

ANNUAL REPORT

ANNUAL REPORT OF THE JUDICIAL OFFICER

Fiscal Year 1997

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 under, among other Acts, the Agricultural Marketing Agreement Act of 1937; the Animal Welfare Act; the Beef Promotion and Research Act of 1985; the Federal Meat Inspection Act; the Federal Plant Pest Act; the Forest Resources Conservation and Shortage Relief Act; the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act; the Horse Protection Act of 1970; the Mushroom Promotion, Research, and Consumer Information Act; 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 rules on motions filed by parties to proceedings and questions submitted by ALJs and 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, and the Legal Technician, 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 95	FY 96	FY 97
Cases Pending Beginning of Year	2	5	12
Cases Received During Year	39	41	39
Cases Decided During Year	36	34	43
Cases Pending End of Year	5	12	8

NUMBER OF CASES DECIDED BY JUDICIAL OFFICER

Fiscal Year	No.	Fiscal Year	No.
1979	26	1989	43
1980	21	1990	42
1981	29	1991	56
1982	33	1992	62
1983	34	1993	53
1984	26	1994	51
1985	50	1995	36
1986	42	1996	34
1987	36	1997	43
1988	40		

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. 1 wk.	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
1997	4 mo.	16 mo.	12	9

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
1997	2 mo. 2 wk.	12 mo. 3 wk.	13	8

A summary of the Judicial Officer's decisions issued in Fiscal Year 1997 is attached as Appendix 1. A list of the 8 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 24 months and 1 week (this case was on hold until June 27, 1997, pending the outcome of proceedings for judicial review of *Glickman v. Wileman Bros. & Elliott, Inc.*, 117 S. Ct. 2130 (1997) and *United States Dep't of Agric. v. Cal_Almond, Inc.*, 117 S. Ct. 2501 (1997)), compared to 12 months and 1 week last year and 2 months and 5 days the year before.

The Judicial Officer disagreed with the ALJ's reasoning or result in 8 of the 43 cases (or 19%) in which the ALJ's decision was at issue, compared to 21% 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 8 cases pending on appeal, the Government is appealing 5 of the cases, or 62.5%, compared with 58% last year.