

## § 2.31 General Counsel.

The General Counsel, as the chief law officer of the Department, is legal adviser to the Secretary and other officials of the Department and responsible for providing legal services for all the activities of the Department. The delegations of authority by the Secretary of Agriculture to the General Counsel include the following:

(a) Consider, ascertain, adjust, determine, compromise, and settle claims pursuant to the Federal Tort Claims Act, as amended (28 U.S.C. 2671–2680), and the regulations of the Attorney General contained in 28 CFR part 14; delegate the authority to consider, ascertain, adjust, determine, compromise, and settle, pursuant to the Federal Tort Claims Act as amended (28 U.S.C. 2671–2680) and the regulations of the Attorney General contained in 28 CFR part 14, claims less than \$2500 that allege the negligence or wrongful act of an employee of a USDA agency; and consider, ascertain, adjust, determine compromise, and settle claims pursuant to section 920 of the Federal Agriculture Improvement and Reform Act of 1996, Public Law 104–127 (7 U.S.C. 2262a).

(b) Certify documents as true copies of those on file in the Department.

(c) Sign releases of claims of the United States against private persons for damage to or destruction of property of the department, except those claims cognizable under the Contract Disputes Act of 1978 (41 U.S.C. 601 *et seq.*).

(d) Responsible for the overall management and operation of the Law Library, furnishing complete legal and legislative library services to the Office of the General Counsel and the Department.

(e) Make determinations as to whether employees of the Department may retain commercial rights in inventions; prepare patent applications and prosecute the same before the Patent Office.

(f) Represent the Department in formal rulemaking and adjudicatory proceedings held in connection with the administration of the Department's activities, and decide whether initial decisions of the administrative law

judges shall be appealed by the Department to the Secretary.

(g) Represent the Department in connection with legal issues that arise in its relations with the Congress, the General Accounting Office, or other agencies of the Government.

(h) Represent the Department in proceedings before the Interstate Commerce Commission involving freight rates on farm commodities, and in appeals from decisions of the Commission to the courts.

(i) In civil actions arising out of the activities of the Department, present the Department's case to the Attorney General and U.S. attorneys and, upon request of the Department of Justice, assist in the preparation and trial of such cases and in the briefing and argument of such cases at the appellate level.

(j) Review cases having criminal aspects and refer them to the Department of Justice.

(k) Act as liaison between the Department and the Department of Justice.

(l) Perform the following legal services:

(1) Render legal opinions on questions arising in the conduct of the Department's activities;

(2) Prepare or review regulations;

(3) Draft proposed legislation;

(4) Prepare or review contracts, mortgages, deeds, leases, and other documents; and

(5) Examine titles to land to be acquired or accepted as security for loans.

(m) Perform such other legal services as may be required in the administration of the Department's activities, including the defense program.

(n) Serve as a member of the Capper-Volstead Act Committee to identify cases of undue price enhancement by associations of producers and issue complaints requiring such associations to show cause why an order should not be made directing them to cease and desist from monopolization or restraint of trade (7 U.S.C. 292).

(o) Settle claims for damage to, or loss of, privately owned property pursuant to the provisions of 31 U.S.C. 3723.

### § 2.33

(p) Serve on the USDA Hazardous Materials Policy Council.

[60 FR 56393, Nov. 8, 1995, as amended at 61 FR 49237, Sept. 19, 1996; 65 FR 12429, Mar. 9, 2000; 70 FR 23927, May 6, 2005; 70 FR 30610, May 27, 2005]

#### § 2.33 Inspector General.

(a) The following delegations of authority are made by the Secretary of Agriculture to the Inspector General:

(1) Advise the Secretary and General officers in the planning, development, and execution of Department policies and programs.

(2) At the request of the Director, Homeland Security Staff (Director), determine the availability of law enforcement personnel of the Office of Inspector General to assist the Director in providing for the personal security for the Secretary and the Deputy Secretary.

(3) Serve as liaison official for the Department for all audits of USDA performed by the General Accounting Office.

(4) In addition to the above delegations of authority, the Inspector General, under the general supervision of the Secretary, has specific duties, responsibilities, and authorities pursuant to the Inspector General Act of 1978, Pub. L. No. 95-452, 5 U.S.C. App.

(b) The following authority is reserved to the Secretary of Agriculture: Approving the implementation in the Office of Inspector General of administrative policies or procedures that contravene standard USDA administrative policies as promulgated by the Assistant Secretary for Administration.

[60 FR 56393, Nov. 8, 1995, as amended at 72 FR 36859, July 6, 2007]

#### § 2.34 Director, National Appeals Division.

The Director, National Appeals Division, under the general supervision of the Secretary, has specific duties, responsibilities, and authorities pursuant to subtitle H of the Department of Agriculture Reorganization Act of 1994, Pub. L. No. 103-354, title II (7 U.S.C. 6991 *et seq.*), including:

(a) Deciding appeals from adverse decisions, made by an officer or employee of an agency of the Department designated by the Secretary, that are ad-

### 7 CFR Subtitle A (1-1-13 Edition)

verse to participants. The term “agency” shall include the following and any predecessor agency: the Farm Service Agency; the Commodity Credit Corporation (with respect to domestic programs); the Federal Crop Insurance Corporation; the Rural Housing Service; the Rural Business-Cooperative Service; the Natural Resources Conservation Service; and a State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)); and

(b) The authority to appoint such hearing officers and other employees as are necessary for the administration of the activities of the Division.

(c) Prepare a report each year on the number of requests for equitable relief and the disposition of such requests for inclusion in the report of the Secretary to Congress on equitable relief requests made to the Department under farm and conservation programs (7 U.S.C. 7996(g)(2)).

[60 FR 56393, Nov. 8, 1995, as amended at 68 FR 27442, May 20, 2003]

#### § 2.35 Judicial Officer.

(a) Pursuant to the Act of April 4, 1940, as amended (7 U.S.C. 450c-450g), and Reorganization Plan No. 2 of 1953 (5 U.S.C. app.), the Secretary of Agriculture makes the following delegations of authority to the Judicial Officer. The Judicial Officer is authorized to:

(1) Act as final deciding officer in adjudicatory proceedings subject to 5 U.S.C. 556 and 557;

(2) Act as final deciding officer in adjudicatory proceedings which are or may be subject to the “Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes” set forth in part 1, subpart H, of this title;

(3) Act as final deciding officer in adjudicatory proceedings which are or may be subject to 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;

(4) Act as final deciding officer in adjudicatory proceedings subject to the “Procedures Related to Administrative Hearings Under the Program Fraud