

(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 October 13, 1994.

(Pub. L. 103-354, title II, §262, Oct. 13, 1994, 108 Stat. 3227.)

SUBCHAPTER VIII—NATIONAL APPEALS
DIVISION

§ 6991. Definitions

For purposes of this subchapter:

(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 Farm Service Agency (or other office, agency, or administrative unit of the Department assigned the functions authorized for the Farm Service Agency under section 6932 of this title).

(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 6936(b) of this title).

(G) A State, county, or area committee established under section 590h(b)(5) of title 16.

(3) Appellant

The term “appellant” means a participant who appeals an adverse decision in accordance with this subchapter.

(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 chapter.

(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.

(Pub. L. 103-354, title II, §271, Oct. 13, 1994, 108 Stat. 3228; Pub. L. 115-334, title XII, §§12404(b)(2), 12410(c)(2)(B), Dec. 20, 2018, 132 Stat. 4975, 4978.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this subtitle”, meaning subtitle H (§§271-283) of title II of Pub. L. 103-354, Oct. 13, 1994, 108 Stat. 3228, which enacted this subchapter, amended sections 2006 and 5101 to 5106 of this title and section 2202e of Title 12, Banks and Banking, and repealed sections 1433e and 1983b of this title.

This chapter, referred to in par. (6), was in the original “this title”, meaning title II of Pub. L. 103-354, Oct. 13, 1994, 108 Stat. 3209, known as the Department of Agriculture Reorganization Act of 1994. For complete classification of title II to the Code, see Short Title note set out under section 6901 of this title and Tables.

AMENDMENTS

2018—Par. (2)(A). Pub. L. 115-334, §12404(b)(2), substituted “Farm” for “Consolidated Farm” in two places.

Par. (2)(F). Pub. L. 115-334, §12410(c)(2)(B), substituted “section 6936(b) of this title” for “section 6962(b) of this title”.

§ 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 subchapter.

(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 noncareer appointee.