authorize employment actions (accessions or extensions and transfers) for the following:

(1) Persons with criminal or immoral records;

(2) Persons separated for misconduct, delinquency, or resignation, to avoid such action; and

(3) Veterans with dishonorable or other than dishonorable discharge.

(Q) Authorize adverse actions for positions in GS-14-15 and equivalent;

(R) Approve assignments of White House details;

(S) Authorize adverse actions based in whole or in part on an allegation of violation of 5 U.S.C. chapter 73, subchapter III, for employees in the excepted service;

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(T) Authorize long-term training in programs which require Department-wide competition;

(U) Issue all Coordinated Federal Wage System (CFWS) Department-wide Wage Schedules, and Lithographic Wage Schedules in the Washington, DC metropolitan area; and

(V) Initiate and take adverse action in cases involving a violation of the merit system.

(ix) [Reserved]

(x) As used herein, the term personnel includes:

(A) Position management;

(B) Position classification;

(C) Employment;

(D) Pay administration;

(E) Automation of personnel data and systems design;

(F) Hours of duty;

(G) Performance evaluation and standards;

(H) Promotions;

(I) Employee development;

(J) Incentive Programs;

(K) Leave;

(L) Retirement;

(M) Program evaluation;

(N) Social security;

(O) Life insurance;

(P) Health benefits;

(Q) Unemployment compensation;

(R) Labor management relations;

(S) Intramanagement consultation;

(T) Security;

(U) Discipline; and

(V) Appeals.

(xi) The provisions of paragraphs (a)(5)(x)(N) through (R) of this section shall not apply for positions in, or applicants for positions in, the Office of Inspector General.

(xii) Maintain, review and update departmental delegations of authority.

(xiii) Authorize organizational changes which occur in:

(A) Departmental organizations:

(1) Service or office;

(2) Division (or comparable component); and

(3) Branch (or comparable component in departmental centers, only).

(B) Field organizations:

(1) First organizational level; and

(2) Next lower organizational level—required only for those types of field installations where the establishment, change in location, or abolition of

same, requires approval in accordance with Departmental Regulation 1010-1 (see § 2.92(a)(15)(ii)(B)).

(xiv) Formulate and promulgate departmental organizational objectives and policies.

(xv) Approve coverage of individual law enforcement and firefighter positions under the special retirement provisions of the Civil Service Retirement System and the Federal Employees Retirement System.

(xvi) Establish Departmentwide safety and health policy and provide leadership in the development, coordination, and implementation of related standards, techniques, and procedures, and represent the Department in complying with laws, Executive orders and other policy and procedural issuances related to occupational safety and health within the Department.

(xvii) Represent the Department in all rulemaking, advisory or legislative capacities on any groups, committees, or Governmentwide activities that affect the USDA Occupational Safety and Health Management Program.

(xviii) Determine and/or provide Departmentwide technical services and regional staff support for the Safety and Health Programs.

(xix) Administer the computerized management information systems for the collection, processing and dissemination of data related to the Department's Occupational Safety and Health Programs.

(xx) Administer the administrative appeals process related to the inclusion of positions in the Testing Designated Position listing in the USDA Drug-Free Workplace Program and designate the final appeal officer for that Program.

(xxi) Administer the Department's Occupational Health and Preventive Medical Program, as well as design and operate employee assistance and workers' compensation activities.

(xxii) Provide education and training on a Departmentwide basis for safety and health related issues and develop resource and operational manuals.

(xxiii) Approve hazard pay differentials under the conditions specified in 5 CFR part 550.

(6) *Related to information resources management.* (i) Designated as the senior official to carry out the responsibilities of the Department under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520). This designation includes the following responsibilities:

(A) Ensuring that the information policies, principles, standards, guidelines, rules and regulations prescribed by the Office of Management and Budget are appropriately implemented within the Department;

(B) Developing Department information policies and procedures and overseeing, auditing and otherwise periodically reviewing the Department's information resources management activities;

(C) Reviewing proposed Department reporting and recordkeeping requirements including those contained in rules and regulations, to ensure that they impose the minimum burden upon the public and have practical utility for the Department;

(D) Developing and implementing procedures for assessing the burden to the public and costs to the Department of information requirements contained in proposed legislation affecting Department programs;

(E) Conducting and being accountable for acquisitions made by the Department pursuant to authority delegated under section 111 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 759);

(F) Assisting the Office of Management and Budget in the performance of its functions assigned under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520), including the review of Department information activities; and

(G) Reviewing, granting, and notifying Congress of waivers to Federal Information Processing Standards pursuant to the authority delegated under section 111(d)(3) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 759(d)(3)).

(ii) Develop and implement an information resources management planning system which will integrate short-term and long-term objectives and coordinate agency and staff office initiatives in support of the objectives.

(iii) Provide Departmentwide guidance and direction in planning, devel-

oping, documenting, and managing applications software projects in accordance with Federal and Department information processing standards, procedures, and guidelines.

(iv) Provide Departmentwide guidance and direction in all aspects of the USDA Information Management Program including feasibility studies; economic analyses; systems design; acquisition of equipment, software, services, and timesharing arrangements; systems installation; systems performance and capacity evaluation; and security. Monitor these activities for agencies' major systems development efforts to assure effective and economic use of resources and compatibility among systems of various agencies when required.

(v) Manage the Departmental Computer Centers, including setting of rates to recover the cost of goods and services within approved policy and funding levels.

(vi) Review and evaluate information resource management activities related to delegated functions to assure that they conform to all applicable Federal and Department information resource management policies, plans, standards, procedures, and guidelines.

(vii) Design, develop, implement, and revise systems, processes, work methods, and techniques to improve the management and operational effectiveness of information resources.

(viii) Administer the Departmental records, forms, reports, and Directives Management Programs.

(ix) Manage all aspects of the USDA Telecommunications Program including planning, development, acquisition, and use of equipment and systems for voice and data communications, excluding the actual procurement of data transmission equipment, software, maintenance, and related supplies. Manage Departmental telecommunications contracts. Provide technical advice throughout the Department on telecommunications matters.

(x) Implement a program for applying information resources management technology to improve productivity in the Department.

(xi) Provide leadership to integrate and unify the management process for the Department's major information

resource management system acquisitions and to monitor implementation of the policies and practices set forth in applicable OMB Circulars.

(xii) Provide Departmental services related to Departmental administrative regulations, Secretarial issuances, and related management support.

(xiii) Plan, develop, install, and operate computer-based systems for message exchange, scheduling, computer conferencing, and other applications of office automation technology which can be commonly used by multiple Department agencies and offices.

(xiv) Represent the Department in contacts with the General Accounting Office, the General Services Administration, the Office of Management and Budget, the National Bureau of Standards, and other organizations or agencies on matters related to delegated responsibilities.

(xv) Review, clear, and coordinate all statistical forms, survey plans, and reporting and record keeping requirements originating in the Department and requiring approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520).

(7) *Related to committee management.*

(i) Serve as the Department's Committee Management Officer and establish and maintain departmentwide policies and procedures for the management of committees. This delegation includes the authority to:

(A) Consult with the Committee Management Secretariat prior to the establishment or reestablishment of advisory committees;

(B) Approve and sign the written certification that creation of the advisory committee is in the public interest and provide for the publication of such certification in the FEDERAL REGISTER, along with a description of the nature and purpose of the advisory committee, following the Committee Management Secretariat's approval of the establishment of the committee;

(C) Approve and sign the notice of renewal of advisory committees for publication in the FEDERAL REGISTER, following the Committee Management Secretariat's concurrence in the renewal of the committees;

(D) Assign responsibility for preparation of timely notice of meetings for publication in the FEDERAL REGISTER; and

(E) Approve charters for national advisory committees when in a format other than a Secretary's Memorandum.

(ii) Establish and reestablish regional, State, and local advisory committees for activities authorized. This authority may not be redelegated.

(8) *Related to equal opportunity.* (i) Provide overall leadership, coordination, and direction for the Department's programs of civil rights, including program delivery compliance and equal employment opportunity, with emphasis on the following:

(A) Actions to enforce title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, prohibiting discrimination in Federally assisted programs;

(B) Actions to enforce title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, prohibiting discrimination in Federal employment;

(C) Actions to enforce title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*, prohibiting discrimination on the basis of sex in USDA education programs and activities funded by the Department;

(D) Actions to enforce section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, prohibiting discrimination on the basis of handicap in USDA programs and activities funded by the Department;

(E) Actions to enforce the Age Discrimination Act of 1975, 42 U.S.C. 6102, prohibiting discrimination on the basis of age in USDA programs and activities funded by the Department;

(F) Actions to enforce related Executive orders, Congressional mandates, and other laws, rules, and regulations, as appropriate;

(G) Actions to develop and implement the Department's Federal Women's Program; and

(H) Actions to develop and implement the Department's Hispanic Employment Program.

(ii) Evaluate Departmental agency programs, activities, and impact statements for civil rights concerns.

(iii) Provide leadership and coordinate USDA agency and Department

systems for targeting, collecting, analyzing, and evaluating program participation data and equal employment opportunity data.

(iv) Provide leadership and coordinate Departmentwide programs of public notification regarding the availability of USDA programs on a nondiscriminatory basis.

(v) Serve as the focal point through which all contacts with the Department of Justice are made involving matters relating to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*), and section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), except those matters in litigation, including administrative enforcement actions, which shall be coordinated by the Office of the General Counsel.

(vi) Serve as the focal point through which all contacts with the Department of Health and Human Services are made involving matters relating to the Age Discrimination Act of 1975, 42 U.S.C. 6102, except those matters in litigation, including administrative enforcement action, which shall be coordinated by the Office of the General Counsel.

(vii) Order proceedings and hearings in the USDA pursuant to §§ 15.9(e) and 15.86 of this title which concern consolidated or joint hearings within the Department and/or with other Federal departments and agencies.

(viii) Order proceedings and hearings in the USDA pursuant to § 15.8(c) of this title after the program agency has advised the applicant or recipient of his or her failure to comply and has determined that compliance cannot be secured by voluntary means.

(ix) Issue orders to give a notice of hearing or the opportunity to request a hearing pursuant to part 15 of this title; arrange for the designation of an Administrative Law Judge to preside over any such hearing; and determine whether the Administrative Law Judge so designated will make an initial decision or certify the record to the Secretary of Agriculture with his or her recommended findings and proposed action.

(x) Authorize the taking of action pursuant to § 15.8(a) of this title relat-

ing to compliance by "other means authorized by law."

(xi) Make determinations required by § 15.8(d) of this title that compliance cannot be secured by voluntary means, and then take action, as appropriate.

(xii) Make determinations that program complaint investigations performed under § 15.6 of this title establish a proper basis for findings of discrimination, and that actions taken to correct such findings are adequate; and perform investigations and make final determinations, on both the merits and required corrective action, as to complaints filed under subpart B of part 15 of this title.

(xiii) Conduct investigations and compliance reviews Departmentwide.

(xiv) Develop regulations, plans, and procedures necessary to carry out the Department's civil rights programs, including the development, implementation, and coordination of Action Plans.

(xv) Provide liaison on Equal Employment Opportunity Programs and activities with the Equal Employment Opportunity Commission, the Office of Personnel Management, USDA agencies, Department employees, and applicants for positions within the Department.

(xvi) Monitor, evaluate, and report on agency compliance with established policy and executive orders which further the participation of historically black colleges and universities and with other colleges and universities with substantial minority group enrollment in Departmental programs and activities.

(xvii) Is designated as the Department's Director of Equal Employment Opportunity with authority to perform the functions and responsibilities of that position under 29 CFR part 1613, including the authority to make changes in programs and procedures designed to eliminate discriminatory practices and improve the Department's program for Equal Employment Opportunity, and the authority to make decisions on complaints of discrimination and order such corrective measures as may be considered necessary, including the recommendation for such disciplinary action as is warranted when an employee has been

found to have engaged in a discriminatory practice.

(xviii) Administer the Department's Equal Employment Opportunity Program.

(xix) Perform the EEO counseling function for the Department.

(xx) Process formal EEO discrimination complaints, up to the appellate stage, by employees or applicants for employment.

(xxi) Administer the discrimination appeals and complaints program for the Department, including all formal individual or group appeals, where the system provides for an avenue of redress to the Department level, Equal Employment Opportunity Commission, Office of Personnel Management or other outside authority.

(xxii) Provide liaison on EEO matters concerning complaints and appeals with the USDA agencies and Department employees.

(xxiii) Maintain liaison with historically black colleges and universities and with other colleges and universities with substantial minority group enrollment, and assist USDA agencies in strengthening such institutions by facilitating institutional participation in USDA programs and activities and by encouraging minority students to pursue curricula that could lead to careers in the food and agricultural sciences.

(xxiv) Investigate USDA EEO complaints with authority to enter into and administer contracts for such investigations.

(xxv) Make final decisions on complaints and grievance appeals, except in those cases where the Assistant Secretary for Administration has participated, when it is determined that such complaint or grievance appeals are not being decided in a timely manner.

(xxvi) Make final decisions on formal grievance appeals in all cases where the Deciding Official:

(A) Was involved directly in the grievance; or

(B) Made the informal decision; or

(C) Determines that the Examiner's findings or Committee's recommendations is unacceptable.

(xxvii) The provisions of paragraphs (a)(8)(xxv) and (xxvi) of this section shall not apply for positions in, or ap-

plicants for positions in, the Office of Inspector General.

(9) *Related to defense.* Provide internal administrative management and support services for the defense program of the Department.

(10) *Related to board of contract appeals.* Provide administrative supervision, and exercise general responsibility for budget and finance aspects of the Board of Contract Appeals. No review by the Assistant Secretary for Administration of the merits of appeals or of decisions of the Board is authorized and the Board shall be the representative of the Secretary in such matters.

(11) *Related to environmental response.* With respect to land and facilities under his or her authority, 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) 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) Sections 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. 9119), with respect to indemnifying response action contractors;

(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 settlements, but excluding section 122(b)(1) of the Act (42 U.S.C. 9622(b)(1)), related to mixed funding agreements.

(12) *Related to compliance with environmental laws.* 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 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, as further amended by 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.*).

(13) *Related to emergency programs.* (i) Coordinate the Departments Emergency Preparedness Program and Disaster Emergency Response Program including maintenance of an appropriate system whereby the Department can react immediately when notified of a civil defense or natural disaster emergency.

(ii) Maintain an overview of emergency relocation facilities and assure that resources are in a constant state of readiness.

(iii) Direct the entire defense program of USDA. This delegation includes:

(A) Maintaining liaison with executive departments and the Congress with respect to policy matters;

(B) Supervising and directing USDA regional emergency stalls and USDA State and county emergency boards;

(C) Directing the USDA part of the National Defense Executive Reserve Program;

(D) Providing policy guidance to USDA agencies in carrying out specific defense assignments; and

(E) Representing the Department in matters relating to international defense organizations, such as NATO and its suborganizations.

(iv) Coordinate and facilitate USDA operations of Natural Disaster Programs, including liaison with executive departments and the Congress in disaster matters.

(v) Maintain liaison with:

(A) Federal Preparedness Agency; and

(B) Defense Civil Preparedness Agency.

(b) The following authorities are reserved to the Secretary of Agriculture:

(1) *Related to personnel.* Make final determinations in the following areas:

(i) Separation of employees for security reasons.

(ii) Restoration to duty of employees following suspension from duty for security reasons.

(iii) Reinstatement or restoration to duty or the employment of any person separated for security reasons.

(iv) Issuance of temporary certificates to occupy sensitive positions.

(2) [Reserved]

### Subpart D—Delegations of Authority to Other General Officers and Agency Heads

EDITORIAL NOTE: Nomenclature changes to subpart D appear at 60 FR 66713, Dec. 26, 1995.

#### § 2.26 Director, Office of the Executive Secretariat.

The following delegation of authority is made by the Secretary of Agriculture to the Director, Office of the Executive Secretariat: Responsible for all correspondence control and related records management functions for the Office of the Secretary.

#### § 2.27 Office of Administrative Law Judges.

(a) The following designations are made by the Secretary of Agriculture to the Office of Administrative Law Judges:

(1) Administrative law judges (formerly hearing examiners) are designated pursuant to 5 U.S.C. 556(b)(3) to hold hearings and perform related duties in proceedings subject to 5 U.S.C. 556 and 557, arising under the Agricul-

tural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*); the Commodity Exchange Act as amended (7 U.S.C. 1 *et seq.*); the Perishable Agricultural Commodities Act, as amended (7 U.S.C. 499a *et seq.*); the Federal Seed Act, as amended (7 U.S.C. 1551 *et seq.*); the (Laboratory) Animal Welfare Act, as amended (7 U.S.C. 2131 *et seq.*); the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. 181 *et seq.*); the Forest Resources Conservation and Shortage Relief of 1990 (16 U.S.C. 630 *et seq.*); and any other acts providing for hearings to which the provisions of 5 U.S.C. 556 and 557, are applicable. Pursuant to the applicable rules of practice, the administrative law judges shall make initial decisions in adjudication and rate proceedings subject to 5 U.S.C. 556 and 557. Such decisions shall become final without further proceedings unless there is an appeal to the Secretary by a party to the proceeding in accordance with the applicable rules of practice: Provided, however, that no decision shall be final for purposes of judicial review except a final decision of the Secretary upon appeal. As used herein, "Secretary" means the Secretary of Agriculture, the Judicial Officer, or other officer or employee of the Department delegated, pursuant to the Act of April 4, 1940 (7 U.S.C. 450c-450g), and Reorganization Plan No. 2 of 1953 (5 U.S.C. App.), "regulatory functions" as that term is defined in the 1940 Act, in acting as final deciding officer in adjudication and rate proceedings subject to 5 U.S.C. 556 and 557. Administrative Law Judges are delegated authority to hold hearings and perform related duties as provided in the Rules of Practice Governing Cease and Desist Proceedings Under Section 2 of the Capper-Volstead Act, set forth in part 1, subpart I of this title.

(2) [Reserved]

(b) The Chief Administrative Law Judge is delegated the following administrative responsibilities subject to the guidance and control of the Assistant Secretary for Administration (See § 2.24(a)):

(1) Exercise general responsibility and authority for all matters related to the administrative activities of the Office of Administrative Law Judges; and