

Dated: March 17, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

[Docket # AMS-FV-08-0013; FV08-379]

#### Regulations Under the Perishable Agricultural Commodities Act, 1930; Section 610 Review

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

**ACTION:** Notice of review and request for comments.

**SUMMARY:** This notice announces that the Agricultural Marketing Service (AMS) plans to review the Regulations (Other than Rules of Practice) under the Perishable Agricultural Commodities Act, 1930, as amended, under the criteria contained in section 610 of the Regulatory Flexibility Act (RFA).

**DATES:** Comments received by May 20, 2008 will be considered.

**ADDRESSES:** Interested persons are invited to submit comments concerning this notice of review—the economic impact of the PACA Regulations on a substantial number of small businesses. You may submit written or electronic comments to:

(1) PACA 610 Review Comments, AMS, F&V Programs, PACA Branch, 1400 Independence Avenue, SW., Room 2095-S, Stop 0242, Washington, DC 20250-0242.

(2) Fax: 202-690-4413.

(3) E-mail comments to [dexter.thomas@usda.gov](mailto:dexter.thomas@usda.gov).

(4) Internet: <http://www.regulations.gov>.

**Instructions:** All comments will become a matter of public record and should be identified as PACA 610 Review Comments. Comments will be available for public inspection from AMS at the above address or on the AMS Web site at [www.ams.usda.gov/fv](http://www.ams.usda.gov/fv). Web site questions can be addressed to the PACA webmaster, [dexter.thomas@usda.gov](mailto:dexter.thomas@usda.gov).

**SUPPLEMENTARY INFORMATION:** The Perishable Agricultural Commodities Act (PACA or Act) (7 U.S.C. 499a-499t) establishes a code of fair trade practices covering the marketing of fresh and frozen fruits and vegetables in interstate and foreign commerce. The PACA protects growers, shippers, distributors, and retailers dealing in those

commodities by prohibiting unfair and fraudulent trade practices. In this way, the law fosters an efficient nationwide distribution system for fresh and frozen fruits and vegetables, benefiting the whole marketing chain from farmer to consumer. AMS administers and enforces the PACA.

The law provides a forum for resolving contract disputes, and a mechanism for the collection of damages from any licensee (or one subject to license) who fails to meet contractual obligations. In addition, the PACA provides for prompt payment to fruit and vegetable sellers and for revocation of licenses and sanctions against firms or principals found to have violated the law's standards of fair business practices. The PACA also imposes a statutory trust that attaches to perishable agricultural commodities received by regulated entities, products derived from the commodities, and any receivables or proceeds from the sale of the commodities. The trust exists for the benefit of produce suppliers, sellers, or agents that have not been paid, and continues until they have been paid in full.

The PACA is enforced and financed through a licensing system. All commission merchants, dealers, and brokers engaged in business subject to the PACA must be licensed. Those who engage in practices prohibited by the PACA may have their licenses suspended or revoked.

There are approximately 14,500 firms that are licensed under the PACA to operate in the produce industry. PACA licensees are located nationwide and include dealers, brokers and commission merchants who buy, sell, and negotiate to buy or sell fresh and frozen fruits and vegetables in interstate and/or foreign commerce.

AMS initially published in the **Federal Register** (68 FR 48574, August 14, 2003) its plan to review certain regulations, including regulations (7 CFR part 46) under the PACA, under criteria contained in section 610 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612). An updated plan was published in the **Federal Register** on March 24, 2006 (71 FR 14827). Because many of AMS' regulations impact small entities, AMS decided, as a matter of policy, to review certain regulations which, although they may not have a significant economic impact on a substantial number of small entities as required in section 610 of the RFA (5 U.S.C. 610), merit review.

The purpose of the review is to determine whether the PACA Regulations (Other than Rules of Practice) should be continued without

change, or should be amended or rescinded (consistent with the objectives of the Act) to minimize any significant economic impact of the regulations upon a substantial number of small businesses. AMS will consider the following factors: (1) The continued need for the PACA regulations; (2) the nature of the complaints or comments received from the public concerning the PACA regulations; (3) the complexity of the PACA regulations; (4) the extent to which the PACA regulations overlap, duplicate, or conflict with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the PACA regulations have been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the PACA regulations.

Dated: March 17, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### Emergency Food Assistance Program; Availability of Commodities for Fiscal Year 2008

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice announces the surplus and purchased commodities that the Department expects to make available for donation to States for use in providing nutrition assistance to the needy under the Emergency Food Assistance Program (TEFAP) in Fiscal Year (FY) 2008. The commodities made available under this notice must, at the discretion of the State, be distributed to eligible recipient agencies for use in preparing meals and/or for distribution to households for home consumption.

**DATES:** *Effective Date:* October 1, 2007.

**FOR FURTHER INFORMATION CONTACT:** Lillie Ragan, Assistant Branch Chief, Policy Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302-1594 or telephone (703) 305-2662.

**SUPPLEMENTARY INFORMATION:** In accordance with the provisions set forth in the Emergency Food Assistance Act of 1983 (EFAA), 7 U.S.C. 7501 note, the