

## § 205.203

term which does not include any requirement that the EFS be the instrument by which a security interest is created or perfected. Note also the House Committee Report on Pub. L. 99-198, No. 99-271, Part 1, September 13, 1985, at page 110: “[T]he bill would not preempt basic state-law rules on the creation, perfection, or priority of security interests.”

(b) An EFS may be filed electronically provided a State allows electronic filing of financing statements without the signature of the debtor under applicable State law under provisions of the Uniform Commercial Code or may be a paper document. An electronically filed EFS need not be a paper document and need not be signed. If an original or reproduced paper document of an EFS is filed with the State, it must be signed, authorized, or otherwise authenticated by the debtor and be filed by the secured party.

(c) Countermeasures against mishandling after filing, such as a requirement that a copy be date stamped and returned to the secured party, are discretionary with the State. If a State chooses to adopt such countermeasures, it is responsible for establishing procedures for recording the date and time when an EFS is received, and for meeting all legal requirements associated with filing and distributing information about security interests as required by § 205.101.

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[51 FR 29451, Aug. 18, 1986, as amended at 61 FR 54728, Oct. 22, 1996; 71 FR 56343, Sept. 27, 2006]

## § 205.203 Place of filing EFS.

The place of filing an EFS is wherever State law requires, which need not be with the system operator so long as the system operator receives the information needed for the master list, including the information required in subsection (c)(4)(C). Note that the requirements in subsection (c)(4) for an EFS include the requirement that it be “filed with the Secretary of State,” but the definition in (c)(11) of “Secretary of State” includes “designee of the State,” and the requirements in (c)(2) for a system refer in (A) to filing

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with the system operator of “effective financing statements or notice of such financing statements.” (emphasis added)

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[51 FR 29451, Aug. 18, 1986, as amended at 71 FR 56343, Sept. 27, 2006]

## § 205.204 Filing “notice” of EFS.

(a) If an EFS is filed somewhere other than with the system operator, and if notice of it is filed with the system operator, such notice could be electronic filing, telephoned information, or any other form of notice which gives the system operator the information needed for the master list. Such notice need not be signed. Note that the Section does not contain any requirement for such notice except the one in subsection (c)(4)(B) that an EFS must be filed somewhere pursuant to State law as discussed above.

(b) Countermeasures against falsifications, errors or omissions in such notices or in the handling of them by the system operator, such as requirements that the notices be on paper and signed, with copies date-stamped and returned to the persons filing them, however advisable they might be from other standpoints, are discretionary with the State and not required by the Section.

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[51 FR 29451, Aug. 18, 1986, as amended at 71 FR 56343, Sept. 27, 2006]

## § 205.205 Fees.

The Section provides at subsection (c)(4)(G) for a fee for filing an EFS. The fee can be set in any manner provided by the law of the State in which such EFS is filed. The basis for this is that (c)(4)(G) provides for the fee to be set by the “Secretary of State” but (c)(11) defines the latter term to include “designee of the State.” The fee structure is discretionary with the State.

[51 FR 29451, Aug. 18, 1986, as amended at 71 FR 56343, Sept. 27, 2006]

## § 205.206 Farm products.

(a) The master list must be organized by farm product as required by subsection (c)(2) and the farm product

must be identified on an EFS as required by subsection (c)(4)(C)(iv). The following is a list of such farm products.

Rice, rye, wheat, other food grains (system must specify by name)  
 Barley, corn, hay, oats, sorghum grain, other feed crops (system must specify by name)  
 Cotton  
 Tobacco  
 Flaxseed, peanuts, soybeans, sunflower seeds, other oil crops (system must specify by name)  
 Dry beans, dry peas, potatoes, sweet potatoes, taro, other vegetables (system must specify by name)  
 Artichokes, asparagus, beans lima, beans snap, beets, Brussels sprouts, broccoli, cabbage, carrots, cauliflower, celery, corn sweet, cucumbers, eggplant, escarole, garlic, lettuce, onions, peas green, peppers, spinach, tomatoes, other truck crops (system must specify by name)  
 Melons (system must specify by name)  
 Grapefruit, lemons, limes, oranges, tangelos, tangerines, other citrus fruits (system must specify by name)  
 Apples, apricots, avocados, bananas, cherries, coffee, dates, figs, grapes (& raisins), nectarines, olives, papayas, peaches, pears, persimmons, pineapples, plums (& prunes), pomegranates, other noncitrus fruits (system must specify by name)  
 Berries (system must specify by name)  
 Tree nuts (system must specify by name)  
 Bees wax, honey, maple syrup, sugar beets, sugar cane, other sugar crops (system must specify by name)  
 Grass seeds, legume seeds, other seed crops (system must specify by name)  
 Hops, mint, popcorn, other miscellaneous crops (system must specify by name)  
 Greenhouse & nursery products produced on farms (system must specify by name)  
 Mushrooms, trees, other forest products (system must specify by name)  
 Chickens, ducks, eggs, geese, turkeys, other poultry or poultry products (system must specify by name)  
 Cattle & calves, goats, horses, hogs, mules, sheep & lambs, other livestock (system must specify by name)  
 Milk, other dairy products produced on farms (system must specify by name)  
 Wool, mohair, other miscellaneous livestock products produced on farms (system must specify by name)  
 Fish, shellfish  
 Other farm products (system must specify by name).

(b) Note the definition of the term “farm product” at subsection (c)(5), and the Conference Report on Pub. L. 99-198, No. 99-447, December 17, 1985, at page 486.

(c) A State may establish a system for specified products and not for all. A State establishing a system for specified products and not for all will be deemed to be “a State that has established a central filing system” as to the specified products, and will be deemed not to be such a State as to other products.

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[51 FR 29451, Aug. 18, 1986, as amended at 71 FR 56343, Sept. 27, 2006]

#### § 205.207 “Amount” and “County or parish”.

(a) The “amount” of farm products and “county or parish,” on an EFS and on the master list under subsection (c)(4)(C)(iv) and (2)(C)(iii), need not be shown on every EFS and master list entry.

(b) Any EFS and master list entry will identify a product. If they do not show an amount, this constitutes a representation that all of such product owned by the person in question is subject to the security interest in question.

(c) Any EFS and master list entry will identify each county or parish in the same State where the product is produced or located. If they do not show any further identification of the location of the product, this constitutes a representation that all such product produced in each such county or parish, owned by such person, is subject to the security interest.

(d) The need to supply additional information arises only where some of that product owned by that person is subject to the security interest and some is not.

(e) The additional information about amount must be sufficient to enable a reader of the information to identify what product owned by that person is subject, as distinguished from what of the same product owned by the same person is not subject. The precision needed, in the description of the amount, would vary from case to case.

(f) The basis for this is the purpose of the entire exercise, to make information available as necessary to enable an identification of what product is