

Establishment of the Grain Inspection, Packers and Stockyards Administration

Pursuant to Public Law 103-354, the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, the Secretary of Agriculture published a notice of the Department's reorganization establishing the Grain Inspection, Packers and Stockyards Administration (59 FR 66517). This rule includes amendments to 9 CFR chapter II which are necessary to bring agency regulations in alignment with the departmental reorganization.

Executive Order 12866 and Regulatory Flexibility Act

We are issuing this final rule in conformance with Executive Order 12866. This rule has been determined to be significant and has been reviewed by the Office of Management and Budget under Executive Order 12866.

This final rule provides for conducting certain conferences, depositions, and hearings in connection with proceedings under the Uniform Rules, the Capper-Volstead Rules, the PACA Reparation Rules, the PACA Responsibly Connected Rules, and the P&S Reparation Rules by telecommunication. Further, the final rule provides for the use of recordings in connection with depositions and hearings conducted under the Uniform Rules, the Capper-Volstead Rules, the PACA Reparation Rules, the PACA Responsibly Connected Rules, and the P&S Reparation Rules. Finally, this final rule requires each party to exchange, in writing, with all other parties in the proceeding a verified narrative statement of the oral direct testimony of certain specified witnesses the party intends to call in hearings to be conducted by telephone. These amendments are designed to save money associated with the purchase of transcripts and time and money associated with travel to conferences, depositions, and hearings.

Most of the costs of the proceedings conducted under the Uniform Rules, the Capper-Volstead Rules, the PACA Reparation Rules, the PACA Responsibly Connected Rules, and the P&S Reparation Rules are borne by the United States, which is not a small entity. The vast majority of conferences, hearings, and depositions held under the rules we are amending are conducted at locations convenient to the private individuals participating in the proceeding. Therefore, the United States will incur most of the costs associated with travel in connection with the proceedings. Further, most conferences

held under the rules that we are amending are currently held by telephone, unless the conference is held during the hearing. Therefore, this final rule will not result in a change with respect to the manner in which most conferences are conducted.

Nonetheless, we believe that private individuals who participate in conferences, depositions, and hearings conducted by telecommunication, which will be paid for by the United States, will reduce costs which are associated with travel, even to convenient locations, and private parties who participate in these proceedings will save the difference between the cost of transcripts and recordings in depositions and hearings in which recordings are used.

Most of the private individuals who participate in proceedings conducted under the Uniform Rules, the Capper-Volstead Rules, the PACA Reparation Rules, the PACA Responsibly Connected Rules, and the P&S Reparation Rules are small entities. This final rule will result in a small economic impact on private individuals who participate in the proceedings in question.

Under these circumstances, the Secretary has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

The Paperwork Reduction Act of 1980 does not apply to this rule because the rule does not seek answers to identical questions or impose reporting or record keeping requirements on 10 or more persons, and the information collected is not used for general statistical purposes.

List of Subjects*7 CFR Part 0*

Conflict of interest.

7 CFR Part 1

Administrative practice and procedure, Agriculture, Antitrust, Blind, Claims, Concessions, Cooperatives, Equal access to justice, Federal buildings and facilities, Freedom of information, Lawyers, Privacy.

7 CFR Part 47

Administrative practice and procedure, Agricultural commodities, Agricultural Marketing Service, Brokers.

7 CFR Part 50

Administrative practice and procedure, Agricultural commodities, Agricultural Marketing Service.

7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Vegetables.

7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and recordkeeping requirements, Vegetables.

7 CFR Part 53

Cattle, Hogs, Livestock, Sheep.

7 CFR Part 54

Food grades and standards, Food labeling, Meat and meat products.

7 CFR Part 97

Administrative practice and procedure, Labeling, Plants.

9 CFR Part 202

Agriculture, Animals, Administrative practice and procedure, Reparation proceedings.

Accordingly, 7 CFR part 0, part 1, subpart H and subpart I, part 47, part 50, part 51, part 52, part 53, part 54, and part 97 and 9 CFR part 202 are amended as follows:

TITLE 7—[AMENDED]**SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE****PART 0—EMPLOYEE RESPONSIBILITIES AND CONDUCT**

1. The authority citation for part 0 is revised to read as follows:

Authority: E.O. 11222, 30 FR 6469, 3 CFR, 1965 Comp., page 306; 5 CFR 735.104; 18 U.S.C. 207(j), unless otherwise noted.

§ 0.735-11 [Amended]

2. Section 0.735-11 is amended as follows:

a. In paragraph (b)(6), by adding the words "or such monitoring or recording occurs in the course of a Department of Agriculture proceeding conducted by telephone or audio-visual telecommunication and the person conducting the proceeding is an administrative law judge, hearing officer, examiner, or presiding officer" immediately before the semicolon.