

# ANNUAL REPORT

## ANNUAL REPORT OF THE JUDICIAL OFFICER

Fiscal Year 1998

The Judicial Officer issues the final decision for the Secretary of Agriculture in all cases appealed from initial decisions of USDA's Administrative Law Judges (ALJs). The cases arise under, among other Acts, the Agricultural Marketing Agreement Act of 1937; the Animal Welfare Act; the Beef Promotion and Research Act of 1985; the Federal Meat Inspection Act; the Federal Plant Pest Act; the Forest Resources Conservation and Shortage Relief Act; the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act; the Horse Protection Act of 1970; the Mushroom Promotion, Research, and Consumer Information Act; the Packers and Stockyards Act, 1921; the Perishable Agricultural Commodities Act, 1930; the Plant Quarantine Act; the Poultry Products Inspection Act; and various animal quarantine acts. The Judicial Officer also rules on motions filed by parties to proceedings and questions submitted by ALJs and signs reparation orders for money damages prepared by the Office of the General Counsel under the Packers and Stockyards Act and the Perishable Agricultural Commodities Act. Appeals from the Judicial Officer's decisions lie primarily to the United States Courts of Appeals, but, under some statutes, appeals lie to the United States District Courts. The Department has no right of appeal from a decision by the Judicial Officer.

The Office of the Judicial Officer is staffed by three persons: the Judicial Officer, the Assistant to the Judicial Officer, and the Legal Technician, who also serves as secretary, paralegal, and administrative assistant.

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

### CASES RECEIVED- DECIDED- PENDING

	FY 1996	FY 1997	FY 1998
Cases Pending Beginning of year	5	12	8
Cases Received During Year	41	39	42
Cases Decided During Year	34	43	48
Cases Pending End of Year	12	8	2

### NUMBER OF CASES DECIDED BY JUDICIAL OFFICER

<b>Fiscal Year</b>	<b>No.</b>	<b>Fiscal Year</b>	<b>No.</b>
1979	26	1989	43
1980	21	1990	42
1981	29	1991	56
1982	33	1992	62
1983	34	1993	53
1984	26	1994	51
1985	50	1995	36
1986	42	1996	34
1987	36	1997	43
1988	40	1998	48

### INTERVAL BETWEEN ALJ AND JO DECISIONS

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

1995	4 mo. 3 wk.	15 mo.	6	2
1996	6 mo.	10 mo. 1 wk.	8	0
1997	4 mo.	16 mo.	12	9
1998	5 mo. 1 wk.	30 mo. 1 wk.	11	1

#### INTERVAL BETWEEN REFERRAL TO JO AND JO DISPOSITION

<b>Fiscal Year</b>	<b>Median Interval</b>	<b>Longest Interval</b>	<b>Number of Cases Over 4 Months</b>	<b>Number of Cases Over 8 Months</b>
1996	1 mo.	7 mo.	10	0
1997	2 mo. 2 wk.	1 yr. 3 wk.	13	8
1998	2 mo.	2 yr. 3 mo.	3	1

A summary of the Judicial Officer's decisions issued in Fiscal Year 1998 is attached as Appendix 1. A list of the 2 pending cases referred to the Judicial Officer is attached as Appendix 2. The oldest case pending on appeal from an ALJ's decision has been in this office 4 months and 1 week compared to 24 months and 1 week last year and 12 months and 1 week the year before.

The Judicial Officer disagreed with the ALJ's reasoning or result in 13 of the 48 cases (or 27%) in which the ALJ's decision was at issue, compared to 19% last year. When the Judicial Officer agrees with the decision of the ALJ, a case even with a very large record can be handled quite expeditiously. But where the Judicial Officer disagrees with the ALJ's decision, preparation of the Judicial Officer's decision is time-consuming, since the court, on judicial review, weighs the ALJ's decision against that of the Judicial Officer. Of the 2 cases pending on appeal, the Government is appealing both of the cases, or 100%, compared with 62.5% last year.