

# Rules and Regulations

Federal Register

Vol. 69, No. 118

Monday, June 21, 2004

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 2

#### Revision of Delegations of Authority

**AGENCY:** Office of the Secretary, Department of Agriculture (USDA).

**ACTION:** Final rule.

**SUMMARY:** USDA amends the delegations of authority from the Secretary of Agriculture to the Assistant Secretary for Civil Rights (ASCR), and from the ASCR to the Office of Civil Rights (CR), to no longer require prior approval by the Office of the General Counsel (OGC) of all final decisions related to complaints of discrimination in employment, federally assisted programs, and federally conducted programs, but rather to leave to the discretion of the ASCR and CR a judgment as to which such decisions should be reviewed by OGC prior to issuance. This document also reflects the transfer of authorities for the Office of Outreach and the Conflict Prevention and Resolution Center from the Assistant Secretary for Administration (ASA) to the ASCR, transfer of authority related to historic preservation from the ASA to the Under Secretary for Natural Resources and Environment, transfer of authority related to relationships with Native Americans from the ASA to the Assistant Secretary for Congressional Relations, delegations of authority to the Administrator of the Foreign Agricultural Service with respect to coordinating Department activities involving satellite imagery data, and revision of the order of succession in the event of the incapacity of the Secretary or Deputy Secretary.

**DATES:** This rule is effective June 21, 2004.

**FOR FURTHER INFORMATION CONTACT:** Director, Office of Civil Rights (CR),

USDA, Reporters Building, Room 541, 1400 Independence Avenue, SW., Washington, DC 20250, (202) 720-5212 (for civil rights matters); Allen VanderGriff, Foreign Agricultural Service (FAS), United States Department of Agriculture, Room 6539-S, 1400 Independence Avenue, SW., Washington, DC 20250, (202) 720-0888 (for satellite imagery matters); or Arthur Goldman, Office of the Assistant Secretary for Administration (ASA), Room 209-A, 1400 Independence Avenue, SW., Washington, DC 20250, (202) 720-3291 (all other matters).

#### SUPPLEMENTARY INFORMATION:

##### Civil Rights Delegations

The Department of Agriculture (USDA) is one of the largest Federal agencies in the nation. Its programs affect millions of people, from farmers to residents of rural communities to school children. It operates one of the most complex and decentralized civil rights structures in the Federal Government. Numerous agencies and staff nationwide are involved in carrying out its civil rights program. One of the primary responsibilities of the USDA's Office of Civil Rights (CR) is to ensure compliance with civil rights laws, regulations, and policies.

Since 1971, CR has been responsible for providing leadership, guidance, coordination, and direction to all USDA agencies, offices, and staff engaged in civil rights enforcement and voluntary civil rights compliance. Through the years, CR has undergone reorganizations, name changes, and realignments in an effort to ensure compliance with all civil rights laws and regulations throughout USDA.

In an effort to further strengthen civil rights compliance and enforcement within USDA, Congress, in passing the Farm Security and Rural Investment Act of 2002, Public Law 107-171, authorized the position of the Assistant Secretary of Civil Rights (ASCR). The Secretary established that position on March 7, 2003.

The ASCR conducted a review of the Department's civil rights programs, including the Delegations of Authority for processing complaints of discrimination in employment, as well as, those for federally assisted and federally conducted programs. Current regulations require a legal sufficiency

review by the Office of the General Counsel (OGC) of the following:

- Determinations that program complaint investigations performed under 7 CFR 15.6 establish a proper basis for findings of discrimination, and that actions taken to correct such findings are adequate;
- Final determinations on both the merits and required corrective actions as to complaints filed under 7 CFR part 15d;
- Final Agency Decisions on Equal Employment Opportunity complaints by employees or applicants for employment;
- Final Agency Decisions on program discrimination complaints; and
- Final determinations or settlement agreements on discrimination complaints in conducted programs subject to the Equal Credit Opportunity Act.

It has been determined that the requirements for mandatory review by OGC of all decisions, corrective actions, and settlement agreements falling within these categories will be removed, and the ASCR and officials of CR will be permitted to seek legal review, whenever warranted, on a case-by-case basis.

Therefore, the Delegations of Authority from the Secretary to the ASCR, and from the ASCR to the Director of CR, are revised to remove the mandatory requirements of OGC's legal sufficiency reviews. The delegation from the ASCR to the Director of CR is further revised to clarify that the ASCR serves as the Department's Director of Equal Employment Opportunity and the Director of CR provides support to the ASCR in that capacity.

##### Outreach and Conflict Resolution

By Secretary's Memorandum 1020-53 issued on August 1, 2003, the Secretary transferred the Office of Outreach and the Conflict Prevention and Resolution Center, Office of Human Resources Management, from the Assistant Secretary for Administration (ASA) to the ASCR. This rule revises the published delegations of authority to reflect that transfer.

##### Satellite Imagery

The Foreign Agricultural Service (FAS) is responsible for conducting studies of worldwide agricultural production, trade, and other factors affecting exports and imports of U.S.

agricultural commodities. As part of this function, FAS acts as the Departmental liaison with U.S. space programs undertaking remote sensing activities, and coordinates all agency satellite imagery data needs. This rule will revise currently obsolete delegations from the Under Secretary for Farm and Foreign Agricultural Services pertaining to satellite imagery and place these functions within the FAS.

#### **Relationships With Native American Tribes**

Principal responsibility for the implementation of Executive Order 13175, including consultation and collaboration with tribal officials, and coordination of USDA programs involving assistance to American Indians and Alaska Natives is transferred from the Assistant Secretary for Administration to the Assistant Secretary for Congressional Relations, and further redelegated to the Director, Office of Intergovernmental Relations.

#### **Historic Preservation**

Responsibility for USDA implementation of the National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, Executive Order 11593, 3 CFR, 1971–1975 Comp., p. 559, and regulations of the Advisory Council on Historic Preservation, 36 CFR part 800, including the authority to name the Secretary's designee to the Advisory Council on Historic Preservation, is transferred from the ASA to the Under Secretary for Natural Resources and Environment.

#### **Order of Succession**

Finally, on December 18, 2001, President Bush signed Executive Order 13241 (66 FR 66258 (December 21, 2001)) which revised the order of succession of officials to act as Secretary of Agriculture during any period in which both the Secretary and Deputy Secretary have died, resigned, or are otherwise unable to perform the functions and duties of the Office of the Secretary. The delegations of authority at 7 CFR 2.5 are revised to reflect the provisions of Executive Order 13241, as amended by Executive Order 13261 issued on March 19, 2002 (67 FR 13243 (March 21, 2002)).

#### **Classification**

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates

to internal agency management, it is exempt from the provisions of Executive Order No. 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, Public Law 96–354, and, thus, is exempt from the provisions of that Act.

#### **List of Subjects in 7 CFR Part 2**

Administrative practice and procedure, Authority delegations (government agencies), Civil rights, Nondiscrimination.

■ Accordingly, title 7 of the Code of Federal Regulations is amended as set forth below:

#### **PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT**

■ 1. The authority citation for part 2 continues to read as follows:

**Authority:** 7 U.S.C. 6912(a)(1); 5 U.S.C. 301; Reorganization Plan No. 2 of 1953; 3 CFR 1949–1953 Comp., p. 1024.

#### **Subpart A—General**

■ 2. Revise § 2.5 to read as follows:

##### **§ 2.5 Order in which officers of the Department shall act as Secretary.**

(a) Pursuant to Executive Order 13241 (66 FR 66258), as amended by Executive Order 13261 (67 FR 13243), during any period when both the Secretary and the Deputy Secretary have died, resigned, or are otherwise unable to perform the functions and duties of the office of the Secretary, the officials designated in paragraphs (a)(1) through (a)(10) of this section shall act as Secretary in the order in which they are listed. Each official shall act only in the event of the death, resignation, or inability to perform the duties of Secretary of the immediately preceding official:

(1) The Under Secretary for Farm and Foreign Agricultural Services.

(2) The Under Secretary for Marketing and Regulatory Programs.

(3) The Under Secretary for Rural Development.

(4) The Under Secretary for Food, Nutrition, and Consumer Services.

(5) The Under Secretary for Natural Resources and Environment.

(6) The Under Secretary for Research, Education, and Economics.

(7) The Under Secretary for Food Safety.

(8) The General Counsel.

(9) The Assistant Secretary for Administration.

(10) The Assistant Secretary for Congressional Relations.

(b) No official who is serving in an office listed in paragraphs (a)(1) through

(a)(10) of this section in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this section.

(c) Notwithstanding the provisions of this section and Executive Orders 13241 and 13262, the President retains the discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from the order of succession in paragraph (a) of this section in designating an acting Secretary.

#### **Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretaries and Assistant Secretaries**

■ 3. Add § 2.20(a)(9) to read as follows:

##### **§ 2.20 Under Secretary for Natural Resources and Environment.**

(a) \* \* \*

(9) *Related to historic preservation.* Administer the implementation of the National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, Executive Order 11593, 3 CFR, 1971–1975 Comp., p. 559, and regulations of the Advisory Council on Historic preservation, 36 CFR part 800, for the Department of Agriculture with authority to name the Secretary's designee to the Advisory Council on Historic Preservation.

\* \* \* \* \*

■ 4. Add § 2.23(a)(2)(v) to read as follows:

##### **§ 2.23 Assistant Secretary for Congressional Relations**

(a) \* \* \*

(2) \* \* \*

(v) Serve as the official with the principal responsibility for the implementation of Executive Order 13175, including consultation and collaboration with tribal officials, and coordinate the Department's programs involving assistance to American Indians and Alaska Natives.

\* \* \* \* \*

##### **§ 2.24 [Amended]**

■ 5. Amend § 2.24 as follows:

■ a. Remove and reserve paragraphs (a)(4) and (a)(12),

■ b. Remove paragraphs (a)(18), and (a)(19),

■ c. Redesignate paragraph (a)(20) as (a)(18).

■ 6. Revise § 2.25 to read as follows:

##### **§ 2.25 Assistant Secretary for Civil Rights.**

(a) The following delegations of authority are made by the Secretary to the Assistant Secretary for Civil Rights:

(1) Provide overall leadership, coordination, and direction for the Department's programs of civil rights, including program delivery,

compliance, and equal employment opportunity, with emphasis on the following:

- (i) Actions to enforce Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, prohibiting discrimination in federally assisted programs.
- (ii) Actions to enforce Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, prohibiting discrimination in Federal employment.
- (iii) Actions to enforce Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, *et seq.*, prohibiting discrimination on the basis of sex in USDA education programs and activities funded by the Department.
- (iv) Actions to enforce the Age Discrimination Act of 1975, 42 U.S.C. 6102, prohibiting discrimination on the basis of age in USDA programs and activities funded by the Department.
- (v) Actions to enforce section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, prohibiting discrimination against individuals with disabilities in USDA programs and activities funded by the Department.
- (vi) Actions to enforce section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, prohibiting discrimination against individuals with disabilities in USDA conducted programs.
- (vii) Actions to enforce related Executive Orders, Congressional mandates, and other laws, rules, and regulations, as appropriate.
- (viii) Actions to develop and implement the Department's Federal Women's Program.
- (ix) Actions to develop and implement the Department's Hispanic Employment Program.
- (2) Evaluate Departmental agency programs, activities, and impact statements for civil rights concerns.
- (3) Provide leadership and coordinate Departmental agencies and systems for targeting, collecting, analyzing, and evaluating program participation data and equal employment opportunity data.
- (4) Provide leadership and coordinate Departmentwide programs of public notification regarding the availability of USDA programs on a nondiscriminatory basis.
- (5) Coordinate with the Department of Justice on matters relating to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), title IX of the Education Amendments of 1972 (20 U.S.C. 1681, *et seq.*), and section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), except those matters in litigation, including administrative enforcement actions, which shall be

coordinated by the Office of the General Counsel.

(6) Coordinate with the Department of Health and Human Services on matters relating to the Age Discrimination Act of 1975, 42 U.S.C. 6102, except those matters in litigation, including administrative enforcement actions, which shall be coordinated by the Office of the General Counsel.

(7) Order proceedings and hearings in the Department pursuant to §§ 15.9(e) and 15.86 of this title which concern consolidated or joint hearings within the Department or with other Federal departments and agencies.

(8) Order proceedings and hearings in the Department pursuant to § 15.8 of this title after the program agency has advised the applicant or recipient of his or her failure to comply and has determined that compliance cannot be secured by voluntary means.

(9) Issue orders to give a notice of hearing or the opportunity to request a hearing pursuant to part 15 of this title; arrange for the designation of an Administrative Law Judge to preside over any such hearing; and determine whether the Administrative Law Judge so designated will make an initial decision or certify the record to the Secretary of Agriculture with his or her recommended findings and proposed action.

(10) Authorize the taking of action pursuant to § 15.8(a) of this title relating to compliance by "other means authorized by law."

(11) Make determinations required by § 15.8(d) of this title that compliance cannot be secured by voluntary means, and then take action, as appropriate.

(12) Make determinations that program complaint investigations performed under § 15.6 of this title establish a proper basis for findings of discrimination, and that actions taken to correct such findings are adequate.

(13) Investigate (or make determinations that program complaint investigations establish a proper basis for final determinations), make final determinations on both the merits and required corrective action, and, where applicable, make recommendations to the Secretary that relief be granted under 7 U.S.C. 6998(d) notwithstanding the finality of National Appeals Division decisions, as to complaints filed under parts 15a, 15b, and 15d of this title, except in those cases where the Assistant Secretary for Civil Rights has participated in the events that gave rise to the matter.

(14) Conduct civil rights investigations and compliance reviews Departmentwide.

(15) Develop regulations, plans, and procedures necessary to carry out the Department's civil rights programs, including the development, implementation, and coordination of Action Plans.

(16) Monitor, evaluate, and report on agency compliance with established policy and Executive Orders which further the participation of historically Black colleges and universities, the Hispanic-serving institutions, 1994 tribal land grant institutions, and other colleges and universities with substantial minority group enrollment in Departmental programs and activities.

(17) *Related to Equal Employment Opportunity (EEO).* Is designated as the Department's Director of Equal Employment Opportunity with authority:

(i) To perform the functions and responsibilities of that position under 29 CFR part 1614, including the authority:

(A) To make changes in programs and procedures designed to eliminate discriminatory practices and improve the Department's EEO program.

(B) To provide EEO services for managers and employees.

(C) To make final agency decisions on EEO complaints by Department employees or applicants for employment and order such corrective measures in such complaints as may be considered necessary, including the recommendation for such disciplinary action as is warranted when an employee has been found to have engaged in a discriminatory practice.

(ii) Administer the Department's EEO program.

(iii) Oversee and manage the EEO counseling function for the Department.

(iv) Process formal EEO complaints by employees or applicants for employment.

(v) Investigate Department EEO complaints and make final decisions on EEO complaints, except in those cases where the Assistant Secretary has participated in the events that gave rise to the matter.

(vi) Order such corrective measures in EEO complaints as may be considered necessary, including the recommendation for such disciplinary action as is warranted when an employee has been found to engage in a discriminatory practice.

(vii) Provide liaison on EEO matters concerning complaints and appeals with the Department agencies and Department employees.

(viii) Coordinate the Department's affirmative employment program, special emphasis programs, Federal

Equal Opportunity Recruitment Program, EEO evaluations, and development of policy.

(ix) Provide liaison on EEO programs and activities with the Equal Employment Opportunity Commission and the Office of Personnel Management.

(18) Maintain liaison with historically Black colleges and universities, the Hispanic-serving institutions, 1994 tribal land grant institutions, and other colleges and universities with substantial minority group enrollment, and assist Department agencies in strengthening such institutions by facilitating institutional participation in Department programs and activities and by encouraging minority students to pursue curricula that could lead to careers in the food and agricultural sciences.

(19) Administer the discrimination appeals and complaints program for the Department, including all formal individual or group appeals, where the system provides for an avenue of redress to the Department level, Equal Employment Opportunity Commission, or other outside authority.

(20) Make final determinations, or enter into settlement agreements, on discrimination complaints in federally conducted programs subject to the Equal Credit Opportunity Act. This delegation includes the authority to make compensatory damage awards whether pursuant to a final determination or in a settlement agreement under the authority of the Equal Credit Opportunity Act and the authority to obligate agency funds, including CCC and FCIC funds to satisfy such an award.

(21) Make final determinations in proceedings under part 15f of this title where review of an administrative law judge decision is undertaken.

(22) Provide civil rights and equal employment opportunity support services, with authority to take actions required by law or regulation to perform such services for:

(i) The Secretary of Agriculture.

(ii) The general officers of the Department.

(iii) The offices and agencies reporting to the Assistant Secretary for Administration.

(iv) Any other offices or agencies of the Department as may be agreed.

(23) *Related to outreach.*

(i) Develop policy guidelines and implement a Departmental outreach program which delivers services to traditionally under-served customers.

(ii) Develop a strategic outreach plan for the Department which coordinates

the goals, objectives, and expectations of mission area outreach programs.

(iii) Coordinate the dissemination/communication of all outreach information from the Department and its mission areas ensuring its transmission to as wide a public spectrum as possible.

(iv) Serve as the Department's official outreach spokesperson.

(v) Provide coordination and oversight of agency outreach activities including the establishment of outreach councils.

(vi) Develop a system to monitor the delivery of outreach grants and funding.

(vii) Establish requirements and procedures for reporting agency outreach status and accomplishments including Departmental reporting under the Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers Program (7 U.S.C. 2279).

(24) *Related to conflict management.*

(i) Designate the senior official to serve as the Department Dispute Resolution Specialist under the Administrative Dispute Resolution Act of 1996, 5 U.S.C. 571, *et seq.*, and provide leadership, direction and coordination for the Department's conflict prevention and resolution activities.

(ii) Issue Departmental regulations, policies, and procedures relating to the use of Alternative Dispute Resolution (ADR) to resolve employment complaints and grievances, workplace disputes, Departmental program disputes, and contract and procurement disputes.

(iii) Provide ADR services for:

(A) The Secretary of Agriculture.

(B) The general officers of the Department.

(C) The offices and agencies reporting to the Assistant Secretary for Administration.

(D) Any other officer or agency of the Department as may be agreed.

(iv) Develop and issue standards for mediators and other ADR neutrals utilized by the Department.

(v) Coordinate ADR activities throughout the Department.

(vi) Monitor agency ADR programs and report at least annually to the Secretary on the Department's ADR activities.

(25) Redesignate, as appropriate, any authority delegated under this section to general officers of the Department and heads of Departmental agencies.

(b) [Reserved]

## Subpart F—Delegations of Authority by the Under Secretary for Farm and Foreign Agricultural Services

### § 2.42 [Amended]

■ 7. Remove § 2.42(a)(3)(ix) and redesignate § 2.42(a)(3)(x) as § 2.42(a)(3)(ix).

■ 8. Add § 2.43(a)(45) to read as follows:

### § 2.43 Administrator, Foreign Agricultural Service.

(a) \* \* \*

(45) Support remote sensing activities of the Department and research with satellite imagery including:

(i) Providing liaison with U.S. space programs;

(ii) Providing administrative management of the USDA Remote Sensing Archive and the transfer of satellite imagery to all USDA agencies;

(iii) Coordinating all agency satellite imagery data needs; and

(iv) Arranging for acquisition, and preparation of imagery for use to the extent of existing capabilities.

\* \* \* \* \*

## Subpart O—Delegations of Authority by the Assistant Secretary for Congressional Relations

■ 9. Revise § 2.85(a) to read as follows:

### § 2.85 Director, Office of Intergovernmental Affairs.

(a) Delegations. Pursuant to § 2.23, the following delegations of authority are made by the Assistant Secretary for Congressional Relations to the Director, Office of Intergovernmental Affairs:

(1) Coordinate all programs involving intergovernmental affairs including State and local government relations and liaison with:

(i) National Association of State Departments of Agriculture;

(ii) Office of Intergovernmental Relations (Office of Vice President);

(iii) Advisory Commission on Intergovernmental Relations;

(iv) Council of State Governments;

(v) National Governors Conference;

(vi) National Association of Counties;

(vii) National League of Cities;

(viii) International City Managers

Association;

(ix) U.S. Conference of Mayors; and

(x) Such other State and Federal agencies, departments, and organizations as are necessary in carrying out the responsibilities of this office.

(2) Maintain oversight of the activities of USDA representatives to the 10 Federal Regional councils.

(3) Serve as the USDA contact with the Advisory Commission on

Intergovernmental Relations for implementation of OMB Circular A-85 to provide advance notification to State and local governments of proposed changes in Department programs that affect such governments.

(4) Act as the Department representative for Federal executive board matters.

(5) Serve as the official with the principal responsibility for the implementation of Executive Order 13175, including consultation and collaboration with tribal officials, and coordinate the Department's programs involving assistance to American Indians and Alaska Natives.

\* \* \* \* \*

#### **Subpart P—Delegations of Authority by the Assistant Secretary for Administration**

##### **§ 2.92 [Amended]**

■ 10. Remove § 2.92(a)(24) and redesignate §§ 2.92(a)(25) and (26) as §§ 2.92(a)(24) and (25).

##### **§ 2.90 [Removed]**

■ 11. Remove and reserve § 2.90.

#### **Subpart R—Delegations of Authority by the Assistant Secretary for Civil Rights**

■ 12. Revise § 2.300 to read as follows:

##### **§ 2.300 Director, Office of Civil Rights.**

(a) Pursuant to § 2.25, the following delegations of authority are made by the Assistant Secretary for Civil Rights to the Director, Office of Civil Rights:

(1) Provide overall leadership, coordination, and direction for the Department's programs of civil rights, including program delivery, compliance, and equal employment opportunity, with emphasis on the following:

(i) Actions to enforce Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, prohibiting discrimination in federally assisted programs.

(ii) Actions to enforce Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, prohibiting discrimination in Federal employment.

(iii) Actions to enforce Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, *et seq.*, prohibiting discrimination on the basis of sex in USDA education programs and activities funded by the Department.

(iv) Actions to enforce the Age Discrimination Act of 1975, 42 U.S.C. 6102, prohibiting discrimination on the basis of age in USDA programs and activities funded by the Department.

(v) Actions to enforce section 504 of the Rehabilitation Act of 1973, as

amended, 29 U.S.C. 794, prohibiting discrimination against individuals with disabilities in USDA programs and activities funded by the Department.

(vi) Actions to enforce section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, prohibiting discrimination against individuals with disabilities in USDA conducted programs.

(vii) Actions to enforce related Executive Orders, Congressional mandates, and other laws, rules, and regulations, as appropriate.

(viii) Actions to develop and implement the Department's Federal Women's Program.

(ix) Actions to develop and implement the Department's Hispanic Employment Program.

(2) Evaluate Departmental agency programs, activities, and impact statements for civil rights concerns.

(3) Provide leadership and coordinate Departmental agencies and systems for targeting, collecting, analyzing, and evaluating program participation data and equal employment opportunity data.

(4) Provide leadership and coordinate Departmentwide programs of public notification regarding the availability of USDA programs on a nondiscriminatory basis.

(5) Coordinate with the Department of Justice on matters relating to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, *et seq.*), and section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), except those matters in litigation, including administrative enforcement actions, which shall be coordinated by the Office of the General Counsel.

(6) Coordinate with the Department of Health and Human Services on matters relating to the Age Discrimination Act of 1975, 42 U.S.C. 6102, except those matters in litigation, including administrative enforcement actions, which shall be coordinated by the Office of the General Counsel.

(7) Order proceedings and hearings in the Department pursuant to §§ 15.9(e) and 15.86 of this title which concern consolidated or joint hearings within the Department or with other Federal departments and agencies.

(8) Order proceedings and hearings in the Department pursuant to § 15.8 of this title after the program agency has advised the applicant or recipient of his or her failure to comply and has determined that compliance cannot be secured by voluntary means.

(9) Issue orders to give a notice of hearing or the opportunity to request a

hearing pursuant to part 15 of this title; arrange for the designation of an Administrative Law Judge to preside over any such hearing; and determine whether the Administrative Law Judge so designated will make an initial decision or certify the record to the Secretary of Agriculture with his or her recommended findings and proposed action.

(10) Authorize the taking of action pursuant to § 15.8(a) of this title relating to compliance by "other means authorized by law."

(11) Make determinations required by § 15.8(d) of this title that compliance cannot be secured by voluntary means, and then take action, as appropriate.

(12) Make determinations that program complaint investigations performed under § 15.6 of this title establish a proper basis for findings of discrimination, and that actions taken to correct such findings are adequate.

(13) Investigate (or make determinations that program complaint investigations establish a proper basis for final determinations), make final determinations on both the merits and required corrective action, and, where applicable, make recommendations to the Secretary that relief be granted under 7 U.S.C. 6998(d) notwithstanding the finality of National Appeals Division decisions, as to complaints filed under parts 15a, 15b, and 15d of this title, except in those cases where the Director, Office of Civil Rights, has participated in the events that gave rise to the matter.

(14) Conduct civil rights investigations and compliance reviews Departmentwide.

(15) Develop regulations, plans, and procedures necessary to carry out the Department's civil rights programs, including the development, implementation, and coordination of Action Plans.

(16) Monitor, evaluate, and report on agency compliance with established policy and Executive Orders which further the participation of historically Black colleges and universities, the Hispanic-serving institutions, 1994 tribal land grant institutions, and other colleges and universities with substantial minority group enrollment in Departmental programs and activities.

(17) *Related to Equal Employment Opportunity (EEO).* Provide support to the Assistant Secretary for Civil Rights who serves as the Department's Director of Equal Employment Opportunity, with authority to:

(i) Perform the functions and responsibilities of that position under

29 CFR part 1614, including the authority:

(A) To make changes in programs and procedures designed to eliminate discriminatory practices and improve the Department's EEO program.

(B) To provide EEO services for managers and employees.

(C) To make final agency decisions on EEO complaints by Department employees or applicants for employment and order such corrective measures in such complaints as may be considered necessary, including the recommendation for such disciplinary action as is warranted when an employee has been found to have engaged in a discriminatory practice.

(ii) Administer the Department's EEO program.

(iii) Oversee and manage the EEO counseling function for the Department.

(iv) Process formal EEO complaints by employees or applicants for employment.

(v) Investigate Department EEO complaints and make final decisions on EEO complaints, except in those cases where the Assistant Secretary has participated in the events that gave rise to the matter.

(vi) Order such corrective measures in EEO complaints as may be considered necessary, including the recommendation for such disciplinary action as is warranted when an employee has been found to engage in a discriminatory practice.

(vii) Provide liaison on EEO matters concerning complaints and appeals with the Department agencies and Department employees.

(viii) Coordinate the Department's affirmative employment program, special emphasis programs, Federal Equal Opportunity Recruitment Program, EEO evaluations, and development of policy.

(ix) Provide liaison on EEO programs and activities with the Equal Employment Opportunity Commission and the Office of Personnel Management.

(18) Maintain liaison with historically Black colleges and universities, the Hispanic-serving institutions, 1994 tribal land grant institutions, and other colleges and universities with substantial minority group enrollment, and assist Department agencies in strengthening such institutions by facilitating institutional participation in Department programs and activities and by encouraging minority students to pursue curricula that could lead to careers in the food and agricultural sciences.

(19) Administer the discrimination appeals and complaints program for the

Department, including all formal individual or group appeals, where the system provides for an avenue of redress to the Department level, Equal Employment Opportunity Commission, or other outside authority.

(20) Make final determinations, or enter into settlement agreements, on discrimination complaints in conducted programs subject to the Equal Credit Opportunity Act. This delegation includes the authority to make compensatory damage awards whether pursuant to a final determination or in a settlement agreement under the authority of the Equal Credit Opportunity Act and the authority to obligate agency funds, including CCC and FCIC funds to satisfy such an award.

(21) Provide civil rights and equal employment opportunity support services, with authority to take actions required by law or regulation to perform such services for:

(i) The Secretary of Agriculture.

(ii) The general officers of the Department.

(iii) The offices and agencies reporting to the Assistant Secretary for Administration.

(iv) Any other offices or agencies of the Department as may be agreed.

(22) *Related to outreach.*

(i) Develop policy guidelines and implement a Departmental outreach program which delivers services to traditionally under-served customers.

(ii) Develop a strategic outreach plan for the Department which coordinates the goals, objectives, and expectations of mission area outreach programs.

(iii) Coordinate the dissemination/communication of all outreach information from the Department and its mission areas ensuring its transmission to as wide a public spectrum as possible.

(iv) Serve as the Department's official outreach spokesperson.

(v) Provide coordination and oversight of agency outreach activities including the establishment of outreach councils.

(vi) Develop a system to monitor the delivery of outreach grants and funding.

(vii) Establish requirements and procedures for reporting agency outreach status and accomplishments including Departmental reporting under the Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers Program (7 U.S.C. 2279).

(24) *Related to conflict management.*

(i) Designate the senior official to serve as the Department Dispute Resolution Specialist under the Administrative Dispute Resolution Act of 1996, 5 U.S.C. 571, *et seq.*, and

provide leadership, direction and coordination for the Department's conflict prevention and resolution activities.

(ii) Issue Departmental regulations, policies, and procedures relating to the use of Alternative Dispute Resolution (ADR) to resolve employment complaints and grievances, workplace disputes, Departmental program disputes, and contract and procurement disputes.

(iii) Provide ADR services for:

(A) The Secretary of Agriculture.

(B) The general officers of the Department.

(C) The offices and agencies reporting to the Assistant Secretary for Administration.

(D) Any other officer or agency of the Department as may be agreed.

(iv) Develop and issue standards for mediators and other ADR neutrals utilized by the Department.

(v) Coordinate ADR activities throughout the Department.

(vi) Monitor Agency ADR programs and report at least annually to the Secretary on the Department's ADR activities.

(25) Redelegate, as appropriate, any authority delegated under this section to general officers of the Department and heads of Departmental agencies.

(b) [Reserved]

For Part 2, Subparts A, C, and P:

Dated: May 14, 2004.

**Ann M. Veneman,**

*Secretary of Agriculture.*

For Part 2, Subpart F:

Dated: May 18, 2004.

**J.B. Penn,**

*Under Secretary for Farm and Foreign Agricultural Services.*

For Part 2, Subpart O:

Dated: May 18, 2004.

**Mary K. Waters,**

*Assistant Secretary for Congressional Relations.*

For Part 2, Subpart R:

Dated: June 10, 2004.

**Vernon B. Parker,**

*Assistant Secretary for Civil Rights.*

[FR Doc. 04-13746 Filed 6-18-04; 8:45 am]

**BILLING CODE 3410-01-P**