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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

[Doc. No. FV04-371]

#### Notice of Request for Extension of a Currently Approved Information Collection

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

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

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget for an extension of a currently approved information collection for the Reporting and Recordkeeping Requirements Under Regulations Under the Perishable Agricultural Commodities Act, 1930, as amended.

**DATES:** Comments received by February 9, 2004 will be considered.

**ADDITIONAL INFORMATION OR COMMENTS:** Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to Dexter Thomas, Senior Marketing Specialist, PACA Branch, F & V Programs, AMS, USDA, 1400 Independence Avenue, SW., Room 2095—So. Bldg., Mail Stop 0242, Washington, DC 20250-0242. E-mail [dexter.thomas@usda.gov](mailto:dexter.thomas@usda.gov). All comments should reference the docket number and the date and page number of this issue in the **Federal Register** and will be made available for public inspection in the PACA Branch during regular business hours and posted on the Internet at <http://www.ams.usda.gov/fv/paca.htm>.

**SUPPLEMENTARY INFORMATION:**

*Title:* Reporting and Recordkeeping Requirements Under Regulations (Other

than Rules of Practice) Under the Perishable Agricultural Commodities Act, 1930.

*OMB Number:* 0581-0031.

*Expiration Date of Approval:* September 30, 2004.

*Type of Request:* Extension of a currently approved information collection.

*Abstract:* The PACA was enacted by Congress in 1930 to establish a code of fair trading practices covering the marketing of fresh and frozen fruits and vegetables in interstate or foreign commerce. It protects growers, shippers, and distributors dealing in those commodities by prohibiting unfair and fraudulent trade practices.

The law provides a forum for resolving contract disputes, and a mechanism for the collection of damages from anyone who fails to meet contractual obligations. In addition, the PACA provides for prompt payment of fruit and vegetable sellers and for revocation of licenses and sanctions against firms or principals who violated the law's standards for 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 through a licensing system. All commission merchants, dealers, and brokers engaged in business subject to the PACA must be licensed. Retailers and grocery wholesalers must renew their licenses every three years. All other licensees have the option of a one, two, or three-year license term. Those who engage in practices prohibited by the PACA may have their licenses suspended or revoked.

The information collected is used to administer licensing provisions under the PACA, to adjudicate contract disputes, and for the purpose of enforcing the PACA and the regulations. The purpose of this notice is to solicit comments from the public concerning our information collection.

We estimate the paperwork and time burden on the above to be as follows:

*Form FV-211 (or 211-1, or 211-2, or 211-3, or 211-4, or 211-5), Application*

*for License:* Average of .25 hours per application per response.

*Form FV-231-1 (or 231-1A, or 231-2, or 231-2A), Application for Renewal or Reinstatement of License:* Average of .05 hours per application per response.

*Regulations Section 46.13—Letters to Notify USDA of Changes in Business Operations:* Average of .05 hours per notice per response.

*Regulations Section 46.4—Limited Liability Company Articles of Organization and Operating Agreement:* Average of .083 hours with approximately 220 recordkeepers.

*Regulations Section 46.18—Record of Produce Received:* Average of 5 hours with approximately 18,400 recordkeepers.

*Regulations Section 46.20—Records Reflecting Lot Numbers:* Average of 8.25 hours with approximately 1,000 recordkeepers.

*Regulations Section 46.46(d)(2)—Waiver of Rights to Trust Protection:* Average of .25 hours per notice with approximately 100 principals.

*Regulations Sections 46.46(f) and 46.2(aa)(11)—Copy of Written Agreement Reflecting Times for Payment:* Average of 20 hours with approximately 2,670 recordkeepers.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 3.8203 hours per response.

*Respondents:* Commission merchants, dealers, and brokers engaged in the business of buying, selling, or negotiating the purchase or sale of commercial quantities of fresh and/or frozen fruits and vegetables in interstate or foreign commerce are required to be licensed under the PACA (7 U.S.C. 499(c)(a)).

*Estimated Number of Respondents:* 15,829.

*Estimated Number of Responses:* 40,609

*Estimated Number of Responses per Respondent:* 2.5654.

*Estimated Total Annual Burden on Respondents:* 155,138.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the

methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Dexter Thomas, Senior Marketing Specialist, PACA Branch, F & V Programs, AMS, USDA, 1400 Independence Avenue, SW., Room 2095-So. Bldg., Mail Stop 0242, Washington, DC 20250-0242. E-mail—[dexter.thomas@usda.gov](mailto:dexter.thomas@usda.gov).

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: December 4, 2003.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 03-30599 Filed 12-9-03; 8:45 am]

BILLING CODE 3410-02-P

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

[No. LS-04-02]

**Beef Promotion and Research: Certification and Nomination for the Cattlemen's Beef Promotion and Research Board**

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) is accepting applications from State cattle producer organizations or associations and general farm organizations, as well as cattle or beef importer organizations, who desire to be certified to nominate producers or importers for appointment to vacant positions on the Cattlemen's Beef Promotion and Research Board (Board). Organizations which have not previously been certified that are interested in submitting nominations must complete and submit an official application form to AMS. Previously certified organizations do not need to reapply. Notice is also given that vacancies will occur on the Board and that during a period to be established, nominations will be accepted from eligible organizations and individual importers.

**DATES:** Applications for certification must be received by close of business January 9, 2004.

**ADDRESSES:** Certification form as well as copies of the certification and nomination procedures may be requested from Kenneth R. Payne, Chief, Marketing Programs Branch, LS, AMS, USDA; STOP 0251-Room 2638-S; 1400 Independence Avenue, SW.; Washington, DC 20250-0251. The form may also be found on the Internet at <http://www.ams.usda.gov/lsg/mpb/beef/ls25.pdf>.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Payne, Chief, Marketing Programs Branch on 202/720-1115.

**SUPPLEMENTARY INFORMATION:** The Beef Promotion and Research Act of 1985 (Act)(7 U.S.C. 2901 *et seq.*), enacted December 23, 1985, authorizes the implementation of a Beef Promotion and Research Order (Order). The Order, as published in the July 18, 1986, **Federal Register** (51 FR 26132), provides for the establishment of a Board. The current Board consists of 100 cattle producers and 8 importers appointed by USDA. The duties and responsibilities of the Board are specified in the Order.

The Act and the Order provide that USDA shall either certify or otherwise determine the eligibility of State cattle producer organizations or associations and general farm organizations, as well as any importer organizations or associations to nominate members to the Board to ensure that nominees represent the interests of cattle producers and importers. Nominations for importer representatives may also be made by individuals who import cattle, beef, or beef products. Persons who are individual importers do not need to be certified as eligible to submit nominations. When individual importers submit nominations, they must establish to the satisfaction of USDA that they are in fact importers of cattle, beef, or beef products, pursuant to § 1260.143(b)(2) of the Order [7 CFR 1260.143(b)(2)]. Individual importers are encouraged to contact AMS at the above address to obtain further information concerning the nomination process, including the beginning and ending dates of the established nomination period and required nomination forms and background information sheets. Certification and nomination procedures were promulgated in the final rule, published in the April 4, 1986, **Federal Register** (51 FR 11557) and currently appear at 7 CFR § 1260.500 through § 1260.640. Organizations which have previously been certified to nominate members to the Board do not need to reapply for

certification to nominate producers and importers for the upcoming vacancies.

The Act and the Order provide that the members of the Board shall serve for terms of 3 years. The Order also requires USDA to announce when a Board vacancy does or will exist. The following States have one or more members whose terms will expire in early 2005:

State or unit	Number of vacancies
Alabama .....	1
Arkansas .....	1
California .....	2
Colorado .....	1
Florida .....	1
Idaho .....	1
Illinois .....	1
Indiana .....	1
Iowa .....	2
Kansas .....	2
Kentucky .....	1
Minnesota .....	1
Missouri .....	2
Montana .....	1
Nebraska .....	2
New York .....	1
North Dakota .....	1
Ohio .....	1
Oklahoma .....	2
Oregon .....	1
Pennsylvania .....	1
South Dakota .....	1
Tennessee .....	1
Texas .....	5
Virginia .....	1
Wisconsin .....	1
Northwest Unit .....	1
Southeast Unit .....	1
Importer Unit .....	1

Since there are no anticipated vacancies on the Board for the remaining States' positions, or for the positions of the Northwest unit, nominations will not be solicited from certified organizations or associations in those States or units.

Uncertified eligible producer organizations and general farm organizations in all States that are interested in being certified as eligible to nominate cattle producers for appointment to the listed producer positions, must complete and submit an official "Application for Certification of Organization or Association," which must be received by close of business [January 9, 2004]. Uncertified eligible importer organizations that are interested in being certified as eligible to nominate importers for appointment to the listed importer positions must apply by the same date. Importers should not use the application form but should provide the requested information by letter as provided for in 7 CFR 1260.540(b). Applications from States or units without vacant positions