

enforceable under PACA regulations and PACA's claim settlement process. According to Mr. Frazier, in settling a claim, PACA will uphold actions taken by a signatory or a signatory's representative (collectively "signatory") to comply with the Agreement to the extent that the sales contract for the transaction at issue establishes that the sale is subject to the terms of the Agreement. In other words, if, prior to making the sale, the signatory, or the Selling Agent acting on behalf of the signatory through a contractual arrangement, informs the customer that the sale is subject to the terms of the Agreement and identifies those terms, PACA will recognize the identified terms of the Agreement as integral to the sales contract. In particular, signatories should inform their customers that their contractual agreement to allow defect claim adjustments is limited in accordance with the Agreement, including:

- Claims for adjustments must be supported by an unrestricted USDA inspection called for no more than six hours from the time of arrival at the receiver and performed in a timely fashion thereafter.
- The USDA inspection must find that the condition defects exceed the thresholds outlined in Appendix D above.
- Any price adjustments will be limited to the actual percentage of condition defects as documented by a USDA inspection certificate.

- The price adjustments will be limited to actual destruction costs, the allocated freight expense, and salvaging and reconditioning expenses calculated in accordance with Appendix D above.

- The customer may not resell any defective tomatoes. Instead, they must be destroyed, returned or donated to a non-profit food bank. Signatories should provide a copy of the Agreement to any customer which may be unfamiliar with its terms or which has questions about those terms.

The process by which a signatory could provide evidence to PACA that its sales contracts were made subject to the terms of the Agreement including, in particular, those terms listed above is outlined below.

- The signatory should maintain written documentation demonstrating that it had informed its customers and the customers accepted that the sales were subject to the terms of the Agreement prior to issuing the invoice. A signed contract to that effect would be the best evidence of that fact; however, a purchase by the customer after being informed of the relevance of the Agreement is evidence of acceptance.

- The signatory should send letters to its customers via registered mail, return receipt requested, informing the customers that, as a signatory to the Agreement, all of the signatory's sales are subject to the terms of the Agreement and that, by purchasing from them, the buyer agrees to those terms. The letter should also indicate that the signatory's sales personnel do not have authority to alter the terms of the Agreement.

- In addition, the signatory should include a statement on its order confirmation sheets that its contract with the buyer is subject to the terms of the Agreement as detailed in the signatory's "pre-season" letter and maintain a copy of the order confirmations and fax

receipts demonstrating that they were sent to the customer prior to making the sale. If the sale is to a first-time purchaser that did not receive a "pre-season" letter, a letter should be supplied to the buyer prior to making a sale.

- The signatory should instruct its sales personnel to inform customers making purchases by telephone or at the loading dock that the sale is subject to the terms of the Agreement and its restrictions on price adjustments and, by purchasing from them, the buyer agrees to those terms. In fact, the sales personnel should provide a copy of the letter to the customer and, ideally, have the customer acknowledge receipt of the letter, in writing, prior to making the sale. Such an established practice will help to ensure that even new customers are informed properly of the terms of sale prior to completing a contract.

PACA does not require any one particular form of written documentation but USDA officials have confirmed that, if signatories maintain written evidence demonstrating that their customers were informed that their sales were made subject to the terms of the Agreement prior to sale, PACA will recognize those terms as part of the sales contract.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; NOAA Satellite Groundstation Customer Questionnaire

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 28, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Paul Seymour, 301-763-

8051, extension 109 or paul.seymour@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

NOAA requests people who operate ground receiving stations that receive data from NOAA satellites to complete a questionnaire about the types of data received, its use, the equipment involved, and similar subjects. The data obtained are used by NOAA for short-term operations and long-term planning.

II. Method of Collection

The information is collected via an online questionnaire.

III. Data

OMB Number: 0648-0227.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Not-for-profit institutions, business or other for-profit organizations, Individuals or households, Federal Government, and State, Local or Tribal Government.

Estimated Number of Respondents: 300.

Estimated Time Per Response: 5 minutes.

Estimated Total Annual Burden Hours: 25.

Estimated Total Annual Cost to Public: \$0 in capital and recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 22, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

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