

# Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

[Docket No. FV99-360]

#### Information About Recognizing Limited Liability Companies Under the Perishable Agricultural Commodities Act (PACA)

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This document provides notice to the public that it is USDA policy to recognize a limited liability company (LLC) as a legal entity under the Perishable Agricultural Commodities Act (PACA), and that any member of an LLC, and/or any other person authorized by the members to conduct business on behalf of an LLC, may be considered to be "responsibly connected" with the LLC.

**DATES:** April 14, 1999.

**ADDITIONAL INFORMATION:** Contact Charles W. Parrott, Assistant Chief, PACA Branch, Fruit and Vegetable Division, AMS, USDA, Room 2095-So. Bldg., P.O. Box 96456, Washington, DC 20090-6456. Email—charles.parrott@usda.gov. This notice will also be posted on the Internet at [www.ams.usda.gov/fv/paca.htm](http://www.ams.usda.gov/fv/paca.htm).

**SUPPLEMENTARY INFORMATION:** The Perishable Agricultural Commodities Act (PACA) establishes a code of fair trade practices covering the marketing of fresh and frozen fruits and vegetables in interstate and foreign commerce. The PACA protects growers, shippers, distributors, and retailers dealing in those commodities by prohibiting unfair and fraudulent practices. In this way, the law fosters an efficient nationwide distribution system for fresh and frozen fruits and vegetables, benefitting the whole marketing chain from farmer to consumer. USDA's Agricultural

Marketing Service (AMS) administers and enforces the PACA.

Any person who buys or sells commercial quantities of fruits and vegetables in interstate or foreign commerce must be licensed under the PACA. Under the Act, the term "person" means any individual, partnership, corporation, association, or separate legal entity. 7 U.S.C. 499a(b)(1); 7 CFR 46.2(i). Separate licenses are required for each person. A person is designated as "responsibly connected" with a firm under the PACA if that person is affiliated as an owner, as a partner in a partnership, or as an officer, director or holder of more than 10 percent of the outstanding stock of a corporation or association. 7 U.S.C. 499a(b)(9); 7 CFR 46.2(ff). In the event that a licensee is found to have violated the Act and USDA suspends or revokes the firm's license, then the licensee and its "responsibly connected" principals face PACA licensing and employment restrictions which may include the denial of a license, a prohibition on employment with another PACA licensee, or the requirement that a bond be posted as a prerequisite to licensing or employment in the fruit and vegetable industry. 7 U.S.C. 499h.

Although the PACA and PACA regulations do not specifically list the LLC as a "person," it is USDA policy to recognize an LLC as a separate legal entity, just as LLCs are recognized in most states, subject to licensing under the PACA regulations. This notice provides information about how AMS handles LLCs under the PACA, especially with regard to the licensing of LLCs and the responsibly connected status of LLC members.

An LLC may be described as a cross between a partnership and a corporation. This hybrid business structure is now available to businesses in most states. The personal liability protection afforded by the LLC is similar to that of a corporation. For example, the members are insulated from liability arising solely from being a member but are not insulated from liability for the acts of the LLC which violate any laws or regulations. Liability issues may vary somewhat according to state law and the LLC's organizational agreement.

Although an LLC affords personal liability protection to its owners that is similar to that of a corporation, the ownership characteristics of an LLC

more closely resemble those of a partnership. The LLC owners are often referred to as members, and member-managers may be designated. Membership requirements in an LLC can be determined by the members; for example, members may join through financial contributions or through the performance of services.

In general, state LLC statutes require the filing of documentation similar to articles of incorporation, sometimes called articles of organization. In addition, an operating agreement is entered into which usually designates who has the authority to run the LLC company. This operating agreement usually details the process to be followed in choosing the manager(s) and sets forth the manager(s)' authority and the authority retained by the members. The manager(s) is often, but not always, a member of the LLC. Specific requirements vary by state.

Because of the unique composite nature of the LLC, an LLC's members are analogous to partners in a partnership, while managers, who are not always members, may be analogous to corporate officers, depending on the manager's responsibilities as set out by the LLC's operating agreement. Therefore, it is USDA's policy that all LLC members, regardless of the member's financial contribution, are "responsibly connected" persons under the PACA, just as all partners are "responsibly connected" with a partnership. In addition, any person(s), whether or not a member, who is authorized by the LLC to be in charge of the daily business operations, management, and control of the LLC, may be considered responsibly connected to the LLC by USDA, just as officers in a corporation are under the PACA. The determination of whether a person other than a member is "responsibly connected" will depend upon the terms of the LLC's operating agreement. These agreements are similar to a partnership agreement or corporate bylaws which outline who is in charge of the business' daily operations. Those persons whom the LLC authorizes to be in charge of the day-to-day operation, management and control of the LLC's daily business activities may include, but are not limited to, those with the titles of managers, officers, and/or directors.

An LLC members' ownership in the company closely resembles a

partnership. Therefore, all LLC members, including corporations or other entities, must be identified on the firm's PACA license application. If a member is a corporation or other legal entity, more information, such as the names of officers of the corporation or other data, will be required by AMS. PACA license applications submitted by LLCs should include organizational information about the company, including, but not limited to, documentation filed with the state in which the LLC is legally established, such as its articles of organization and its operating agreement. Only one member's signature is required to make a valid PACA application. In addition, just as is required of other legal entities, if the articles of organization or the operating agreements change, the LLC should notify AMS' PACA Branch as soon as possible and the LLC should submit revised documents to the PACA Branch.

The LLC business structure has become widely accepted throughout the United States as a new legal entity. AMS is hereby providing notice to all current and future licensees that certain information is required in order to obtain a license as an LLC under the PACA. In addition, notice is given to all LLC members that they are presumed to be "responsibly connected" persons and to all LLC managers, who are not also members, that they are potentially "responsibly connected" persons. The "responsibly connected" status of LLC managers will be determined on a case-by-case basis, depending upon the terms of the LLC's operating agreement and the ways in which the person's status is analogous to that of an officer, director or shareholder of a corporation. Therefore, both members and managers may be subject to PACA sanctions if the Act is violated by the LLC.

Dated: April 6, 1999

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 99-8975 Filed 4-13-99; 8:45 am]

BILLING CODE 3410-02-U

## DEPARTMENT OF AGRICULTURE

### Agricultural Research Service

#### Notice of Intent To Grant Exclusive License

**AGENCY:** Agricultural Research Service, USDA.

**ACTION:** Notice of intent.

**SUMMARY:** Notice is hereby given that the U.S. Department of Agriculture,

Agricultural Research Service, intends to grant to Protein Scientific, Inc./The Protein Group, of Portland, Maine, an exclusive license to U.S. Patent No. 5,071,763 issued on December 10, 1991, and the Divisional U.S. Patent No. 5,198,351 issued on March 30, 1993, both entitled "Lactose Hydrolysis by Mutant *Streptococcus thermophilus*." Notice of availability for U.S. Patent No. 5,071,763 was published in the **Federal Register** on January 23, 1992, and notice of availability for U.S. Patent No. 5,198,351 was published in the **Federal Register** on December 17, 1991.

**DATES:** Comments must be received by June 14, 1999.

**ADDRESSES:** Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Room 4-1158, Beltsville, Maryland 20705-5131.

**FOR FURTHER INFORMATION CONTACT:** June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301-504-5989.

**SUPPLEMENTARY INFORMATION:** The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Protein Scientific, has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, by June 14, 1999, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

**Richard M. Parry, Jr.,**

*Assistant Administrator.*

[FR Doc. 99-9263 Filed 4-13-99; 8:45 am]

BILLING CODE 3410-03-P

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Information Collection; Request for Comments; Public Perceptions of Land Use Change

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intent to establish a new information collection. The new collection will help the Forest Service meet the needs and expectations

of the people who live and work along the Interstate-90 (I-90) corridor, within and in proximity to, the Mt. Baker-Snoqualmie and Wenatchee National Forests. Respondents will include wildlife, silviculture, timber, land planning, wildland conservation, business, and development professionals, biologists, and residents along the I-90 corridor.

**DATES:** Comments must be received in writing on or before June 14, 1999.

**ADDRESSES:** All comments should be addressed to Linda Kruger, Research Social Scientist, Seattle Forestry Sciences Laboratory, Forest Service, USDA, 4043 Roosevelt Way NE, Seattle, Washington 98105 or email lkruger/r6pnw\_seattle@fs.fed.us.

**FOR FURTHER INFORMATION CONTACT:** Linda Kruger, Seattle Forestry Sciences Laboratory, at (206) 553-7817.

#### SUPPLEMENTARY INFORMATION:

#### Background

The Mt. Baker-Snoqualmie and Wenatchee National Forests are in close proximity to the large, rapidly expanding Seattle, Washington, area. Urban residents and businesses are making more demands on nearby National Forest lands. Many urban residents in this metropolitan area are moving to rural communities or forested housing developments in an attempt to enjoy the natural environment of the Pacific Northwest, while maintaining access to a vibrant urban center. Multiple interests, such as recreation, tourism, housing, access to a vibrant urban center. Multiple interests, such as recreation, tourism, housing, private-sector businesses, timber, wildlife, and conservation are competing for use, within and in proximity to, the Mt. Baker-Snoqualmie and Wenatchee National Forests along the Washington State I-90 corridor. This competition and increased demand have already resulted in new ski resorts, recreational facilities, shopping malls, increased resistance to timber harvesting, and heavier traffic and congestion.

Data from this information collection will be considered when revising land and resource management plans and will help the Forest Service meet multiple-use land management needs of the Mt. Baker-Snoqualmie and Wenatchee National Forest lands in close proximity to the Washington State I-90 corridor.

#### Description of Information Collection

The following describes the new information collection:

*Title:* Public Perceptions of Land Use Change.