§ 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 livestock 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 deemed to be received by the Department when it reaches such office. If a complaint is delivered to a full time employee of the Agency, it shall be deemed to be received by the Department when it is received by such employee.

(f) Amendment. The complaint may be amended at any time prior to the close of an oral hearing or the filing of the
last evidence in a written hearing, except that:

(1) An amendment cannot add a respondent if it is filed more than 90 days after accrual of the cause of action against such respondent;

(2) An amendment cannot state a new and different cause of action if it is filed more than 90 days after accrual of such new and different cause of action; and

(3) After the first amendment, or after the filing of an answer by the respondent, an amendment may not be filed without the written consent of the respondent, or leave of the presiding officer, or, prior to docketing of the proceeding, leave of the Agency Head. Any such amendment must be filed in writing and signed by the complainant or the attorney or representative of the complainant. If any such amendment is filed before the initial service of the complaint on the respondent, it shall be served on the respondent only if the complaint is served as provided in Rule 4(b), §202.104(b). If any such amendment is filed after such service, it shall be served on the respondent in any case.

(g) Withdrawal. At any time, a complainant may withdraw a complaint filed by or on behalf of the same complainant, thus terminating the reparation proceeding on such complaint unless a counterclaim or another complaint is pending therein. If a complainant fails to cooperate with the Secretary in the disposition of the matter complained of, such complainant may be presumed to desire to withdraw the complaint filed by or on behalf of such complainant, after service on the parties of written notice of the facts of such failure and reasonable opportunity for such complainant to state whether such presumption is correct.


(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.

§202.105 Rule 5: Filing; time for filing; service.

(a) Filing; number of copies. Prior to docketing of a proceeding under these rules, all documents and papers other than the initial complaint, filed in the proceeding, shall be filed with the Agency. After such docketing of a proceeding, all such documents and papers shall be filed with the hearing clerk. Provided, That all such documents and papers, except a petition for disqualification of a presiding officer, shall be filed with the presiding officer if the parties have been served with written