

operations, including these two changes.

This final rule provides more flexibility on Committee polling procedures and changes the due date for CDAC Form 6 under the date marketing order. Accordingly, this action will not impose any additional reporting or recordkeeping requirements on either small or large date handlers.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements contained in this rule have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581-0178, Vegetable and Specialty Crops. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

In addition, the Committee's meeting was widely publicized throughout the date industry, and all interested persons were invited to attend the meeting and encouraged to participate in Committee deliberations on all issues. Like all Committee meetings, the October 30, 2008, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on September 15, 2009 (74 FR 47124). The proposed regulatory text that was published in the **Federal Register** contained incorrect references that have been corrected in this final rule. Copies of the rule were mailed or sent via facsimile to all Committee members and date handlers. Finally, the rule was made available through the Internet by USDA and the Office of the Federal Register. A 30-day comment period ending October 15, 2009, was provided to allow interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide>. Any questions about the compliance guide

should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matters presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because handlers are already shipping dates for the 2009-2010 crop. Therefore, this rule should be implemented as soon as possible. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 987 is amended as follows:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

■ 1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: 7 U.S.C. 601-674.

■ 2. In § 987.124, paragraph (a) is revised to read as follows:

§ 987.124 Nomination and polling.

(a) Date producers and producer-handlers shall be provided an opportunity to nominate and vote for individuals to serve on the Committee. For this purpose, the Committee shall, no later than June 15 of each even-numbered year, provide date producers and producer-handlers nomination and balloting material by mail or equivalent electronic means, upon which producers and producer-handlers may nominate candidates and cast their votes for members and alternate members of the Committee in accordance with the requirements in paragraphs (b)(1) and (b)(2) of this section, respectively. All ballots are subject to verification. Balloting material should be provided to voters at least 2 weeks before the due date and should contain, at least, the following information:

(1) The names of incumbents who are willing to continue to serve on the committee;

(2) The names of other persons willing and eligible to serve;

(3) Instructions on how voters may add write-in candidates;

(4) The date on which the ballot is due to the committee or its agent; and

(5) How and where to return ballots.

* * * * *

■ 3. Section 987.162 is revised to read as follows:

§ 987.162 Handler acquisition and disposition.

(a) Handlers shall file CDAC Form No. 6 with the committee by the 16th of each month or such other date as the committee may prescribe, reporting at least the following for the preceding month:

(1) Their acquisitions of field run dates;

(2) Their shipments of marketable dates in each outlet category;

(3) Their shipments of free dates and disposition of restricted dates, whenever applicable; and

(4) Their purchases from other handlers of DAC, export, product, graded, and field run dates.

(b) In addition, this report shall include the names and addresses of any producers not previously identified pursuant to § 987.38, the quantity of dates acquired from each producer, the location of such producer's date garden, the acreage of that garden, and the estimated current season's production from that garden.

Dated: November 17, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9-28153 Filed 11-23-09; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 24

[CBP Dec. 09-44; Docket No. USCBP 2007-0111]

RIN 1505-AB97

Electronic Payment and Refund of Quarterly Harbor Maintenance Fees

AGENCIES: Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends title 19 of the Code of Federal Regulations by

prescribing an alternative procedure by which payers of the quarterly harbor maintenance fee (HMF) may submit payments or refund requests to Customs and Border Protection (CBP) electronically via an Internet account established by the payer and located at <http://www.pay.gov>. CBP will continue to accept quarterly HMF payments or refund requests via mail. These changes are intended to provide the trade with expanded electronic payment/refund options and to modernize and enhance CBP's port use fee collection efforts. This document also clarifies the regulations to reflect that both HMF supplemental payments and refund requests must be accompanied by the requisite CBP Form 350 (HMF Amended Quarterly Summary Report) and CBP Form 349 (HMF Quarterly Summary Report). This clarification is necessary to remove any ambiguity as to what forms are required in conjunction with such payments.

DATES: *Effective Date:* December 24, 2009.

FOR FURTHER INFORMATION CONTACT: Kim Cochenour, Office of Finance, Revenue Division, Collections, Refunds and Analysis Branch, (317) 614-4598 or at hmj@dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

The harbor maintenance fee (HMF) was created by the Water Resources Development Act of 1986 (Pub. L. 99-622, 26 U.S.C. 4461 *et seq.*). The purpose of the fee is to require those who benefit from the maintenance of U.S. ports and harbors to share in the associated costs of such maintenance. The HMF is assessed based on 0.125 percent of the value of commercial cargo loaded or unloaded at certain identified ports or, in the case of passengers, on the value of the actual charge paid for the transportation.

The HMF implementing regulations are set forth in § 24.24 of title 19 of the Code of Federal Regulations (19 CFR 24.24).

On August 5, 2008, CBP published in the **Federal Register** (73 FR 45364) a proposal to amend title 19 of the Code of Federal Regulations (19 CFR) by prescribing an alternative procedure by which payers of the quarterly harbor maintenance fee (HMF) may submit their payments or refund requests to Customs and Border Protection (CBP) electronically via an Internet account established by the payer and located at <http://www.pay.gov>. CBP would also continue to accept quarterly HMF payments or refund requests via mail. The proposal also required that each

HMF quarterly payment, whether paper or electronic, be accompanied by a CBP Form 349 (HMF Quarterly Summary Report). The proposed amendments were intended to provide the trade with an expanded electronic payment/refund option for quarterly HMFs and to modernize and enhance CBP's port use fee collection efforts.

CBP solicited public comment on the proposed amendments in the August 5, 2008, **Federal Register** document. CBP received no comments.

Conclusion

After further review of the matter, and in light of the fact that no comments were submitted in response to CBP's solicitation of public comment, CBP has determined to adopt as final, with minor technical changes and clarifications, the proposed rule published in the **Federal Register** (73 FR 45364) on August 5, 2008. Specifically, CBP is making technical changes to §§ 24.24(e)(2)(ii) and (h)(3) that replace references to "Customs" with the term "CBP" and, in the "For Further Information Contact" section of this document, is identifying a new CBP contact to whom questions regarding HMF may be directed. In addition, this document restructures the regulatory text in §§ 24.24(c)(8)(i), (e)(1)(ii), (e)(2)(iii), (e)(3)(ii), (e)(4)(iii), (e)(4)(iv)(A), and (g) to clarify CBP's preference that certain payments and refund requests be made electronically and, in the alternative, via mail to a CBP address located on Forms.CBP.gov. By removing references to a specific CBP address and referring to a Web site which is updated regularly, CBP will avoid having to amend these regulations in the event the mailing address is changed. Sections 24.24 (e)(1)(ii), (e)(2)(iii), (e)(3)(ii), and (e)(4)(iii) are also clarified to state that each CBP Form 349 or 350 that is mailed to CBP must be accompanied by a single payment. Lastly, CBP is of the view that a clarification of the proposed amendments to §§ 24.24(c)(8)(i) and (e)(4)(iii) in 73 FR 45364 is necessary to reflect that both CBP Form 350 and CBP Form 349 are required to be submitted to CBP with supplemental payments and refund requests. This clarification is necessary to remove any ambiguity as to what forms are required in conjunction with such payments and to reconcile the proposed new language with the existing text in paragraph (e)(4)(iii) which requires that both forms be submitted in such instances.

The Regulatory Flexibility Act and Executive Order 12866

Because these amendments implement an alternative procedure that

provides an expanded electronic payment/refund option for quarterly HMF payments and do not require small entities to change their business practices, pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that, if adopted, the amendments will not have a significant economic impact on a substantial number of small entities. Further, these amendments do not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Paperwork Reduction Act

The collections of information in the current regulations have already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB control number 1651-0055 (harbor maintenance fee). This rule does not involve any material change to the existing approved information collection. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

Signing Authority

This document is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Exports, Imports, Interest, Reporting and recordkeeping requirements, Taxes, User fees, Wages.

Amendments to the Regulations

■ For the reasons set forth in the preamble, part 24 of title 19 of the CFR (19 CFR Part 24) is amended as follows:

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

■ 1. The authority citation for part 24 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a-58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1505, 1520, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701; Public Law 107-296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*)

* * * * *

■ 2. In § 24.24:

- a. The introductory text to paragraph (c)(8) is amended by removing the words "the U.S. Customs Service" and adding in their place the term "CBP";
- b. Paragraph (c)(8)(i) is revised;
- c. Paragraph (c)(8)(ii) is amended by removing the word "shall" each place it appears and adding in its place the word "must"; and removing the word

“Customs” and adding in its place the term “CBP”;

- d. The introductory text to paragraph (d)(3) is amended by removing the word “shall” and adding in its place the word “will”;
- e. Paragraph (e)(1)(ii) is revised;
- f. Paragraph (e)(2)(i) is amended: in the second sentence, by removing the words “U.S. Customs” and adding in their place the term “CBP”; and in the third sentence, by removing the word “shall” and adding in its place the word “will”;
- g. Paragraph (e)(2)(ii) is amended: in the first sentence, by removing the word “shall” and adding in its place the word “must” and by removing the word “Customs” and adding in its place the term “CBP”; in the second sentence, by removing the language “U.S. Customs Entry Summary Form (Customs)” and adding in its place “CBP Entry Summary Form (CBP)”; in the third sentence, by removing the word “shall” and adding in its place the word “must”; and in the fourth sentence, by removing the word “shall” and adding in its place the word “must” and by removing the word “Customs” and adding in its place the term “CBP”.
- h. Paragraph (e)(2)(iii) is revised;
- i. Paragraph (e)(3)(ii) is revised;
- j. Paragraph (e)(4)(i) is amended by removing the fourth and fifth sentences;
- k. Paragraph (e)(4)(ii) is amended by removing the word “Customs” each place it appears and adding in its place the term “CBP”;
- l. Paragraph (e)(4)(iii) is amended by: removing the word “Customs” each place it appears and adding in its place the term “CBP”; and adding three new sentences after the last sentence;
- m. The introductory text to paragraph (e)(4)(iv) is amended by removing the word “Customs” and adding in its place the term “CBP”;
- n. Paragraph (e)(4)(iv)(A) is amended by adding two new sentences after the last sentence;
- o. Paragraphs (e)(4)(iv)(B)(1), (2), and (3) are amended by removing the word “Customs” each place it appears and adding in its place the term “CBP”;
- p. Paragraph (e)(4)(iv)(B)(4) is amended by: removing the word “Customs” and adding in its place the term “CBP”; and removing the number “90” each place it appears and adding in its place the number “180”;
- q. Paragraph (e)(4)(iv)(B)(5) is amended: in the second sentence, by removing the words “by Customs” and adding in their place the words “by CBP”, and by removing the words “and Customs” and adding in their place the words “and CBP’s”; and in the fourth and fifth sentences, by removing the

word “Customs” each place it appears and adding in its place the term “CBP”;

- r. Paragraph (e)(4)(iv)(C) is amended by removing the word “Customs” each place it appears and adding in its place the term “CBP”;
- s. Paragraph (g) is amended: in the first, second, and fifth sentences, by removing the word “shall” each place it appears and adding in its place the word “must”, and by removing the word “Customs” each place it appears and adding in its place the term “CBP”; and by revising the third and fourth sentences;
- t. Paragraph (h)(1) is amended by removing the word “shall” each place it appears and adding in its place the word “will”;
- u. Paragraph (h)(2) is amended by removing the word “shall” each place it appears and adding in its place the word “must”; and
- v. Paragraph (h)(3) is amended by: removing the word “shall” each place it appears and adding in its place the word “will”; and removing the word “Customs” and adding in its place the term “CBP”.

The revisions and additions read as follows:

§ 24.24 Harbor maintenance fee.

* * * * *

(c) * * *

(8) * * *

(i) The donated cargo is required to be certified as intended for use in humanitarian or development assistance overseas by CBP. Subsequent to payment of the fee, a refund request may be made by electronically submitting to CBP the Harbor Maintenance Fee Amended Quarterly Summary Report (CBP Form 350), as well as the Harbor Maintenance Fee Quarterly Summary Report (CBP Form 349) for the quarter covering the payment to which the refund request relates, using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov>. In the alternative, the requisite forms may be mailed to the Office of Finance, Revenue Division, Customs and Border Protection, using the current address posted at [Forms.CBP.gov](http://www.pay.gov). Upon request by CBP, the party requesting the refund must also submit to CBP, via mail, any supporting documentation deemed necessary by CBP to certify that the entity donating the cargo is a nonprofit organization or cooperative and that the cargo was intended for humanitarian or development assistance overseas (including contiguous countries). A description of the cargo listed in the shipping documents and a brief

summary of the intended use of the goods, if such use is not reflected in the documents, are acceptable evidence for certification purposes. Approved HMF refund payments will be made via ACH to those payers who are enrolled in the ACH refund program; all others will receive HMF refund payments via mail.

* * *

(e) * * *

(1) * * *

(ii) *Fee payment.* The shipper whose name appears on the Vessel Operation Report must pay all accumulated fees for which he is liable on a quarterly basis in accordance with paragraph (f) of this section by submitting to CBP a Harbor Maintenance Fee Quarterly Summary Report, CBP Form 349. The CBP Form 349 must either be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov> or, alternatively, mailed with a single check or money order payable to U.S. Customs and Border Protection to the Office of Finance, Revenue Division, Customs and Border Protection, using the current address posted at [Forms.CBP.gov](http://www.pay.gov).

(2) * * *

(iii) *Foreign Trade Zones.* In cases where imported cargo is unloaded from a commercial vessel at a port within the definition of this section and admitted into a foreign trade zone, the applicant for admission (the person or corporation responsible for bringing merchandise into the zone) who becomes liable for the fee at the time of unloading pursuant to paragraph (e)(3)(i) of this section, must pay all fees for which he is liable on a quarterly basis in accordance with paragraph (f) of this section by submitting to CBP a Harbor Maintenance Fee Quarterly Summary Report, CBP Form 349. The CBP Form 349 must either be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov> or, alternatively, mailed with a single check or money order payable to U.S. Customs and Border Protection to the Office of Finance, Revenue Division, Customs and Border Protection, using the current address posted at [Forms.CBP.gov](http://www.pay.gov). Fees must be paid for all shipments unloaded and admitted to the zone, or in the case of direct deliveries under §§ 146.39 and 146.40 of this chapter, unloaded and received in the zone under the bond of the foreign trade zone operator.

(3) * * *

(ii) *Fee payment.* The operator of the passenger-carrying vessel must pay the accumulated fees for which he is liable on a quarterly basis in accordance with paragraph (f) of this section by submitting to CBP a Harbor Maintenance Fee Quarterly Summary Report, CBP Form 349. The CBP Form 349 must either be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov> or, alternatively, mailed with a single check or money order payable to U.S. Customs and Border Protection to the Office of Finance, Revenue Division, Customs and Border Protection, using the current address posted at Forms.CBP.gov.

(4) * * *

(iii) * * * Supplemental payments and HMF refund requests, accompanied by the requisite CBP Forms 350 and 349 and, if applicable, supporting documentation, must be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov> or, alternatively, mailed to the Office of Finance, Revenue Division, Customs and Border Protection, using the current address posted at Forms.CBP.gov. If a supplemental payment is mailed, a single check or money order payable to U.S. Customs and Border Protection must be attached to each CBP Form 350. Approved HMF refund payments will be made via ACH to those payers who are enrolled in the ACH refund program; all others will receive HMF refund payments via mail.

(iv) * * *

(A) * * * Refund requests must either be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at <http://www.pay.gov> or, alternatively, mailed to the Office of Finance, Revenue Division, Customs and Border Protection, using the current address posted at Forms.CBP.gov. Approved HMF refund payments will be made using the ACH to those payers who are enrolled in the ACH refund program; all others will receive HMF refund payments via mail.

* * * * *

(g) * * * The affected parties must advise the Director, Revenue Division, U.S. Customs and Border Protection, at the current address posted at Forms.CBP.gov, of the name, address, email and telephone number of a responsible officer who is able to verify any records required to be maintained under this paragraph. The Director,

Revenue Division, must be promptly notified of any changes in the identifying information submitted.

* * *

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Jayson P. Ahern,
Acting Commissioner, U.S. Customs and Border Protection.

Approved: November 19, 2009.

Timothy E. Skud,
Deputy Assistant Secretary of the Treasury.
[FR Doc. E9-28132 Filed 11-23-09; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 54

[TD 9472]

RIN 1545-BG48

Notice Requirements for Certain Pension Plan Amendments Significantly Reducing the Rate of Future Benefit Accrual

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations providing guidance relating to the application of the section 204(h) notice requirements to a pension plan amendment that is permitted to reduce benefits accrued before the plan amendment's applicable amendment date. These regulations also reflect certain amendments made to the section 204(h) notice requirements by the Pension Protection Act of 2006. These final regulations generally affect sponsors, administrators, participants, and beneficiaries of pension plans.

DATES: *Effective date:* These regulations are effective on November 24, 2009.

Applicability date: For dates of applicability of these regulations, see Q&A-18, § 54.4980F-1 of these regulations.

FOR FURTHER INFORMATION CONTACT: Pamela R. Kinard at (202) 622-6060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations were previously reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545-1780, in conjunction with the

Treasury decision (TD 9052), relating to Notice of Significant Reduction in the Rate of Future Benefit Accrual, published on April 9, 2003 in the **Federal Register** (68 FR 17277). There are no proposals for substantive changes to this collection of information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Overview

This document contains amendments to 26 CFR parts 1 and 54 under sections 411(d)(6) and 4980F of the Internal Revenue Code (Code). This Treasury decision amends § 54.4980F-1 of the Treasury regulations to reflect changes made to section 4980F by the Pension Protection Act of 2006, Public Law 109-280 (120 Stat. 780) (PPA '06). In addition, this Treasury decision amends § 1.411(d)-3 to reflect changes to section 411(d)(6) made by section 1107 of PPA '06.

Section 411(d)(6) Protected Benefits

Section 401(a)(7) of the Code provides that a trust does not constitute a qualified trust unless the plan under which the trust is established and maintained satisfies the requirements of section 411 (relating to minimum vesting standards). Section 411(d)(6)(A) and § 1.411(d)-3(a)(1) provide that a plan is treated as not satisfying the requirements of section 411 if the accrued benefit of a participant is decreased by an amendment of the plan, other than an amendment described in section 412(d)(2) (formerly section 412(c)(8)), section 4281 of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, or any other applicable law. Applicable law includes sections 418D and 418E of the Code and section 1541(a)(2) of the Taxpayer Relief Act of 1997, Public Law 105-34 (111 Stat. 788, 1085). Section 204(g) of ERISA contains parallel rules to section 411(d)(6) of the Code.

Notice Requirements for Significant Reduction in the Rate of Future Benefit Accruals

Section 4980F imposes an excise tax when a plan administrator fails to