

7 CFR Part 948**[Docket No. FV96-948-2 FIR]****Irish Potatoes Grown in Colorado; Assessment Rate****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that established an assessment rate for the Colorado Potato Administrative Committee, San Luis Valley Office (Area II) (Committee) under Marketing Order No. 948 for the 1996-97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of Irish potatoes grown in Colorado. Authorization to assess potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

EFFECTIVE DATE: Effective on September 1, 1996.

FOR FURTHER INFORMATION CONTACT:

Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone 202-720-9918; FAX 202-720-5698, or Dennis L. West, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503-326-2724; FAX 503-326-7440. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, room 2525-S, Washington DC 20090-6456, telephone 202-720-2491; FAX 202-720-5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now

in effect, Colorado potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes beginning September 1, 1996, and continuing until amended, suspended, or terminated. 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 section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory flexibility Act (RFA), 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. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 285 producers of Colorado Area II potatoes in the production area and approximately 118 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of Colorado Area II potato producers and handlers may be classified as small entities.

The Colorado potato marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Colorado Area II potatoes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

In Colorado, both a State and a Federal marketing order operate simultaneously. The State order authorizes promotion, including paid advertising, which the Federal order does not. All expenses in this category are financed under the State order. The jointly operated programs consume about equal administrative time and the two orders continue to split administrative costs equally.

The Committee met on May 23, 1996, and unanimously recommended 1996-97 expenditures of \$60,999 and an assessment rate of \$0.0030 per hundredweight of potatoes. In comparison, last year's budgeted expenditures were \$62,328. The assessment rate of \$0.0030 is the same as last year's established rate. Major expenditures recommended by the Committee for the 1996-97 year include \$34,624 for salaries for the Executive Director, Administrator, and Assistant Administrator, and \$3,000 for utilities. Budgeted expenses for these items in 1995-96 were \$36,978 and \$3,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Colorado area II potatoes. Potato shipments for the year are estimated at 16,500,000 hundredweight which should provide \$49,500 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

An interim final rule regarding this action was published in the July 15, 1996, issue of the Federal Register (61 FR 36813). That interim final rule added \$948,216 to establish an assessment rate for the Committee. That rule provided that interested persons could file comments through August 14, 1996. No comments were received.

While this rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at those meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1996-97 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

After consideration of all relevant material 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.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996-97 fiscal period began on September 1, 1996, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable potatoes handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) an interim

final rule was published on this action and provided for a 30-day comment period, and no comments were received.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

Note: This section will appear in the Code of Federal Regulations.

For the reasons set forth in the preamble, 7 CFR part 948 is amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

Accordingly, the interim final rule amending 7 CFR part 948 which was published at 61 FR 36813 on July 15, 1996, is adopted as a final rule without change.

Dated: September 19, 1996.
Robert C. Keeney,
Director, Fruit and Vegetable Division.
[FR Doc. 96-24503 Filed 9-24-96; 8:45 am]
BILLING CODE 3410-02-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 160

[CGD 94-089]

RIN 2115-AF19

Advance Notice of Arrivals, Departures, and Certain Dangerous Cargoes

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: The Coast Guard has amended the requirements for notice of arrival and departure by applying them to vessels over 300 gross tons and eliciting added information. In addition, the Coast Guard amended the requirement for all foreign vessels, regardless of the gross tonnage, to give notice of arrival and departure anywhere within the Seventh Coast Guard District. These changes are necessary for the Coast Guard to implement more efficiently its programs for safety of vessels and for protection of the marine environment. They should aid in the identification and elimination of substandard ships from U.S. waters, improve emergency response, and facilitate the enforcement of rules governing Certificates of Financial Responsibility.

EFFECTIVE DATE: October 25, 1996.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble

are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA, 3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: CDR Dennis Haise, Operating and Environmental Standards Division, Vessel and Facility Operating Standards Branch (202) 267-6451.

SUPPLEMENTARY INFORMATION

Regulatory History

On January 17, 1996, the Coast Guard published a notice of proposed rulemaking entitled Advance Notice of Arrivals, Departures, and Certain Dangerous Cargoes in the Federal Register (61 FR 1183). The Coast Guard received 5 letters commenting on the proposal. No public meeting was requested, and none was held.

Background and Purpose

The Ports and Waterways Safety Act of 1972 [86 Stat. 424], as amended by the Port and Tanker Safety Act of 1978 [92 Stat. 1271], authorizes the Secretary of the Department in which the Coast Guard is operating to require the receipt of notice from any vessel destined for or departing from a port or place under the jurisdiction of the United States. This notice may include any information necessary for the control of the vessel and for the safety of the port or marine environment. See 33 U.S.C. 1223; 33 CFR Part 160, Subpart C. In April, 1994, the Coast Guard established its Port-State-Control Program (PSCP) to eliminate substandard ships from U.S. waters. It developed a comprehensive risk-based targeting scheme to set boarding priorities and used funds provided in the Coast Guard's 1994 appropriations act for this purpose. See Senate Report Number 103-150. The primary factors used in determining which vessels to board are the vessel's: flag, owner, operator, classification ("class") society, age, and operating history. The PSCP's success hinges on the ability of the Coast Guard to identify and examine those vessels that seem to pose the greatest risks to life, property, and the environment. By making vessels provide added information about arrival and departure, field units of the Coast Guard will be able to efficiently target vessels and allocate inspection resources.

Applying this rule to U.S. vessels as well will also help the Captain of the Port (COTP) to effectively direct