

(a) *Rate proceeding* means a proceeding involving the determination and prescription of any rate or charge made or proposed to be made for any stockyard service furnished at a stockyard by a stockyard owner or market agency, or a proceeding involving any rule, regulation or practice affecting any such rate or charge; and

(b) *Administrator* means the Administrator of the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) (GIPSA), or any officer or employee of GIPSA to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act for the Administrator.

§ 202.3 Institution of proceedings.

(a) *Informal complaint*. Any interested person desiring to complain of the lawfulness of any rate or charge made or proposed to be made for any stockyard service furnished at a stockyard by a stockyard owner or market agency, or rule, regulation or practice affecting any such rate or charge, may file an informal complaint with the Administrator.

(b) *Investigation*. If there appears to be any reasonable ground for doing so, the Administrator will investigate the matter complained of. If the Administrator reasonably believes that there are not sufficient facts to form the basis for further proceeding, the matter may be dropped. If it is dropped, the person filing the informal complaint will be informed.

(c) *Status of person filing*. A person filing an informal complaint will be a party to a rate proceeding if the Administrator files such person's informal complaint as a formal complaint, or if the Judge permits such person to intervene upon written application.

(d) *Formal complaint*. A rate proceeding may be instituted only upon filing of a formal complaint by the Administrator. A formal complaint may be filed on the initiative of the Administrator, or on the basis of an informal complaint, or by filing the informal complaint as a formal complaint. A formal complaint filed by the Administrator, or a summary thereof, will be published in the FEDERAL REGISTER, together with notice of the time by

which, and the place where, any interested person may file a written request to be heard.

§ 202.4 Answer and reply.

Respondent is not required to file an answer. If an answer is filed, complainant is not required to file a reply.

§ 202.5 Hearing.

The hearing will be oral unless all parties waive oral hearing. It will be written if not oral. Notice of the date, time and place of oral hearing, or of the date and place for filing of written submissions in a written hearing, will be served on the Administrator and the respondent, and on such other persons as have requested in writing to be heard.

§ 202.6 Taking no position on the merits.

The proceeding may be instituted by filing of the informal complaint as a formal complaint, and the Administrator may take no position on the merits of the case.

§ 202.7 Modification or vacation of final order.

(a) *Informal petition*. Any interested person may file an informal petition to modify or vacate a final order at any time. Any such petition must be filed with the Administrator, be based on matters arising after the issuance of the final order, and set forth such matters, and the reasons or conditions relied on, with such particularity as is practicable. Any such informal petition will be handled as otherwise provided for an informal complaint.

(b) *Formal motion*. A final order may be modified or vacated at any time only upon filing of a formal motion by the Administrator. Such a motion may be filed on the initiative of the Administrator, on the basis of an informal petition, or by filing of an informal petition as a formal motion.

(c) *Publication*. If the modification or vacation sought would involve an increase of a rate or charge lawfully prescribed by the Secretary, or involve a rate or charge in addition to what is specified in the final order, or involve a regulation or practice so affecting such a rate or charge, the formal motion, or

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a summary thereof, will be published in the FEDERAL REGISTER, together with notice of the place, and the time by which, any interested person may file a written request to be heard.

(d) *Proceedings*. Proceedings upon such a formal motion will be as otherwise provided for a formal complaint.

RULES OF PRACTICE APPLICABLE TO REPARATION PROCEEDINGS

§ 202.101 Rule 1: Meaning of words.

In these rules, words in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 202.102 Rule 2: Definitions.

Terms defined in the Act shall mean the same in these rules as in the Act. In addition, and except as may be provided otherwise in these rules:

Act means the Packers and Stockyards Act, 1921, and legislation supplementary thereto and amendatory thereof, 7 U.S.C. 181 *et seq.*;

Agency means those divisions and offices of the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) of the Department which are charged with administration of the Act;

Agency Head means the Administrator, Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) of the Department, or any officer or employee of the Agency to whom authority is lawfully delegated to act for the Administrator;

Complainant means the party who files a complaint and claims reparation, or on whose behalf a complaint is filed and reparation is claimed, in a reparation proceeding;

Department means the United States Department of Agriculture;

Docketing of a reparation proceeding means transmittal of papers to the Hearing Clerk and assignment of a docket number as provided in Rule 8, § 202.108, of these rules;

Hearing means that part of a reparation proceeding which involves the submission of evidence for the record and means either an oral or a written hearing;

Hearing Clerk means the Hearing Clerk of the Department (see 7 CFR 2.25(a)(3));

Judicial Officer means the official of the Department delegated authority by the Secretary, pursuant to the Act of April 4, 1940 (7 U.S.C. 450c–450g) and Reorganization Plan No. 2 of 1953, to perform the function involved (see 7 CFR 2.35);

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.

Presiding Officer means any attorney who is employed in the Office of the General Counsel of the Department and is assigned so to act in a reparation proceeding;

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.

Reparation proceeding or *Proceeding* means a proceeding under the Act before the Secretary, in which an order for the payment of money is claimed and in which the Secretary is not a party of record;

Report means the report to the Judicial Officer of the presiding officer's recommended findings of fact and conclusions with respect to all material issues of fact, law or discretion, as well as the reasons or basis therefor, and order, in a reparation proceeding.

Respondent means the party against whom a complaint is filed and reparation is claimed, in a reparation proceeding;

Secretary means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority is lawfully delegated to act for the Secretary;

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§ 202.103 Rule 3: Beginning a reparation proceeding.

(a) *Filing*. A reparation proceeding is begun by filing a complaint. Any interested person (including any agency of a state or territory having jurisdiction over persons subject to the Act in such