

ANNUAL REPORT

ANNUAL REPORT OF THE JUDICIAL OFFICER

Fiscal Year 1996

The Judicial Officer issues the final decision for the Department in all cases appealed from initial decisions of the Department's Administrative Law Judges (ALJs). The cases arise primarily under the Agricultural Marketing Agreement Act of 1937; the Animal Welfare Act; the Federal Meat Inspection Act; the Federal Plant Pest Act; the Forest Resources Conservation and Shortage Relief Act; the Horse Protection Act of 1970; the Packers and Stockyards Act, 1921; the Perishable Agricultural Commodities Act, 1930; the Plant Quarantine Act; the Poultry Products Inspection Act; and various animal quarantine acts. The Judicial Officer also signs reparation orders for money damages prepared by the Office of the General Counsel under the Packers and Stockyards Act and the Perishable Agricultural Commodities Act. Appeals from the Judicial Officer's decisions lie primarily to the United States Courts of Appeals, but, under some statutes, appeals lie to the United States District Courts. The Department has no right of appeal from a decision by the Judicial Officer.

The Office of the Judicial Officer is staffed by three persons: the Judicial Officer, the Assistant to the Judicial Officer (Michael J. Stewart), and the Legal Technician (Gloria J. Derobertis), who also serves as secretary, paralegal, and administrative assistant.

Workload statistics provide only a general sense of the production of and backlog in the Office of the Judicial Officer, since one case might take a few hours (e.g., a default plant quarantine case), while another case, with a voluminous record, might take several months. Nonetheless, the following four tables taken together provide some indication of the production of the office and the direction of the backlog in the office.

CASES RECEIVED – DECIDED – PENDING

	FY 1994	FY 1995	FY 1996
Cases Pending Beginning of Year	6	2	5
Cases Received During Year	47	39	41
Cases Decided During Year	51	36	34
Cases Pending End of Year	2	5	12

NUMBER OF CASES DECIDED BY JUDICIAL OFFICER

Fiscal Year	No.	Fiscal Year	No.
1979	26	1988	40
1980	21	1989	43
1981	29	1990	42
1982	33	1991	56
1983	34	1992	62
1984	26	1993	53
1985	50	1994	51
1986	42	1995	36
1987	36	1996	34

INTERVAL BETWEEN ALJ AND JO DECISIONS

Fiscal Year	Median Interval	Longest Interval	Number of Cases over 7 Months	Number of Cases over 12 Months
1985	2 mo. 3 wk.	8 mo. 1 wk.	2	0
1986	3 mo. 2 wk.	11 mo.	6	0
1987	6 mo. 2 wk.	20 mo. 1 wk.	8	1
1988	8 mo. 3 wk.	20 mo. 3 wk.	17	8
1989	9 mo. 1 wk.	30 mo.	16	7
1990	9 mo. 2 wk.	25 mo.	25	10
1991	4 mo. 2 wk.	20 mo.	11	4
1992	4 mo. 1 wk.	21 mo. 3 wk.	12	5
1993	5 mo. 2 wk.	16 mo. 2 wk.	18	10
1994	4 mo. 17 mo.	3 wk.	9	3
1995	4 mo. 3 wk.	15 mo.	6	2
1996	6 mo. 10 mo.	1 wk.	8	0

INTERVAL BETWEEN REFERRAL TO JO AND JO DISPOSITION

Fiscal Year	Median Interval	Longest Interval	Number of Cases Over 4 Months	Number of Cases Over 8 Months
1996	1 mo.	7 mo.	10	0

A summary of the Judicial Officer's decisions issued in Fiscal Year 1996 is attached as Appendix 1. A list of the 12 pending cases referred to the Judicial Officer is attached as Appendix 2. The oldest case pending on appeal from an ALJ's decision has been in this office 12 months and 1 week (this case is on hold pending the outcome of proceedings for judicial review of *Glickman v. Wileman Bros. & Elliott, Inc.* and *United States Dep't of Agric. v. Cal Almond, Inc.*, now before the United States Supreme Court), compared to 2 months and 5 days last year and 2½ months the year before.

The Judicial Officer disagreed with the ALJ's reasoning or result in 7 of the 34 cases (or 21%) in which the ALJ's decision was at issue, compared to 44% last year. When the Judicial Officer agrees with the decision of the ALJ, a case even with a very large record can be handled quite expeditiously. But where the Judicial Officer disagrees with the ALJ's decision, preparation of the Judicial Officer's decision is time-consuming, since the court, on judicial review, weighs the ALJ's decision against that of the Judicial Officer. Of the 12 cases pending on appeal, the Government is appealing 7 of the cases, or 58%, compared with 40% last year.