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7 CFR Subtitle A (1–13 Edition)

Subpart A—General

§ 2.1 Establishment of the Department.

The Department of Agriculture was created by the Act of May 15, 1862, and by the Act of February 9, 1889, it was made an executive department in the Federal Government under the supervision and control of the Secretary of Agriculture (7 U.S.C. 2201, 2202, 2204).

§ 2.2 Authority of the Secretary to prescribe regulations.

The general authority of the Secretary to prescribe regulations governing the work of the Department is based on 5 U.S.C. 301 which provides that the head of an Executive department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use and preservation of its records, papers, and property.

§ 2.3 Authority of the Secretary to delegate authority.

(a) The general authority of the Secretary to make delegations of his authority is based on:

(1) Section 4(a) of Reorganization Plan No. 2 of 1953 (5 U.S.C. App.), which provides that the Secretary of Agriculture may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by an agency or employee, of the Department of Agriculture of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan; and

(2) Section 212(a)(1) of the Department of Agriculture Reorganization Act of 1994, Pub. L. No. 103-354, 7 U.S.C. 6912(a)(1), which provides that the Secretary may delegate to any agency, office, officer, or employee of the Department the authority to perform any function transferred to the Secretary under 7 U.S.C. 6912(a) or any other function vested in the Secretary as of the date of the enactment of the Act.

(b) [Reserved]

§ 2.4 General officers.

The work of the Department is under the supervision and control of the Secretary who is assisted by the following

general officers: The Deputy Secretary, the Under Secretary for Farm and Foreign Agricultural Services; the Under Secretary for Rural Development; the Under Secretary for Food Safety; the Under Secretary for Food, Nutrition, and Consumer Services; the Under Secretary for Natural Resources and Environment; the Under Secretary for Research, Education, and Economics; the Under Secretary for Marketing and Regulatory Programs; the Assistant Secretary for Congressional Relations; the Assistant Secretary for Administration; the Assistant Secretary for Civil Rights; the General Counsel; the Inspector General; the Chief Financial Officer; the Chief Information Officer; the Judicial Officer; the Director, Office of Budget and Program Analysis; the Chief Economist; the Director, National Appeals Division; and the Director of Communications.

[75 FR 43367, July 23, 2010]

§ 2.5 Order in which officers of the Department shall act as Secretary.

(a) Pursuant to Executive Order 13542, "Providing an Order of Succession Within the Department of Agriculture" (75 FR 27921, May 18, 2010), during any period in which both the Secretary and the Deputy Secretary have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary, the following officials designated in paragraphs (a)(1) through (a)(16) of this section shall act as Secretary, in the order in which they are listed, until such time as the Secretary or Deputy Secretary is able to perform the functions and duties of that office. Each official shall act only in the event of the death, resignation, or inability to perform the functions and duties of Secretary of the immediately preceding official:

(1) Assistant Secretary of Agriculture for Administration.

(2) Under Secretary of Agriculture for Marketing and Regulatory Programs.

(3) Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

(4) Under Secretary of Agriculture for Food Safety.

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(5) Under Secretary of Agriculture for Natural Resources and Environment.

(6) Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

(7) Under Secretary of Agriculture for Rural Development.

(8) Under Secretary of Agriculture for Research, Education, and Economics.

(9) General Counsel of the Department of Agriculture.

(10) Chief of Staff, Office of the Secretary.

(11) Director, Kansas City Commodity Office, Farm Service Agency.

(12) State Executive Directors of the Farm Service Agency for the States of California, Iowa, and Kansas, in order of seniority fixed by length of unbroken service as State Executive Director of that State.

(13) Regional Administrators of the Food and Nutrition Service for the Mountain Plains Regional Office (Denver, Colorado), Midwest Regional Office (Chicago, Illinois), and Western Regional Office (San Francisco, California), in order of seniority fixed by length of unbroken service as Regional Administrator of that Regional Office.

(14) Chief Financial Officer of the Department of Agriculture.

(15) Assistant Secretary of Agriculture for Civil Rights.

(16) Assistant Secretary of Agriculture for Congressional Relations.

(b) If any two or more individuals designated in paragraphs (a)(12) and (a)(13) of this section were sworn in to, or commenced service in, their respective offices on the same day, precedence shall be determined by the alphabetical order of the State in which the individual serves.

(c) No individual who is serving in an office listed in paragraphs (a)(1) through (a)(16) of this section in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this section.

(d) No individual who is serving in an office listed in paragraphs (a)(1) through (a)(16) of this section shall act as Secretary unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998 (5 U.S.C. 3345, *et seq.*).

(e) Notwithstanding the provisions of this section and Executive Order 13542, the President retains discretion, to the extent permitted by law, to depart from the order of succession in paragraph (a) of this section in designating an acting Secretary.

[75 FR 43367, July 23, 2010]

Subpart B—General Delegations of Authority by the Secretary of Agriculture

§ 2.7 Authority to supervise and direct.

Unless specifically reserved, or otherwise delegated, the delegations of authority to each general officer of the Department and each agency head contained in this part includes the authority to direct and supervise the employees engaged in the conduct of activities under such official's jurisdiction, and the authority to take any action, execute any document, authorize any expenditure, promulgate any rule, regulation, order, or instruction required by or authorized by law and deemed by the general officer or agency head to be necessary and proper to the discharge of his or her responsibilities. This authority will be exercised subject to applicable administrative directives. Unless otherwise provided, a general officer or agency head may, subject to his or her continuing responsibility for the proper discharge of delegations made to him, in this part, delegate and provide for the redelegation of his or her authority to appropriate officers and employees. Subject to the general supervision of the Secretary, agency heads who are delegated authority from a general officer, in this part, report to and are under the supervision of that general officer.

§ 2.8 Delegations of authority to agency heads to order that the United States flag be flown at half-staff.

Pursuant to section 5 of Proclamation 3044, 3 CFR, 1954-1958 Comp., p. 4, each general officer and agency head is delegated authority to order that the United States flag shall be flown at half-staff on buildings and grounds under his or her jurisdiction or control.