

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

**Subpart—Rules of Practice and Procedure
Governing Proceedings To Formulate
and Amend an Order**

- Sec.
- 1200.1 Words in the singular form.
 - 1200.2 Definitions.
 - 1200.3 Proposals.
 - 1200.4 Reimbursement of Secretary's expenses.
 - 1200.5 Institution of proceedings.
 - 1200.6 Docket number.
 - 1200.7 Judge.
 - 1200.8 Motions and requests.
 - 1200.9 Conduct of the hearing.
 - 1200.10 Oral and written arguments.
 - 1200.11 Certification of the transcript.
 - 1200.12 Copies of the transcript.
 - 1200.13 Administrator's recommended decision.
 - 1200.14 Submission to Secretary.
 - 1200.15 Decision by the Secretary.
 - 1200.16 Execution of the order.
 - 1200.17 Filing, extension of time, effective date of filing, and computation of time.
 - 1200.18 Ex parte communications.
 - 1200.19 Additional documents to be filed with hearing clerk.
 - 1200.20 Hearing before Secretary.

**Subpart—Rules of Practice Governing Pro-
ceedings on Petitions To Modify or To
Be Exempted From Research, Pro-
motion, and Education Programs**

- 1200.50 Words in the singular form.
- 1200.51 Definitions.
- 1200.52 Institution of proceeding.

AUTHORITY: 7 U.S.C. 2111; 2620; 2713; 3409; 4313; 4509; 4609; 4814; 4909; 6008; 6106; 6206; 6306; 6410; 6807; and 7106.

**Subpart—Rules of Practice and
Procedure Governing Pro-
ceedings To Formulate and
Amend an Order**

SOURCE: 47 FR 44684, Oct. 8, 1982, unless otherwise noted.

§ 1200.1 Words in the singular form.

Words in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 1200.2 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 Cotton Research and Promotion Act, as amended, Pub. L. 89-502, 89th Cong., approved July 13, 1966, 7 U.S.C. 2101-2119; the Egg Research and Consumer Information Act, as amended, Pub. L. 93-428, 93rd Cong., approved October 1, 1974, 7 U.S.C. 2701-2718; the Floral Research and Consumer Information Act, Pub. L. 97-98, 97th Cong., approved December 22, 1981, 7 U.S.C. 4301-4319; the Potato Research and Promotion Act, as amended, Pub. L. 91-670, 91st Cong., approved January 11, 1971, 7 U.S.C. 2611-2627; the Wheat and Wheat Foods Research and Nutrition Education Act, Pub. L. 95-113, 95th Cong., approved September 29, 1977, 7 U.S.C. 3401-3417; the Honey Research, Promotion, and Consumer Information Act, Pub. L. 98-590, 98th Cong., approved October 30, 1984, 7 U.S.C. 4601-4612; the Watermelon Research and Promotion Act, Pub. L. 99-198; 99th Cong., approved December 23, 1985, 7 U.S.C. 4901-4916; and any subsequent research, consumer information, promotion, and nutrition education acts established as Public Law by Congress.

(b) The term *Department* means the United States Department of Agriculture.

(c) The term *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 in the Secretary's stead.

(d) The term *judge* or *administrative law judge* means any administrative law judge appointed pursuant to 5 U.S.C. 3105 and assigned to conduct the hearing.

(e) The term *Administrator* means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(f) The term *Federal Register* means the publication provided for by the

§ 1200.3

Federal Register Act, approved July 26, 1935 (44 U.S.C. 1501-1511), and acts supplementing and amending it.

(g) The term *hearing* means that part of the proceeding which involves the submission of evidence.

(h) The term *order* means any order or plan or any amendment to it which may be issued pursuant to the Act.

(i) The term *proceeding* means a proceeding forming the basis on which an order may be issued.

(j) The term *hearing clerk* means the hearing clerk, U.S. Department of Agriculture, Washington, DC.

(k) The term *board* means the board or council established by the order to administer the program.

[47 FR 44684, Oct. 8, 1982, as amended at 52 FR 12899, Apr. 20, 1987]

§ 1200.3 Proposals.

(a) An order may be proposed by any organization certified pursuant to the Act or any interested person affected by the Act, including the Secretary. Any person or organization other than the Secretary proposing an order shall file with the Administrator a written application, together with a copy of the proposal, requesting the Secretary to hold a hearing upon the proposal. Upon receipt of such proposal, the Administrator shall cause such investigation to be made and such consideration to be given as, in the Administrator's opinion, are warranted. If the investigation and consideration lead the Administrator to conclude that the proposed order will not tend to effectuate the declared policy of the Act, or that for other proper reasons a hearing should not be held on the proposal, the Administrator shall deny the application, and promptly notify the applicant of such denial, which notice shall be accompanied by a brief statement of the grounds for the denial.

(b) If the investigation and consideration lead the Administrator to conclude that the proposed order will tend to effectuate the declared policy of the Act, or if the Secretary desires to propose an order, the Administrator shall sign and cause to be served a notice of hearing, as provided herein.

7 CFR Ch. XI (1-1-01Edition)

§ 1200.4 Reimbursement of Secretary's expenses.

If provided for in the Act or any amendment thereto, expenses incurred by the Secretary in preparing or amending the order, administering the order, and conducting the referendum shall be reimbursed.

§ 1200.5 Institution of proceedings.

(a) *Filing and contents of the notice of hearing.* The proceeding shall be instituted by filing the notice of hearing with the hearing clerk. The notice of hearing shall contain a reference to the authority under which the order is proposed; shall define the scope of the hearing as specifically as may be practicable; shall contain either the terms or substance of the proposed order or a description of the subjects and issues involved; and shall state the time and place of such hearing, and the place where copies of such proposed order may be obtained or examined. The time of the hearing shall not be less than 15 days after the date of publication of the notice in the FEDERAL REGISTER, as provided herein, unless the Administrator shall determine that an emergency exists which requires a shorter period of notice, in which case the period of notice shall be that which the Administrator may determine to be reasonable in the circumstances: Except that in the case of hearings on amendments to an order, the time of the hearing may be less than 15 days but shall not be less than three days after the date of publication in the FEDERAL REGISTER.

(b) *Giving notice of hearing and supplemental publicity.* (1) The Administrator shall give or cause to be given notice of hearing in the following manner:

(i) By publication of the notice of hearing in the FEDERAL REGISTER;

(ii) By mailing a copy of the notice of hearing to each organization known by the Administrator to be interested therein;

(iii) By issuing a press release containing the complete text or a summary of the contents of the notice of hearing and making the same available to such newspapers as, in the Administrator's discretion, are best calculated to bring the notice to the attention of the persons interested therein; and