

§ 47.21

for the proper disposition of the proceeding, the examiner, upon his or her own or any party's motion, may order the proceeding set down for oral hearing at any stage of the proceeding.

[27 FR 12398, Dec. 14, 1962, as amended at 47 FR 21234, May 18, 1982; 56 FR 175, Jan. 3, 1991; 60 FR 8462, Feb. 14, 1995; 64 FR 38107, July 15, 1999]

§ 47.21 Transmittal of record.

The Hearing Clerk, immediately after the filing of the examiners' report, shall transmit to the Secretary the record of the proceeding. Such record shall include: The pleadings; motions and requests filed, and rulings thereon; the report of investigation conducted by the Fruit and Vegetable Programs; the transcript or record of the testimony taken at the hearing, together with the exhibits filed therein; any statements or stipulations filed under the documentary procedure; any documents or papers filed in connection with conferences; such proposed findings of fact, conclusions, and orders and briefs as may have been permitted to be filed in connection with the hearing as provided in § 47.19(b) and (c); such statements of objections, and briefs in support thereof, as may have been filed in the proceeding; and the examiner's report.

[64 FR 38108, July 15, 1999]

§ 47.22 Argument before Secretary.

(a) *Oral argument.* There shall be no right to oral argument other than as provided in § 47.15(h).

(b) *Briefs.* The Secretary will consider any proposed findings of fact, conclusions, and orders, statements of objections, and briefs filed as provided in § 47.19(b). Briefs filed in accordance with § 47.19(c) and those filed in support of statements of fact will also be considered by the Secretary.

[10 FR 2209, Feb. 27, 1945, as amended at 12 FR 1026, Feb. 13, 1947; 60 FR 8462, Feb. 14, 1995]

§ 47.23 Issuance of order.

As soon as practicable after the receipt of the record from the Hearing Clerk, the Secretary, upon the basis of and after due consideration of the record, shall issue his or her order in

7 CFR Ch. I (1-1-11 Edition)

the proceeding. Unless the Secretary disagrees with the order as drafted for his or her signature by the examiner, as provided in § 47.19(d), the Secretary shall issue as his or her order the order so prepared by the examiner. If the Secretary deems it advisable to do so, the Secretary may direct that the order be served upon the parties as a tentative order and that the parties be allowed such period of time, not to exceed 20 days, as the Secretary may specify, within which to file exceptions thereto and written argument or briefs in support of such exceptions.

[10 FR 2209, Feb. 27, 1945, as amended at 60 FR 8462, Feb. 14, 1995]

§ 47.24 Rehearing, reargument, reconsideration of orders, reopening of hearings, reopening after default.

(a) *Petitions to rehear, reargue, and reconsider.* A petition for rehearing or reargument of the proceeding, or for reconsideration of the order, shall be made by petition to the Secretary filed with the Hearing Clerk within 20 days after the date of service of the order. Every such petition shall state specifically the matters claimed to have been erroneously decided and the alleged errors. If the Secretary concludes that the questions raised by the petition have been sufficiently considered in the issuance of the order, the Secretary shall dismiss the petition without service on the other party. Otherwise, the Secretary shall direct that a copy of the petition be served upon such party by the Hearing Clerk. The filing of a petition to rehear or reargue a proceeding, or to reconsider an order, shall automatically operate to set aside the order pending final action on the petition. Only one petition to rehear, reargue, or reconsider will be accepted from each party, except when a mathematical or typographical error appears in either the original decision and order or in the decision on reconsideration.

(b) *Petition to reopen.* A petition to reopen the hearing to take further evidence may be filed with the examiner at any time prior to the issuance of the final order. Every such petition shall state briefly the nature and purpose of the evidence to be adduced, shall show