

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## SPECIAL INSPECTOR GENERAL FOR AFGHANISTAN RECONSTRUCTION

### 5 CFR Part 9301

RIN 3460-AA04

### Freedom of Information Act and Privacy Act Procedures

**AGENCY:** Special Inspector General for Afghanistan Reconstruction.

**ACTION:** Final rule.

**SUMMARY:** The Special Inspector General for Afghanistan Reconstruction (SIGAR) published an interim final rule enacting changes to its Freedom of Information Act regulation to comply with the FOIA Improvement Act of 2016 on January 4th, 2017. SIGAR is now adopting those amendments as final with changes.

**DATES:** This final rule is effective July 24, 2017.

**FOR FURTHER INFORMATION CONTACT:** William Gaertner, Associate General Counsel, Special Inspector General for Afghanistan Reconstruction, 2530 Crystal Drive, Arlington, VA 22202, (703) 545-5994.

**SUPPLEMENTARY INFORMATION:** On January 28, 2008, the President signed into law the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181), which created SIGAR to conduct independent and objective audits, investigations and analysis to promote economy and efficiency, and to detect and deter waste, fraud, and abuse in the reconstruction of Afghanistan. The Freedom of Information Act (FOIA), as amended, provides for access by the public to records of executive branch agencies, subject to certain restrictions and exemptions. In order to establish procedures to facilitate public interaction with SIGAR, the agency published 5 CFR part 9301 setting forth SIGAR's regulations governing the access provisions of those statutes and Executive Order 12958. On June 30, 2016 the President signed into law the FOIA Improvement Act of 2016 (Pub. L.

114-185). SIGAR published an interim final rule amending its FOIA regulations based on the changes made in the FOIA Improvements Act of 2016 on January 4th, 2017.

SIGAR received comments on its interim final rule from two government agencies. SIGAR reviewed these comments and is making changes to the interim final rule based on those comments.

### II. The Final Rule

This final rule amends portions of SIGAR's existing regulation implementing provisions of the FOIA (5 U.S.C. 552). The provisions of this amendment shall apply to all components of SIGAR. The FOIA provides for the disclosure of agency records and information to the public, unless that information is exempted under delineated statutory exemptions under the FOIA. The procedures established here are intended to ensure that SIGAR fully satisfies its responsibility to the public to disclose agency information, but continues to safeguard sensitive information properly.

### Procedural Requirements

This Final Rule amends SIGAR's regulations implementing the FOIA to facilitate the interaction of the public with SIGAR. SIGAR's policy of disclosure follows the Presidential Memorandum of January 21, 2009, "Transparency and Open Government," 74 FR 4685, and the Attorney General's March 19, 2009 FOIA policy guidance, advising Federal agencies to apply a presumption of disclosure in FOIA decision making. This Final Rule incorporates portions the FOIA Improvement Act of 2016, signed into law by the President on June 30, 2016. This amendment maintains SIGAR's compliance with the FOIA and those amendments to the FOIA adopted in the FOIA Improvement Act of 2016.

Finally, notice of proposed rulemaking is not required, because the provisions of the Regulatory Flexibility Act (5 U.S.C. Chapter 6) do not apply. It has been determined that this rulemaking is not a significant regulatory action for the purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

Dated: June 16, 2017.

**John F. Sopko,**  
*Inspector General.*

### List of Subjects in 5 CFR Part 9301

Administrative practice and procedure, Freedom of information.

### Authority and Issuance

Accordingly, as stated in the preamble, SIGAR is adopting the interim rule published January 4, 2017, at 82 FR 711, as final with the following changes:

### PART 9301—[AMENDED]

■ 1. The authority citation for part 9301 continues to read as follows:

**Authority:** 5 U.S.C. 552; Pub. L. 110-175, 121 Stat. 2524 (2007); 5 U.S.C. 301 and 552; Exec. Order 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235; Exec. Order No. 13392, 70 FR 75373-75377, 3 CFR, 2006 Comp., pp. 216-200.

■ 2. In § 9301.6, paragraphs (c)(1)(ii) and (d)(3) are revised to read as follows:

### § 9301.6 Requesting records.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(ii) *Adverse determinations.* If the FOIA Officer denies the request, in full or part, or applies exemptions to withhold requested documents, the FOIA Officer shall provide the requester written notice of the adverse determination together with the approximate number of pages of information withheld and the exemption under which the information was withheld. SIGAR will indicate, if technically feasible, the amount of information deleted and the exemption under which the deletion is made at the place in the record where the deletion was made. SIGAR will also indicate the exemption under which a deletion is made on the released portion of the record, unless including that indication would harm an interest protected by the exemptions. The notice shall also describe the procedure for filing an appeal. SIGAR will further notify the requester of their right to seek assistance from SIGAR's FOIA Public Liaison or dispute resolution services from the FOIA Public Liaison or the Office of Government Information Services in the case of an adverse determination.

\* \* \* \* \*

(d) \* \* \*

(3) *Dispute Resolution*. A response to an appeal will advise the requester that the 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer dispute resolution services to resolve disputes between FOIA requesters and Federal agencies as a nonexclusive alternative to litigation. Dispute resolution is a voluntary process. A requester may contact OGIS in any of the following ways: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740; Email: [ogis@nara.gov](mailto:ogis@nara.gov); Telephone: 202-741-5770; Facsimile: 202-741-5769; Toll-free: 1-877-684-6448.

■ 3. In § 9301.8, paragraph (f)(3) is revised to read as follows:

**§ 9301.8 Fees in general.**

\* \* \* \* \*

(f) \* \* \*

(3) SIGAR determines that unusual circumstances apply to the processing of a request, provides timely notice to the requester, and delay is excused for an additional ten days, but SIGAR still fails to respond within the timeframe established by the additional delay. This provision applies only to search fees or duplication fees for educational institution, non-commercial scientific institution, or representative of the news media requesters. However, the following exceptions shall apply:

(i) Notwithstanding § 9301.8(f)(3), if SIGAR determines that unusual circumstances apply and that more than 5000 pages are necessary to respond to the request, SIGAR may continue to charge search fees, or duplication fees for requesters in preferred status, for as long as necessary, after timely written notice has been made to the requester and SIGAR has discussed with the requester how the requester could effectively limit the scope of the request via written mail, electronic mail, or telephone, or made three good-faith attempts to do so.

[FR Doc. 2017-13056 Filed 6-22-17; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 945

[Doc. No. AMS-SC-16-0111; SC17-945-1 FR]

#### Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Decreased Assessment Rate

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

**ACTION:** Final rule.

**SUMMARY:** This rule implements a recommendation from the Idaho-Eastern Oregon Potato Committee (Committee) to decrease the assessment rate established for the 2017–2018 and subsequent fiscal periods from \$0.0025 to \$0.002 per hundredweight of potatoes handled. The Committee locally administers the marketing order which regulates the handling of potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon. Assessments upon potato handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Effective August 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** Barry Broadbent, Senior Marketing Specialist, or Gary D. Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326-2724, Fax: (503) 326-7440, or Email: [Barry.Broadbent@ams.usda.gov](mailto:Barry.Broadbent@ams.usda.gov) or [GaryD.Olson@ams.usda.gov](mailto:GaryD.Olson@ams.usda.gov).

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or Email: [Richard.Lower@ams.usda.gov](mailto:Richard.Lower@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 98 and Order No. 945, both as amended (7 CFR part 945), regulating the handling of Irish potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon, 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 final rule in conformance with Executive Orders 12866, 13771, 13563, and 13175.

This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. See OMB’s Memorandum titled “Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled ‘Reducing Regulation and Controlling Regulatory Costs’” (February 2, 2017).

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Idaho-Eastern Oregon potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as established herein will be applicable to all assessable potatoes beginning August 1, 2017, and continue until amended, suspended, or terminated.

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. Such 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 decreases the assessment rate established for the Committee for the 2017–2018 and subsequent fiscal periods from \$0.0025 to \$0.002 per hundredweight of potatoes handled.

The Idaho-Eastern Oregon potato marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to cover the expenses of administering the program. The members of the Committee are