

Rules and Regulations

Federal Register

Vol. 61, No. 66

Thursday, April 4, 1996

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1208

[AMS-FV-96-702 IFR]

Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order; Suspension of Late Payment Charges

AGENCY: Agricultural Marketing Service (USDA).

ACTION: Interim final rule, suspension.

SUMMARY: This interim final rule suspends, until April 30, 1996, portions of the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order (Order) relating to assessment late payment charges. This action allows the National PromoFlor Council (Council) to cease levying late charges on past due assessments remitted by qualified handlers during the period January 15, 1995, through April 30, 1996. The suspension also permits the Council to refund late charges which have been collected since January 15, 1995. The Council recommended this suspension because it discovered that some qualified handlers were unfamiliar with the new fresh cut flowers and greens program.

EFFECTIVE DATE: January 15, 1995, through April 30, 1996.

Comments must be received by May 6, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule to: Research and Promotion Branch, Fruit and Vegetable Division, Agricultural Marketing Service (AMS), USDA, P.O. Box 96456, Room 2535-S, Washington, DC 20090-6456; fax (202) 205-2800. Three copies of all written material should be submitted, and they will be made available for public inspection at the Research and Promotion Branch

during regular business hours. All comments should reference the docket number and the date and page number of this issue of the Federal Register

FOR FURTHER INFORMATION CONTACT: Sonia N. Jimenez, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2535-S, Washington, D.C. 20090-6456; telephone (202) 720-9915.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993 [Pub. L. 103-190], (7 U.S.C. 6801 *et seq.*) hereinafter referred to as the Act.

This interim final rule has been issued in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action suspends late charges on past due assessments remitted by qualified handlers during the period January 15, 1995, through April 30, 1996. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 8 of the Act, a person subject to the order may file a petition with the 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 such hearing, the Secretary will make a ruling on the petition. The Act provides 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 Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of AMS has considered the economic impact of this action 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.

Only those wholesale handlers, retail distribution centers, producers, and importers who have annual sales of \$750,000 or more of cut flowers and greens and who sell those products to exempt handlers, retailers, or consumers are considered qualified handlers and assessed under the Order. There are approximately 900 wholesaler handlers, 150 importers, and 200 domestic producers who are qualified handlers.

The majority of these qualified handlers would be classified as small businesses. Small agricultural service firms have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than \$5 million.

The Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities. This action benefits qualified handlers by preventing the levy of later charges which they might otherwise be subject to.

In accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], and OMB regulations [5 CFR Part 1320], the information collection and recordkeeping requirements contained in this action were submitted to the OMB and approved under OMB control number 0581-0093 and has an expiration date of January 31, 1997. This action adds no additional reporting burden.

Background

The Order became effective on December 29, 1994 [59 CFR 67139]. During the first year of operation, the National PromoFlor Council (Council) has discovered that some qualified handlers were unfamiliar with the new fresh cut flowers and greens program. Consequently, such qualified handlers have remitted their assessments late or failed to remit their assessments, unknowingly subjecting themselves to late payment charges. The Council believes that the late payment charges are not serving their intended purpose of stimulating timely remittance of assessments due. Instead the late payment charges have been applicable to persons having difficulty adjusting their operations to conform with the requirements of the new program and

those who were legitimately unaware of the program's existence.

This action suspends section 1208.52 of the Order and allows the Council to cease levying late charges on past due assessments remitted by handlers during the period January 15, 1995, through April 30, 1996. This suspension also permits the Council to refund late charges which have been collected since January 15, 1995.

Suspension of late charges only applies to past due assessments remitted to the Board postmarked prior to midnight April 30, 1996. Assessment payments postmarked and received after April 30, 1996, would be subject to the late charges that would have been due had these provisions not been suspended.

Based on available information, the Administrator of the AMS has determined that the issuance of this rule will not have a significant economic impact on a substantial number of small entities.

For the reasons set forth herein, the provisions of section 1208.52 of the Order are suspended for the period January 15, 1995, through April 30, 1996.

After consideration of all relevant material, it is found that the order provisions subject to this action do not tend to effectuate the declared policy of the Act and are suspended for the period provide for in this action.

Pursuant to the provisions in 5 U.S.C. 553, it is found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this action into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register, because: (1) This action removes an economic burden from qualified handlers; (2) this action will serve to encourage qualified handlers with past due assessments to remit such assessments before the April 30, 1996, close of the suspension period, thereby avoiding the payment of late charges; and (3) payment of past due assessments by such qualified handlers will enable them to come into compliance with the Act and the Order.

A 30-day comment period is provided to allow interested persons to respond to this action.

List of Subjects in 7 CFR Part 1208

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Cut flowers, Cut greens, Promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 1208 is amended as follows:

PART 1208—FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION ORDER

1. The authority citation for 7 CFR part 1208 continues to read as follows:

Authority: 7 U.S.C. 6801 *et seq.*

§ 1208.52 [Suspended in part]

2. In Part 1208, section 1208.52 is suspended effective January 15, 1995, through April 30, 1996.

Dated: March 20, 1996.

Michael V. Dunn,
Assistant Secretary, Marketing and
Regulatory Programs.

[FR Doc. 96-8244 Filed 4-3-96; 8:45 am]

BILLING CODE 3410-02-P

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R-0903]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; official staff interpretation.

SUMMARY: The Board is publishing revisions to the official staff commentary to Regulation Z (Truth in Lending). The commentary applies and interprets the requirements of Regulation Z. The revisions provide guidance mainly on issues relating to reverse mortgages and mortgages bearing rates above a certain percentage or fees above a certain amount. The update also addresses issues of general interest, such as a card issuer's responsibilities when a cardholder asserts a claim or defense relating to a merchant dispute.

DATES: This rule is effective April 1, 1996. Compliance is optional until October 1, 1996.

FOR FURTHER INFORMATION CONTACT: For Subparts A and B (open-end credit), Jane Ahrens, Senior Attorney or Jane Jensen Gell, Staff Attorney; for Subparts A, C and E (closed-end credit, reverse mortgages, and mortgages bearing rates or fees above a certain percentage or amount), Ms. Ahrens or Michael Hentrel, Kurt Schumacher, or Manley Williams, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452-3667 or

452-2412. For users of Telecommunications Device for the Deaf (TDD) only, please contact Dortha Thompson, at (202) 452-3544.

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of the Truth in Lending Act (TILA; 15 U.S.C. 1601 *et seq.*) is to promote the informed use of consumer credit by requiring disclosures about its terms and cost. The act requires creditors to disclose credit terms and the cost of credit as an annual percentage rate (APR). The act requires additional disclosures for loans secured by a consumer's home, and permits consumers to cancel certain transactions that involve their principal dwelling. It also imposes limitations on some credit transactions secured by a consumer's principal dwelling. The act is implemented by the Board's Regulation Z (12 CFR part 226). The Board also has an official staff commentary (12 CFR part 226 (Supp. I)) that interprets the regulation, and provides guidance to creditors in applying the regulation to specific transactions. It is updated periodically to address significant questions that arise, and is a substitute for individual staff interpretations.

In December, the Board published proposed amendments to the commentary to Regulation Z (60 FR 62764, December 7, 1995). The Board received about 120 comments. Nearly 75 percent of the comments received were from financial institutions, mortgage lenders, credit or guarantee automobile protection (GAP) insurance providers, pawnbrokers or other creditors (or their representatives); the remainder were from consumer representatives, government officials, lawyers and individuals. Overall, commenters generally supported the proposed amendments. Views were mixed on a number of comments. In particular, nearly 60 percent of the commenters addressed the comment treating certain debt cancellation agreements as finance charges; most opposed the proposal. Except as discussed below, the update has been adopted as proposed.

Technical amendments to proposed comments that respond to commenters' suggestions or concerns are not specifically addressed in these supplementary materials. Compliance with the commentary update is mandatory on October 1, 1996.

The revisions mainly incorporate guidance given in the supplementary information that accompanied an amendment to Regulation Z implementing the Home Ownership and Equity Protection Act of 1994 (HOEPA),