

## Agricultural Marketing Service, USDA

## § 47.49

(d) *Computations of time.* Saturdays, Sundays and holidays shall be included in computing the time allowed for the filing of any document or paper: Provided, That, when such time expires on a Saturday, Sunday or Federal holiday, such period shall be extended to include the next following business day.

(e) *Official notice.* In any proceeding official notice may be taken of (1) such matters as are judicially noticed by the courts of the United States; (2) any other matter of technical, scientific, or commercial fact of established character; and (3) relevant publications and records of the Department.

[10 FR 2217, Feb. 27, 1945; 11 FR 224, Jan. 4, 1946, as amended at 24 FR 10055, Dec. 12, 1959; 56 FR 175, Jan. 3, 1991; 60 FR 8462, Feb. 14, 1995; 64 FR 38108, July 15, 1999]

### RULES APPLICABLE TO DISCIPLINARY PROCEEDINGS

#### § 47.46 Rule applicable to all proceedings.

The Secretary may act in the place and stead of an examiner or judge in any proceeding hereunder. When the Secretary so acts, the Hearing Clerk shall transmit the record to the Secretary at the expiration of the period provided for the filing of proposed findings of fact, conclusions and orders, and the Secretary shall thereupon, after due consideration of the record, issue his or her final order in the proceeding: *Provided*, That the Secretary may issue a tentative order in which event the parties shall be afforded an opportunity to file exceptions before the issuance on the final order.

[12 FR 1026, Feb. 13, 1947, as amended at 38 FR 30447, Nov. 5, 1973; 60 FR 8462, Feb. 14, 1995]

### RULES APPLICABLE TO THE DETERMINATION AS TO WHETHER A PERSON IS RESPONSIBLY CONNECTED WITH A LICENSEE UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT

#### § 47.47 Additional definitions.

The following definitions, which are in addition to those in § 47.2 (a) through (h), shall be applicable to proceedings under §§ 47.47 through 47.49.

(a) *Chief* means the Chief of the PACA Branch, or any officer or em-

ployee to whom authority has heretofore lawfully been delegated or to whom authority may hereafter lawfully be delegated by the Chief, to act in such capacity.

(b) *PACA Branch* means that PACA Branch of the Fruit and Vegetable Programs.

(c) *Petition for review* means the document filed requesting review by an Administrative Law Judge of the Chief's determination.

[61 FR 11504, Mar. 21, 1996]

#### § 47.48 Scope and applicability.

These rules govern the determination of whether a person is responsibly connected with licensees under the Perishable Agricultural Commodities Act of 1930, as amended, or with persons whose license issued under the act has been suspended, revoked, or terminated or with persons who transact business subject to the act, but fail to obtain the required license.

[43 FR 30788, July 18, 1978]

#### § 47.49 Determinations.

(a) The PACA Branch shall determine whether a person was at the time in issue responsibly connected with a licensee whose license is subject to suspension, revocation, or termination or which is subject to having the facts and circumstances of violations of the act published. Such determination shall be made on the basis of license records on file with the PACA Branch, and such other information as may be available.

(b) Upon determining that a person was responsibly connected at the time in issue with a licensee which is subject to the suspension or revocation of its license, or which is subject to having the facts and circumstances of violations of the Act published, and that the employment status and licensing of such person may be restricted, the PACA Branch shall notify the person in writing of his or her status and of any employment and licensing restrictions resulting therefrom.

(c) If a person believes he or she was not responsibly connected with a licensee at the time in issue, he or she may submit the reasons for such belief

in written form, along with all pertinent documents, within 30 days of the receipt of such notification to the Chief, who will promptly review the matter and advise the person in writing of the Chief's determination and the reasons for reaching such determination.

(d) Within 30 days of receipt of notification of the Chief's determination, a person who disagrees with such determination may file with the Hearing Clerk, pursuant to §1.130-1.151 of this title, a petition for review of the determination.

[43 FR 30788, July 18, 1978, as amended at 60 FR 8462, Feb. 14, 1995; 61 FR 11504, Mar. 21, 1996]

**PART 48—REGULATIONS OF THE  
SECRETARY OF AGRICULTURE  
FOR THE ENFORCEMENT OF THE  
PRODUCE AGENCY ACT**

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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