

the Paperwork Reduction Act of 1995 is not required.

VII. Federalism

We have analyzed this direct final rule in accordance with the principles set forth in Executive Order 13132. We have determined that this direct final rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

VIII. Consultation and Coordination With Indian Tribal Governments

We have analyzed this direct final rule in accordance with the principles set forth in Executive Order 13175. We have tentatively determined that the rule does not contain policies that would have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. We invite comments from tribal officials on any potential impact on Indian Tribes from this direct final action.

List of Subjects

21 CFR Part 145

Canned fruits, Food grades and standards.

21 CFR Part 155

Canned vegetables, Food grades and standards.

Therefore, under the Federal Food, Drug, and Cosmetic Act, 21 CFR parts 145 and 155 are amended as follows:

PART 145—CANNED FRUITS

■ 1. The authority citation for part 145 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

§§ 145.116, 145.126, 145.131, 145.134, 145.136, 145.140, 145.171, 145.176, and 145.181 [Removed]

■ 2. Sections 145.116, 145.126, 145.131, 145.134, 145.136, 145.140, 145.171, 145.176, and 145.181 are removed.

PART 155—CANNED VEGETABLES

■ 3. The authority citation for part 155 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

§§ 155.131 and 155.172 [Removed]

■ 4. Sections 155.131 and 155.172 are removed.

Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

[FR Doc. 2025–13421 Filed 7–16–25; 8:45 am]

BILLING CODE 4164–01–P

POSTAL SERVICE

39 CFR Part 962

Administrative False Claims Act

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This amends the rules of practice prescribed by the Judicial Officer for ease of understanding and to reflect current practice.

DATES: Effective July 17, 2025.

ADDRESSES: Postal Service Judicial Officer Department, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078.

FOR FURTHER INFORMATION CONTACT: Staff Counsel Sheena Allen at (240) 636–4158.

SUPPLEMENTARY INFORMATION:

A. Background

The Judicial Officer Department reviewed its rules for cases arising under the Program Fraud Civil Remedies Act, which is now codified as the Administrative False Claims Act, and found it necessary to make some revisions for the reader's ease of understanding. These revised rules of procedure have the same general intent and coverage as the existing rules. The revised rules, however, are more comprehensive than the existing rules.

B. Explanation of Changes

Amendments to 39 CFR Part 962

These revised rules will completely replace the existing rules of practice and will be effective for all petitions docketed by the Judicial Officer Department on and after their effective date.

List of Subjects in 39 CFR Part 962

Administrative practice and procedure, Claims, Postal Service.

Accordingly, for the reasons stated, the Postal Service revises 39 CFR part 962 to read as follows:

PART 962—ADMINISTRATIVE FALSE CLAIMS ACT

Sec.

- 962.1 (Rule 1) Purpose.
- 962.2 (Rule 2) Definitions.
- 962.3 (Rule 3) Petition for hearing.
- 962.4 (Rule 4) Referral of complaint.
- 962.5 (Rule 5) Scope of hearing; evidentiary standard.
- 962.6 (Rule 6) Notice of hearing.
- 962.7 (Rule 7) Hearing location.
- 962.8 (Rule 8) Rights of parties.
- 962.9 (Rule 9) Responsibilities and authority of presiding officer.
- 962.10 (Rule 10) Prehearing conferences.
- 962.11 (Rule 11) Respondent access to information.
- 962.12 (Rule 12) Depositions; interrogatories; admission of facts; production and inspection of documents.
- 962.13 (Rule 13) Subpoenas.
- 962.14 (Rule 14) Enforcement of subpoenas.
- 962.15 (Rule 15) Sanctions.
- 962.16 (Rule 16) Disqualification of reviewing official or presiding official.
- 962.17 (Rule 17) Ex parte communications.
- 962.18 (Rule 18) Posthearing briefs.
- 962.19 (Rule 19) Transcript of proceedings.
- 962.20 (Rule 20) Initial decision.
- 962.21 (Rule 21) Appeal of initial decision to judicial officer.
- 962.22 (Rule 22) Form and filing of documents.
- 962.23 (Rule 23) Service.
- 962.24 (Rule 24) Computation time periods.
- 962.25 (Rule 25) Continuances and extensions.
- 962.26 (Rule 26) Settlement.
- 962.27 (Rule 27) Limitations.

Authority: 31 U.S.C. 3801–12; 39 U.S.C. 401; 5 U.S.C. 554.

§ 962.1 (Rule 1) Purpose.

This part establishes the procedures governing the hearing and appeal rights of any person alleged to be liable for civil penalties and assessments under the Administrative False Claims Act of 2021 (codified at 31 U.S.C. 3801–12).

§ 962.2 (Rule 2) Definitions.

(a) *Attorney* refers to an individual authorized to practice law in any state, commonwealth, or territory of the United States, or in the District of Columbia.

(b) *Complaint* refers to the administrative complaint served by the Reviewing Official on a Respondent under 39 CFR part 273.

(c) *Initial decision* refers to the written decision the Presiding Officer is required to issue by § 962.20 (Rule 20), and includes a revised initial decision issued following a remand.

(d) *Investigating Official* refers to the Inspector General of the United States Postal Service or any designee within the Office of the Inspector General.

(e) *Judicial Officer* refers to the Judicial Officer or Acting Judicial Officer of the United States Postal Service, or for purposes other than specified in § 962.21 (Rule 21), any designee within the Judicial Officer Department.

(f) *Party* refers to the Postal Service or the Respondent.

(g) *Person* refers to any individual, partnership, corporation, association, or private organization.

(h) *Postmaster General* refers to the Postmaster General of the United States or a designee.

(i) *Presiding Officer* refers to an Administrative Law Judge designated by the Chief Administrative Law Judge to conduct a hearing authorized by 31 U.S.C. 3803.

(j) *Recorder* refers to the Recorder of the United States Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078.

(k) *Representative* refers to an attorney or other advocate.

(l) *Respondent* refers to any person alleged to be liable for a civil penalty or assessment under 31 U.S.C. 3802.

(m) *Reviewing Official* refers to the General Counsel of the Postal Service or any designee within the Law Department who serves in a position for which the rate of basic pay is not less than the minimum rate payable under 5 U.S.C. 5376.

§ 962.3 (Rule 3) Petition for hearing.

Within 30 days of receiving the Postal Service's Complaint, issued under 39 CFR part 273, alleging liability under 31 U.S.C. 3802, the Respondent may request a hearing under the Administrative False Claims Act by filing a written Hearing Petition with the Recorder in accordance with § 962.22(b) (Rule 22). The Respondent's Petition must include the following:

(a) The words "Petition for Hearing Under the Administrative False Claims Act," or other words reasonably identifying it as such.

(b) The name of the Respondent as well as work and home addresses, and work and home telephone numbers; or other addresses and telephone numbers where the Respondent may be contacted about the hearing proceedings.

(c) A statement of the date the Respondent received the Complaint issued by the Reviewing Official.

(d) A statement indicating whether the Respondent requests an oral hearing or a decision on the record.

(e) If the Respondent requests an oral hearing, a statement proposing a city for the hearing site, with justification for holding the hearing in that city, as well as recommended dates for the hearing.

Alternatively, Respondent may propose a remote hearing by video. After considering the Respondent's request, the Presiding Officer will decide whether to hold a hearing and determine the time and place of the hearing.

(f) A statement admitting or denying each of the allegations of liability made in the Complaint and stating any defense the Respondent intends to rely on.

§ 962.4 (Rule 4) Referral of complaint.

After the Respondent files a Hearing Petition, the Reviewing Official, upon receiving a copy of the Petition, will promptly transmit a copy of the Postal Service's Complaint to the Presiding Officer.

§ 962.5 (Rule 5) Scope of hearing; evidentiary standard.

(a) A hearing under this part will be conducted by the Presiding Officer to determine:

(1) Whether the Respondent is liable under 31 U.S.C. 3802; and

(2) The amount of any civil penalty or assessment to be imposed if the Respondent is found liable under 31 U.S.C. 3802.

(b) The Postal Service must prove its case against a Respondent by a preponderance of the evidence.

(c) The parties may offer at a hearing on the merits relevant evidence that is admissible under the Federal Rules of Evidence, subject, however, to the sound discretion of the Presiding Officer in supervising the extent and manner of presentation of the evidence. In general, admissibility will hinge on relevancy and materiality. Relevant evidence, however, may be excluded if its probative value is outweighed by the danger of unfair prejudice, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

§ 962.6 (Rule 6) Notice of hearing.

(a) Within a reasonable time after receiving the Respondent's Hearing Petition and the Complaint, the Presiding Officer will serve on the Respondent and the Reviewing Official a Notice of Docketing containing the information set forth in paragraph (b) of this section in accordance with § 962.23 (Rule 23).

(b) The Notice of Docketing required by paragraph (a) of this section must include:

(1) The tentative hearing site, date, and time;

(2) The legal authority and jurisdiction under which the hearing will be held;

(3) The nature of the hearing;

(4) The matters of fact and law to be decided;

(5) A description of the procedures governing the conduct of the hearing; and

(6) Such other information as the Presiding Officer deems appropriate.

§ 962.7 (Rule 7) Hearing location.

An oral hearing under this part will be held:

(a) In the judicial district of the United States in which the Respondent resides or transacts business;

(b) In the judicial district of the United States in which the claim or statement on which the allegation of liability under 31 U.S.C. 3802 was made, presented, or submitted; or

(c) In such other place as may be agreed on by the Respondent and the Presiding Officer, including by telephone or video.

(d) The Presiding Officer has exclusive authority in fixing the time and place for hearings but will give due regard for the convenience and necessity of the parties or their representatives.

§ 962.8 (Rule 8) Rights of parties.

Any party to a hearing under this part will have the right:

(a) To be accompanied, represented, and advised, by a representative;

(b) To participate in any prehearing or posthearing conference held by the Presiding Officer;

(c) To stipulate to facts or law;

(d) To make opening and closing statements;

(e) To present oral and documentary evidence relevant to the issues;

(f) To submit rebuttal evidence;

(g) To conduct cross-examination as may be required for a full and true disclosure of the facts; and

(h) To submit written briefs, proposed findings of fact, and proposed conclusions of law.

§ 962.9 (Rule 9) Responsibilities and authority of presiding officer.

(a) The Presiding Officer will conduct a fair and impartial hearing, avoid delay, maintain order, and ensure that a record of the proceeding is made.

(b) The Presiding Officer's authority includes, but is not limited to, the following:

(1) Establishing, upon adequate notice to all parties, the date and time of the hearing, as well as, in accordance with § 962.7 (Rule 7), selecting the hearing site;

(2) Holding conferences, by telephone, video, or in person, to identify or simplify the issues, or to

consider other matters that may aid in the expeditious disposition of the proceeding;

(3) Continuing or recessing the hearing in whole or in part for a reasonable period of time;

(4) Administering oaths and affirmations to witnesses;

(5) Issuing subpoenas, requiring the attendance and testimony of witnesses and the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence that the Presiding Officer considers relevant and material to the hearing;

(6) Ruling on all offers, motions, requests by the parties, and other procedural matters;

(7) Issuing any notices, orders, or memoranda to the parties concerning the proceedings;

(8) Regulating the scope and timing of discovery;

(9) Regulating the course of the hearing and the conduct of the parties and their representatives;

(10) Examining witnesses;

(11) Receiving, ruling on, excluding, or limiting evidence to ensure that relevant, reliable, and probative evidence is elicited on the issues in dispute, but irrelevant, immaterial, or repetitious evidence is excluded;

(12) Deciding cases, upon motion of a party, in whole or in part by summary judgment where there is no disputed issue of material fact;

(13) Establishing the record in the case; and

(14) Issuing a written initial decision containing findings of fact, conclusions of law, and determinations, with respect to liability under 31 U.S.C. 3802, whether a penalty or assessment should be imposed, and if so, the amount of the penalty or assessment.

§ 962.10 (Rule 10) Prehearing conferences.

(a) At a reasonable time before the hearing, and with adequate notice to all parties, the Presiding Officer may conduct one or more prehearing conferences to discuss the following:

(1) Simplifying the issues;

(2) As necessary or desirable, amending the pleadings, including the need for a more definite statement;

(3) Stipulating or admitting to facts or the contents and authenticity of documents;

(4) Limiting the number of witnesses;

(5) Exchanging witness lists, copies of prior witness statements, and copies of hearing exhibits;

(6) Scheduling dates for the exchange of witness lists and proposed exhibits;

(7) Conducting discovery;

(8) Changing the hearing schedule; and

(9) Any other matters related to the proceeding.

(b) Within a reasonable time after the prehearing conference, the Presiding Officer will issue an order detailing all matters agreed to by the parties, or ordered by the Presiding Officer, at such conference.

§ 962.11 (Rule 11) Respondent access to information.

(a) Except as provided in paragraph (b) of this section, the Respondent, at any time after receiving the Notice of Docketing, may review, and upon payment of a duplication fee established under 39 CFR part 265, obtain a copy of all relevant and material documents, transcripts, records, and other materials that relate to the allegations of liability, and on which the findings and conclusions of the Investigating Official under 39 CFR part 273 are based.

(b) At any time after receiving the Notice of Docketing, the Respondent will be entitled to obtain all exculpatory information in the possession of the Investigating Official or the Reviewing Official relating to the allegations of liability under 31 U.S.C. 3802.

(c) The Respondent is not entitled to review or obtain a copy of any document, transcript, record, or other material privileged under Federal law. This paragraph (c) does not apply to any document, transcript, record, or other material in which exculpatory information is contained.

(d) Requests to review or copy material under this section must be directed to the Reviewing Official, who must respond within a reasonable time.

§ 962.12 (Rule 12) Depositions; interrogatories; admission of facts; production and inspection of documents.

(a) *General Policy and protective orders.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any discovery procedure permitted under this part, the Presiding Officer may issue any order required to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. Such orders may include limits on the scope, method, time, and place for discovery and provide for protecting the secrecy of confidential information or documents. Each party will bear its own discovery expenses.

(b) *Depositions.* (1) After the Notice of Docketing has been issued, the parties may agree to, or the Presiding Officer may, upon application of either party and for good cause shown, order the taking of testimony of any person by deposition upon oral examination or

written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for discovery purposes. The application for order must specify whether the purpose of the deposition is for discovery or for use as evidence.

(2) The time, place, and manner of taking depositions should be mutually agreed to by the parties, or failing agreement, governed by order of the Presiding Officer.

(3) No testimony taken by depositions will be considered as part of the evidence in the hearing until it is offered and received in evidence at a hearing. Depositions will not ordinarily be received in evidence if the deponent is present and can testify personally at the hearing. A deposition may, however, be used to contradict or impeach the testimony of the witness given at the hearing. In cases decided on the written record, the Presiding Officer may receive depositions as evidence to supplement the record.

(c) *Interrogatories to parties.* After the issuance of a Notice of Docketing, a party may serve on the other party written interrogatories to be answered separately in writing, signed under oath, and returned within 30 days. Upon timely objection by a party, the Presiding Officer will determine the extent to which the interrogatories will be permitted.

(d) *Admission of facts.* After the issuance of a Notice of Docketing, a party may serve on the other party a request for the admission of specified facts. Within 30 days after service, the party served must answer each requested fact or object to it. The factual propositions set out in the request will be deemed admitted if a party fails to respond to the request for admission.

(e) *Production and inspection of documents, electronically stored information, and tangible things.* Upon motion of any party showing good cause, the Presiding Officer may order the other party to produce and permit the inspection, copying or photographing of any documents, electronically stored information, or tangible things that are not privileged. The moving party must specifically identify the requested information or items and explain their relevance and materiality to the appeal and explain how they are reasonably calculated to lead to the discovery of admissible evidence. If the parties cannot agree, the Presiding Officer will specify the terms and conditions for the inspection and copying of documents.

(f) *Limitations.* Under no circumstances may a discovery procedure be used to obtain:

(1) Documents, transcripts, records, or other material that a person is not entitled to review under § 962.11 (Rule 11);

(2) The notice sent to the Attorney General from the Reviewing Official under 39 CFR part 273; or

(3) Other documents privileged under Federal law.

§ 962.13 (Rule 13) Subpoenas.

(a) *General.* A subpoena may be issued either on the written request of either party or on the Presiding Officer's own initiative. A subpoena may require:

(1) The deposition of a witness in the city or county where the witness resides, is employed, transacts business in person, or at another location convenient for the witness that is specifically determined by the Presiding Officer;

(2) The testimony of a witness at a hearing; or,

(3) The production of documents, electronically stored information, and tangible things, and as appropriate, the appearance of a witness or custodian of such items designated in the subpoena at a deposition or hearing.

(b) *Voluntary cooperation.* Each party is expected to:

(1) Cooperate and make available witnesses and evidence under its control as requested by the other party, without issuance of a subpoena; and

(2) Secure voluntary attendance of desired third-party witnesses, documents, electronically stored information, and tangible things whenever possible.

(c) *Requests for subpoenas.* (1) A request for a subpoena must normally be filed at least:

(i) 15 days before a scheduled deposition of a witness or production by a witness or custodian of documents, electronically stored information, and tangible things; and

(ii) 30 days before a scheduled hearing.

(2) A request for a subpoena must state the reasonable scope and general relevance to the case of the testimony and of any documents, electronically stored information, and tangible things sought.

(3) The Presiding Officer may honor requests for subpoenas not made within the time limitations specified in this paragraph (c) for good cause shown.

(d) *Requests to quash or modify.* Upon written request by the person subpoenaed or by a party, made within 10 days after service but, in any event not later than the time specified in the subpoena for compliance, the Presiding Officer may:

(1) Quash or modify the subpoena if it is unreasonable or oppressive. The

Presiding Officer may also quash or modify for other good cause shown.

(2) Require the person in whose behalf the subpoena was issued to advance the reasonable cost of complying with the subpoena. Where circumstances require, the Presiding Officer may act on such a request at any time after a copy has been served on the opposing party.

(e) *Form and issuance.* (1) Every subpoena for the appearance of a witness must:

(i) State the title of the proceeding;

(ii) Cite 31 U.S.C. 3804(b) as the authority under which it is issued;

(iii) List the time and place of the deposition or hearing; and

(iv) Command each person to whom it is directed to attend and give testimony, and if appropriate, to produce specified documents, electronically stored information, and tangible things at a time and place specified.

(2) The Presiding Officer issuing the subpoena may enter the name of the witness and otherwise leave the subpoena blank. The requesting party must then fill in the remaining information before serving the subpoena.

(3) If the witness is located in a foreign country, a letters rogatory, letter of request, or subpoena may be issued and served as provided in 28 U.S.C. 1781–84.

(f) *Service.* (1) The requesting party must arrange for service.

(2) A subpoena requiring the attendance of a witness at a deposition or hearing may be served at any place. A subpoena may be served by a United States marshal or deputy marshal, or by any other person who is not a party and not less than 18 years of age. Service of a subpoena on a person must be made by personally delivering a copy to that person and tendering the fees for one day's attendance and the mileage provided by 28 U.S.C. 1821 or other applicable law.

(3) The requesting party is responsible for the payment of fees and mileage of the witness and of the serving officer. The failure to pay such charges on demand may be deemed by the Presiding Officer as a sufficient ground to strike the testimony of the witness and any evidence the witness has produced.

§ 962.14 (Rule 14) Enforcement of subpoenas.

In the case of contumacy or refusal to obey a subpoena issued under §§ 962.9(b)(5) and 962.13 (Rules 9 and 13), the United States district courts have jurisdiction to issue an appropriate

order enforcing a subpoena. Any failure to obey a district court may be punishable as contempt. If the Postal Service seeks to enforce a subpoena under this section, the Postal Service will request the Attorney General to petition the district court for the district in which a hearing under this part is being conducted or in which the person receiving the subpoena resides or conducts business to issue such an order.

§ 962.15 (Rule 15) Sanctions.

(a) The Presiding Officer may sanction a person, including any party or representative, for:

(1) Failing to comply with a lawful order or prescribed procedure;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Any sanction, including but not limited to those listed in paragraphs (c) through (e) of this section, must reasonably relate to the severity and nature of the failure or misconduct.

(c) When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the Presiding Officer may:

(1) Draw an inference about the information sought in favor of the requesting party;

(2) Prohibit a party from introducing evidence concerning, or otherwise relying on, testimony relating to the information sought;

(3) Permit the requesting party to introduce secondary evidence concerning the information sought; and

(4) Strike any part of the pleadings or other submissions of the party failing to comply with such request.

(d) If a party fails to prosecute or defend an action commenced by service of a Complaint, the Presiding Officer may dismiss the action or enter an order of default.

(e) The Presiding Officer may refuse to consider any motion or other pleading, report, or response that is not filed in a timely fashion.

§ 962.16 (Rule 16) Disqualification of reviewing official or presiding official.

(a) If a Respondent believes, in good faith, that the Reviewing Official should be disqualified because of personal bias, or other reason, the Respondent may file a timely and sufficient affidavit with supporting evidence. If the Presiding Officer finds that the allegations concerning the Reviewing Official are meritorious, the Presiding Officer may

disqualify the Reviewing Official and request the appointment of a new Reviewing Official.

(b) If a Respondent believes, in good faith, that the Presiding Official should be disqualified because of personal bias, or other reason, the Respondent may file a timely and sufficient affidavit with supporting evidence. Where a Respondent seeks to disqualify a Presiding Officer, the Presiding Officer may do so at any time during the proceeding.

(c) If a Reviewing Official or Presiding Officer withdraws from a hearing, the proceeding will be stayed until the assignment of a new Reviewing Official or Presiding Officer.

§ 962.17 (Rule 17) Ex parte communications.

Communications between a Presiding Officer and a party may not be made on any matter in issue unless on notice and opportunity for all parties to participate. This prohibition does not apply to procedural matters. A memorandum of any communication between the Presiding Officer and a party will be transmitted by the Presiding Officer to all parties.

§ 962.18 (Rule 18) Posthearing briefs.

Posthearing and reply briefs may be submitted as directed by the Presiding Officer after the hearing.

§ 962.19 (Rule 19) Transcript of proceedings.

The Presiding Officer will arrange for a transcript of the hearing to be made, unless ordered otherwise. The transcript provided by the Presiding Officer is the official record of the hearing, and the Presiding Officer will provide the parties with a copy after the hearing.

§ 962.20 (Rule 20) Initial decision.

(a) After the hearing and the receipt of briefs, if any, the Presiding Officer will issue a written initial decision, including findings and determinations. The decision will include the findings of fact and conclusions of law the Presiding Officer relied on in determining whether the Respondent is liable under 31 U.S.C. 3802, and, if liability is found, will set forth the amount of any penalties and assessments.

(b) The Presiding Officer will promptly send each party a copy of the initial decision, and a statement describing the right of any person determined to be liable under 31 U.S.C. 3802 to appeal the decision of the Presiding Officer to the Judicial Officer in accordance with § 962.21 (Rule 21).

(c) Unless the Respondent appeals the Presiding Officer's initial decision, that

decision, including the findings and determinations, is final.

§ 962.21 (Rule 21) Appeal of initial decision to Judicial Officer.

(a) *Notice of appeal and supporting brief.* (1) A Respondent may appeal an adverse initial decision within 30 days after the Presiding Officer issues an initial decision by filing a Notice of Appeal with the Recorder. The Judicial Officer may extend the filing period if the Respondent files a request for an extension within the initial 30-day period and demonstrates good cause for an extension.

(2) The Respondent's Notice of Appeal must be accompanied by a written brief specifying the Respondent's exceptions, and any reasons for such exceptions, to the Presiding Officer's initial decision.

(3) Within 30 days of receiving the Respondent's brief, the Reviewing Official may file a response to the Respondent's specified exceptions to the Presiding Officer's initial decision.

(b) *Form of review.* (1) Review by the Judicial Officer will be based solely on the record and written submissions.

(2) The Judicial Officer may affirm, reduce, reverse, or remand any penalty or assessment made by the Presiding Officer.

(3) The Judicial Officer may not consider an objection that was not raised during the hearing unless the interested party demonstrates that the failure to raise the objection before the Presiding Officer was caused by extraordinary circumstances.

(4) If any party demonstrates that additional evidence not presented at the hearing is material and that there were reasonable grounds for the failure to present the evidence, the Judicial Officer will remand the matter to the Presiding Officer for consideration of the additional evidence.

(c) *Decision of Judicial Officer.* (1) The Judicial Officer will promptly serve each party a copy of the decision and a statement describing the right to judicial review under 31 U.S.C. 3805 for a Respondent determined to be liable under 31 U.S.C. 3802.

(2) The decision of the Judicial Officer constitutes final agency action and becomes final and binding on the parties 60 days after it is issued, unless a petition for judicial review is filed.

§ 962.22 (Rule 22) Form and filing of documents.

(a) All pleadings and documents required under this part must be filed using the Judicial Officer electronic filing system, unless the Presiding Officer permits otherwise. The Judicial

Officer electronic filing system website is accessible 24 hours a day at <https://usps-judicialoffice.journaltech.com>.

(b) Documents submitted using the electronic filing system are considered filed as of the date and time (Eastern Time) reflected in the system. Documents mailed to the Recorder are considered filed on the date mailed as evidenced by a United States Postal Service postmark. Filings by any other means are considered filed upon receipt by the Recorder of a complete copy of the filing during normal business hours. Normal business hours are between 8:30 a.m. and 4:30 p.m. (Eastern Time), Monday through Friday except Federal holidays.

§ 962.23 (Rule 23) Service.

If both parties are participating in the electronic filing system, separate service on the opposing party is not required. Otherwise, documents must be served personally or by mail on the opposing party, noting on the document filed, or on the transmitting letter, that a copy has been so furnished.

§ 962.24 (Rule 24) Computation time periods.

(a) In computing any time period provided for by this part, or any order issued under this part, the time begins with the day following the act, event, or default, and includes the last day of the period, unless that day is a Saturday, Sunday, or Federal holiday, in which case it includes the next business day.

(b) When the applicable time period is less than seven days, intermediate Saturdays, Sundays, and Federal holidays will be excluded from the computation.

§ 962.25 (Rule 25) Continuances and extensions.

Continuances and extensions may be granted for good cause shown.

§ 962.26 (Rule 26) Settlement.

(a) Either party may offer to settle or propose an adjustment at any time.

(b) The Reviewing Official has the exclusive authority to compromise or settle any allegations or determinations of liability under 31 U.S.C. 3802 without the consent of the Presiding Officer, except during the pendency of an appeal to the appropriate United States district court under 31 U.S.C. 3805 or during the pendency of an action to collect any penalties or assessments under 31 U.S.C. 3806.

(c) The Attorney General has the exclusive authority to compromise or settle any penalty or assessment that is the subject of a pending petition for judicial review, or a pending action to recover a penalty or assessment.

(d) The Reviewing Official may recommend settlement terms to the Attorney General, as appropriate.

§ 962.27 (Rule 27) Limitations.

A hearing under this part concerning a claim or statement allegedly made, presented, or submitted in violation of 31 U.S.C. 3802 must be commenced within six years after the date on which such claim or statement is made, presented, or submitted.

Colleen Hibbert-Kapler,

Attorney, Ethics and Legal Compliance.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2024–0220; FRL–12817–01–OCSPP]

Cypermethrin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance action for residues of cypermethrin (CASRN 52315–07–8) in or on the food and feed commodities of durian. Under the Federal Food, Drug, and Cosmetic Act (FFDCA), the United States Department of Agriculture (USDA) submitted a petition to EPA requesting that EPA establish a maximum permissible level for residues of this pesticide on in or on the identified commodity(ies).

DATES: This rule is effective on July 17, 2025. Objections and requests for hearings must be received on or before September 15, 2025 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of this document).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2024–0220, is available at <https://www.regulations.gov>. Additional information about dockets generally, along with instructions for visiting the docket in person, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Charles Smith, Director, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1030; email address: RDNRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document might apply to them:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is EPA's authority for taking this action?

EPA is issuing this rulemaking under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. FFDCA section 408(b)(2)(A)(i) allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is “safe.” FFDCA section 408(b)(2)(A)(ii) defines “safe” to mean that “there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings but does not include occupational exposure. FFDCA section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue”

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. If you fail to file an objection to the final rule within the time period specified in the final rule, you will have waived the right to raise any issues resolved in the final rule. You must file your objection or request a hearing on

this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2024–0220 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before September 15, 2025.

EPA's Office of Administrative Law Judges (OALJ), in which the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in other procedural rules governing those proceedings. See “Revised Order Urging Electronic Filing and Service,” dated June 22, 2023, which can be found at <https://www.epa.gov/system/files/documents/2023-06/2023-06-22%20-%20revised%20order%20urging%20electronic%20filing%20and%20service.pdf>. Although EPA's regulations require submission via U.S. Mail or hand delivery, EPA intends to treat submissions filed via electronic means as properly filed submissions; therefore, EPA believes the preference for submission via electronic means will not be prejudicial. When submitting documents to the OALJ electronically, a person should utilize the OALJ e-filing system at https://yosemite.epa.gov/oal/eab/eab-alj_upload.nsf.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute. If you wish to include CBI in your request, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice.

II. Petitioned-For Tolerance

In the **Federal Register** of August 8, 2024 (89 FR 64842 (FRL–11682–06–OSCPP)), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 4E9129) by the United States Department of Agriculture (USDA), 1400 Independence Avenue SW, Washington, DC 20250–1032. The petition requested that 40 CFR part 180 be amended by