

§ 205.106 Farm products.

The farm products, according to which the master list must be organized as required by subsection (c)(2), and which must be identified on an EFS as required by subsection (c)(4)(D)(iv), must be specific commodities, species of livestock, and specific products of crops or livestock. The Section does not permit miscellaneous categories.

§ 205.107 Crop year.

(a) The crop year, according to which subsection (c)(2)(C)(ii)(IV) requires the master list to be arranged “within each such product,” must be:

(1) For a crop grown in soil, the calendar year in which it is harvested or to be harvested;

(2) For animals, the calendar year in which they are born or acquired;

(3) For poultry or eggs, the calendar year in which they are sold or to be sold.

(b) An EFS or notice thereof which does not show crop year (the Section does not require it to do so) must be regarded as applicable to the crop or product in question for every year for which subsection (c)(4)(F) makes the EFS effective.

INTERPRETIVE OPINIONS

§ 205.201 System operator.

The system operator can be the Secretary of State of a State, or any designee of the State pursuant to its laws. Note that the provision in subsection (c)(2) for a system refers to operation by the Secretary of State of a State, but the definition in (c)(11) of “Secretary of State” includes “designee of the State.”

§ 205.202 “Effective financing statement” or EFS.

(a) An EFS under subsection (c)(4) need not be the same as a financing statement or security agreement under the Uniform Commercial Code (or equivalent document under future successor State law), but can be an entirely separate document meeting the definition in (c)(4). Note that (c)(4) contains a comprehensive definition of the term which does not include any requirement that the EFS be the instru-

ment 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 by both the secured party and 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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§ 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)(D). 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 with the system operator of “effective financing statements or notice of such financing statements.” (emphasis added)