



**14. DEPARTMENT OF AGRICULTURE REORGANIZATION**



Q:\COMP\AGMISC\REORG

## 14. DEPARTMENT OF AGRICULTURE REORGANIZATION

[As Amended Through P.L. 110–246, Effective May 22, 2008]

[Public Law 103–354, approved October 13, 1994, except that title I of the Act, related to crop insurance, is omitted. The authority provided to the Secretary of Agriculture by title II of the Act to reorganize the Department of Agriculture expires on October 13, 1996. See section 296.]

### SECTION 1. [7 U.S.C. 6901 note] SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994”.<sup>1</sup>

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:<sup>2</sup>

Sec. 1. Short title; table of contents.

#### TITLE I—FEDERAL CROP INSURANCE REFORM

[Title I consists of amendments to the Federal Crop Insurance Act and free standing provisions related to that Act. Please see the separate compilation related to that Act.]

#### TITLE II—DEPARTMENT OF AGRICULTURE REORGANIZATION

Sec. 201. Short title.

Sec. 202. Purpose.

Sec. 203. Definitions.

##### Subtitle A—General Reorganization Authorities

Sec. 211. Transfer of Department functions to Secretary of Agriculture.

Sec. 212. Authority of Secretary to delegate transferred functions.

Sec. 213. Reductions in number of department personnel.

Sec. 214. Consolidation of headquarters offices.

Sec. 215. Combination of field offices.

Sec. 216. Improvement of information sharing.

Sec. 217. Reports by the Secretary.

Sec. 218. Assistant Secretaries of Agriculture.

Sec. 219. [Repealed]

Sec. 220. Office of energy policy and new uses.

##### Subtitle B—Farm and Foreign Agricultural Services

Sec. 225. Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

Sec. 226. Consolidated Farm Service Agency.

Sec. 226A. Office of Risk Management.

Sec. 226B. Office of Advocacy and Outreach.

Sec. 227. State, county, and area committees.

##### Subtitle C—Rural Economic and Community Development

Sec. 231. Under Secretary of Agriculture for Economic and Community Rural Development.

Sec. 232. Rural Utilities Service.

Sec. 233. Rural Housing and Community Development Service.

Sec. 234. Rural Business and Cooperative Development Service.

Sec. 235. Conforming amendments regarding Rural Electrification Administration.

##### Subtitle D—Food, Nutrition, and Consumer Services

Sec. 241. Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

##### Subtitle E—Natural Resources and Environment

Sec. 245. Under Secretary of Agriculture for Natural Resources and Environment.

Sec. 246. Natural Resources Conservation Service.

Sec. 247. Reorganization of Forest Service.

<sup>1</sup>Title II of this Act, which deals specifically with the reorganization of the Department of Agriculture, has its own short title. See section 201.

<sup>2</sup>Although a table of contents was included in the original law, it is no longer being amended. This table of contents is maintained up-to-date as a convenience to the reader.

**Subtitle F—Research, Education, and Economics**

- Sec. 251. Under Secretary of Agriculture for Research, Education, and Economics.  
Sec. 252. Program staff.

**Subtitle G—Food Safety**

- Sec. 261. Under Secretary of Agriculture for Food Safety.  
Sec. 262. Conditions for implementation of alterations in the level of additives allowed in animal diets.

**Subtitle H—National Appeals Division**

- Sec. 271. Definitions.  
Sec. 272. National Appeals Division and Director.  
Sec. 273. Transfer of functions.  
Sec. 274. Notice and opportunity for hearing.  
Sec. 275. Informal hearings.  
Sec. 276. Right of participants to Division hearing.  
Sec. 277. Division hearings.  
Sec. 278. Director review of determinations of hearing officers.  
Sec. 279. Judicial review.  
Sec. 280. Implementation of final determinations of Division.  
Sec. 281. Conforming amendments relating to National Appeals Division.  
Sec. 282. Expansion of issues covered by State mediation programs.  
Sec. 283. Authorization of appropriations.

**Subtitle I—Marketing and Regulatory Programs**

- Sec. 285. Under Secretary of Agriculture for Marketing and Regulatory Programs.

**Subtitle J—Miscellaneous Reorganization Provisions**

- Sec. 291. Successorship provisions relating to bargaining units and exclusive representatives.  
Sec. 292. Purchase of American-made equipment and products.  
Sec. 293. Miscellaneous conforming amendments.  
Sec. 294. Removal of obsolete administrative provisions.  
Sec. 295. Proposed conforming amendments.  
Sec. 296. Termination of authority.

**TITLE III—MISCELLANEOUS**

- Sec. 301. Poultry labeling.  
Sec. 302. First Amendment rights of employees of the United States Department of Agriculture.  
Sec. 303. Adjusted cost of thrifty food plan.  
Sec. 304. Office of Risk Assessment and Cost-Benefit Analysis.  
Sec. 305. Fair and equitable treatment of socially disadvantaged producers.  
Sec. 306. Aviation inspections.

## TITLE II—DEPARTMENT OF AGRICULTURE REORGANIZATION

### SEC. 201. [7 U.S.C. 6901 note] SHORT TITLE.

(a) SHORT TITLE.—This title may be cited as the “Department of Agriculture Reorganization Act of 1994”.

### SEC. 202. [7 U.S.C. 6901] PURPOSE.

The purpose of this title is to provide the Secretary of Agriculture with the necessary authority to streamline and reorganize the Department of Agriculture to achieve greater efficiency, effectiveness, and economies in the organization and management of the programs and activities carried out by the Department.

### SEC. 203. [7 U.S.C. 6902] DEFINITIONS.

Except where the context requires otherwise, for purposes of this title:

(1) DEPARTMENT.—The term “Department” means the Department of Agriculture.

(2) NATIONAL APPEALS DIVISION.—The term “National Appeals Division” means the National Appeals Division of the Department established under section 272.

(3) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(4) FUNCTION.—The term “function” means an administrative, financial, or regulatory activity of an agency, office, officer, or employee of the Department.

## Subtitle A—General Reorganization Authorities

### SEC. 211. [7 U.S.C. 6911] TRANSFER OF DEPARTMENT FUNCTIONS TO SECRETARY OF AGRICULTURE.

(a) TRANSFER OF FUNCTIONS.—Except as provided in subsection (b), there are transferred to the Secretary of Agriculture all functions of all agencies, offices, officers, and employees of the Department that are not already vested in the Secretary on the date of the enactment of this Act.

(b) EXCEPTIONS.—Subsection (a) shall not apply to the following functions:

(1) Functions vested by subchapter II of chapter 5 of title 5, United States Code, in administrative law judges employed by the Department.

(2) Functions vested by the Inspector General Act of 1978 (5 U.S.C. App.) in the Inspector General of the Department.

(3) Functions vested by chapter 9 of title 31, United States Code, in the Chief Financial Officer of the Department.

(4) Functions vested in the corporations of the Department or the boards of directors and officers of such corporations.

### SEC. 212. [7 U.S.C. 6912] AUTHORITY OF SECRETARY TO DELEGATE TRANSFERRED FUNCTIONS.

(a) DELEGATION OF AUTHORITY.—

(1) DELEGATION AUTHORIZED.—Subject to paragraph (2), 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 section 211(a) or any other

function vested in the Secretary as of the date of the enactment of this Act. The authority provided in the preceding sentence includes the authority to establish, consolidate, alter, or discontinue any agency, office, or other administrative unit of the Department.

(2) **CONDITION ON AUTHORITY.**—The delegation authority provided by paragraph (1) shall be subject to—

(A) sections 232, 251(f), 273, and 304 and subsections

(a) and (b)(1) of section 261;

(B) sections 502 and 503 of the Agricultural Trade Act of 1978 (7 U.S.C. 5692 and 5693); and

(C) section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(b) **COST-BENEFIT ANALYSIS REQUIRED FOR NAME CHANGE.**—

(1) **ANALYSIS REQUIRED.**—Except as provided in paragraph (2), the Secretary shall conduct a cost-benefit analysis before changing the name of any agency, office, division, or other unit of the Department to ensure that the benefits to be derived from changing the name of the agency, office, division, or other unit outweigh the expense of executing the name change.

(2) **EXCEPTION.**—Paragraph (1) shall not apply with respect to any name change required or authorized by this title.

(c) **PUBLIC COMMENT ON PROPOSED REORGANIZATION.**—To the extent that the implementation of the authority provided to the Secretary by this title to reorganize the Department involves the creation of new agencies or offices within the Department or the delegation of major functions or major groups of functions to any agency or office of the Department (or the officers or employees of such agency or office), the Secretary shall, to the extent considered practicable by the Secretary—

(1) give appropriate advance public notice of the proposed reorganization action or delegation; and

(2) afford appropriate opportunity for interested parties to comment on the proposed reorganization action or delegation.

(d) **INTERAGENCY TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS.**—

(1) **RELATED TRANSFERS.**—Subject to paragraph (2), as part of the transfer or delegation of a function of the Department made or authorized by this title, the Secretary may transfer within the Department—

(A) any of the records, property, or personnel affected by the transfer or delegation of the function; and

(B) unexpended balances (available or to be made available for use in connection with the transferred or delegated function) of appropriations, allocations, or other funds of the Department.

(2) **APPLICABLE LAW RELATING TO FUNDS TRANSFER.**—Section 1531 of title 31, United States Code, shall apply to any transfer of funds under paragraph (1).

(e) **EXHAUSTION OF ADMINISTRATIVE APPEALS.**—Notwithstanding any other provision of law, a person shall exhaust all administrative appeal procedures established by the Secretary or required by law before the person may bring an action in a court of competent jurisdiction against—

(1) the Secretary;

(2) the Department; or

(3) an agency, office, officer, or employee of the Department.

**SEC. 213. [7 U.S.C. 6913] REDUCTIONS IN NUMBER OF DEPARTMENT PERSONNEL.**

(a) DEFINITIONS.—For purposes of this section:

(1) HEADQUARTERS OFFICES.—The term “headquarters offices”, with respect to agencies, offices, or other administrative units of the Department, means the offices, functions, and employee positions that are located or performed—

(A) in Washington, District of Columbia; or

(B) in such other locations as are identified by the Secretary for purposes of this section.

(2) FIELD STRUCTURE.—The term “field structure” means the offices, functions, and employee positions of all agencies, offices, or other administrative units of the Department, other than the headquarters offices, except that the term does not include State, county, or area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)). The term includes the physical and geographic locations of such agencies, offices, or other administrative units.

(b) NUMBER OF REDUCTIONS REQUIRED.—The Secretary shall achieve Federal employee reductions of at least 7,500 staff years within the Department by the end of fiscal year 1999. Reductions in the number of full-time equivalent positions within the Department achieved under section 5 of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 108 Stat. 115; 5 U.S.C. 3101 note) shall be counted toward the employee reductions required under this section.

(c) EMPHASIS ON HEADQUARTERS OFFICES REDUCTIONS.—In achieving the employee reductions required by subsection (b), the Secretary shall pursue a goal so that the percentage of the total number of employee staff years reduced in headquarters offices is at least twice the percentage of the total number of employee staff years reduced in the field structure.

(d) SCHEDULE.—The personnel reductions in headquarters offices and in the field structure should be accomplished concurrently in a manner determined by the Secretary.

**SEC. 214. [7 U.S.C. 6914] CONSOLIDATION OF HEADQUARTERS OFFICES.**

Subject to the availability of appropriated funds for this purpose, the Secretary shall develop and carry out a plan to consolidate offices located in Washington, District of Columbia, of agencies, offices, and other administrative units of the Department.

**SEC. 215. [7 U.S.C. 6915] COMBINATION OF FIELD OFFICES.**

(a) COMBINATION OF OFFICES REQUIRED.—Where practicable and to the extent consistent with efficient, effective, and improved service, the Secretary shall combine field offices of agencies within the Department to reduce personnel and duplicative overhead expenses.

(b) JOINT USE OF RESOURCES AND OFFICES REQUIRED.—When two or more agencies of the Department share a common field office, the Secretary shall require the agencies to jointly use office space, equipment, office supplies, administrative personnel, and clerical personnel associated with that field office.

**SEC. 216. [7 U.S.C. 6916] IMPROVEMENT OF INFORMATION SHARING.**

Whenever the Secretary procures or uses computer systems, as may be provided for in advance in appropriations Acts, the Secretary shall do so in a manner that enhances efficiency, productivity, and client services and is consistent with the goal of promoting computer information sharing among agencies of the Department.

**SEC. 217. [7 U.S.C. 6917] REPORTS BY THE SECRETARY.**

(a) IN GENERAL.—Subject to subsection (b), notwithstanding any other provision of law, the Secretary may, but shall not be required to, prepare and submit any report solely to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(b) LIMITATION.—For each fiscal year, the Secretary may not prepare and submit more than 30 reports referred to in subsection (a).

(c) SELECTION OF REPORTS.—In consultation with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Secretary shall determine which reports, if any, the Secretary will prepare and submit in accordance with subsection (b).

**SEC. 218. [7 U.S.C. 6918] ASSISTANT SECRETARIES OF AGRICULTURE.**

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the positions of—

(1) Assistant Secretary of Agriculture for Congressional Relations;

(2) Assistant Secretary of Agriculture for Administration; and

(3) Assistant Secretary of Agriculture for Civil Rights.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes any position of Assistant Secretary authorized under subsection (a), the Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Administration or Assistant Secretary of Agriculture for Congressional Relations on the date of the enactment of this Act and who was appointed as such Assistant Secretary by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(d) DUTIES OF ASSISTANT SECRETARY OF AGRICULTURE FOR CIVIL RIGHTS.—The Secretary may delegate to the Assistant Secretary for Civil Rights responsibility for—

(1) ensuring compliance with all civil rights and related laws by all agencies and under all programs of the Department;

(2) coordinating administration of civil rights laws (including regulations) within the Department for employees of, and participants in, programs of the Department; and

(3) ensuring that necessary and appropriate civil rights components are properly incorporated into all strategic plan-



ning initiatives of the Department and agencies of the Department.

**SEC. 219. [7 U.S.C. 6919] PAY INCREASES PROHIBITED.**

[Repealed by section 362 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (as contained in section 101(e) of division A of Public Law 105-277).]

**SEC. 220. [7 U.S.C. 6920] OFFICE OF ENERGY POLICY AND NEW USES.**

The Secretary shall establish for the Department, in the Office of the Secretary, an Office of Energy Policy and New Uses.

## **Subtitle B—Farm and Foreign Agricultural Services**

**SEC. 225. [7 U.S.C. 6931] UNDER SECRETARY OF AGRICULTURE FOR FARM AND FOREIGN AGRICULTURAL SERVICES.**

(a) **AUTHORIZATION.**—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

(b) **CONFIRMATION REQUIRED.**—If the Secretary establishes the position of Under Secretary of Agriculture for Farm and Foreign Agricultural Services authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) **FUNCTIONS OF UNDER SECRETARY.**—

(1) **PRINCIPAL FUNCTIONS.**—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Farm and Foreign Agricultural Services those functions under the jurisdiction of the Department that are related to farm and foreign agricultural services.

(2) **ADDITIONAL FUNCTIONS.**—The Under Secretary of Agriculture for Farm and Foreign Agricultural Services shall perform such other functions as may be required by law or prescribed by the Secretary.

(d) **SUCCESSION.**—Any official who is serving as Under Secretary of Agriculture for International Affairs and Commodity Programs on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(e) **CONFORMING AMENDMENTS.**—[Amendments to other laws]

**SEC. 226. [7 U.S.C. 6932] CONSOLIDATED FARM SERVICE AGENCY.**

(a) **ESTABLISHMENT.**—The Secretary is authorized to establish and maintain in the Department a Consolidated Farm Service Agency.

(b) **FUNCTIONS OF CONSOLIDATED FARM SERVICE AGENCY.**—If the Secretary establishes the Consolidated Farm Service Agency under subsection (a), the Secretary is authorized to assign to the Agency jurisdiction over the following functions:

(1) Agricultural price and income support programs, production adjustment programs, and related programs.

(3) Agricultural credit programs assigned before the date of the enactment of this Act by law to the Farmers Home Administration (including farm ownership and operating, emergency, and disaster loan programs) and other lending programs for agricultural producers and others engaged in the production of agricultural commodities.

(4) Subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831-3836).

(5) Such other functions as the Secretary considers appropriate, except for those programs assigned by the Secretary to the Natural Resources Conservation Service or another agency of the Department under section 246(b).

(c) SPECIAL CONCURRENCE REQUIREMENTS FOR CERTAIN FUNCTIONS.—In carrying out the programs specified in subsection (b)(4), the Secretary shall—

(1) acting on the recommendations of the Consolidated Farm Service Agency, with the concurrence of the Natural Resources Conservation Service, issue regulations to carry out such programs;

(2) ensure that the Consolidated Farm Service Agency, in establishing policies, priorities, and guidelines for such programs, does so with the concurrence of the Natural Resources Conservation Service at national, State, and local levels;

(3) ensure that, in reaching such concurrence at the local level, the Natural Resources Conservation Service works in cooperation with Soil and Water Conservation Districts or similar organizations established under State law;

(4) ensure that officials of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) meet annually with officials of such Districts or similar organizations to consider local conservation priorities and guidelines; and

(5) take steps to ensure that the concurrence process does not interfere with the effective delivery of such programs.

(d) JURISDICTION OVER CONSERVATION PROGRAM APPEALS.—

(1) IN GENERAL.—Until such time as an adverse decision described in this paragraph is referred to the National Appeals Division for consideration, the Consolidated Farm Service Agency shall have initial jurisdiction over any administrative appeal resulting from an adverse decision made under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), including an adverse decision involving technical determinations made by the Natural Resources Conservation Service.

(2) TREATMENT OF TECHNICAL DETERMINATION.—

(A) IN GENERAL.—With respect to administrative appeals involving a technical determination made by the Natural Resources Conservation Service, the Consolidated Farm Service Agency, by rule with the concurrence of the Natural Resources Conservation Service, shall establish procedures for obtaining review by the Natural Resources Conservation Service of the technical determinations involved. Such rules shall ensure that technical criteria established by the Natural Resources Conservation Service shall be used by the Consolidated Farm Service Agency as the basis for any decisions regarding technical determinations. If no review is requested, the technical determination

of the Natural Resources Conservation Service shall be the technical basis for any decision rendered by a 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)). If the committee requests a review by the Natural Resources Conservation Service of a wetlands determination of the Service, the Consolidated Farm Service Agency shall consult with other Federal agencies whenever required by law or under a memorandum of agreement in existence on the date of the enactment of this Act.

(B) ECONOMIC HARDSHIP.—After a technical determination has been made, on a producer's request, if a county or area committee determines that the application of the producer's conservation system would impose an undue economic hardship on the producer, the committee shall provide the producer with relief to avoid the hardship.

(3) REINSTATEMENT OF PROGRAM BENEFITS.—Rules issued to carry out this subsection shall provide for the prompt reinstatement of benefits to a producer who is determined in an administrative appeal to meet the requirements of title XII of the Food Security Act of 1985 applicable to the producer.

(e) USE OF FEDERAL AND NON-FEDERAL EMPLOYEES.—

(1) USE AUTHORIZED.—In the implementation of programs and activities assigned to the Consolidated Farm Service Agency, the Secretary may use interchangeably in local offices of the Agency both Federal employees of the Department and non-Federal employees of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(2) EXCEPTION.—Notwithstanding paragraph (1), no personnel action (as defined in section 2302(a)(2)(A) of title 5, United States Code) may be taken with respect to a Federal employee unless such action is taken by another Federal employee.

(f) COLLOCATION.—To the maximum extent practicable, the Secretary shall collocate county offices of the Consolidated Farm Service Agency with county offices of the Natural Resources Conservation Service in order to—

(1) maximize savings from shared equipment, office space, and administrative support;

(2) simplify paperwork and regulatory requirements;

(3) provide improved services to agricultural producers and landowners affected by programs administered by the Agency and the Service; and

(4) achieve computer compatibility between the Agency and the Service to maximize efficiency and savings.

(g) SAVINGS PROVISION.—For purposes of subsections (c) through (f) of this section:

(1) A reference to the "Consolidated Farm Service Agency" includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under this section.

(2) A reference to the "Natural Resources Conservation Service" includes any other office, agency, or administrative unit of the Department assigned the functions authorized for

the Natural Resources Conservation Service under section 246(b).

(h) CONFORMING AMENDMENT.—[Omitted]

**SEC. 226A. [7 U.S.C. 6933] OFFICE OF RISK MANAGEMENT.**

(a) ESTABLISHMENT.—Subject to subsection (e)<sup>1</sup>, the Secretary shall establish and maintain in the Department an independent Office of Risk Management.

(b) FUNCTIONS OF THE OFFICE OF RISK MANAGEMENT.—The Office of Risk Management shall have jurisdiction over the following functions:

- (1) Supervision of the Federal Crop Insurance Corporation.
- (2) Administration and oversight of all aspects, including delivery through local offices of the Department, of all programs authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).
- (3) Any pilot or other programs involving revenue insurance, risk management savings accounts, or the use of the futures market to manage risk and support farm income that may be established under the Federal Crop Insurance Act or other law.
- (4) Such other functions as the Secretary considers appropriate.

(c) ADMINISTRATOR.—

(1) APPOINTMENT.—The Office of Risk Management shall be headed by an Administrator who shall be appointed by the Secretary.

(2) MANAGER.—The Administrator of the Office of Risk Management shall also serve as Manager of the Federal Crop Insurance Corporation.

(d) RESOURCES.—

(1) FUNCTIONAL COORDINATION.—Certain functions of the Office of Risk Management, such as human resources, public affairs, and legislative affairs, may be provided by a consolidation of such functions under the Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

(2) MINIMUM PROVISIONS.—Notwithstanding paragraph (1) or any other provision of law or order of the Secretary, the Secretary shall provide the Office of Risk Management with human and capital resources sufficient for the Office to carry out its functions in a timely and efficient manner.

**SEC. 226B. [7 U.S.C. 6934] OFFICE OF ADVOCACY AND OUTREACH.**

(a) DEFINITIONS.—In this section:

(1) BEGINNING FARMER OR RANCHER.—The term “beginning farmer or rancher” has the meaning given the term in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)).

(2) OFFICE.—The term “Office” means the Office of Advocacy and Outreach established under this section.

(3) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term “socially disadvantaged farmer or rancher” has the meaning given the term in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)).

(b) ESTABLISHMENT AND PURPOSE.—

<sup>1</sup> Section 226A does not contain a subsection (e).

(1) **IN GENERAL.**—The Secretary shall establish within the executive operations of the Department an office to be known as the “Office of Advocacy and Outreach”—

(A) to improve access to programs of the Department;  
and

(B) to improve the viability and profitability of—

(i) small farms and ranches;

(ii) beginning farmers or ranchers; and

(iii) socially disadvantaged farmers or ranchers.

(2) **DIRECTOR.**—The Office shall be headed by a Director, to be appointed by the Secretary from among the competitive service.

(c) **DUTIES.**—The duties of the Office shall be to ensure small farms and ranches, beginning farmers or ranchers, and socially disadvantaged farmers or ranchers access to, and equitable participation in, programs and services of the Department by—

(1) establishing and monitoring the goals and objectives of the Department to increase participation in programs of the Department by small, beginning, or socially disadvantaged farmers or ranchers;

(2) assessing the effectiveness of Department outreach programs;

(3) developing and implementing a plan to coordinate outreach activities and services provided by the Department;

(4) providing input to the agencies and offices on programmatic and policy decisions;

(5) measuring outcomes of the programs and activities of the Department on small farms and ranches, beginning farmers or ranchers, and socially disadvantaged farmers or ranchers programs;

(6) recommending new initiatives and programs to the Secretary; and

(7) carrying out any other related duties that the Secretary determines to be appropriate.

(d) **SOCIALLY DISADVANTAGED FARMERS GROUP.**—

(1) **ESTABLISHMENT.**—The Secretary shall establish within the Office the Socially Disadvantaged Farmers Group.

(2) **OUTREACH AND ASSISTANCE.**—The Socially Disadvantaged Farmers Group—

(A) shall carry out section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279); and

(B) in the case of activities described in section 2501(a) of that Act, may conduct such activities through other agencies and offices of the Department.

(3) **SOCIALLY DISADVANTAGED FARMERS AND FARMWORKERS.**—The Socially Disadvantaged Farmers Group shall oversee the operations of—

(A) the Advisory Committee on Minority Farmers established under section 14009 of the Food, Conservation, and Energy Act of 2008; and

(B) the position of Farmworker Coordinator established under subsection (f).

(4) **OTHER DUTIES.**—

(A) **IN GENERAL.**—The Socially Disadvantaged Farmers Group may carry out other duties to improve access to, and

participation in, programs of the Department by socially disadvantaged farmers or ranchers, as determined by the Secretary.

(B) OFFICE OF OUTREACH AND DIVERSITY.—The Office of Advocacy and Outreach shall carry out the functions and duties of the Office of Outreach and Diversity carried out by the Assistant Secretary for Civil Rights as such functions and duties existed immediately before the date of the enactment of this section.

(e) SMALL FARMS AND BEGINNING FARMERS AND RANCHERS GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish within the Office the Small Farms and Beginning Farmers and Ranchers Group.

(2) DUTIES.—

(A) OVERSEE OFFICES.—The Small Farms and Beginning Farmers and Ranchers Group shall oversee the operations of the Office of Small Farms Coordination established by Departmental Regulation 9700-1 (August 3, 2006).

(B) BEGINNING FARMER AND RANCHER DEVELOPMENT PROGRAM.—The Small Farms and Beginning Farmers and Ranchers Group shall consult with the National Institute for Food and Agriculture on the administration of the beginning farmer and rancher development program established under section 7405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f).

(C) ADVISORY COMMITTEE FOR BEGINNING FARMERS AND RANCHERS.—The Small Farms and Beginning Farmers and Ranchers Group shall coordinate the activities of the Group with the Advisory Committee for Beginning Farmers and Ranchers established under section 5(b) of the Agricultural Credit Improvement Act of 1992 (7 U.S.C. 1621 note; Public Law 102-554).

(D) OTHER DUTIES.—The Small Farms and Beginning Farmers and Ranchers Group may carry out other duties to improve access to, and participation in, programs of the Department by small farms and ranches and beginning farmers or ranchers, as determined by the Secretary.

(f) FARMWORKER COORDINATOR.—

(1) ESTABLISHMENT.—The Secretary shall establish within the Office the position of Farmworker Coordinator (referred to in this subsection as the “Coordinator”).

(2) DUTIES.—The Secretary shall delegate to the Coordinator responsibility for the following:

(A) Assisting in administering the program established by section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a).

(B) Serving as a liaison to community-based nonprofit organizations that represent and have demonstrated experience serving low-income migrant and seasonal farmworkers.

(C) Coordinating with the Department, other Federal agencies, and State and local governments to ensure that farmworker needs are assessed and met during declared disasters and other emergencies.

(D) Consulting within the Office and with other entities to better integrate farmworker perspectives, concerns, and interests into the ongoing programs of the Department.

(E) Consulting with appropriate institutions on research, program improvements, or agricultural education opportunities that assist low-income and migrant seasonal farmworkers.

(F) Assisting farmworkers in becoming agricultural producers or landowners.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2009 through 2012.

**SEC. 227. STATE, COUNTY, AND AREA COMMITTEES.**

[This section amended other laws, principally section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b))(a).]

## **Subtitle C—Rural Economic and Community Development**

**SEC. 231. [7 U.S.C. 6941] UNDER SECRETARY OF AGRICULTURE FOR RURAL DEVELOPMENT.**

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Rural Development.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Rural Development authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Rural Development those functions under the jurisdiction of the Department that are related to rural economic and community development.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Rural Development shall perform such other functions as may be required by law or prescribed by the Secretary.

(d) SUCCESSION.—Any official who is serving as Under Secretary of Agriculture for Small Community and Rural Development on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(e) LOAN APPROVAL AUTHORITY.—Approval authority for loans and loan guarantees in connection with the electric and telephone loan and loan guarantee programs authorized by the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) shall not be transferred to, or conditioned on review of, a State director or other employee

whose primary duty is not the review and approval of such loans or the provision of assistance to such borrowers.

(f) CONFORMING AMENDMENTS.—[Omitted]

**SEC. 232. [7 U.S.C. 6942] RURAL UTILITIES SERVICE.**

(a) ESTABLISHMENT REQUIRED.—The Secretary shall establish and maintain within the Department the Rural Utilities Service and assign to the Service such functions as the Secretary considers appropriate.

(b) ADMINISTRATOR.—

(1) APPOINTMENT.—The Rural Utilities Service shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) SUCCESSION.—Any official who is serving as Administrator of the Rural Electrification Administration on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(A) may be considered to be serving in the successor position established under paragraph (1); and

(B) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(3) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

“Administrator, Rural Utilities Service, Department of Agriculture.”

(c) FUNCTIONS.—The Secretary shall carry out through the Rural Utilities Service the following functions that are under the jurisdiction of the Department:

(1) Electric and telephone loan programs and water and waste facility activities authorized by law, including—

(A) the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.); and

(B) section 2322 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926-1); and

(2) Water and waste facility programs and activities authorized by law, including—

(A) sections 306, 306A, 306B, and 306C, the provisions of sections 309 and 309A relating to assets, terms, and conditions of water and sewer programs, section 310B(b), and the amendment made by section 342 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926, 1926a, 1926b, 1926c, 1929, 1929a, 1932(b), and 1013a); and

(B) section 2324 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926 note).

**SEC. 233. [7 U.S.C. 6943] RURAL HOUSING AND COMMUNITY DEVELOPMENT SERVICE.**

(a) ESTABLISHMENT AUTHORIZED.—Notwithstanding any other provision of law, the Secretary is authorized to establish and maintain within the Department the Rural Housing and Community Development Service and to assign to the Service such functions as the Secretary considers appropriate.

(b) FUNCTIONS.—If the Secretary establishes the Rural Housing and Community Development Service under subsection (a), the Secretary is authorized to assign to the Service jurisdiction over the following:

(1) Programs and activities under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).



(2) Programs and activities that relate to rural community lending programs, including programs authorized by section 369 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008d).

**SEC. 234. [7 U.S.C. 6944] RURAL BUSINESS AND COOPERATIVE DEVELOPMENT SERVICE.**

(a) ESTABLISHMENT AUTHORIZED.—Notwithstanding any other provision of law, the Secretary is authorized to establish and maintain within the Department the Rural Business and Cooperative Development Service and to assign to the Service such functions as the Secretary considers appropriate.

(b) FUNCTIONS.—If the Secretary establishes the Rural Business and Cooperative Development Service under subsection (a), the Secretary is authorized to assign to the Service jurisdiction over the following:

(1) Section 313 and title V of the Rural Electrification Act of 1936 (7 U.S.C. 940c and 950aa et seq.).

(2) Subtitle G of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901 et seq.).

(3) Sections 306(a)(1) and 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1) and 1932).

(4) Section 1323 of the Food Security Act of 1985 (Public Law 99-198; 7 U.S.C. 1932 note).

(5) The Act of July 2, 1926 (44 Stat. 802, chapter 725; 7 U.S.C. 451 et seq.).

**SEC. 235. CONFORMING AMENDMENTS REGARDING RURAL ELECTRIFICATION ADMINISTRATION.**

[This section amended various agriculture laws]

## **Subtitle D—Food, Nutrition, and Consumer Services**

**SEC. 241. [7 U.S.C. 6951] UNDER SECRETARY OF AGRICULTURE FOR FOOD, NUTRITION, AND CONSUMER SERVICES.**

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Food, Nutrition, and Consumer Services authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services those functions under the jurisdiction of the Department that are related to food, nutrition, and consumer services (except as provided in section 261(b)(1)).

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Food, Nutrition, and Consumer Services shall perform such other functions as may be required by law or prescribed by the Secretary.

(d) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Food and Consumer Services on the date

of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(e) EXECUTIVE SCHEDULE.—[Amendment omitted]

## Subtitle E—Natural Resources and Environment

### SEC. 245. [7 U.S.C. 6961] UNDER SECRETARY OF AGRICULTURE FOR NATURAL RESOURCES AND ENVIRONMENT.

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Natural Resources and Environment.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Natural Resources and Environment authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Natural Resources and Environment those functions under the jurisdiction of the Department that are related to natural resources and environment (except to the extent those functions are delegated under section 226).

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Natural Resources and Environment shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(d) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Natural Resources and Environment on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(e) EXECUTIVE SCHEDULE.—[Amendment Omitted]

### SEC. 246. [7 U.S.C. 6962] NATURAL RESOURCES CONSERVATION SERVICE.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain within the Department a Natural Resources Conservation Service.

(b) FUNCTIONS.—If the Secretary establishes the Natural Resources Conservation Service under subsection (a), the Secretary is authorized to assign to the Service jurisdiction over the following:

(1) The Water Bank Act (16 U.S.C. 1301 et seq.).

(2) The forest land enhancement program under section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103).

(3) Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), except subchapter B of chapter 1 of subtitle D of such title.

(4) Salinity control measures under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)).

(5) The Farms for the Future Act of 1990 (7 U.S.C. 4201 note).

(6) Such other functions as the Secretary considers appropriate, except functions under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831-3836).

(c) SPECIAL CONCURRENCE REQUIREMENTS FOR CERTAIN FUNCTIONS.—In carrying out the programs specified in paragraphs (1), (2), and (4) of subsection (b) and the program under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837-3837f), the Secretary shall—

(1) acting on the recommendations of the Natural Resources Conservation Service, with the concurrence of the Consolidated Farm Service Agency, issue regulations to carry out such programs;

(2) ensure that the Natural Resources Conservation Service, in establishing policies, priorities, and guidelines for each such program, does so with the concurrence of the Consolidated Farm Service Agency at national, State, and local levels;

(3) ensure that, in reaching such concurrence at the local level, the Natural Resources Conservation Service works in cooperation with Soil and Water Conservation Districts or similar organizations established under State law;

(4) ensure that officials of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) meet annually with officials of such Districts or similar organizations to consider local conservation priorities and guidelines; and

(5) take steps to ensure that the concurrence process does not interfere with the effective delivery of such programs.

(d) USE OF FEDERAL AND NON-FEDERAL EMPLOYEES.—

(1) USE AUTHORIZED.—In the implementation of functions assigned to the Natural Resources Conservation Service, the Secretary may use interchangeably in local offices of the Service both Federal employees of the Department and non-Federal employees of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(2) EXCEPTION.—Notwithstanding paragraph (1), no personnel action (as defined in section 2302(a)(2)(A) of title 5, United States Code) may be taken with respect to a Federal employee unless such action is taken by another Federal employee.

(e) SAVINGS PROVISION.—For purposes of subsections (c) and (d) of this section:

(1) A reference to the “Natural Resources Conservation Service” includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Natural Resources Conservation Service under this section.

(2) A reference to the “Consolidated Farm Service Agency” includes any other office, agency, or administrative unit of the

Department assigned the functions authorized for the Consolidated Farm Service Agency under section 226.

(f) CONFORMING AMENDMENTS.—[Omitted]

**SEC. 247. [7 U.S.C. 6963] REORGANIZATION OF FOREST SERVICE.**

(a) REQUIRED ELEMENTS OF REORGANIZATION PROPOSALS.—Reorganization proposals that are developed by the Secretary to carry out the designation by the President of the Forest Service as a Re-invention Lab pursuant to the National Performance Review, dated September 1993, shall include proposals for—

(1) reorganizing the Service in a manner that is consistent with the principles of interdisciplinary planning;

(2) redefining and consolidating the mission and roles of, and research conducted by, employees of the Service in connection with the National Forest System and State and private forestry to facilitate interdisciplinary planning and to eliminate functionalism;

(3) reforming the budget structure of the Service to support interdisciplinary planning, including reducing the number of budget line items;

(4) defining new measures of accountability so that Congress may meet the constitutional obligation of Congress to oversee the Service;

(5) achieving structural and organizational consolidations;

(6) to the extent practicable, sharing office space, equipment, vehicles, and electronic systems with other administrative units of the Department and other Federal field offices, including proposals for using an on-line system by all administrative units of the Department to maximize administrative efficiency; and

(7) reorganizing the Service in a manner that will result in a larger percentage of employees of the Service being retained at organizational levels below regional offices, research stations, and the area office of the Service.

(b) REPORT.—Not later than March 31, 1995, the Secretary shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describes actions taken to carry out subsection (a), identifies any disparities in regional funding patterns, and contains the rationale behind the disparities.

## **Subtitle F—Research, Education, and Economics**

**SEC. 251. [7 U.S.C. 6971] UNDER SECRETARY OF AGRICULTURE FOR RESEARCH, EDUCATION, AND ECONOMICS.**

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Research, Education, and Economics (referred to in this section as the “Under Secretary”).

(b) CONFIRMATION REQUIRED.—The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, from among distinguished scientists with specialized training or significant experience in agricultural research, education, and economics.

(c) CHIEF SCIENTIST.—The Under Secretary shall—

- (1) hold the title of Chief Scientist of the Department; and
- (2) be responsible for the coordination of the research, education, and extension activities of the Department.

(d) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTION.—The Secretary shall delegate to the Under Secretary those functions and duties under the jurisdiction of the Department that relate to research, education, and economics.

(2) SPECIFIC FUNCTIONS AND DUTIES.—The Under Secretary shall—

(A) identify, address, and prioritize current and emerging agricultural research, education, and extension needs (including funding);

(B) ensure that agricultural research, education, and extension programs are effectively coordinated and integrated—

(i) across disciplines, agencies, and institutions; and

(ii) among applicable participants, grantees, and beneficiaries;

(C) promote the collaborative use of all agricultural research, education, and extension resources from the local, State, tribal, regional, national, and international levels to address priority needs; and

(D) foster communication among agricultural research, education, and extension beneficiaries, including the public, to ensure the delivery of agricultural research, education, and extension knowledge.

(3) ADDITIONAL FUNCTIONS.—The Under Secretary shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(e) RESEARCH, EDUCATION, AND EXTENSION OFFICE.—

(1) ESTABLISHMENT.—The Under Secretary shall organize within the office of the Under Secretary 6 Divisions, to be known collectively as the “Research, Education, and Extension Office”, which shall coordinate the research programs and activities of the Department.

(2) DIVISION DESIGNATIONS.—The Divisions within the Research, Education, and Extension Office shall be as follows:

(A) Renewable energy, natural resources, and environment.

(B) Food safety, nutrition, and health.

(C) Plant health and production and plant products.

(D) Animal health and production and animal products.

(E) Agricultural systems and technology.

(F) Agricultural economics and rural communities.

(3) DIVISION CHIEFS.—

(A) SELECTION.—The Under Secretary shall select a Division Chief for each Division using available personnel authority under title 5, United States Code, including—

(i) by term, temporary, or other appointment, without regard to—

(I) the provisions of title 5, United States Code, governing appointments in the competitive service;

(II) the provisions of subchapter I of chapter 35 of title 5, United States Code, relating to retention preference; and

(III) the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates;

(ii) by detail, notwithstanding any Act making appropriations for the Department of Agriculture, whether enacted before, on, or after the date of enactment of this paragraph, requiring reimbursement for those details unless the appropriation Act specifically refers to this subsection and specifically includes these details;

(iii) by reassignment or transfer from any other civil service position; and

(iv) by an assignment under subchapter VI of chapter 33 of title 5, United States Code.

(B) SELECTION GUIDELINES.—To the maximum extent practicable, the Under Secretary shall select Division Chiefs under subparagraph (A) in a manner that—

(i) promotes leadership and professional development;

(ii) enables personnel to interact with other agencies of the Department; and

(iii) maximizes the ability of the Under Secretary to allow for rotations of Department personnel into the position of Division Chief.

(C) TERM OF SERVICE.—Notwithstanding title 5, United States Code, the maximum length of service for an individual selected as a Division Chief under subparagraph (A) shall not exceed 4 years.

(D) QUALIFICATIONS.—To be eligible for selection as a Division Chief, an individual shall have—

(i) conducted exemplary research, education, or extension in the field of agriculture or forestry; and

(ii) earned an advanced degree at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).

(E) DUTIES OF DIVISION CHIEFS.—Except as otherwise provided in this Act, each Division Chief shall—

(i) assist the Under Secretary in identifying and addressing emerging agricultural research, education, and extension needs;

(ii) assist the Under Secretary in identifying and prioritizing Department-wide agricultural research, education, and extension needs, including funding;

(iii) assess the strategic workforce needs of the research, education, and extension functions of the Department, and develop strategic workforce plans to ensure that existing and future workforce needs are met;

(iv) communicate with research, education, and extension beneficiaries, including the public, and representatives of the research, education, and extension system, including the National Agricultural Research, Extension, Education, and Economics Advisory Board,

to promote the benefits of agricultural research, education, and extension;

(v) assist the Under Secretary in preparing and implementing the roadmap for agricultural research, education, and extension, as described in section 7504 of the Food, Conservation, and Energy Act of 2008; and

(vi) perform such other duties as the Under Secretary may determine.

(4) GENERAL ADMINISTRATION.—

(A) FUNDING.—Notwithstanding any Act making appropriations for the Department of Agriculture, whether enacted before, on, or after the date of enactment of this paragraph unless the appropriation Act specifically refers to this subsection and specifically includes the administration of funds under this section, the Secretary may transfer funds made available to an agency in the research, education, and economics mission area to fund the costs of Division personnel.

(B) LIMITATION.—To the maximum extent practicable—

(i) the Under Secretary shall minimize the number of full-time equivalent positions in the Divisions; and

(ii) at no time shall the aggregate number of staff for all Divisions exceed 30 full-time equivalent positions.

(C) ROTATION OF PERSONNEL.—To the maximum extent practicable, and using the authority described in paragraph (3)(A), the Under Secretary shall rotate personnel among the Divisions, and between the Divisions and agencies of the Department, in a manner that—

(i) promotes leadership and professional development; and

(ii) enables personnel to interact with other agencies of the Department.

(5) ORGANIZATION.—The Under Secretary shall integrate leadership functions of the national program staff of the research agencies into the Research, Education and Extension Office in such form as is required to ensure that administrative duplication does not occur.

(f) NATIONAL INSTITUTE OF FOOD AND AGRICULTURE.—

(1) DEFINITIONS.—In this subsection:

(A) ADVISORY BOARD.—The term “Advisory Board” means the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123).

(B) APPLIED RESEARCH.—The term “applied research” means research that includes expansion of the findings of fundamental research to uncover practical ways in which new knowledge can be advanced to benefit individuals and society.

(C) CAPACITY AND INFRASTRUCTURE PROGRAM.—The term “capacity and infrastructure program” means each of the following agricultural research, extension, education, and related programs for which the Secretary has administrative or other authority as of the day before the date of

enactment of the Food, Conservation, and Energy Act of 2008:

(i) Each program providing funding to any of the 1994 Institutions under sections 533, 534(a), and 535 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103-382).

(ii) The program established under section 536 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103-382) providing research grants for 1994 Institutions.

(iii) Each program established under subsections (b) and (c) of section 3 of the Smith-Lever Act (7 U.S.C. 343).

(iv) Each program established under the Hatch Act of 1887 (7 U.S.C. 361a et seq.).

(v) Each program established under section 1417(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(b)).

(vi) The animal health and disease research program established under subtitle E of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3191 et seq.).

(vii) Each extension program available to 1890 Institutions established under section 1444 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221).

(viii) The program established under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222).

(ix) The program providing grants to upgrade agricultural and food sciences facilities at 1890 Institutions established under section 1447 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b).

(x) The program providing distance education grants for insular areas established under section 1490 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3362).

(xi) The program providing resident instruction grants for insular areas established under section 1491 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3363).

(xii) Each research and development and related program established under Public Law 87-788 (commonly known as the "McIntire-Stennis Cooperative Forestry Act") (16 U.S.C. 582a et seq.).

(xiii) Each program established under the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 et seq.).

(xiv) Each program providing funding to Hispanic-serving agricultural colleges and universities under section 1456 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977.

(xv) The program providing capacity grants to NLGCA Institutions under section 1473F of the Na-



tional Agricultural Research, Extension, and Teaching Policy Act of 1977.

(xvi) Other programs that are capacity and infrastructure programs, as determined by the Secretary.

(D) COMPETITIVE PROGRAM.—The term “competitive program” means each of the following agricultural research, extension, education, and related programs for which the Secretary has administrative or other authority as of the day before the date of enactment of the Food, Conservation, and Energy Act of 2008:

(i) The Agriculture and Food Research Initiative established under section 2(b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)).

(ii) The program providing competitive grants for risk management education established under section 524(a)(3) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)(3)).

(iii) The program providing community food project competitive grants established under section 25 of the Food and Nutrition Act of 2008 (7 U.S.C. 2034).

(iv) The program providing grants for beginning farmer and rancher development established under section 7405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f).

(v) The program providing grants under section 1417(j) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(j)).

(vi) The program providing grants for Hispanic-serving institutions established under section 1455 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241).

(vii) The program providing competitive grants for international agricultural science and education programs under section 1459A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b).

(viii) The research and extension projects carried out under section 1621 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5811).

(ix) The organic agriculture research and extension initiative established under section 1672B of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b).

(x) The specialty crop research initiative under section 412 of the Agricultural Research, Extension, and Education Reform Act of 1998.

(xi) The administration and management of the Agricultural Bioenergy Feedstock and Energy Efficiency Research and Extension Initiative carried out under section 1672C of the Food, Agriculture, Conservation, and Trade Act of 1990.

(xii) The research, extension, and education programs authorized by section 407 of the Agricultural Research, Extension, and Education Reform Act of

1998 (7 U.S.C. 7627) relating to the competitiveness, viability and sustainability of small- and medium-sized dairy, livestock, and poultry operations.

(xiii) Other programs that are competitive programs, as determined by the Secretary.

(E) DIRECTOR.—The term “Director” means the Director of the Institute.

(F) FUNDAMENTAL RESEARCH.—The term “fundamental research” means research that—

(i) increases knowledge or understanding of the fundamental aspects of phenomena and has the potential for broad application; and

(ii) has an effect on agriculture, food, nutrition, or the environment.

(G) INSTITUTE.—The term “Institute” means the National Institute of Food and Agriculture established by paragraph (2)(A).

(2) ESTABLISHMENT OF NATIONAL INSTITUTE OF FOOD AND AGRICULTURE.—

(A) ESTABLISHMENT.—The Secretary shall establish within the Department an agency to be known as the “National Institute of Food and Agriculture”.

(B) TRANSFER OF AUTHORITIES.—The Secretary shall transfer to the Institute, effective not later than October 1, 2009, the authorities (including all budget authorities, available appropriations, and personnel), duties, obligations, and related legal and administrative functions prescribed by law or otherwise granted to the Secretary, the Department, or any other agency or official of the Department under—

(i) the capacity and infrastructure programs;

(ii) the competitive programs;

(iii) the research, education, economic, cooperative State research programs, cooperative extension and education programs, international programs, and other functions and authorities delegated by the Under Secretary to the Administrator of the Cooperative State Research, Education, and Extension Service pursuant to section 2.66 of title 7, Code of Federal Regulations (or successor regulations); and

(iv) any and all other authorities administered by the Administrator of the Cooperative State Research, Education, and Extension Service.

(3) DIRECTOR.—

(A) IN GENERAL.—The Institute shall be headed by a Director, who shall be an individual who is—

(i) a distinguished scientist; and

(ii) appointed by the President.

(B) SUPERVISION.—The Director shall report directly to the Secretary, or the designee of the Secretary.

(C) FUNCTIONS OF THE DIRECTOR.—The Director shall—

(i) serve for a 6-year term, subject to reappointment for an additional 6-year term;

(ii) periodically report to the Secretary, or the designee of the Secretary, with respect to activities carried out by the Institute; and

(iii) consult regularly with the Secretary, or the designee of the Secretary, to ensure, to the maximum extent practicable, that—

(I) research of the Institute is relevant to agriculture in the United States and otherwise serves the national interest; and

(II) the research of the Institute supplements and enhances, and does not supplant, research conducted or funded by other Federal agencies.

(D) COMPENSATION.—The Director shall receive basic pay at a rate not to exceed the maximum amount of compensation payable to a member of the Senior Executive Service under subsection (b) of section 5382 of title 5, United States Code, except that the certification requirement in that subsection shall not apply to the compensation of the Director.

(E) AUTHORITY AND RESPONSIBILITIES OF DIRECTOR.—Except as otherwise specifically provided in this subsection, the Director shall—

(i) exercise all of the authority provided to the Institute by this subsection;

(ii) formulate and administer programs in accordance with policies adopted by the Institute, in coordination with the Under Secretary;

(iii) establish offices within the Institute;

(iv) establish procedures for the provision and administration of grants by the Institute; and

(v) consult regularly with the Advisory Board.

(4) REGULATIONS.—The Institute shall have such authority as is necessary to carry out this subsection, including the authority to promulgate such regulations as the Institute considers to be necessary for governance of operations, organization, and personnel.

(5) ADMINISTRATION.—

(A) IN GENERAL.—The Director shall organize offices and functions within the Institute to administer fundamental and applied research and extension and education programs.

(B) RESEARCH PRIORITIES.—The Director shall ensure the research priorities established by the Under Secretary through the Research, Education and Extension Office are carried out by the offices and functions of the Institute, where applicable.

(C) FUNDAMENTAL AND APPLIED RESEARCH.—The Director shall—

(i) determine an appropriate balance between fundamental and applied research programs and functions to ensure future research needs are met; and

(ii) designate staff, as appropriate, to assist in carrying out this subparagraph.

(D) COMPETITIVELY FUNDED AWARDS.—The Director shall—

(i) promote the use and growth of grants awarded through a competitive process; and

(ii) designate staff, as appropriate, to assist in carrying out this subparagraph.

(E) COORDINATION.—The Director shall ensure that the offices and functions established under subparagraph (A) are effectively coordinated for maximum efficiency.

(6) FUNDING.—

(A) IN GENERAL.—In addition to funds otherwise appropriated to carry out each program administered by the Institute, there are authorized to be appropriated such sums as are necessary to carry out this subsection for each fiscal year.

(B) ALLOCATION.—Funding made available under subparagraph (A) shall be allocated according to recommendations contained in the roadmap described in section 7504 of the Food, Conservation, and Energy Act of 2008.

(g) EXECUTIVE SCHEDULE.—[Amendment Omitted]

**SEC. 252. [7 U.S.C. 6972] PROGRAM STAFF.**

In making the personnel reductions required under section 213, the Secretary shall reduce the number of Federal research and education personnel of the Department by a percentage equal to at least the percentage of overall Department personnel reductions. The Secretary shall achieve such reduction in research and education personnel in a manner that minimizes duplication and maximizes coordination between Federal and State research and extension activities.

## Subtitle G—Food Safety

**SEC. 261. [7 U.S.C. 6981] UNDER SECRETARY OF AGRICULTURE FOR FOOD SAFETY.**

(a) ESTABLISHMENT.—There is established in the Department of Agriculture the position of Under Secretary of Agriculture for Food Safety. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals with specialized training or significant experience in food safety or public health programs.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Food Safety those functions and duties under the jurisdiction of the Department that are primarily related to food safety.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Food Safety shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) EXECUTIVE SCHEDULE.—[Amendment Omitted]

(d) TECHNICAL AND SCIENTIFIC REVIEW GROUPS.—The Secretary, acting through the Under Secretary for Research, Education, and Economics, may, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates—

- (1) establish such technical and scientific review groups as are needed to carry out the functions of the Department; and
- (2) appoint and pay the members of the groups, except that officers and employees of the United States shall not receive additional compensation for service as a member of a group.

**SEC. 262. [7 U.S.C. 6982] CONDITIONS FOR IMPLEMENTATION OF ALTERATIONS IN THE LEVEL OF ADDITIVES ALLOWED IN ANIMAL DIETS.**

(a) **CONDITIONS.**—The Food and Drug Administration shall not implement or enforce the final rule described in subsection (b) to alter the level of selenium allowed to be used as a supplement in animal diets unless the Commissioner of the Food and Drug Administration makes a determination that—

- (1) selenium additives are not essential, at levels authorized in the absence of such final rule, to maintain animal nutrition and protect animal health;
- (2) selenium at such levels is not safe to the animals consuming the additive;
- (3) selenium at such levels is not safe to individuals consuming edible portions of animals that receive the additive;
- (4) selenium at such levels does not achieve its intended effect of promoting normal growth and reproduction of livestock and poultry; and
- (5) the manufacture and use of selenium at such levels cannot reasonably be controlled by adherence to current good manufacturing practice requirements.

(b) **FINAL RULE DESCRIBED.**—The final rule referred to in subsection (a) is the final rule issued by the Food and Drug Administration and published in the Federal Register on September 13, 1993 (58 Fed. Reg. 47962), in which the Administration stayed 1987 amendments to the selenium food additive regulations, and any modification of such rule issued after the date of the enactment of this Act.

## **Subtitle H—National Appeals Division**

**SEC. 271. [7 U.S.C. 6991] DEFINITIONS.**

For purposes of this subtitle:

(1) **ADVERSE DECISION.**—The term “adverse decision” means an administrative decision made by an officer, employee, or committee of an agency that is adverse to a participant. The term includes a denial of equitable relief by an agency or the failure of an agency to issue a decision or otherwise act on the request or right of the participant. The term does not include a decision over which the Board of Contract Appeals has jurisdiction.

(2) **AGENCY.**—The term “agency” means any agency of the Department designated by the Secretary or a successor agency of the Department, except that the term shall include the following (and any successor to the following):

(A) The Consolidated Farm Service Agency (or other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under section 226).

(B) The Commodity Credit Corporation, with respect to domestic programs.

(C) The Farmers Home Administration.

(D) The Federal Crop Insurance Corporation.

(E) The Rural Development Administration.

(F) The Natural Resources Conservation Service (or other office, agency, or administrative unit of the Department assigned the functions authorized for the Natural Resources Conservation Service under section 246(b)).

(G) 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)).

(3) APPELLANT.—The term “appellant” means a participant who appeals an adverse decision in accordance with this subtitle.

(4) CASE RECORD.—The term “case record” means all the materials maintained by the Secretary related to an adverse decision.

(5) DIRECTOR.—The term “Director” means the Director of the Division.

(6) DIVISION.—The term “Division” means the National Appeals Division established by this title.

(7) HEARING OFFICER.—The term “hearing officer” means an individual employed by the Division who hears and determines appeals of adverse decisions by any agency.

(8) IMPLEMENT.—The term “implement” refers to those actions necessary to effectuate fully and promptly a final determination of the Division not later than 30 calendar days after the effective date of the final determination.

(9) PARTICIPANT.—The term “participant” shall have the meaning given that term by the Secretary by regulation.

**SEC. 272. [7 U.S.C. 6992] NATIONAL APPEALS DIVISION AND DIRECTOR.**

(a) ESTABLISHMENT OF DIVISION.—The Secretary shall establish and maintain an independent National Appeals Division within the Department to carry out this subtitle.

(b) DIRECTOR.—

(1) APPOINTMENT.—The Division shall be headed by a Director, appointed by the Secretary from among persons who have substantial experience in practicing administrative law. In considering applicants for the position of Director, the Secretary shall consider persons currently employed outside Government as well as Government employees.

(2) TERM AND REMOVAL.—The Director shall serve for a 6-year term of office, and shall be eligible for reappointment. The Director shall not be subject to removal during the term of office, except for cause established in accordance with law.

(3) POSITION CLASSIFICATION.—The position of the Director may not be a position in the excepted service or filled by a non-career appointee.

(c) DIRECTION, CONTROL, AND SUPPORT.—The Director shall be free from the direction and control of any person other than the Secretary. The Division shall not receive administrative support (except on a reimbursable basis) from any agency other than the Office of the Secretary. The Secretary may not delegate to any other officer or employee of the Department, other than the Director, the authority of the Secretary with respect to the Division.

(d) DETERMINATION OF APPEALABILITY OF AGENCY DECISIONS.—If an officer, employee, or committee of an agency determines that a decision is not appealable and a participant appeals the decision to the Director, the Director shall determine whether the decision is adverse to the individual participant and thus appealable or is a matter of general applicability and thus not subject to appeal. The determination of the Director as to whether a decision is appealable shall be administratively final.

(e) DIVISION PERSONNEL.—The Director shall appoint such hearing officers and other employees as are necessary for the administration of the Division. A hearing officer or other employee of the Division shall have no duties other than those that are necessary to carry out this subtitle.

**SEC. 273. [7 U.S.C. 6993] TRANSFER OF FUNCTIONS.**

There are transferred to the Division all functions exercised and all administrative appeals pending before the effective date of this subtitle (including all related functions of any officer or employee) of or relating to—

(1) the National Appeals Division established by section 426(c) of the Agricultural Act of 1949 (7 U.S.C. 1433e(c)) (as in effect on the day before the date of the enactment of this Act);

(2) the National Appeals Division established by subsections (d) through (g) of section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) (as in effect on the day before the date of the enactment of this Act);

(3) appeals of decisions made by the Federal Crop Insurance Corporation; and

(4) appeals of decisions made by the Soil Conservation Service (as in effect on the day before the date of the enactment of this Act).

**SEC. 274. [7 U.S.C. 6994] NOTICE AND OPPORTUNITY FOR HEARING.**

Not later than 10 working days after an adverse decision is made that affects the participant, the Secretary shall provide the participant with written notice of such adverse decision and the rights available to the participant under this subtitle or other law for the review of such adverse decision.

**SEC. 275. [7 U.S.C. 6995] INFORMAL HEARINGS.**

(a) IN GENERAL.—If an officer, employee, or committee of an agency makes an adverse decision, the agency shall hold, at the request of the participant, an informal hearing on the decision.

(b) FARM SERVICE AGENCY.—With respect to programs carried out through the Consolidated Farm Service Agency (or other office, agency, or administrative unit of the Department assigned to carry out the programs authorized for the Consolidated Farm Service Agency under section 226), the Secretary shall maintain the informal appeals process applicable to such programs, as in effect on the date of the enactment of the subtitle.

(c) MEDIATION.—If a mediation program is available under title V of the Agricultural Credit Act of 1987 (7 U.S.C. 5101 et seq.) as a part of the informal hearing process, the participant shall—

(1) be offered the right to choose such mediation; and

(2) to the maximum extent practicable, be allowed to use both informal agency review and mediation to resolve disputes under that title.

**SEC. 276. [7 U.S.C. 6996] RIGHT OF PARTICIPANTS TO DIVISION HEARING.**

(a) **APPEAL TO DIVISION FOR HEARING.**—Subject to subsection (b), a participant shall have the right to appeal an adverse decision to the Division for an evidentiary hearing by a hearing officer consistent with section 277.

(b) **TIME FOR APPEAL.**—To be entitled to a hearing under section 277, a participant shall request the hearing not later than 30 days after the date on which the participant first received notice of the adverse decision.

**SEC. 277. [7 U.S.C. 6997] DIVISION HEARINGS.**

(a) **GENERAL POWERS OF DIRECTOR AND HEARING OFFICERS.**—

(1) **ACCESS TO CASE RECORD.**—The Director and hearing officer shall have access to the case record of any adverse decision appealed to the Division for a hearing.

(2) **ADMINISTRATIVE PROCEDURES.**—The Director and hearing officer shall have the authority to require the attendance of witnesses, and the production of evidence, by subpoena and to administer oaths and affirmations. Except to the extent required for the disposition of ex parte matters as authorized by law—

(A) an interested person outside the Division shall not make or knowingly cause to be made to the Director or a hearing officer who is or may reasonably be expected to be involved in the evidentiary hearing or review of an adverse decision, an ex parte communication (as defined in section 551(14) of title 5, United States Code) relevant to the merits of the proceeding;

(B) the Director and such hearing officer shall not make or knowingly cause to be made to any interested person outside the Division an ex parte communication relevant to the merits of the proceeding.

(b) **TIME FOR HEARING.**—Upon a timely request for a hearing under section 276(b), an appellant shall have the right to have a hearing by the Division on the adverse decision within 45 days after the date of the receipt of the request for the hearing.

(c) **LOCATION AND ELEMENTS OF HEARING.**—

(1) **LOCATION.**—A hearing on an adverse decision shall be held in the State of residence of the appellant or at a location that is otherwise convenient to the appellant and the Division.

(2) **EVIDENTIARY HEARING.**—The evidentiary hearing before a hearing officer shall be in person, unless the appellant agrees to a hearing by telephone or by a review of the case record. The hearing officer shall not be bound by previous findings of fact by the agency in making a determination.

(3) **INFORMATION AT HEARING.**—The hearing officer shall consider information presented at the hearing without regard to whether the evidence was known to the agency officer, employee, or committee making the adverse decision at the time the adverse decision was made. The hearing officer shall leave the record open after the hearing for a reasonable period of time to allow the submission of information by the appellant or the agency after the hearing to the extent necessary to respond to new facts, information, arguments, or evidence presented or raised by the agency or appellant.



(4) BURDEN OF PROOF.—The appellant shall bear the burden of proving that the adverse decision of the agency was erroneous.

(d) DETERMINATION NOTICE.—The hearing officer shall issue a notice of the determination on the appeal not later than 30 days after a hearing or after receipt of the request of the appellant to waive a hearing, except that the Director may establish an earlier or later deadline. If the determination is not appealed to the Director for review under section 278, the notice provided by the hearing officer shall be considered to be a notice of an administratively final determination.

(e) EFFECTIVE DATE.—The final determination shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

**SEC. 278. [7 U.S.C. 6998] DIRECTOR REVIEW OF DETERMINATIONS OF HEARING OFFICERS.**

(a) REQUESTS FOR DIRECTOR REVIEW.—

(1) TIME FOR REQUEST BY APPELLANT.—Not later than 30 days after the date on which an appellant receives the determination of a hearing officer under section 277, the appellant shall submit a written request to the Director for review of the determination in order to be entitled to a review by the Director of the determination.

(2) TIME FOR REQUEST BY AGENCY HEAD.—Not later than 15 business days after the date on which an agency receives the determination of a hearing officer under section 277, the head of the agency may make a written request that the Director review the determination.

(b) DETERMINATION OF DIRECTOR.—The Director shall conduct a review of the determination of the hearing officer using the case record, the record from the evidentiary hearing under section 277, the request for review, and such other arguments or information as may be accepted by the Director. Based on such review, the Director shall issue a final determination notice that upholds, reverses, or modifies the determination of the hearing officer. However, if the Director determines that the hearing record is inadequate, the Director may remand all or a portion of the determination for further proceedings to complete the hearing record or, at the option of the Director, to hold a new hearing. The Director shall complete the review and either issue a final determination or remand the determination not later than—

(1) 10 business days after receipt of the request for review, in the case of a request by the head of an agency for review; or

(2) 30 business days after receipt of the request for review, in the case of a request by an appellant for review.

(c) BASIS FOR DETERMINATION.—The determination of the hearing officer and the Director shall be based on information from the case record, laws applicable to the matter at issue, and applicable regulations published in the Federal Register and in effect on the date of the adverse decision or the date on which the acts that gave rise to the adverse decision occurred, whichever date is appropriate.

(d) EQUITABLE RELIEF.—Subject to regulations issued by the Secretary, the Director shall have the authority to grant equitable relief under this section in the same manner and to the same ex-

tent as such authority is provided to the Secretary under section 1613 of the Farm Security and Rural Investment Act of 2002 and other laws. Notwithstanding the administrative finality of a final determination of an appeal by the Division, the Secretary shall have the authority to grant equitable or other types of relief to the appellant after an administratively final determination is issued by the Division.

(e) **EFFECTIVE DATE.**—A final determination issued by the Director shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

**SEC. 279. [7 U.S.C. 6999] JUDICIAL REVIEW.**

A final determination of the Division shall be reviewable and enforceable by any United States district court of competent jurisdiction in accordance with chapter 7 of title 5, United States Code.

**SEC. 280. [7 U.S.C. 7000] IMPLEMENTATION OF FINAL DETERMINATIONS OF DIVISION.**

(a) **IN GENERAL.**—On the return of a case to an agency pursuant to the final determination of the Division, the head of the agency shall implement the final determination not later than 30 days after the effective date of the notice of the final determination.

(b) **REPORTS.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this subsection, and every 180 days thereafter, the head of each agency shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and publish on the website of the Department, a report that includes—

(A) a description of all cases returned to the agency during the period covered by the report pursuant to a final determination of the Division;

(B) the status of implementation of each final determination; and

(C) if the final determination has not been implemented—

(i) the reason that the final determination has not been implemented; and

(ii) the projected date of implementation of the final determination.

(2) **UPDATES.**—Each month, the head of each agency shall publish on the website of the Department any updates to the reports submitted under paragraph (1).

**SEC. 281. [7 U.S.C. 7001] CONFORMING AMENDMENTS RELATING TO NATIONAL APPEALS DIVISION.**

(a) **DECISIONS OF STATE, COUNTY, AND AREA COMMITTEES.**—

(1) **APPLICATION OF SUBSECTION.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), this subsection shall apply only with respect to functions of the Farm Service Agency or the Commodity Credit Corporation that are under the jurisdiction of 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)) or an employee of such a committee.

(B) **NONAPPLICABILITY.**—This subsection does not apply to—

(i) a function performed under section 376 of the Consolidated Farm and Rural Development Act; or

(ii) a function performed under a conservation program administered by the Natural Resources Conservation Service.

(2) FINALITY.—Each decision of a State, county, or area committee (or an employee of such a committee) covered by paragraph (1) that is made in good faith in the absence of misrepresentation, false statement, fraud, or willful misconduct shall be final not later than 90 days after the date of filing of the application for benefits, unless the decision, before the end of the 90-day period, is—

(A) appealed under this subtitle; or

(B) modified by the Administrator of the Farm Service Agency or the Executive Vice President of the Commodity Credit Corporation.

(3) RECOVERY OF AMOUNTS.—If the decision of the State, county, or area committee has become final under paragraph (2), no action may be taken by the Farm Service Agency, the Commodity Credit Corporation, or a State, county, or area committee to recover amounts found to have been disbursed as a result of a decision in error unless the participant had reason to believe that the decision was erroneous.

(4) SAVINGS PROVISION.—For purposes of this subsection, a reference to the “Farm Service Agency” includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Farm Service Agency under section 226.

(b) AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE.—Section 426 of the Agricultural Act of 1949 (7 U.S.C. 1433e) is repealed.

(c) FARMERS HOME ADMINISTRATION.—Section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) is repealed.

**SEC. 282. EXPANSION OF ISSUES COVERED BY STATE MEDIATION PROGRAMS.**

[This section made amendments to other laws, principally section 501 of the Agricultural Credit Act of 1987 (7 U.S.C. 5101)]

**SEC. 283. [7 U.S.C. 7002] AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out the activities of the Division.

**Subtitle I—Marketing and Regulatory Programs**

**SEC. 285. [7 U.S.C. 7005] UNDER SECRETARY OF AGRICULTURE FOR MARKETING AND REGULATORY PROGRAMS.**

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Marketing and Regulatory Programs.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Marketing and Regulatory Programs authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for

Marketing and Regulatory Programs those functions and duties under the jurisdiction of the Department that are related to agricultural marketing, animal and plant health inspection, grain inspection, and packers and stockyards.

(2) **ADDITIONAL FUNCTIONS.**—The Under Secretary of Agriculture for Marketing and Regulatory Programs shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(d) **SUCCESSION.**—Any official who is serving as Assistant Secretary of Agriculture for Marketing and Regulatory Programs on the date of the enactment of this section and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of enactment of this section (or such later date set by the Secretary if litigation delays rapid succession).

(e) **EXECUTIVE SCHEDULE.**—[Omitted—Amendment]

## **Subtitle J—Miscellaneous Reorganization Provisions**

### **SEC. 291. [7 U.S.C. 7011] SUCCESSORSHIP PROVISIONS RELATING TO BARGAINING UNITS AND EXCLUSIVE REPRESENTATIVES.**

(a) **VOLUNTARY AGREEMENT.**—

(1) **IN GENERAL.**—If the exercise of the Secretary's authority under this title results in changes to an existing bargaining unit that has been certified under chapter 71 of title 5, United States Code, the affected parties shall attempt to reach a voluntary agreement on a new bargaining unit and an exclusive representative for such unit.

(2) **CRITERIA.**—In carrying out the requirements of this subsection, the affected parties shall use criteria set forth in—

(A) sections 7103(a)(4), 7111(e), 7111(f)(1), and 7120 of title 5, United States Code, relating to determining an exclusive representative; and

(B) section 7112 of title 5, United States Code (disregarding subsections (b)(5) and (d) thereof), relating to determining appropriate units.

(b) **EFFECT OF AN AGREEMENT.**—

(1) **IN GENERAL.**—If the affected parties reach agreement on the appropriate unit and the exclusive representative for such unit under subsection (a), the Federal Labor Relations Authority shall certify the terms of such agreement, subject to paragraph (2)(A). Nothing in this subsection shall be considered to require the holding of any hearing or election as a condition for certification.

(2) **RESTRICTIONS.**—

(A) **CONDITIONS REQUIRING NONCERTIFICATION.**—The Federal Labor Relations Authority may not certify the terms of an agreement under paragraph (1) if—

(i) it determines that any of the criteria referred to in subsection (a)(2) (disregarding section 7112(a) of title 5, United States Code) have not been met; or

(ii) after the Secretary's exercise of authority and before certification under this section, a valid election

under section 7111(b) of title 5, United States Code, is held covering any employees who would be included in the unit proposed for certification.

(B) TEMPORARY WAIVER OF PROVISION THAT WOULD BAR AN ELECTION AFTER A COLLECTIVE BARGAINING AGREEMENT IS REACHED.—Nothing in section 7111(f)(3) of title 5, United States Code, shall prevent the holding of an election under section 7111(b) of such title that covers employees within a unit certified under paragraph (1), or giving effect to the results of such an election (including a decision not to be represented by any labor organization), if the election is held before the end of the 12-month period beginning on the date such unit is so certified.

(C) CLARIFICATION.—The certification of a unit under paragraph (1) shall not, for purposes of the last sentence of section 7111(b) of title 5, United States Code, or section 7111(f)(4) of such title, be treated as if it had occurred pursuant to an election.

(3) DELEGATION.—

(A) IN GENERAL.—The Federal Labor Relations Authority may delegate to any regional director (as referred to in section 7105(e) of title 5, United States Code) its authority under the preceding provisions of this subsection.

(B) REVIEW.—Any action taken by a regional director under subparagraph (A) shall be subject to review under the provisions of section 7105(f) of title 5, United States Code, in the same manner as if such action had been taken under section 7105(e) of such title, except that in the case of a decision not to certify, such review shall be required if application therefor is filed by an affected party within the time specified in such provisions.

(c) DEFINITION.—For purposes of this section, the term “affected party” means—

(1) with respect to an exercise of authority by the Secretary under this title, any labor organization affected thereby; and

(2) the Department of Agriculture.

**SEC. 292. [7 U.S.C. 7012] PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.**

(a) SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased using funds made available pursuant to this title should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available pursuant to this title, the Secretary, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

**SEC. 293. MISCELLANEOUS CONFORMING AMENDMENTS.**

[This section made amendments to various agriculture laws]

**SEC. 294. REMOVAL OF OBSOLETE ADMINISTRATIVE PROVISIONS.**

[This section amended title 5, United States Code.]

**SEC. 295. PROPOSED CONFORMING AMENDMENTS.**

Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress recommended legislation containing additional technical and conforming amendments to

Federal laws that are required as a result of the enactment of this title.

**SEC. 296. [7 U.S.C. 7014] TERMINATION OF AUTHORITY.**

(a) **IN GENERAL.**—Subject to subsection (b), the authority delegated to the Secretary by this title to reorganize the Department shall terminate on the date that is 2 years after the date of enactment of this Act.<sup>1</sup>

(b) **FUNCTIONS.**—Subsection (a) shall not affect—

(1) the authority of the Secretary to continue to carry out a function that the Secretary performs on the date that is 2 years after the date of enactment of this Act;

(2) the authority delegated to the Secretary under Reorganization Plan No. 2 of 1953 (5 U.S.C. App.; 7 U.S.C. 2201 note);

(3) the authority of an agency, office, officer, or employee of the Department to continue to perform all functions delegated or assigned to the entity or person as of that termination date;

(4) the authority of the Secretary to establish in the Department the position of Under Secretary of Agriculture for Marketing and Regulatory Programs under section 285;

(5) the authority of the Secretary to establish within the Department the position of Assistant Secretary of Agriculture for Civil Rights, and delegate duties to the Assistant Secretary, under section 218;

(6) the authority of the Secretary to establish in the Department, under section 251—

(A) the position of Under Secretary of Agriculture for Research, Education, and Economics;

(B) the Research, Education, and Extension Office; and

(C) the National Institute of Food and Agriculture; or

(7) the authority of the Secretary to establish in the Department the Office of Advocacy and Outreach in accordance with section 226B.

## TITLE III—MISCELLANEOUS

**SEC. 301. POULTRY LABELING.**

[Omitted]

**SEC. 302. [7 U.S.C. 2231b] FIRST AMENDMENT RIGHTS OF EMPLOYEES OF THE UNITED STATES DEPARTMENT OF AGRICULTURE.**

Notwithstanding any other provision of law, no employee of the United States Department of Agriculture shall be peremptorily removed, on or after February 15, 1994, from the position of the employee without an opportunity for a public or nonpublic hearing, at the option of the employee, because of remarks made during personal time in opposition to policies, or proposed policies, of the Department, including policies or proposed policies regarding homosexuals. Any employee removed on or after February 15, 1994, without the opportunity for such a hearing shall be reinstated to the position of the employee pending such a hearing.

**SEC. 303. ADJUSTED COST OF THRIFTY FOOD PLAN.**

[This section amended section 3(o)(11) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)(11)).]

<sup>1</sup>Two years after the date of enactment of this Act was October 13, 1996.

**SEC. 304. [7 U.S.C. 2204e] OFFICE OF RISK ASSESSMENT AND COST-BENEFIT ANALYSIS.**

(a) **OFFICE OF RISK ASSESSMENT AND COST-BENEFIT ANALYSIS.**—The Secretary of Agriculture shall establish in the Department of Agriculture an Office of Risk Assessment and Cost-Benefit Analysis, which shall be under the direction of a Director appointed by the Secretary.

(b) **FUNCTIONS.**—The Director shall ensure that any regulatory analysis that is conducted under this section includes a risk assessment and cost-benefit analysis that is performed consistently and uses reasonably obtainable and sound scientific, technical, economic, and other data.

(1) **IN GENERAL.**—Effective six months after the date of enactment of this Act, the Secretary of Agriculture shall publish in the Federal Register, for each proposed major regulation the primary purpose of which is to regulate issues of human health, human safety, or the environment that is promulgated by the Department after the enactment of this Act, an analysis with as much specificity as practicable, of—

(A) the risk, including the effect of the risk, to human health, human safety, or the environment, and any combination thereof, addressed by the regulation, including, where applicable and practicable, the health and safety risks to persons who are disproportionately exposed or particularly sensitive;

(B) the costs associated with the implementation of, and compliance with, the regulation;

(C) where appropriate and meaningful, a comparison of that risk relative to other similar risks regulated by the Department or other Federal Agency, resulting from comparable activities and exposure pathways (such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks and the preventability or nonpreventability of risks); and

(D) the quantitative and qualitative benefits of the regulation, including the reduction or prevention of risk expected from the regulation.

Where such a regulatory analysis is not practicable because of compelling circumstances, the Director shall provide an explanation in lieu of conducting an analysis under this section.

(2) **EVALUATION.**—The regulatory analysis referred to in paragraph (1) should also contain a statement that the Secretary of Agriculture evaluated—

(A) whether the regulation will advance the purpose of protecting against the risk referred to in paragraph (1)(A); and

(B) whether the regulation will produce benefits and reduce risks to human health, human safety, or the environment, and any combination thereof, in a cost-effective manner as a result of the implementation of and compliance with the regulation, by local, State, and Federal Government and other public and private entities, as estimated in paragraph (1)(B).

(3) This section shall not be construed to amend, modify, or alter any statute and shall not be subject to judicial review. This section shall not be construed to grant a cause of action to any person. The Secretary of Agriculture shall perform the

analyses required in this section in such a manner that does not delay the promulgation or implementation of regulations mandated by statute or judicial order.

(c) DEFINITION.—As used in this section, the term “major regulation” means any regulation that the Secretary of Agriculture estimates is likely to have an annual impact on the economy of the United States of \$100,000,000 in 1994 dollars.

**SEC. 305. [7 U.S.C. 2279a] FAIR AND EQUITABLE TREATMENT OF SOCIALLY DISADVANTAGED PRODUCERS.**

(a) FAIR CROP ACREAGE BASES AND FARM PROGRAM PAYMENT YIELDS.—If the Secretary of Agriculture determines that crop acreage bases or farm program payment yields established for farms owned or operated by socially disadvantaged producers are not established in accordance with title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.), the Secretary shall adjust the bases and yields to conform to the requirements of such title and make available any appropriate commodity program benefits.

(b) FAIR APPLICATION OF CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—If the Secretary of Agriculture determines that application of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) with respect to socially disadvantaged producers is not consistent with the requirements of such Act, the Secretary shall make such changes in the administration of such Act as the Secretary considers necessary to provide for the fair and equitable treatment of socially disadvantaged producers under such Act.

(c) REPORT ON TREATMENT OF SOCIALLY DISADVANTAGED PRODUCERS.—

(1) REPORT REQUIRED.—The Comptroller General of the United States shall prepare a report to determine—

(A) whether socially disadvantaged producers are underrepresented on State, county, area, or local committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) or local review committees established under section 363 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1363) because of racial, ethnic, or gender prejudice; and

(B) if such underrepresentation exists, whether it inhibits or interferes with the participation of socially disadvantaged producers in programs of the Department of Agriculture.

(2) SUBMISSION OF REPORT.—Not later than February 1, 1995, the Comptroller General shall submit the report required by this subsection to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) DEFINITION.—For purposes of this section, the term “socially disadvantaged producer” means a producer who is a member of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.

**SEC. 306. [7 U.S.C. 2204 note] AVIATION INSPECTIONS.**

(a) STUDY OF AIRCRAFT INSPECTIONS.—

(1) INTENT OF STUDY.—The intent of the study required by this subsection is to examine the cost efficiencies of conducting inspections of aircraft and pilots by one Federal agency without



reducing aircraft, passenger, or pilot safety standards or lowering mission preparedness.

(2) **STUDY REQUIRED.**—The Secretary of Agriculture and the Secretary of Transportation shall jointly conduct a study of the inspection specifications and procedures by which aircraft and pilots contracted by the Department are certified to determine the cost efficiencies of eliminating duplicative Department inspection requirements and transferring some or all inspection requirements to the Federal Aviation Administration, while ensuring that neither aircraft, passenger, nor pilot safety is reduced and that mission preparedness is maintained.

(3) **SPECIAL CONSIDERATIONS.**—In conducting the study, the Secretaries shall evaluate current inspection specifications and procedures mandated by the Department and the Forest Service, taking into consideration the unique requirements and risks of particular Department and Forest Service missions that may require special inspection specifications and procedures to ensure the safety of Department and Forest Service personnel and their contractees.

(4) **MAINTENANCE OF STANDARDS AND PREPAREDNESS.**—In making recommendations to transfer inspection authority or otherwise change Department inspection specifications and procedures, the Secretaries shall ensure that the implementation of any such recommendations does not lower aircraft or pilot standards or preparedness for Department or Forest Service missions.

(5) **SUBMISSION OF RESULTS.**—Not later than 180 days after the date of the enactment of this Act, the Secretaries shall submit to Congress the results of the study, including any recommendations to transfer inspection authority or otherwise change Department inspection specifications and procedures and a cost-benefit analysis of such recommendations.

(b) **REVIEW OF RECENTLY ADOPTED AIRCRAFT POLICY.**—

(1) **REVIEW REQUIRED.**—The Secretaries shall review the policy initiated by the Secretary of Agriculture on July 1, 1994, to accept Federal Aviation Administration inspections on aircraft and pilots that provide “airport to airport” service for the Forest Service. The policy is currently being cooperatively developed by the Department and the Federal Aviation Administration and is intended to reduce duplicative inspections and to reduce Government costs, while maintaining aircraft, passenger, and pilot safety standards, specifications and procedures currently required by the Department and the Forest Service.

(2) **EXPANSION OF POLICY.**—As part of the review, the Secretaries shall examine the feasibility and desirability of applying this policy on a Government-wide basis.

(3) **SUBMISSION OF RESULTS.**—Not later than one year after the date of the implementation of the policy, the Secretary of Agriculture shall submit to Congress the results of the review, including any recommendations that the Secretary considers appropriate.