

Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

#### Paperwork Reduction Act

This final rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

#### PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

**Authority:** Title IV, Pub. L. 106–224, 114 Stat. 438, 7 U.S.C. 7701–7772; 7 U.S.C. 166; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293, and Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400, 7 U.S.C. 1421 note.

2. In § 301.81–3, paragraph (e), under TENNESSEE, the list of quarantined areas is amended by adding, in alphabetical order, entries for Maury and Sequatchie Counties and by revising the entries for Decatur, Franklin, Giles, Haywood, Henderson, Lewis, Lincoln, Marshall, Monroe, and Moore Counties to read as follows:

#### § 301.81–3 Quarantined areas.

\* \* \* \* \*

#### TENNESSEE

\* \* \* \* \*

*Decatur County.* That portion of the county lying south of Interstate Highway 40.

\* \* \* \* \*

*Franklin County.* That portion of the county lying south and east of a line beginning at the intersection of State Highway 50 and the Moore/Franklin County line; then east along State Highway 50 to U.S. Highway Alt. 41; then north and east along U.S. Highway Alt. 41 to the Franklin/Grundy/Marion County line.

*Giles County.* That portion of the county lying south of a line beginning at the intersection of State Highway 129 and the Giles/Marshall County line; then west along State Highway 129 to U.S. Highway 31; then west along an imaginary line to the Lawrence/Giles County line.

\* \* \* \* \*

*Haywood County.* That portion of the county lying south of Interstate Highway 40.

*Henderson County.* That portion of the county lying south of Interstate Highway 40.

\* \* \* \* \*

*Lewis County.* The entire county.

*Lincoln County.* The entire county.

\* \* \* \* \*

*Marshall County.* That portion of the county lying south of a line beginning at the intersection of State Highway 129 and the Giles/Marshall County line; then east along State Highway 129 to U.S. Highway Alt. 31; then north along U.S. Highway Alt. 31 to State Highway 50; then southeast along State Highway 50 to the Marshall/Lincoln County line.

*Maury County.* That portion of the county lying south and west of a line beginning at the intersection of the Lewis/Maury County line and Mount Joy Road; then east along Mount Joy Road to State Highway 243; then northeast along State Highway 243 to Dry Creek Road; then south along Dry Creek Road to the Maury/Lawrence County line.

\* \* \* \* \*

*Monroe County.* That portion of the county lying south of a line beginning at the intersection of the Loudon/Monroe County line and State Highway 68; then southeast along State Highway 68 to U.S. Highway 411; then northeast along U.S. Highway 411 to the Monroe/Loudon County line; also the entire cities of Sweetwater, Madisonville, and Vonore, TN.

*Moore County.* That portion of the county lying south of State Highway 50.

\* \* \* \* \*

*Sequatchie County.* That portion of the county lying south of a line beginning at the intersection of the Grundy/Sequatchie County line and State Highway 399; then northeast along State Highway 399 to State Highway 8/111; then northeast along an imaginary line to the Sequatchie/Bledsoe County line.

\* \* \* \* \*

Done in Washington, DC, this 1st day of November 2000.

**Bobby R. Acord,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 00–28362 Filed 11–3–00; 8:45 am]

**BILLING CODE 3410–34–U**

#### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### 7 CFR Part 947

[Docket No. FV00–947–1 FIR]

#### Irish Potatoes Grown in Modoc and Siskiyou Counties, California, and in all Counties in Oregon, Except Malheur County; Suspension of Handling, Reporting, and Assessment Collection Regulations

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting, as a final rule, with a minor change, the provisions of an interim final rule suspending for the 2000–2001 and future seasons the minimum grade, size, quality, maturity, pack, inspection, and other related requirements prescribed under the Oregon-California potato marketing order. This rule also suspends all reporting and assessment collection requirements. The marketing order regulates the handling of Irish potatoes grown in Modoc and Siskiyou Counties, California, and in all Counties in Oregon, except Malheur County, and is administered locally by the Oregon-California Potato Committee (Committee). This rule will reduce industry-operating expenses.

**EFFECTIVE DATE:** December 6, 2000.

#### FOR FURTHER INFORMATION CONTACT:

Teresa L. Hutchinson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, 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 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.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 114 and Marketing Order No. 947, both as amended (7 CFR part 947), regulating the handling of Irish potatoes grown in Modoc and Siskiyou Counties in California, and in all counties in Oregon, except Malheur County, hereinafter referred to as the "order." The marketing agreement and order are 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. This rule continues the current suspension. 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. A 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 continues in effect the suspension of the minimum grade, size, quality, maturity, pack, inspection, and

other related requirements prescribed under the Oregon-California potato marketing order. It also suspends all reporting and assessment collection requirements. The marketing order regulates the handling of Irish potatoes grown in Modoc and Siskiyou Counties, California, and in all Counties in Oregon, except Malheur County, and is administered locally by the Oregon-California Potato Committee. This rule will reduce industry expenses, as it decides whether the marketing order should be continued.

Section 947.52 of the order authorizes the issuance of regulations for grade, size, quality, maturity, and pack for any variety of potatoes grown in the production area during any period. Section 947.51 authorizes the modification, suspension, or termination of regulations issued under part 947. Termination or suspension authority also is specified in § 947.71.

Section 947.60 provides that whenever potatoes are regulated pursuant to § 947.52, such potatoes must be inspected by the Federal-State Inspection Service, and certified as meeting the applicable requirements of such regulations. The cost of inspection and certification is borne by handlers.

Prior to the 1999-2000 season, minimum grade, size, quality, maturity, and pack requirements for potatoes regulated under the order were specified in § 947.340 *Handling Regulation* [7 CFR part 947.340]. This regulation, with modifications and exemptions for different varieties and types of shipments, provided that all potatoes grade at least U.S. No. 2; be at least 2 inches in diameter or weigh at least 4 ounces, and be not more than moderately skinned. Additionally, potatoes packed in cartons had to be U.S. No. 1 grade or better, with an additional tolerance allowed for internal defects, or U.S. No. 2 grade weighing at least 10 ounces. Section 947.340 also included waivers of inspection procedures, reporting and safeguard requirements for special purpose shipments, and a minimum quantity exemption of 19 hundredweight per day. Related provisions appear in the regulations at § 947.130, *Special Purpose Certificates—application and issuance*; § 947.132 *Reports*; § 947.133 *Denial and appeals*; and § 947.134 *Establishment of list of manufacturers of potato products*.

The Committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Oregon-California potatoes that have been issued on a continuing basis. Committee

meetings are open to the public and interested persons may express their views at these meetings. The Department reviews Committee recommendations and information submitted by the Committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

At its March 31, 2000, meeting, the Committee recommended suspending the handling and inspection regulations and related sections for the 2000-2001 and future seasons. It also recommended that all reporting and assessment collection requirements be suspended, too. The Committee requested that this rule be effective on July 1, 2000, which is the date shipments of the 2000 Oregon-California potato crop began.

The objective of the handling and inspection requirements is to ensure that only acceptable quality potatoes enter fresh market channels, thereby ensuring consumer satisfaction, increasing sales, and improving returns to producers. While the industry continues to believe that quality is an important factor in maintaining sales, the Committee believes the cost of inspection and certification (mandated when minimum requirements are in effect) may exceed the benefits derived. It would like to further assess this matter during the 2000-2001 and future seasons.

Potato prices have been at low levels in recent seasons, and many producers have faced difficulty covering their production costs. Therefore, the Committee continues to explore various alternatives for reducing costs.

The Committee recommended suspending the handling regulations for a one-year trial from July 1, 1999, through June 30, 2000. The Committee was concerned that the elimination of current requirements could possibly result in lower quality potatoes being shipped to fresh markets. Also, there was some concern that the Oregon-California potato industry could lose sales to other potato producing areas that were covered by quality and inspection requirements. For these reasons, the Committee recommended the one-year suspension of the requirements for the 1999-2000 marketing season.

The Committee believes that this one-year trial was successful and recommended continuing the suspension of the handling and inspection requirements indefinitely. Last season's suspension was implemented by the Department with an

interim final rule published in the **Federal Register** on June 25, 1999 (64 FR 34113), and finalized on September 13, 1999 (64 FR 49352). Continuation of the suspension for the 2000–2001 and subsequent seasons will enable the Committee to further study the impacts on the industry and consider appropriate actions for ensuing seasons.

This rule enables handlers to ship potatoes without regard to the minimum grade, size, quality, maturity, pack, and inspection requirements, and continues to decrease handler costs associated with inspection. This rule does not restrict handlers from seeking inspection on a voluntary basis. The Committee will continue to evaluate the effects of removing the minimum requirements on marketing and on producer returns at its annual spring meetings.

Consistent with the suspension of § 947.340, this rule also suspends §§ 947.120, 947.123, 947.130, 947.132, 947.133, and 947.134 of the rules and regulations in effect under the order. Sections 947.120 and 947.123 provide authority for hardship exemptions from inspection and certification, and establish reporting and recordkeeping requirements when such exemptions are in place. Sections 947.130, 947.132, 947.133, and 947.134 are safeguard and reporting provisions of the order that are applicable to special purpose shipments when inspection and certification requirements are in place. Section 947.125 regarding minimum quantity assessment exemptions, and § 947.180 regarding monthly assessment reports expired by their own terms on June 30, 2000.

The September 13, 1999, interim final rule also established reporting requirements for the 1999–2000 season so the Committee could obtain information on which to collect assessments. In previous seasons, it had obtained this information from inspection reports. However, these reports were eliminated with the suspension of mandatory inspection. The reporting requirements will not be needed during the 2000–2001 and future seasons because the Committee recommended that no assessments be collected from handlers during these seasons.

Section 947.247 of the marketing order previously prescribed an assessment rate of \$0.004 per hundredweight of assessable potatoes for the Oregon-California Potato Committee. Authorization to assess potato handlers enables the Committee to incur expenses that are necessary to administer the marketing order. With the suspension of handling, inspection,

and reporting requirements, a limited Committee budget will be needed for program administration during the 2000–2001 and future seasons. For 2000–2001, the Committee recommended a budget of \$2,000 for management and its spring meetings. It has about \$10,000 in operating reserves to cover approved Committee expenses.

In the interim final rule published July 10, 2000 (65 FR 42275), §§ 947.125 regarding minimum quantity assessment exemptions and 947.180 regarding monthly assessment reports were included in the list of sections to be suspended. As previously mentioned, these sections expired by their own terms on June 30, 2000, and, thus, did not need to be suspended by the interim final rule. This final rule modifies the list of suspended provisions accordingly.

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 final 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 30 handlers of Oregon-California potatoes who are subject to regulation under the marketing order and approximately 450 potato producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (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 \$500,000.

The Committee estimates that about 83 percent of the handlers ship under \$5,000,000 worth of Oregon-California potatoes and about 17 percent of the handlers ship over \$5,000,000 worth of Oregon-California potatoes on an annual basis. In addition, based on acreage, production, and producer prices reported by the National Agricultural Statistics Service, and the total number of Oregon-California potato producers, average annual producer receipts are approximately \$294,000, excluding receipts from other sources. In view of the foregoing, it can be concluded that the majority of handlers and producers

of Oregon-California potatoes may be classified as small entities.

At its March 31, 2000, meeting, the Committee recommended suspending the handling and related regulations. It also recommended suspending all reporting and assessment collection regulations. The Committee requested that this rule be effective on July 1, 2000, which is the date shipments of the 2000 Oregon-California potato crop began. This rule allows the Oregon-California potato industry to market potatoes without minimum grade, size, quality, maturity, pack, and inspection requirements.

The objective of the handling requirements is to ensure that only acceptable quality potatoes enter fresh market channels, thereby ensuring consumer satisfaction, increasing sales, and improving returns to producers. While the industry continues to believe that quality is an important factor in maintaining sales, the Committee believes the cost of inspection and certification (mandated when minimum requirements are in effect) may exceed the benefits derived.

Potato prices have been at low levels in recent seasons, and many producers have faced difficulty covering their production costs. Therefore, the Committee continues to explore various alternatives for reducing costs. The Committee recommended suspending the handling regulations for a one-year trial from July 1, 1999, through June 30, 2000. The Committee was concerned that the elimination of the handling requirements could possibly result in lower quality potatoes being shipped to fresh markets. Also, there was some concern that the Oregon-California potato industry could lose sales to other potato producing areas that were covered by quality and inspection requirements. For these reasons, the Committee recommended the one-year suspension of the requirements for the 1999–2000 marketing season.

The Committee believes that this one-year trial was successful and recommended continuing the suspension that was finalized by the Department on September 13, 1999 (64 FR 49352). This will enable the Committee to further study the impacts of the suspension and consider appropriate actions for ensuing seasons.

This rule enables handlers to ship potatoes without regard to the minimum grade, size, quality, maturity, pack, inspection, and related requirements, and continues to decrease handler costs associated with inspection. This rule does not restrict handlers from seeking inspection on a voluntary basis. The Committee will continue to evaluate the

effects of removing the minimum requirements on marketing and on producer returns at its annual spring meetings.

The Committee anticipates that this rule will not negatively impact small businesses. This rule suspends minimum grade, size, quality, maturity, pack, and inspection requirements. Further, this rule allows handlers and producers the choice to obtain inspection for potatoes, as needed, thereby reducing costs for the industry. The total cost of inspection and certification for fresh shipments of Oregon-California potatoes during the 1998–99 marketing season was estimated at \$600,000. The 1998–99 marketing season was the most recent year for mandatory inspection. This is approximately \$20,000 per handler. The Committee expects, however, that most handlers will continue to have some of their potatoes inspected and certified by the Federal-State Inspection Service.

The suspension of the assessment collection requirements for the 2000–2001 and future seasons also will result in some cost savings. Assessment collections during the 1999–2000 season totaled \$25,500. Absent the suspension of § 947.247, assessments collected during the 2000–2001 season would have been about \$26,000, according to Committee estimates.

The Committee investigated the use of other types of inspection programs as another option to reduce the cost of inspection, but believed they were not viable at this time.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements being suspended by this rule were approved previously by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178. Suspension of all of the reporting requirements is expected to reduce the reporting burden on small or large Oregon-California potato handlers by almost 300 hours, and should further reduce industry expenses. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors.

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

Further, the Committee's meeting was widely publicized throughout the Oregon-California potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the March 31,

2000, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

An interim final rule concerning this action was published in the **Federal Register** on July 10, 2000. Copies of this rule were mailed by the Committee's staff to all Committee members. In addition, the rule was made available through the Internet by the Office of the **Federal Register**. That rule provided for a 60-day comment period which ended September 8, 2000. 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/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.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that the regulations suspended by this action no longer tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 947

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

Accordingly, the interim final rule amending 7 CFR part 947 which was published at 65 FR 42275 on July 10, 2000, is adopted as a final rule with the following change:

#### **PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES, CALIFORNIA, AND IN ALL COUNTIES IN OREGON, EXCEPT MALHEUR COUNTY**

1. The authority citation for 7 CFR Part 947 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

**§§ 947.120, 947.123, 947.130, 947.132, 947.133, 947.134, 947.141, 947.247, 947.340 [Suspended]**

2. In Part 947, §§ 947.120, 947.123, 947.130, 947.132, 947.133, 947.134, 947.141, 947.247, and 947.340 are suspended in their entirety effective July 1, 2000.

Dated: October 31, 2000.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 00–28334 Filed 11–3–00; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 966

[Docket No. FV00–966–1 IFR]

#### **Tomatoes Grown in Florida; Change in Size Designation**

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

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule increases the maximum diameter of the 6x6 numeric size designation currently prescribed under the Florida tomato marketing order (order). The order regulates the handling of tomatoes grown in Florida and is administered locally by the Florida Tomato Committee (Committee). The maximum diameter will be increased by  $\frac{2}{32}$  of an inch, from  $2\frac{27}{32}$  inches to  $2\frac{29}{32}$  inches. This change will allow handlers to pack slightly larger tomatoes in a 6x6 container, and provide them with greater flexibility when packing tomatoes. The increased flexibility is expected to increase the number and availability of containers of 6x6 tomatoes, which are often in short supply.

**DATES:** Effective November 8, 2000; comments received by January 5, 2001 will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, 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](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:** Doris Jamieson, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone: (863) 299–4770, Fax: (863) 299–5169; 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.