compliance with a statutory or regulatory requirement where the demand by the agency is substantially in excess of the decision of the adjudicative officer and is unreasonable when compared with such decision under the facts and circumstances of the case. The rules in this subpart describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that the Department will use to make awards.

§ 1.182 When EAJA applies.

EAJA applies to any adversary adjudication pending or commenced before the Department on or after August 5, 1985, except with respect to a proceeding covered under § 1.183(a)(1)(iii) of this part, which is effective on or after October 21, 1986. In addition, the provisions of § 1.185(b) relating to award for excessive demand apply only to adversary adjudications commenced on or after March 29, 1996. Changes in maximum rates for attorney fees are effective as of October 11, 2002.

§ 1.183 Proceedings covered.

(a)(1) The rules in this subpart apply to adversary adjudications. These are:

(i) Adjudications required by statute to be conducted by the Department under 5 U.S.C. 554 in which the position of the Department or any other agency of the United States, or any component of an agency, is presented by an attorney or other representative who enters an appearance and participates in the proceeding,

(ii) Appeals of decisions of contracting officers made pursuant to section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) before the Agriculture Board of Contract Appeals as provided in section 8 of that Act (41 U.S.C. 607), and

(iii) Any hearing conducted under chapter 38 of title 31, United States Code.

(2) Any proceeding in which the Department may prescribe a lawful present or future rate is not covered by EAJA. Proceedings to grant or renew licenses also are excluded, but proceedings to modify, suspend, or revoke licenses are covered if they are otherwise "adversary adjudications." The proceedings covered include adversary adjudications under the following statutory provisions.

Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 608c(15)(A))

Animal Health Protection Act, sections 10414 and 10415 (7 U.S.C. 8313 and 8314).

Animal Quarantine Laws (21 U.S.C. 104, 117, 122, 127, 134e, and 135a)

Animal Welfare Act (7 U.S.C. 2149)

Archaeological Resources Protection Act (16 U.S.C. 470ff)

Beef Research and Information Act (7 U.S.C. 2912)

Capper-Volstead Act (7 U.S.C. 292)

Cotton Research and Promotion Act (7 U.S.C. 2111)

Egg Products Inspection Act (21 U.S.C. 1047)

Egg Research and Consumer Information Act (7 U.S.C. 2713, 2714(b))

Endangered Species Act (16 U.S.C. 1540(a))

Federal Land Policy and Management Act (43 U.S.C. 1766)

Federal Meat Inspection Act (21 U.S.C. 604, 606, 607(e), 608, 671)

Federal Seed Act (7 U.S.C. 1599)

Horse Protection Act (15 U.S.C. 1823(c), 1825)

Packers and Stockyards Act (7 U.S.C. 193, 204, 213, 218d, 221)

Perishable Agricultural Commodities Act (7 U.S.C. 499c(c), 499d(d), 499f(c), 499h(a), 499h(b), 499h(c), 499i, 499m(a))

Plant Protection Act (7 U.S.C. 7734, 7735, and 7736)

Potato Research and Promotion Act (7 U.S.C. 2620)

Poultry Products Inspection Act (21 U.S.C. 455, 456, 457(d), 467)

Swine Health Protection Act (7 U.S.C. 3804(b), 3805(a))

Title V of the Agricultural Risk Protection Act of 2000, section 501(a) (7 U.S.C. 2279e).

U.S. Cotton Standards Act (7 U.S.C. 51b, 53)

U.S. Grain Standards Act (7 U.S.C. 79(g)(3), 85, 86)

U.S. Warehouse Act (7 U.S.C. 246, 253)

Virus-Serum-Toxin Act (21 U.S.C. 156)

Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3409)

(b) The failure of the Department to identify a type of proceeding as an adversary adjudication shall not preclude the filing of an application by a party who believes the proceeding is covered by EAJA; whether the proceeding is covered will then be an issue for resolution in proceedings on the application.

(c) If a proceeding includes both matters covered by EAJA and matters specifically excluded from coverage, any