§ 202.103 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;

§ 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 state or territory) desiring to complain of anything done or omitted to be done by any stockyard owner, market agency, or dealer in violation of sections 304, 305, 306, or 307, or of an order of the Secretary made under title III, of the Act, may file a complaint to begin a reparation proceeding.

(b) Form. The complaint must be in writing, state the facts of the matter complained of, identify each person complained against (respondent), and identify each person who complains against such respondent and claims reparation from such respondent. It may be on a printed form supplied by the Agency, or may be a formal document, or may be a letter, mailgram, or telegram. It may be typewritten or handwritten. If it is not on a printed form supplied by the Agency, the Agency Head may, prior to docketing of the proceeding, recommend to the complainant that an amended complaint be filed on such a printed form.

(c) Contents and attachments. So far as practicable, the complaint should include the following items as applicable:

(1) Date and place where the alleged violation occurred;

(2) Quantity and quality of the live-stock involved;

(3) Whether a sale is involved and, if so, the date, sale price, and amount actually paid and received;

(4) Whether a consignment is involved and, if so the date, reported proceeds, gross, net;

(5) Amount of reparation claimed, and method of computation;

(6) Name and address of each partner or member, if a partnership or joint venture is involved;

(7) Name and address of each person involved, including any agent representing the complainant or the respondent in the transaction involved;

(8) Other material facts, including terms of contract; and

(9) True copies of all available papers relating to the transaction complained about, including shipping documents, letters, telegrams, invoices, manifests, accounts of sales, and special contracts or agreements, and checks and drafts.

If it appears that any such item has been omitted from the complaint, the Agency Head may, prior to docketing of the proceeding, recommend to the complainant that such item be supplied by written amendment to the complaint.

(d) Where to file. The complaint should be transmitted or delivered to any area office of the Agency, or to the headquarters of the Agency in Washington, DC, or delivered to any full time employee of the Agency.

(e) Time for filing. The complaint must be received by the Department within 90 days after accrual of the cause of action alleged in it. If a complaint is transmitted or delivered to an office of the Department, it shall be

(a) Informal disposition. If there appears to be any reasonable ground for doing so, the Agency Head shall investigate the matter complained of. If the Agency Head reasonably believes that there are not sufficient facts to form the basis for further proceeding, the matter may be dropped, without prejudice to subsequent court action on the same cause of action; if it is dropped, the person filing the complaint shall be informed. If the statements in the complaint, and information obtained in the investigation, seem to warrant such action, the Agency Head may make an effort to obtain the consent of the parties to an amicable or informal adjustment of the matter by communication with the parties or their attorneys or representatives. Such communication may be written or oral or both.

(b) Service of complaint. If the matter is not disposed of as provided in paragraph (a), the complaint, together with any amendment which has been filed, shall be served on the respondent with a notice that an answer is required.

(c) Service of report of investigation. A report prepared by the Agency, of its investigation of the matter complained of, and supplements to such a report, may be served on the parties and made a part of the record of the proceeding. Whether such a report or supplement shall be prepared, and whether it shall be served on the parties and made a part of the record, and its contents, shall be in the discretion of the Agency Head. The Judicial Officer shall consider information in such a report or supplement as part of the evidence in the proceeding, to the extent that such information is relevant and material to the proceeding. Any party may submit evidence in rebuttal of such information as is provided generally in these rules for the submission of evidence. Oral testimony, to the extent credible, shall be given greater weight as evidence than such information.