

rights that the employee may have under 5 U.S.C. 5514.

### **§ 3.86 Refunds.**

USDA will refund promptly to the appropriate individual amounts offset under this subpart when:

(a) A debt is waived or otherwise found not owing the United States (unless expressly prohibited by statute or regulation); or

(b) USDA is directed by an administrative or judicial order to refund deducted from the employee's current pay.

### **§ 3.87 Agency regulations.**

USDA agencies may issue regulations or policies not inconsistent with Office of Personnel Management regulations (5 CFR part 550, subpart K) and regulations in this subpart governing the collection of a debt by salary offset.

### **Subpart H—Cooperation with the Internal Revenue Service.**

**Authority:** 26 U.S.C. 61; 31 U.S.C. 3720A; I TFRM 4055.50.

### **§ 3.90 Reporting discharged debts to the Internal Revenue Service.**

When USDA discharges a debt for less than the full value of the indebtedness, it will report the discharge to the Internal Revenue Service (IRS) in accordance with current IRS instructions.

Signed in Washington, DC, on May 14, 2003.

**Ann M. Veneman,**

*Secretary of Agriculture.*

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**BILLING CODE 3410-KS-P**

## **DEPARTMENT OF AGRICULTURE**

### **Agricultural Marketing Service**

#### **7 CFR Part 948**

[Docket No. FV03-948-1 PR]

### **Irish Potatoes Grown in Colorado; Increase in Membership on the Area No. 2 Colorado Potato Administrative Committee**

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule invites comments on a change that would increase the number of members on the Area No. 2 Colorado Potato Administrative Committee (Committee) from 12 to 14. The Committee locally administers the marketing order regulating the handling of Irish potatoes grown in Colorado.

Specifically, this rule would increase from seven to nine the number of producers serving on the Committee by adding a second representative from the district comprised of Chaffee County and Saguache County, and by creating a position for a representative for certified seed potato producers from Area No. 2. This rule would not change the number of handler representatives on the Committee, which would remain at five. The addition of two new producer members would provide the Committee with greater industry representation and therefore increased effectiveness.

**DATES:** Comments must be received by June 16, 2003.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938, or e-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov). All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at <http://www.ams.usda.gov/fv/moab.html>.

#### **FOR FURTHER INFORMATION CONTACT:**

Teresa Hutchinson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW. Third Avenue, suite 385, Portland, Oregon 97204; telephone: (503) 326-2724, Fax: (503) 326-7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938, or e-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This proposal 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 of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal 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 USDA 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. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA 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 USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase from 12 to 14 the number of members on the Committee by adding a second producer representative for Chaffee County and Saguache County, and by creating a position for a producer representative for certified seed potato producers from Area No. 2. Consistent with § 948.52, each new member position would have an alternate who would have the same qualifications as the member. This rule would not change the number of handler representatives on the Committee, which would remain at five. This action was unanimously recommended by the Committee at a meeting on March 20, 2003.

Section 948.4 of the order establishes three subdivisions, or areas, within the State of Colorado, and § 948.50 provides authority for the establishment of a committee as an administrative agency for each area. Section 948.53 provides authority for the reestablishment of these areas or subdivisions of these areas, as well as the redistribution of representation within area subdivisions or among marketing organizations within the respective areas. Finally, § 948.6 provides a definition for seed potatoes.

Section 948.150 of the order's administrative rules and regulations prescribes the current membership on each area committee as reestablished pursuant to § 948.53. For Area No. 2, the Committee currently consists of seven producer members and five handler members. Two producers are from Rio Grande County, one producer is from Chaffee County or Saguache County, one producer is from Conejos County, two producers are from Alamosa County, and one producer is from all remaining counties in Area No. 2. Two handlers represent bulk handlers and three handlers represent handlers other than bulk handlers.

As indicated above, the order currently provides that one producer member on the Committee represents producers in both Chaffee County and Saguache County. Based on a Committee recommendation, on March 31, 1995 (62 FR 16565), the USDA reestablished Area No. 2 to include Chaffee County, which previously had been part of the Area No. 3 production area. The reestablishment was initiated largely due to Chaffee County's proximity to Area No. 2 and a request from a Chaffee County producer/handler. That action also reestablished Committee membership by combining Chaffee County and Saguache County as one district for the purpose of nominating a producer member to the Committee.

Although Chaffee County potato production has remained relatively static, potato production in Saguache County has in recent years increased significantly due to an increase in potato acreage. According to Committee records, Saguache County farmers harvested about 5,310,000 hundredweight of potatoes from nearly 17,000 acres during the 2001–2002 season. This is nearly double the 1985–1986 production of the 2,930,000 hundredweight of potatoes that were harvested from 8,900 acres in Saguache County. It is also noteworthy that Saguache County had about 16 percent of the total production in Area No. 2 during the 1985–1986 season compared to about 25 percent of the total during the 2001–2002 season. With two seats on the Committee, producers from Chaffee and Saguache Counties would comprise about 22 percent of the producer members on the Committee.

Arable land in Chaffee County is generally limited to a relatively small production area around the city of Salida, and the Committee continues to believe that Chaffee and Saguache Counties should remain combined as a subdivision, or nominating district, in Area No. 2. The two members from this

district, as well as their respective alternates, would be nominated for membership on the Committee from all eligible producers from either or both of these two counties.

According to the Committee, there are currently 38 producers with certified seed potato production on 14,760 Area No. 2 acres. Of the 6,273,000 hundredweight of certified seed potatoes harvested in 2001–2002, Committee records indicate that 977,866 hundredweight were marketed out-of-area, and 343,223 hundredweight were planted in the San Luis Valley. Most of the balance of the total seed production was replanted into the certified seed program for multigenerational seed development. Certified seed potato shipments are currently exempt from the grade, size, maturity, and inspection requirements of § 948.386, but are subject to the order's assessment rate as established under § 948.216.

The Committee, in conjunction with the Colorado Area No. 2 potato industry, recently held a strategic planning session and identified several key issues. One of the important issues looked at by the Committee was its membership as it relates to Area No. 2 potato industry representation. Consensus among participants indicated that there would be a mutual benefit to the Committee and the industry with certified potato seed representation on the Committee. Seed potatoes are typically produced in areas separate from the major commercial fresh and processed potato production areas. This isolation is necessary to maintain the strict State of Colorado certified seed tolerances established for plant diseases. The Committee believes that the infusion of fresh ideas from this facet of the industry would provide for a new perspective on the Committee, as well as providing better service to the entire Colorado Area No. 2 potato industry.

In addition, based in part on the increase in production in Saguache County and on the significance of certified seed potato production in Area No. 2, the Committee received requests from the industry that producer representation on the Committee be increased. Finally, the Committee has recently formed several subcommittees for the purpose of providing better service to the Area No. 2 potato industry. Due to an inadequate candidate pool, the Committee has experienced problems in identifying enough committee members willing and able to serve on these subcommittees. Taking all of this into consideration, the Committee determined that the addition of two producer members and their respective alternates would not only

provide better representation for Area No. 2 producers, but would also provide an increased pool of expertise on the Committee and its subcommittees.

#### **Initial Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

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 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 90 handlers of Colorado Area No. 2 potatoes subject to regulation under the order and approximately 230 producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000.

During the 2001–2002 marketing year, 14,805,719 hundredweight of Colorado Area No. 2 potatoes were inspected under the order and sold into the fresh market. Based on an estimated average f.o.b. price of \$11.75 per hundredweight, the Committee estimates that 79, or about 88 percent of the Area No. 2 handlers, had annual receipts of less than \$5,000,000.

In addition, based on information provided by the National Agricultural Statistics Service, the average producer price for Colorado fall potatoes for the 2001–2002 marketing year was \$9.65 per hundredweight. The average annual producer revenue for the 230 Colorado Area No. 2 potato producers is therefore calculated to be approximately \$621,196. In view of the foregoing, the majority of the Colorado Area No. 2 potato producers and handlers may be classified as small entities.

This rule would increase the number of members on the Committee from 12 members to 14 members. Specifically, this rule would increase from seven to nine the number of producers on the Committee by adding a second producer representative from Chaffee County and Saguache County, and by creating a position for a representative for certified

seed potato producers from all the counties in Area No. 2. This rule would not change the number of handler representatives on the Committee, which would remain at five. Each position would continue to have an alternate with the same qualifications as the member.

Potato production in Saguache County has increased significantly in recent years. Increased potato acreage has been the primary reason for the production increase. Colorado's Saguache County and Chaffee County comprise a nominating district within Area No. 2 and currently have one member and alternate member serving on the Committee. The Committee believes that an additional member from this area would benefit both the Committee and the industry. With certified potato seed production representing a significantly important segment of the Area No. 2 potato crop, the Committee also believes that the addition of a certified seed producer position would add a fresh perspective to its membership and would provide better representation for the San Luis Valley potato industry. Authority for this action is provided in § 948.53 of the order.

Once implemented, this rule would cause a small increase in the Committee's cost of administering the order. For example, overall costs associated with Committee members' travel to attend meetings would increase due to the additional members requiring compensation. The increased cost, however, should be offset by the non-economic benefits derived by providing a greater number of producers the chance to participate as members of the Committee, as well as the service the increased Committee expertise and diversity would provide to the San Luis Valley potato industry. Regardless, the costs associated with this rule are not expected to be disproportionately greater or less for small producers and handlers than for larger entities.

The Committee discussed alternatives to this change. In considering its goals of providing additional representation in response to the greater production in Saguache County and the significant certified seed potato production throughout the San Luis Valley, the Committee looked at various alternatives to the current method of representation. For example, the Committee considered combining the counties in Area No. 2 into fewer subdivisions, or districts, in order to keep the Committee the same size while providing for greater representation to certain districts. After considerable discussion, however, the Committee

determined that the only equitable method of handling the representation problem was to add additional members and leave the current subdivisions unchanged.

This proposed rule would increase the number of member and alternate member positions on the Committee. Since the two-year Committee terms are arranged so that approximately one-half terminate each year, this action would increase by four the number of background statements requiring completion in a two-year period. It is estimated that the time needed to complete the forms by producers who are nominated to serve in the two additional member and two additional alternate member positions would be less than two minutes per response, or a total of 8 minutes, which would not substantially impact the total burden hours. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), these additional information collection requirements have been previously approved by the Office of Management and Budget (OMB) under OMB Control No. 0581-0178.

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. USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule.

The Committee's meeting was widely publicized throughout the San Luis Valley and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the March 20, 2003, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. In addition, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons the chance to respond to this proposal. Fifteen days is deemed appropriate because this rule would need to be in place as soon as possible so that the Committee can nominate members and alternate

members for the two new producer positions as soon as possible. All written comments timely received will be considered before a final determination is made on this matter.

#### List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 948 is proposed to be amended as follows:

#### PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR part 948 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. In § 948.150, paragraph (a) is revised to read as follows:

#### § 948.150 Reestablishment of committee membership.

\* \* \* \* \*

(a) Area No. 2 (San Luis Valley): Nine producers and five handlers selected as follows:

Two (2) producers from Rio Grande County;

Two (2) producers from either Saguache County or Chaffee County;

One (1) producer from Conejos County;

Two (2) producers from Alamosa County;

One (1) producer from all other counties in Area No. 2;

One (1) producer representing certified seed producers in Area No. 2;

Two (2) handlers representing bulk handlers in Area No. 2;

Three (3) handlers representing handlers in Area No. 2 other than bulk handlers.

\* \* \* \* \*

Dated: May 23, 2003.

**A. J. Yates,**

*Administrator, Agricultural Marketing Service.*

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**BILLING CODE 3410–02–P**

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## FEDERAL RESERVE SYSTEM

### 12 CFR Part 211

**Regulation K; Docket No. R– 1147**

#### International Banking Operations

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is