

§ 1.132

Forest Resources Conversation and Shortage Relief Act of 1990, section 492 (16 U.S.C. 620d)

Fresh Cut Flowers and Fresh Cut Greens Promotion and Consumer Information Act of 1993, section 9 [7 U.S.C. 6808].

Honey Research, Promotion, and Consumer Information Act, section 11 (7 U.S.C. 4610).

Horse Protection Act of 1970, sections 4(c) and 6 (15 U.S.C. 1823(c), 1825).

Lacey Act Amendments of 1981, section 4 (a) and (b) (16 U.S.C. 3373 (a) and (b)).

Lime Research, Promotion, and Consumer Information Act of 1990, as amended, section 1958 [7 U.S.C. 6207]

Mushroom Promotion, Research, and Consumer Information Act of 1990, section 1928 [7 U.S.C. 6107]

Packers and Stockyards Act, 1921, as supplemented, sections 203, 312, and 401 of the Act, and section 1, 57 Stat. 422, as amended by section 4, 90 Stat. 1249 (7 U.S.C. 193, 204, 213, 221)

Pecan Promotion and Research Act of 1990, section 1914 [7 U.S.C. 6009]

Perishable Agricultural Commodities Act, 1930, sections 1(b)(9), 3(c), 4(d), 6(c), 8(a), 8(b), 8(c), 8(e), 9, and 13(a) (7 U.S.C. 499a(b)(9), 499c(c), 499d(d), 499f(c), 499h(a), 499h(b), 499h(c), 499h(e), 499i, 499m(a))

Plant Protection Act, section 424 (7 U.S.C. 7734).

Pork Promotion, Research, and Consumer Information Act of 1985, section 1626 (7 U.S.C. 4815).

Potato Research and Promotion Act, as amended, 7 U.S.C. 2621, Pub. L. 97-244, 96 Stat. 310.

Poultry Products Inspection Act, sections 6, 7, 8(d), and 18 (21 U.S.C. 455, 456, 457(d), 467).

Sheep Promotion, Research, and Information Act of 1994 [7 U.S.C. 7107].

Soybean Promotion, Research, and Consumer Information Act, section 1972 [7 U.S.C. 6307].

Swine Health Protection Act, sections 5 and 6 (7 U.S.C. 3804, 3805).

Title V of the Agricultural Risk Protection Act of 2000, section 501(a) (7 U.S.C. 2279e).

United States Cotton Standards Act, as supplemented, section 3 of the Act and section 2 of 47 Stat. 1621 (7 U.S.C. 51b, 53).

United States Grain Standards Act, sections 7(g)(3), 9, 10, and 17A(d) (7 U.S.C. 79(g)(3), 85, 86, 87f-1(d)).

United States Warehouse Act, sections 12 and 25 (7 U.S.C. 246, 253).

Virus-Serum-Toxin Act (21 U.S.C. 156).

Watermelon Research and Promotion Act, section 1651 (7 U.S.C. 4910).

(b) These rules of practice shall also be applicable to:

(1) Adjudicatory proceedings under the regulations promulgated under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) for the denial or

7 CFR Subtitle A (1-1-05 Edition)

withdrawal of inspection, certification, or grading service; ¹

(2) Adjudicatory proceedings under the regulations promulgated under the Animal Quarantine and Related Laws (21 U.S.C. 111 *et seq.*) for the suspension or revocation of accreditation of veterinarians (9 CFR parts 160, 161);

(3) Proceedings for debarment of counsel under §1.141(d) of this subpart; and

(4) Other adjudicatory proceedings in which the complaint instituting the proceeding so provides with the concurrence of the Assistant Secretary for Administration.

[42 FR 743, Jan. 4, 1977, as amended at 42 FR 15406, Mar. 22, 1977; 45 FR 68381, Oct. 15, 1980; 47 FR 15559, Apr. 12, 1982; 47 FR 30451, July 14, 1982; 48 FR 28189, June 21, 1983; 49 FR 21293, May 21, 1984; 49 FR 37727, Sept. 26, 1984; 53 FR 1001, Jan. 15, 1988; 53 FR 35296, Sept. 13, 1988; 56 FR 22106, May 14, 1991; 60 FR 8455, Feb. 14, 1995; 60 FR 33329, June 28, 1995; 61 FR 11503, Mar. 21, 1996; 66 FR 36908, July 16, 2001; 67 FR 70674, Nov. 26, 2002; 68 FR 6340, Feb. 7, 2003]

§ 1.132 Definitions.

As used in this subpart, the terms as defined in the statute under which the proceeding is conducted and in the regulations, standards, instructions, or orders issued thereunder, shall apply with equal force and effect. In addition and except as may be provided otherwise in this subpart:

Administrator means the Administrator of the Agency administering the statute involved, or any officer or employee of the Agency to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act for the Administrator.

Complainant means the party instituting the proceeding.

Complaint means the formal complaint, order to show cause, or other document by virtue of which a proceeding is instituted.

Decision means: (1) The Judge's initial decision made in accordance with the provisions of 5 U.S.C. 556 and 557, and includes the Judge's (i) findings and conclusions and the reasons or basis therefor on all material issues of fact, law or discretion, (ii) order, and (iii) rulings on proposed findings, conclusions and orders submitted by the parties; and

(2) The decision and order by the Judicial Officer upon appeal of the Judge's decision.

Hearing means that part of the proceeding which involves the submission of evidence before the Judge for the record in the proceeding.

Hearing Clerk means the Hearing Clerk, United States Department of Agriculture, Washington, DC 20250.

Judge means any Administrative Law Judge appointed pursuant to 5 U.S.C. 3105 and assigned to the proceeding involved.

Judicial Officer means an official of the United States Department of Agriculture delegated authority by the Secretary of Agriculture, pursuant to the Act of April 4, 1940 (7 U.S.C. 450c-450g) and Reorganization Plan No. 2 of 1953 (5 U.S.C. App. (1988)), to perform the function involved (§ 2.35(a) of this chapter), or the Secretary of Agriculture if the authority so delegated is exercised by the Secretary.

Mail means to deposit an item in the United States Mail with postage affixed and addressed as necessary to cause it to be delivered to the address shown by ordinary mail, or by certified or registered mail if specified.

Petitioner means an individual who has filed a petition for review of a determination that the individual is responsibly connected to a licensee within the meaning of 7 U.S.C. 499a(b)(9).

Re-mail means to mail by ordinary mail to an address an item that has been returned after being sent to the same address by certified or registered mail.

Respondent means the party proceeded against.

[42 FR 743, Jan. 4, 1977, as amended at 55 FR 30673, July 27, 1990; 60 FR 8455, Feb. 14, 1995; 61 FR 11503, Mar. 21, 1996; 68 FR 6340, Feb. 7, 2003]

§ 1.133 Institution of proceedings.

(a) *Submission of information concerning apparent violations.* (1) Any interested person desiring to submit information regarding an apparent violation of any provision of a statute listed in § 1.131 or of any regulation, standard, instruction, or order issued pursuant thereto, may file the information with the Administrator of the agency administering the statute involved in ac-

cordance with this section and any applicable statutory or regulation provisions. Such information may be made the basis of any appropriate proceeding covered by the rules in this subpart, or any other appropriate proceeding authorized by the particular statute or the regulations promulgated thereunder.

(2) The information may be submitted by telegram, by letter, or by a preliminary statement of facts, setting forth the essential details of the transaction complained of. So far as practicable, the information shall include such of the following items as may be applicable:

(i) The name and address of each person and of the agent, if any, representing such person in the transaction involved;

(ii) Place where the alleged violation occurred;

(iii) Quantity and quality or grade of each kind of product or article involved;

(iv) Date of alleged violation;

(v) Car initial and number, if carlot;

(vi) Shipping and destination points;

(vii) If a sale, the date, sale price, and amount actually received;

(viii) If a consignment, the date, reported proceeds, gross, net;

(ix) Amount of damage claimed, if any;

(x) Statement of other material facts, including terms of contract; and

(xi) So far as practicable, true copies of all available papers relating to the transaction complained about, including shipping documents, letters, telegrams, invoices, manifests, inspection certificates, accounts of sales and any special contracts or agreements.

(3) Upon receipt of the information and supporting evidence, the Administrator shall cause such investigation to be made as, in the opinion of the Administrator, is justified by the facts. If such investigation discloses that no violation of the Act or of the regulations, standards, instructions, or orders issued pursuant thereto, has occurred, no further action shall be taken and the person submitting the information shall be so informed.

(4) The person submitting the information shall not be a party to any proceeding which may be instituted as a