

TITLE 9—[AMENDED]**Chapter II—Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs), Department of Agriculture**

67. The heading of 9 CFR chapter II is revised to read as set forth above.

68. In 9 CFR chapter II, consisting of parts 200 to 205, all references to "Packers and Stockyards Administration" are revised to read "Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs)" and all references to "P&SA" are revised to read "GIPSA".

PART 202—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE PACKERS AND STOCKYARDS ACT

69. The authority citation for part 202 is revised to read as follows:

Authority: 7 U.S.C. 228(a); 7 CFR 2.17(e), 2.56.

§ 202.102 [Amended]

70. Section 202.102 is amended by removing all paragraph designations and placing the definitions in alphabetical order.

§ 202.103 [Amended]

71. In § 202.103, paragraph (a), the second sentence is amended by removing the words "the provisions of".

§ 202.105 [Amended]

72. In § 202.105, paragraph (f)(2) is amended by removing the words "of this part".

§ 202.109 [Amended]

73. Section 202.109 is amended as follows:

a. Paragraph (a)(5) is revised to read as set forth below.

b. In paragraph (c)(2), in the second sentence, the word "pace" is removed and the word "place" is added in its place.

c. Paragraph (d) is revised to read as set forth below.

d. In paragraph (g), the words "or recording" are added immediately after the word "transcript" each of the four times the word "transcript" appears.

e. In paragraph (h), the words "or recording" are added immediately after the word "transcript" each of the four times the word "transcript" appears.

f. In paragraph (i), the words "or recording" are added immediately after the word "transcript" each of the six times the word "transcript" appears and, in the first sentence, the words "the provisions of" are removed.

g. In paragraph (j), the word "therein" is removed and the words "in the deposition" added in its place.

h. In paragraph (l), the words "or recording" are to be added immediately after the word "transcript" both times the word "transcript" appears.

§ 202.109 Rule 9: Depositions.

(a) * * *

(5) if oral, a suggested time and place where the proposed deposition is to be made and a suggested manner in which the proposed deposition is to be conducted (telephone, audio-visual telecommunication, or by personal attendance of the individuals who are expected to participate in the deposition). The application for an order for the taking of testimony by deposition shall be made in writing, unless it is made orally on the record at an oral hearing.

* * * * *

(d) *Order.* (1) The presiding officer, if satisfied that good cause for taking the deposition is present, may order the taking of the deposition.

(2) The order shall be served on the parties and shall include:

(i) The name and address of the officer before whom the deposition is to be made;

(ii) The name of the deponent;

(iii) Whether the deposition will be oral or on written questions;

(iv) If the deposition is oral, the manner in which the deposition is to be conducted (telephone, audio-visual telecommunication, or personal attendance of those who are to participate in the deposition); and

(v) The time, which shall not be less than 20 days after the issuance of the order, and place.

(3) The officer, time, place, and manner of the deposition as stated in the presiding officer's order need not be the same as the officer, time, place, and manner suggested in the application.

(4) The deposition shall be conducted in the manner (telephone, audio-visual telecommunication, or personal attendance of those who are to participate in the deposition) agreed to by the parties.

(5) If the parties cannot agree on the manner in which the deposition is to be conducted:

(i) The deposition shall be conducted by telephone unless the presiding officer determines that conducting the deposition by audio-visual telecommunication:

(A) Is necessary to prevent prejudice to a party;

(B) Is necessary because of a disability of any individual expected to participate in the deposition; or

(C) Would cost less than conducting the deposition by telephone.

(ii) If the deposition is not conducted by telephone, the deposition shall be conducted by audio-visual telecommunication unless the presiding officer determines that conducting the deposition by personal attendance of any individual who is expected to participate in the deposition:

(A) Is necessary to prevent prejudice to a party;

(B) Is necessary because of a disability of any individual expected to participate in the deposition; or

(C) Would cost less than conducting the deposition by telephone or audio-visual telecommunication.

* * * * *

§ 202.110 [Amended]

74. Section 202.110 is amended as follows:

a. In paragraph (a), the last sentence, the words "or recording" are added immediately after the word "transcript".

b. Paragraph (b) is revised to read as set forth below.

§ 202.110 Rule 10: Prehearing Conference.

* * * * *

(b) *Manner of the prehearing conference.* (1) The prehearing conference shall be conducted by telephone or correspondence unless the presiding officer determines that conducting the prehearing conference by audio-visual telecommunication:

(i) Is necessary to prevent prejudice to a party;

(ii) Is necessary because of a disability of any individual expected to participate in the prehearing conference; or

(iii) Would cost less than conducting the prehearing conference by telephone or correspondence.

If the presiding officer determines that a prehearing conference conducted by audio-visual telecommunication would measurably increase the United States Department of Agriculture's cost of conducting the prehearing conference, the prehearing conference shall be conducted by personal attendance of any individual who is expected to participate in the prehearing conference, by telephone, or by correspondence.

(2) If the prehearing conference is not conducted by telephone or correspondence, the prehearing conference shall be conducted by audio-visual telecommunication unless the presiding officer determines that conducting the prehearing conference by personal attendance of any individual who is expected to participate in the prehearing conference:

(i) Is necessary to prevent prejudice to a party;