

# Rules and Regulations

Federal Register

Vol. 65, No. 91

Wednesday, May 10, 2000

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 47

[Docket No. FV00-363]

#### Amendments to Rules of Practice Under the Perishable Agricultural Commodities Act (PACA); Correction

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule; correction.

**SUMMARY:** The Department of Agriculture (USDA) published in the *Federal Register* on July 15, 1999, a final rule that amended the Rules of Practice under the Perishable Agricultural Commodities Act. This document corrects the amount of time allowed for filing a petition to reopen after default.

**EFFECTIVE DATE:** August 16, 1999.

**FOR FURTHER INFORMATION CONTACT:** Charles W. Parrott, Acting Chief, PACA Branch, Room 2095-So. Bldg., Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Phone (202) 720-4180, Email—charles.parrott@usda.gov.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Department of Agriculture (Department) published a final rule in the *Federal Register* on July 15, 1999 (64 FR 38103), that amended several sections of the Rules of Practice to comply with the PACA Amendments of 1995, and made numerous other changes to enhance customer service.

##### Need for Correction

As published, the final regulations contain an error that may prove to be misleading and need to be clarified. The 30-day time period for filing a petition to reopen after default is in conflict with

the statute and is being corrected to show a 20-day time period in order to remain consistent with the 20-day time period for filing a petition for reconsideration of an order.

#### List of Subjects in 7 CFR Part 47

Administrative practice and procedure, Agricultural commodities, Brokers

Accordingly, 7 CFR part 47 is corrected by making the following correcting amendment:

#### PART 47—[CORRECTED]

1. The authority citation for part 47 continues to read as follows:

**Authority:** 7 U.S.C. 499o; 7 C.F.R. 2.22(a)(1)(viii)(L), 2.79(a)(8)(xiii).

2. Revise paragraph (d) of § 47.24 to read as follows:

#### § 47.24 Rehearing, reargument, reconsideration of orders, reopening of hearings, reopening after default.

\* \* \* \* \*

(d) *Reopening after default.* The party in default in the filing of an answer or reply required or authorized under this part may petition to reopen the proceeding at any time prior to the expiration of 20 days from the date of service of the default order. If, in the judgment of the examiner, after notice to and consideration of the views of the other party(ies), there is good reason for granting such relief, the party in default will be allowed 20 days from the date of the order reopening the proceeding to file an answer.

Dated: May 4, 2000.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 00-11641 Filed 5-9-00; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 400

#### General Administrative Regulations; Food Security Act of 1985, Implementation; Denial of Benefits; Correcting Amendment

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Correcting Amendment.

**SUMMARY:** This document contains a technical correction to subpart F of the General Administrative Regulations, concerning the denial of crop insurance when a person is ineligible due to a conviction of a controlled substance violation.

**EFFECTIVE DATE:** May 9, 2000.

**FOR FURTHER INFORMATION CONTACT:** Bill Smith, Supervisory Insurance Management Specialist, Research and Development, Product Development Division, FCIC, at 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926-7743 (not a toll-free call).

#### SUPPLEMENTARY INFORMATION:

##### Background

The provision contained in 7 CFR part 400.47(a)(2) states that the application and policy of insurance will be canceled when a person becomes ineligible for crop insurance as a result of a conviction for planting, cultivating, growing, producing, harvesting or storing a controlled substance and that a person may submit a new application to obtain crop insurance coverage following the period of ineligibility. As published, the final regulation was not clear regarding the requirement to submit a new application.

##### Need for Correction

As published, the regulation is not clear and has proven to be misleading. Clarification of the requirement to submit a new application for crop insurance coverage following ineligibility is needed.

#### List of Subjects in 7 CFR Part 400

Crop insurance.

Accordingly, 7 CFR part 400 is corrected by making the following correcting amendment:

#### PART 400—GENERAL ADMINISTRATIVE REGULATIONS

#### Subpart F—Food Security Act of 1985, Implementation; Denial of Benefits

1. The authority citation for subpart F continues to read as follows:

**Authority:** Secs. 1506, 1516, Pub.L. 75-430, 52 Stat. 73,77, as amended (7 U.S.C. 1501 *et seq.*); sec. 1244, Pub.L. 99-198.

2. In § 400.47, paragraph (a)(2), is revised to read as follows:

**§ 400.47 Denial of crop insurance.**

(a) \* \* \*

(2) The application and policy of insurance will be voided, or the person will be removed from the policy and the policyholder share reduced in accordance with 7 CFR 400.681(b), when any person becomes ineligible for crop insurance under the provisions of paragraph (a) of this section. To obtain crop insurance coverage following the period of ineligibility, the person must submit a new application for crop insurance.

\* \* \* \* \*

Signed in Washington D.C., on April 11, 2000.

**Kenneth D. Ackerman,***Manage, Federal Crop Insurance Corporation.*

[FR Doc. 00-9598 Filed 5-9-00; 8:45 am]

BILLING CODE 3410-08-P

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 959**

[Docket No. FV00-959-2 FIR]

**Onions Grown in South Texas; Change in Container Requirements****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule revising the container requirements for shipping onions to fresh processors under the South Texas onion marketing order. The marketing order regulates the handling of onions grown in South Texas and is administered locally by the South Texas Onion Committee (Committee). This rule continues to provide handlers additional marketing flexibility by allowing them to ship onions for peeling, chopping, and slicing in bulk trailer loads, 48-inch deep bulk bins, and tote bags. These changes allow the South Texas onion industry to better meet the needs of fresh processors and allow the industry to compete with other suppliers of onions for fresh processing.

**EFFECTIVE DATE:** June 9, 2000.**FOR FURTHER INFORMATION CONTACT:**

Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, TX 78501; telephone: (956) 682-2833, Fax: (956) 682-5942; or

George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698, or E-mail: Jay.Guerber@usda.gov.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues to revise the container requirements for onion shipments for peeling, chopping, and slicing prescribed under the South Texas onion marketing order. Handlers are allowed to ship onions for peeling,

chopping, and slicing in bulk trailer loads, 48-inch deep bulk bins, and tote bags. Previously, onions for these purposes could only be shipped in 47 inch by 37½ inch by 36 inch deep bulk bins, having a volume of 63,450 cubic inches (hereinafter referred to as the "36-inch deep bulk bin"), or containers deemed similar by the Committee. A dimension tolerance for the bulk containers was also added. All handlers shipping onions for peeling, chopping, and slicing will continue to be required to meet grade, size, inspection, and safeguard requirements. The additional method of shipment and containers allows the South Texas onion industry to better meet the needs of fresh processors and allows the industry to compete with other suppliers of onions for fresh processing.

These changes were first unanimously recommended by the Committee at its meeting on September 16, 1999. At that meeting, the Chairman appointed a subcommittee to review the Committee's recommendations. On October 19, 1999, the Committee met again and unanimously approved the subcommittee's recommendations detailed herein.

Section 959.52 of the South Texas onion marketing order authorizes the establishment of grade, size, quality, maturity, and pack and container regulations for shipments of onions. Section 959.52(c) allows for the modification, suspension, or termination of such regulations when warranted. Section 959.53 authorizes changes to the order's regulations to facilitate the handling of onions for relief, charity, experimental purposes, export, or other purposes recommended by the Committee and approved by the Secretary. Section 959.54 of the order provides authority for the Committee to establish that onions handled for special purposes are handled only as authorized. Section 959.60 provides that whenever onions are regulated pursuant to § 959.52, such onions must be inspected by the inspection service and certified as meeting the applicable requirements. Section 959.80 of the order authorizes handler reporting requirements.

Section 959.322(f) of the order's rules and regulations provides specific safeguards for certain special purpose shipments of onions. Furthermore, paragraph (f)(3) of § 959.322 provides authority for the shipment of onions for fresh peeling, chopping, and slicing in 36-inch deep bulk bins, or containers deemed similar by the Committee. Such shipments are exempt from the container requirements specified in paragraph (c) of § 959.322, but are