

\$1.50 per ton would generate income in excess of that needed to adequately administer the program.

A review of historical information and preliminary information pertaining to the upcoming crop indicates that the producer price for the 1999–2000 marketing season could range between \$200 and \$500 per ton of fresh prunes handled. Therefore, the estimated assessment revenue for the 1999–2000 fiscal period as a percentage of total grower revenue should range between 0.30 and 0.75 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the Washington-Oregon fresh prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 27, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Washington-Oregon fresh prune handlers. 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.

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

A 30-day comment period is provided to allow interested persons the opportunity to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 1999–2000 fiscal period began on April 1, 1999, and the order requires that the rate of assessment for each fiscal period apply to all assessable fresh prunes handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (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.

#### List of Subjects in 7 CFR Part 924

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 924 is proposed to be amended as follows:

#### PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND UMATILLA COUNTY, OREGON

1. The authority citation for 7 CFR part 924 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 924.236 is revised to read as follows:

##### § 924.236 Assessment rate.

On and after April 1, 1999, an assessment rate of \$1.50 per ton is established for the Washington-Oregon Fresh Prune Marketing Committee.

Dated: July 7, 1999.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 99–17891 Filed 7–13–99; 8:45 am]

BILLING CODE 3410–02–P

#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

##### 7 CFR Part 948

[Docket No. FV99–948–1 PR]

##### Irish Potatoes Grown in Colorado; Increased Assessment Rate

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule would increase the assessment rate from \$0.01 to \$0.02 per hundredweight of potatoes established for the Colorado Potato Administrative Committee, Area III (Committee) under Marketing Order No. 948 for the 1999–2000 and subsequent fiscal periods handled. The Committee is responsible for local administration of the marketing order which regulates the handling of potatoes grown in Colorado. Authorization to assess Colorado potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1999–2000 fiscal period began July 1 and ends June 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Comments must be received by August 13, 1999.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.gov.

Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

##### FOR FURTHER INFORMATION CONTACT:

Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: <http://www.ams.usda.gov/fv/moab.html>.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 97 and Marketing Order No. 948 [7 CFR Part 948], both as amended, 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 (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 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 proposed herein will be applicable to all assessable potatoes beginning on July 1, 1999, and continue 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.

This rule would increase the assessment rate established for the Committee for the 1999–2000 and subsequent fiscal periods from \$0.01 per hundredweight to \$0.02 per hundredweight of potatoes handled.

The Colorado potato 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 Committee consists of five producer members and four handler members, each of whom is 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 current assessment rate of \$0.01 per hundredweight was recommended by the Committee and approved by the Department for the 1996–97 and subsequent fiscal periods. That rate continues in effect until modified, suspended, or terminated by the Secretary, upon recommendation and information submitted by the Committee, or other information available to the Secretary.

A meeting of the Committee was scheduled for May 13, 1999, to review the current assessment rate and budget needs of the program for the 1999–2000 fiscal period. However, a quorum was not present. Based upon discussion

among those Committee members who showed up for the meeting, the manager of the Committee prepared information and voting material that was sent by facsimile copy (fax) to Committee members and alternates. Voting by telegraph, telephone, or other means of communication is provided for in paragraph (c) of § 948.61 Procedure, of the marketing order. Seven members subsequently faxed completed votes back to the manager during the voting period May 14 through May 19, 1999. Thus, a fax vote was used to determine the Committee's level of support for an increased rate of assessment and to establish an operating budget for the 1999–2000 fiscal period. Those voting confirmed their votes at the next scheduled Committee meeting June 20, 1999.

Based on the fax vote, the Committee approved an assessment rate of \$0.02 per hundredweight of potatoes handled during the 1999–2000 and subsequent fiscal periods. This is a \$0.01 increase over the rate currently in effect. The increased assessment rate is recommended because the current rate of \$0.01 would not generate enough income to adequately administer the program, given the projected short crop for 1999. The assessment rate increase is based on the 1999–2000 crop estimate, the 1999–2000 fiscal period expenditures estimate, and the current and projected balance of the operating reserve.

The Area III assessable potato crop for 1999–2000 is estimated to be approximately 792,000 hundredweight. This is about 380,000 hundredweight less than the assessed crop of 1998–99 due to a reduction in the acreage planted this season. The increased assessment would ensure that the operating reserve is not depleted at the end of the 1999–2000 fiscal period because of the projected short crop.

The increased assessment rate of \$0.02 per hundredweight should provide \$15,840 in assessment income, (792,000 hundredweight  $\times$  \$0.02). This amount would be supplemented with \$3,000 interest income, \$1,500 rental income from the sublease of office space to the State Inspection Service, and \$4,110 from the operating reserve. These income sources would total \$24,450, which is the same as the 1999–2000 budget recommended by the Committee by a vote of 6 in favor and 1 opposed. The recommended budget is \$1,603 less than the 1998–99 budget of \$26,053. Because of fax voting, the reason for the one negative budget vote is not known.

The major expenditures recommended by the Committee for the 1999–2000 fiscal period include \$10,500

for the manager's salary, \$3,000 for rent, and \$2,000 for office supplies. Budgeted expenses for these items in the 1998–99 fiscal period were \$11,500, \$3,000, and \$2,000, respectively.

The Committee estimates it will have approximately \$38,245 in its operating reserve at the end of the current fiscal period. This should be adequate to cover any income shortages for the current fiscal period. This amount is within the maximum permitted by the order of approximately two fiscal periods' expenditures (\$948.78).

The proposed assessment rate of \$0.02 would continue in effect for the 2000–2001 and subsequent fiscal periods unless modified, suspended, or terminated by the Secretary, based on recommendation and information submitted by the Committee, or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would 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 and are locally published. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact this rule would have on small entities. Accordingly, the 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 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 17 handlers of Colorado Area III potatoes who are subject to regulation under the order and approximately 60 potato producers in the regulated production area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than

\$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000. The majority of Colorado Area III potato handlers and producers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 1999–2000 and subsequent fiscal periods from \$0.01 per hundredweight to \$0.02 per hundredweight of potatoes handled. The \$0.02 assessment rate was approved by all seven of the Committee members who cast votes during a fax vote held between May 14 and May 19, 1999. The proposed assessment rate is \$0.01 greater than the rate currently in effect. The Committee recommended the increased assessment rate because the current rate would not generate enough income to adequately administer the program. The anticipated fresh potato crop of 792,000 hundredweight is approximately 380,000 hundredweight less than the 1998–99 crop. The \$0.02 rate should provide \$15,840 in assessment income, which, when combined with interest income of \$3,000, rental income of \$1,500 from the sublease of office space to the State Inspection Service, and \$4,110 from the operating reserve, would be adequate to meet the 1999–2000 fiscal period's budgeted expenses.

In a fax vote of six in favor and one opposed, the Committee recommended 1999–2000 expenditures of \$24,450, which is \$1,603 less than last year's budgeted expenses. Prior to recommending this budget, the Committee considered historical income and expenses, current income and expense levels, the 1999–2000 estimated crop production, current and projected operating reserve levels, and input from the Committee officers. The major expenditures recommended by the Committee for the 1999–2000 fiscal period include \$10,500 for the manager's salary, \$3,000 for rent, and \$2,000 for office supplies. Budgeted expenses for these items in the 1998–99 fiscal period were \$11,500, \$3,000, and \$2,000, respectively.

A review of historical data and preliminary information pertaining to the upcoming season indicates that the price to producers for the 1999–2000 Colorado Area III potato season could average \$5.30 per hundredweight of potatoes. Therefore, the estimated assessment revenue for the 1999–2000 fiscal period ( $\$0.02 \times 792,000 \text{ cwt} = \$15,840$ ) as a percentage of the projected total revenue at the farm gate ( $\$5.30 \times 792,000 \text{ cwt} = \$4,197,600$ ) would be 0.37 percent. This figure indicates that the \$0.02 assessment rate recommended

by the Committee would have an insignificant impact on the Colorado potato industry.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the order. In addition, the Committee's meeting was widely publicized throughout the Colorado potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 13, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large potato handlers. 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.

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

A 30-day comment period is provided to allow interested persons the opportunity to respond to this request for information and comments. Thirty days is deemed appropriate because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1999–2000 fiscal period began on July 1, 1999, and the order requires that the rate of assessment for each fiscal period apply to all assessable potatoes handled during such fiscal period; and (3) handlers are aware of this action which is similar to other assessment rate actions issued in past years.

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

Potatoes, Marketing agreements, 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. Section 948.215 is revised to read as follows:

#### § 948.215 Assessment rate.

On and after July 1, 1999, an assessment rate of \$0.02 per hundredweight is established for Colorado Area III potatoes.

Dated: July 8, 1999.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

**7 CFR Parts 1000, 1001, 1002, 1004, 1005, 1006, 1007, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1106, 1124, 1126, 1131, 1134, 1135, 1137, 1138 and 1139**

[DA–97–12]

### Milk in the New England and Other Marketing Areas; Decision on Proposed Amendments to Marketing Agreements and to Orders; Correction

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

**ACTION:** Proposed rule; Correction.

7 CFR part	Marketing area
1000 .....	General Provisions of Federal Milk Marketing Orders.
1001 .....	New England.
1002 .....	New York-New Jersey.
1004 .....	Middle Atlantic.
1005 .....	Carolina.
1006 .....	Upper Florida.
1007 .....	Southeast.
1012 .....	Tampa Bay.
1013 .....	Southeastern Florida.
1030 .....	Chicago Regional.
1032 .....	Southern Illinois-Eastern Missouri.
1033 .....	Ohio Valley.
1036 .....	Eastern Ohio-Western Pennsylvania.
1040 .....	Southern Michigan.
1044 .....	Michigan Upper Peninsula.
1046 .....	Louisville-Lexington-Evansville.
1049 .....	Indiana.
1050 .....	Central Illinois.
1064 .....	Greater Kansas City.
1065 .....	Nebraska-Western Iowa.
1068 .....	Upper Midwest.
1076 .....	Eastern South Dakota.
1079 .....	Iowa.
1106 .....	Southwest Plains.
1124 .....	Pacific Northwest.
1126 .....	Texas.
1131 .....	Central Arizona.
1134 .....	Western Colorado.