

Agricultural Marketing Service, USDA

§ 48.4

COMPLAINTS

48.8 Filing of complaints.

AUTHORITY: Sec. 3, 44, Stat. 1355, as amended; 7 U.S.C. 494.

SOURCE: 24 FR 7127, Sept. 3, 1959, unless otherwise noted.

DEFINITIONS

§ 48.1 Meaning of words.

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

§ 48.2 Definitions.

Unless the context otherwise requires, the following terms shall be construed as follows:

(a) *Act* means "An act to prevent the destruction or dumping, without good and sufficient cause therefor, of farm produce received in interstate commerce by commission merchants and others, and to require them truly and correctly to account for all farm produce received by them," approved March 3, 1927 (44 Stat. 1355; 7 U.S.C. 491-497).

(b) *Person* means an individual, partnership, association or corporation.

(c) *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 his stead.

(d) *Service* means the Consumer and Marketing Service, United States Department of Agriculture.

(e) *Deputy Administrator* means the Deputy Administrator for Marketing Services, or any officer or employee of the Service, to whom authority has heretofore lawfully been delegated, or to whom authority may hereafter lawfully be delegated, to act in his stead.

(f) *Director* means the Director of the Fruit and Vegetable Division of the Service, or any officer or employee of the Division to whom authority has heretofore lawfully been delegated, or to whom authority may hereafter lawfully be delegated by the Director to act in his stead.

(g) *Produce* means all fresh fruits and fresh vegetables generally considered by the trade as perishable fruits and

vegetables, melons, dairy or poultry products, or any perishable farm products of any kind or character.

(h) *Truly and correctly to account* means, unless otherwise stipulated by the parties, that the consignee of produce shall, within ten days after the final sale is made of any produce received for sale on consignment in interstate commerce or in the District of Columbia, render to the consignor thereof a true and correct itemized statement of the gross sales as well as all selling charges and all other charges or expenses paid and a statement of the net proceeds or deficit, and make full payment to the consignor of the net proceeds so received together with a full explanation of the disposition of any and all produce not sold.

(i) *Good and sufficient cause* means, with respect to destroyed, abandoned, discarded, or dumped produce, that the produce so dealt with had no commercial value, or that some other legal justification for so dealing with such produce existed, such as an order of condemnation by a health officer or definite authority from the shipper.

(j) *Commercial value* means any value that the produce may have for any purpose that can be ascertained in the exercise of due diligence by the consignee without unreasonable expense on loss of time.

ADMINISTRATION

§ 48.3 Director.

The Director shall perform, for and under the supervision of the Secretary and the Deputy Administrator, such duties as the Secretary or the Deputy Administrator may require in enforcing the provisions of the Act and the regulations issued thereunder.

VIOLATIONS

§ 48.4 Destroying or dumping.

Any person receiving produce in interstate commerce or in the District of Columbia for or on behalf of another who, without good and sufficient cause, shall destroy or abandon, discard as refuse, or dump any produce, directly or indirectly or through collusion with any person, shall be considered to have violated the Act.