

## § 202.4

complaint, or by filing the informal complaint as a formal complaint. A formal complaint filed by the Administrator, or a summary thereof, will be published in the FEDERAL REGISTER, together with notice of the time by which, and the place where, any interested person may file a written request to be heard.

### § 202.4 Answer and reply.

Respondent is not required to file an answer. If an answer is filed, complainant is not required to file a reply.

### § 202.5 Hearing.

The hearing will be oral unless all parties waive oral hearing. It will be written if not oral. Notice of the date, time and place of oral hearing, or of the date and place for filing of written submissions in a written hearing, will be served on the Administrator and the respondent, and on such other persons as have requested in writing to be heard.

### § 202.6 Taking no position on the merits.

The proceeding may be instituted by filing of the informal complaint as a formal complaint, and the Administrator may take no position on the merits of the case.

### § 202.7 Modification or vacation of final order.

(a) *Informal petition.* Any interested person may file an informal petition to modify or vacate a final order at any time. Any such petition must be filed with the Administrator, be based on matters arising after the issuance of the final order, and set forth such matters, and the reasons or conditions relied on, with such particularity as is practicable. Any such informal petition will be handled as otherwise provided for an informal complaint.

(b) *Formal motion.* A final order may be modified or vacated at any time only upon filing of a formal motion by the Administrator. Such a motion may be filed on the initiative of the Administrator, on the basis of an informal petition, or by filing of an informal petition as a formal motion.

(c) *Publication.* If the modification or vacation sought would involve an in-

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crease of a rate or charge lawfully prescribed by the Secretary, or involve a rate or charge in addition to what is specified in the final order, or involve a regulation or practice so affecting such a rate or charge, the formal motion, or a summary thereof, will be published in the FEDERAL REGISTER, together with notice of the place, and the time by which, any interested person may file a written request to be heard.

(d) *Proceedings.* Proceedings upon such a formal motion will be as otherwise provided for a formal complaint.

### RULES OF PRACTICE APPLICABLE TO REPARATION PROCEEDINGS

#### § 202.101 Rule 1: Meaning of words.

In these rules, words in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

#### § 202.102 Rule 2: Definitions.

Terms defined in the Act shall mean the same in these rules as in the Act. In addition, and except as may be provided otherwise in these rules:

*Act* means the Packers and Stockyards Act, 1921, and legislation supplementary thereto and amendatory thereof, 7 U.S.C. 181 *et seq.*;

*Agency* means those divisions and offices of the Agricultural Marketing Service (AMS) of the Department which are charged with administration of the Act;

*Agency Head* means the Administrator, Agricultural Marketing Service (AMS) of the Department, or any officer or employee of the Agency to whom authority is lawfully delegated to act for the Administrator;

*Complainant* means the party who files a complaint and claims reparation, or on whose behalf a complaint is filed and reparation is claimed, in a reparation proceeding;

*Department* means the United States Department of Agriculture;

*Docketing* of a reparation proceeding means transmittal of papers to the Hearing Clerk and assignment of a docket number as provided in Rule 8, § 202.108, of these rules;

*Hearing* means that part of a reparation proceeding which involves the submission of evidence for the record and