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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1200

[FV-02-709]

#### Rules of Practice and Procedure Governing Proceedings Under Research, Promotion, and Education Programs

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) of the United States Department of Agriculture (USDA) is amending the Rules of Practice and Procedure Governing Proceedings under Research, Promotion, and Education Programs to make the headings for Part 1200 and its subparts more reflective of the programs covered by them; to delete inapplicable statutes from one subpart and to add three statutes to the other subpart; to redesignate subpart headings; to arrange the definitions in each subpart in alphabetical order; and to remove an incorrect citation. This rule also makes several minor and non-substantive changes for clarity and uniformity of style. These changes will make the rules of practice more accurate and easier to follow.

**EFFECTIVE DATE:** July 3, 2002.

**FOR FURTHER INFORMATION CONTACT:** Martha Ransom, Chief, Research and Promotion Branch, F&V, AMS, USDA, Stop 0244, 1400 Independence Avenue, SW, Room 2535-S, Washington, DC 20250-0244, telephone (202) 720-9915, fax (202) 205-2800, e-mail [martha.ransom@usda.gov](mailto:martha.ransom@usda.gov).

#### SUPPLEMENTARY INFORMATION:

#### Executive Orders 12866 and 12988

This rule has been determined to be not significant for purposes of Executive

Order 12866 and, therefore, has not been reviewed by OMB.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative proceedings which must be exhausted before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 *et seq.*].

#### Background

Prior to 1995, 7 CFR part 1200 contained generic rules of practice and procedure governing promulgation proceedings under various research, promotion, and information programs. Each individual program contained its own separate subpart containing rules of practice governing petition proceedings. On July 20, 1995 [60 FR 37326], the duplicative, program-specific rules of practice for petition proceedings were consolidated into a subpart of Part 1200, and the subpart was entitled Rules of Practice Governing Proceedings on Petitions to Modify or to be Exempted from Research, Promotion, and Education Programs.

Subsequently, on March 11, 2002 [67 FR 10827], the rules of practice on promulgation and petition proceedings were amended by a final rule to make a number of changes to expedite proceedings and save the United States and those who participate in the proceedings time and money.

The rules of practice for promulgation proceedings apply to programs issued under the Cotton Research and Promotion Act, as amended [7 U.S.C. 1201-2118], the Egg Research and Consumer Information Act [7 U.S.C. 2701-2718], the Potato Research and Promotion Act, as amended [7 U.S.C. 2611-2627], and the Pork Promotion, Research, and Consumer Information Act [7 U.S.C. 4801-4819]. However, several other statutes were inadvertently listed in these rules of practice. Therefore, this rule deletes the inapplicable statutes.

The list of applicable statutes in the rules of practice for petition proceedings also needs to be revised to add three statutes that were enacted after 1995. These statutes were inadvertently omitted from the March 2002 final rule. The statutes are the Commodity Promotion, Research, and Information Act of 1996 [7 U.S.C. 7411-7425], the Hass Avocado Promotion, Research, and Information Act of 2000 [7 U.S.C. 7801-7813], and the Popcorn Promotion, Research, and Consumer Information Act [7 U.S.C. 7481-7491]. Therefore, this rule adds these statutes to the list of statutes to which the rules of practice for petition proceedings apply.

In addition, part 1200 and the subpart covering the rules of practice governing petition proceedings have used the term "research, promotion, and education programs" whereas a more accurate description of the nature and purpose of the programs is research, promotion, and information. Therefore, this rule changes "education" to "information" in the titles of Part 1200 and the petition proceedings.

It has been determined that the subparts in part 1200 should be designated Subpart A and Subpart B and that the definitions in each subpart should be arranged in alphabetical order. These changes will make Part 1200 and the rules of practice easier to identify and follow. Therefore, this rule also makes these changes.

Further, this rule removes an incorrect citation in § 1200.51(h) and makes a number of minor and non-substantive changes for clarity and uniformity of style.

The provisions of the Administrative Procedure Act concerning notice and opportunity for comment on agency rulemaking [5 U.S.C. 553] do not apply to the promulgation of agency rules of practice. Accordingly, this action is made effective one day after publication in the **Federal Register**. Furthermore, no substantive rule change is involved.

#### List of Subjects in 7 CFR Part 1200

Administrative practice and procedure, Advertising, Blueberries, Consumer information, Cotton, Dairy, Eggs, Fluid Milk, Honey, Marketing agreements, Mushrooms, Peanuts, Popcorn, Pork, Potatoes, Promotion, Reporting and recordkeeping requirements, Soybeans, Watermelons.

**PART 1200—RULES OF PRACTICE AND PROCEDURE GOVERNING PROCEEDINGS UNDER RESEARCH, PROMOTION, AND EDUCATION PROGRAMS**

1. The heading for part 1200 is revised to read as follows:

**PART 1200—RULES OF PRACTICE AND PROCEDURE GOVERNING PROCEEDINGS UNDER RESEARCH, PROMOTION, AND INFORMATION PROGRAMS**

2. Subpart—Rules of Practice and Procedure Governing Proceedings to Formulate and Amend an Order is redesignated as subpart A:

**Subpart A—Rules of Practice and Procedure Governing Proceedings to Formulate and Amend an Order.**

3. The authority citation for redesignated Subpart A is added to read as follows:

**Authority:** 7 U.S.C. 2103, 2614, 2704, and 4804.

4. Section 1200.2 is revised to read as follows:

**§ 1200.2 Definitions.**

(a) The term *Act* means the Cotton Research and Promotion Act, as amended [7 U.S.C. 2101–2119]; the Egg Research and Consumer Information Act, as amended [7 U.S.C. 2701–2718]; the Pork Promotion, Research, and Consumer Information Act [7 U.S.C. 4801–4819]; and the Potato Research and Promotion Act, as amended [7 U.S.C. 2611–2627].

(b) *Administrator* means the Administrator of the Agricultural Marketing Service or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act for the Administrator.

(b) *Board* means the board or council established by the order to administer the program.

(c) *Department* means the U.S. Department of Agriculture.

(d) **Federal Register** means the publication provided for by the **Federal Register Act**, approved July 26, 1935 [44 U.S.C. 1501–1511], and acts supplementing and amending it.

(e) *Hearing* means that part of the proceeding which involves the submission of evidence.

(f) *Judge* means any administrative law judge appointed pursuant to 5 U.S.C. 3105 and assigned to conduct the hearing.

(g) *Hearing* means that part of the proceeding that involves the submission of evidence.

(h) *Hearing clerk* means the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C.

(i) *Order* means any order or any amendment thereto which may be issued pursuant to the Act. The term *order* shall include plans issued under the Acts listed in paragraph (a) of this section.

(j) *Proceeding* means a proceeding before the Secretary arising under the pertinent section of an Act.

(k) *Secretary* means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act for the Secretary.

5. Subpart—Rules of Practice Governing Proceedings on Petitions to Modify or to be Exempted from Research, Promotion, and Education Programs is redesignated as Subpart B:

**Subpart B—Rules of Practice Governing Proceedings on Petitions to Modify or to be Exempted from Research, Promotion, and Information Programs**

6. The authority citation for redesignated subpart B is added to read as follows:

**Authority:** 7 U.S.C. 2111, 2620, 2713, 4509, 4609, 4814, 4909, 6008, 6106, 6306, 6410, 6807, 7106, 7418, 7486, and 7806.

7. Section 1200.51 is revised to read as follows:

**§ 1200.51 Definitions.**

As used in this subpart, the terms as defined in the Act shall apply with equal force and effect. In addition, unless the context otherwise requires:

(a) The term *Act* means the Commodity Research, Promotion, and Information Act of 1996 [7 U.S.C. 7401–7425]; the Cotton Research and Promotion Act, as amended [7 U.S.C. 2101–2119]; the Dairy Production Stabilization Act of 1983 [7 U.S.C. 4501–4513]; the Egg Research and Consumer Information Act, as amended [7 U.S.C. 2701–2718]; the Fluid Milk Promotion Act of 1990 [7 U.S.C. 6401–6417]; the Hass Avocado Promotion, Research, and Information Act of 2000 [7 U.S.C. 7801–7813]; the Honey Research, Promotion, and Consumer Information Act, as amended [7 U.S.C. 4601–4612]; the Mushroom Promotion, Research, and Consumer Information Act of 1990 [7 U.S.C. 6101–6112]; the Pecan Promotion and Research Act of 1990 [7 U.S.C. 6001–6013]; the Popcorn Promotion, Research, and Consumer Information Act [7 U.S.C. 7481–7491]; the Pork Promotion, Research, and

Consumer Information Act [7 U.S.C. 4801–4819]; the Potato Research and Promotion Act, as amended [7 U.S.C. 2611–2627]; the Sheep Promotion, Research, and Information Act of 1994 [7 U.S.C. 7101–7111]; the Soybean Promotion, Research, and Consumer Information Act [7 U.S.C. 6301–6311]; and the Watermelon Research and Promotion Act, as amended, [7 U.S.C. 4901–4916].

(b) *Administrator* means the Administrator of the Agricultural Marketing Service or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act for the Administrator.

(c) *Decision* means the judge's initial decision and includes the judge's:

(1) Findings of fact and conclusions with respect to all material issues of fact, law or discretion, as well as the reasons or basis thereof;

(2) Order; and

(3) Rulings on findings, conclusions and orders submitted by the parties.

(d) *Department* means the U.S. Department of Agriculture.

(e) *Hearing* means that part of the proceedings which involves the submission of evidence.

(f) *Hearing clerk* means the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C.

(g) *Judge* means any administrative law judge, appointed pursuant to 5 U.S.C. 3105, and assigned to the proceeding involved.

(h) *Order* means any order or any amendment thereto which may be issued pursuant to the Act. The term order shall include plans issued under the Acts listed in paragraph (a) of this section.

(i) *Party* includes the Department.

(j) *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity subject to an order or to whom an order is sought to be made applicable, or on whom an obligation has been imposed or is sought to be imposed under an order.

(k) *Petition* includes an amended petition.

(l) *Proceeding* means a proceeding before the Secretary arising under the pertinent section of an Act.

(m) *Secretary* means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act for the Secretary.

Dated: June 25, 2002.

A.J. Yates,

Administrator.

[FR Doc. 02-16477 Filed 7-1-02; 8:45 am]

BILLING CODE 3410-02-P

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Chapter III

#### Agency Reorganization; Nomenclature Changes

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Final rule.

**SUMMARY:** On June 30, 2002, the FDIC, through an internal organizational order, merged the Division of Supervision and the Division of Compliance and Consumer Affairs and as a result of the merger, changed the name of the "Division of Supervision" and "Division of Compliance and Consumer Affairs" to the "Division of Supervision and Consumer Protection" (DSC). In addition, the internal reorganizational order merged the Division of Insurance and the Division of Research and Statistics and changed the name of the "Division of Insurance" to the "Division of Insurance and Research." Consistent with this action, this rule makes appropriate conforming changes in chapter III of title 12 of the Code of Federal Regulations. The rule also sets forth a Savings Provision in **SUPPLEMENTARY INFORMATION** that preserves, under the new names, all actions taken under the name of the "Division of Supervision," "Division of Compliance and Consumer Affairs" and the "Division of Insurance" and provides that any references to the Division of Supervision and Division of Compliance and Consumer Affairs or the Division of Insurance respectively in any document or other communication shall be deemed to be references to the Division of Supervision and Consumer Protection or the Division of Insurance and Research respectively.

**DATES:** This rule is effective June 30, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Legal Division: Robert E. Feldman, Executive Secretary (202) 898-3811, Susan van den Toorn, Counsel, (202) 898-8707, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:**

**Background**

This rule implements the decision by the FDIC, through an internal

reorganization order dated June 30, 2002 to merge certain divisions of the FDIC and, as a result, to change the names of the "Division of Supervision" and the "Division of Compliance and Consumer Affairs" to the "Division of Supervision and Consumer Protection (DSC) and the name of the "Division of Insurance" to the "Division of Insurance and Research (DIR)". These new names more accurately reflect the breadth of the Divisions' activities as a result of the FDIC reorganization. Consistent with these name changes, this rule makes a number of changes in chapter III of title 12 of the Code of Federal Regulations. Specifically, this rule changes all references to "Division of Supervision", and "DOS", "Division of Compliance and Consumer Affairs", and "DCA" wherever they appear in chapter III to the "Division of Supervision and Consumer Protection" and "DSC" respectively. In addition, the rule changes all references to "Division of Insurance" and "DOI" to the "Division of Insurance and Research" and "DIR" wherever they appear in chapter III. At a later date, the FDIC intends to make further revisions to 12 CFR chapter III to reflect other changes as a result of the reorganization and recent statutory changes.

**Savings Provision**

This rule shall constitute notice that all references to the Division of Supervision (DOS), the Division of Compliance and Consumer Affairs (DCA) or the Division of Insurance (DOI) in any documents, statements, and other communications, in any form or media, and whether made before, on or after the effective date of this rule, shall be deemed to be references to the Division of Supervision and Consumer Protection (DSC) or the Division of Insurance and Research (DIR). Any actions undertaken in the name of or on behalf of the Division of Supervision (DOS), the Division of Compliance and Consumer Affairs (DCA) or Division of Insurance (DOI) whether taken before, on, or after the effective date of this rule, shall be deemed to have been taken in the name of or on behalf of the Division of Supervision and Consumer Protection (DSC) or Division of Insurance and Research (DIR) respectively.

**Rulemaking Requirements**

1. This rule does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1995.

2. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this rule involves a rule of agency organization, procedure, or practice. 5 U.S.C. 553(b)(B). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and opportunity for public comment are not required to be given for this rule under 5 U.S.C. or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) are not applicable. Accordingly, this rule is issued in final form. Although there is no formal comment period, public comments on this rule are welcome on a continuing basis. Comments should be submitted to Thomas E. Nixon, FDIC Clearance Officer, Legal Division, 550 17th Street, NW, Washington, DC 20429, (202) 898-8766. Comments may be hand-delivered to the guard station at the rear of the 17th Street building (located on F Street) on business days between 7 a.m. and 5 p.m. [Fax number (202) 898-3838; Internet address [COMMENTS@FDIC.GOV](mailto:COMMENTS@FDIC.GOV)].

For the reasons set forth in the preamble, under the authority of 12 U.S.C. 1819(a)(tenth), 12 CFR chapter III is amended as set forth below:

**CHAPTER III—[AMENDED]**

In 12 CFR chapter III revise all references to "Division of Supervision" and "Division of Compliance and Consumer Affairs" to read the "Division of Supervision and Consumer Protection (DSC)", revise all references to "DOS" to read "DSC", all references to "DCA" to read "DSC", all references to "DOS and DCA" to read "DSC", all references to "DOS or DCA" to read "DSC", all references to "Division of Supervision's" to read "Division of Supervision and Consumer Protection's", all references to "Division of Compliance and Consumer Affairs" to read "Division of Supervision and Consumer Protection's". Also in 12 CFR chapter III revise all references to the "Division of Insurance" to read the "Division of Insurance and Research", all references to "DOI" to read "DIR" and all references to "Division of Insurance's" to read "Division of Insurance and Research's".

Dated: June 26, 2002.