

§ 46.47

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invoice or other billing statement if the electronic invoice or other billing statement containing the statement set forth in paragraph (f)(3)(i) is sent to the buyer and the electronic transmission can be verified. The licensee will be deemed to have given notice to the buyer of its intent to preserve trust benefits if the licensee can verify that the electronic invoice or other billing statement was sent to a third party electronic transaction vendor designated by the buyer. The licensee will have met the requirement of giving the buyer written notice of intent to preserve trust benefits using electronic means if it can verify that the electronic data invoice or other billing statement was transmitted to the buyer, or its designated electronic transaction vendor, irrespective of whether or not the buyer or third party vendor downloads or accepts the trust statement.

(5) If a buyer conducts its transactions in perishable agricultural commodities using an electronic system, the buyer or its third party electronic vendor must allow sufficient space for the seller to include the required trust statement of intent to preserve trust benefits in the buyer's electronic invoices or other billing statement forms. A buyer or its designated third party electronic vendor must accept a seller's notice of intent to preserve benefits under the trust using the required trust statement, whether in documentary or electronic form, as set forth in paragraphs (d) and (f) of this section. Any act or omission which is inconsistent with this responsibility is unlawful and in violation of Section 2 of the Act (7 U.S.C. 499b).

(Sec. 1, 46 Stat. 531, as amended; 7 U.S.C. 499a et seq.)

[49 FR 45740, Nov. 20, 1984, as amended at 62 FR 15088, Mar. 31, 1997; 62 FR 60999, Nov. 14, 1997; 72 FR 29838, May 30, 2007]

OMB CONTROL NO.

§ 46.47 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions

of 44 U.S.C. Chapter 35 and have been assigned OMB Control No. 0581-0031.

[49 FR 23826, June 8, 1984]

§ 46.48 Procedure for investigating complaints involving commodities of a unique nature or coming from a distinct geographic area.

(a) *Scope:* This section provides for the payment of fees and the investigation of allegations of misrepresentation or misbranding in which the commodity which is misbranded or misrepresented is purported to be a commodity of a unique name or geographical designation which is defined as:

(1) A perishable agricultural commodity as that term is defined under the Perishable Agricultural Commodities Act, 1930;

(2) Subject to a federal marketing order under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.);

(3) Traditionally identified as being produced in a distinct geographic area, State, or region; and

(4) Of a unique identity, based on such distinct geographic area, which has been promoted with funds collected through producer contributions pursuant to such marketing order.

(b) *Filing complaints:* (1) Any person desiring to complain of a possible violation by any commission merchant, dealer, or broker as a result of misrepresentation or misbranding of any commodity subject to these regulations may file a complaint with the Secretary of Agriculture and request an investigation of the complaint by the Secretary.

(2) Complaints shall be made in writing setting forth all the essential details, including but not limited to:

(i) The name and address of each complaining person;

(ii) The name and address of each person against whom the complaint is made;

(iii) The commodity, approximate quantity of the commodity, and circumstances of alleged misrepresentation or misbranding;

(iv) The current location of the commodity;

(v) If shipped, the shipping and destination points of the commodity;