

(1) The catastrophic risk protection plan of insurance and the noninsured crop disaster assistance program for a period not to exceed two (2) years; or

(2) Any plan of insurance providing protection in excess of that provided under the catastrophic risk protection plan of insurance for a period not to exceed ten (10) years.

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3. A new § 400.458 is added to read as follows:

§ 400.458 Scheme or device.

(a) In addition to the penalties specified in this part, if a person has knowingly adopted a material scheme or device to obtain catastrophic risk protection, other plans of insurance coverage, or noninsured assistance benefits to which the person is not entitled, has evaded the provisions of the Federal Crop Insurance Act, or has acted with the purpose of evading the provisions of the Federal Crop Insurance Act, the person shall be ineligible to receive any and all benefits applicable to any crop year for which the scheme or device was adopted.

(b) A scheme or device may include, but is not limited to, creating or using another entity, or concealing or providing false information with respect to your interest in the policyholder, to evade:

(1) Suspension, debarment, or disqualification from participation in the program;

(2) The assignment of the nonstandard classification system; or

(3) Ineligibility for a delinquent debt owed to FCIC or the insurance company.

4. A new § 400.459 is added to read as follows:

§ 400.459 Indebtedness.

Any person who has provided materially false information or misrepresented any material fact in connection with any program administered under the Act, and is indebted to FCIC or an insurance company arising from such conduct, is ineligible to participate in any program administered under the Act until the debt has been paid in full.

Done in Washington, DC on July 12, 1995.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

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Agricultural Marketing Service

7 CFR Parts 1150, 1160, 1200, 1205, 1207, 1208, 1209, 1210, 1211, 1212, 1220, 1230, 1240, 1250, 1280, and 1290

[FV-94-702FR]

Rules of Practice Governing Proceedings on Petitions to Modify or to be Exempted from Research and Promotion Programs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule will consolidate the petition procedures for all research and promotion programs that provide for petitions. This consolidation will eliminate duplication and will reduce costs.

EFFECTIVE DATE: August 21, 1995.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: This action is authorized under the Floral Research and Consumer Information Act [7 U.S.C. 4301-4319]; the Fresh Cut Flowers and Fresh Cut Greens Promotion and Consumer Information Act [7 U.S.C. 6801-6814]; the Honey Research, Promotion, and Consumer Information Act, as amended [7 U.S.C. 4601-4612]; the Lime Research, Promotion, and Consumer Information Act, as amended [7 U.S.C. 6201-6212]; the Mushroom Promotion, Research, and Consumer Information Act of 1990 [7 U.S.C. 6101-6112]; the Pecan Promotion and Research Act of 1990 [7 U.S.C. 6001-6013]; the Potato Research and Promotion Act, as amended [7 U.S.C. 2611-2627]; the Watermelon Research and Promotion Act, as amended [7 U.S.C. 4901-4916], the Egg Research and Consumer Information Act [7 U.S.C. 2701-2718], the Cotton Research and Promotion Act [7 U.S.C. 2101-2118], the Pork Promotion, Research, and Consumer Information Act [7 U.S.C. 4801-4819], the Soybean Promotion, Research, and Consumer Information Act [7 U.S.C. 6301-6311], the Sheep Promotion, Research, and Information Act of 1994 [7 U.S.C. 7101-7111], the Dairy Production Stabilization Act of 1983 [7 U.S.C. 4501-4513], the Fluid Milk Promotion Act of 1990 [7 U.S.C. 6401-6417], and the Wheat and Wheat Foods Research and Nutrition Education Act [7 U.S.C. 3401-3417].

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The acts named above provide that administrative proceedings must be exhausted before parties may file suit in court. A person subject to a research and promotion order or plan (hereinafter referred to as order) may file a petition with the Secretary of Agriculture (Secretary) stating that the order or any provision of the order, or any obligation imposed in connection with the order, is not in accordance with law and requesting a modification of the order or an exemption from the order. The petitioner is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary will make a ruling on the petition. The acts provide that the district courts of the United States in any district in which a person who is a petitioner resides or carries on business are vested with jurisdiction to review the Secretary's ruling on the petition, if a complaint for that purpose is filed within 20 days after the date of the entry of the ruling.

Regulatory Impact Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

Since this action is administrative in nature, the Administrator of AMS determined that this rule will have no economic impact on small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 [44 U.S.C. Chapter 35], the information collection requirements contained in the orders covered by the acts have been approved by OMB. This action will not impact any of the information collection requirements under the orders.

Background

When Congress authorizes a research and promotion program to be administered by the Department of