

which ended June 5, 2006. 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 finalization of the interim final rule, without change, as published in the **Federal Register** (71 FR 16982, April 5, 2006) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

#### PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ Accordingly, the interim final rule amending 7 CFR part 922 which was published at 71 FR 16982 on April 5, 2006, is adopted as a final rule without change.

Dated: July 12, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6-11302 Filed 7-17-06; 8:45 am]

BILLING CODE 3410-02-P

#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

#### 7 CFR Part 948

[Docket No. FV06-948-1 IFR]

#### Irish Potatoes Grown in Colorado; Suspension of Continuing Assessment Rate

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

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

**SUMMARY:** This rule suspends the continuing assessment rate established for the Area No. 3 Colorado Potato Administrative Committee (Committee) for the 2006-2007 and subsequent fiscal periods. The Committee, which locally administers the marketing order regulating the handling of potatoes grown in Northern Colorado, made this recommendation for the purpose of

lowering the monetary reserve to a level consistent with program requirements. The fiscal period begins July 1 and ends June 30. The assessment rate will remain suspended until an appropriate rate is reinstated.

**DATES:** *Effective Date:* July 19, 2006. Comments received by September 18, 2006, 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, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938; E-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov); or Internet: <http://www.regulations.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, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

#### FOR FURTHER INFORMATION CONTACT:

Teresa L. Hutchinson or Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW. Third Avenue, Suite 385, Portland, OR 97204; telephone: (503) 326-2724; Fax: (503) 326-7440.

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, 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 rule is issued under Marketing Agreement No. 97 and Marketing Order No. 948, both as amended (7 CFR part 948), regulating the handling of 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 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. For the 2005-2006 fiscal period, an assessment rate of \$0.02 per hundredweight of potatoes handled was approved by USDA to continue in effect indefinitely unless modified, suspended, or terminated. This action suspends the assessment rate for the 2006-2007 fiscal period, which begins July 1, 2006, and will continue in effect until reinstated. 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 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 suspends § 948.215 of the order's rules and regulations. Section 948.215 established an assessment rate of \$0.02 per hundredweight of Colorado potatoes handled for 2005-2006 and subsequent fiscal periods. Continuous assessment rates remain in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA. This rule suspends the \$0.02 assessment rate for 2006-2007 and will remain in effect during subsequent fiscal periods until reinstated by USDA upon recommendation of the Committee.

The order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. In addition, the order authorizes the use of monetary reserve funds to cover program expenses (§ 948.78). The members of the Committee are producers and handlers of Colorado 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.

For the 2005–2006 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate of \$0.02 per hundredweight of potatoes handled. This assessment rate continues in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on May 11, 2006, and unanimously recommended 2006–2007 expenditures of \$20,268 and suspension of the continuing assessment rate. In comparison, last year's budgeted expenditures were \$20,368. The suspension of the assessment rate will allow the Committee to draw from the reserve to cover 2006–2007 expenditures. This action should effectively lower the reserve to within the program limit of approximately two fiscal periods' operational expenses (\$ 948.78).

The major expenditures recommended by the Committee for the 2006–2007 fiscal period include \$8,610 for salary, \$3,000 for office rent, \$1,750 for office expenses, and \$1,000 for utilities. These budgeted expenses are the same as those approved for the 2005–2006 fiscal period.

As of July 1, 2005, the Committee had \$49,237 in its reserve fund. With the 2006–2007 budget set at \$20,268, the current maximum reserve permitted by the order is approximately \$40,536 (approximately two fiscal periods' expenses (\$ 948.78)). To meet 2006–2007 expenses the Committee plans on drawing approximately \$15,814 from its reserve, and may additionally earn approximately \$4,454 from interest and other income. Thus, with a suspended assessment rate, the Committee's reserve at the end of the 2006–2007 fiscal period could be reduced to approximately \$33,423. This amount would be consistent with the order's requirements.

The assessment rate suspension will continue in effect indefinitely until reinstated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this suspension of the continuing 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 reinstatement of the assessment rate. The dates and times

of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information such as the level of the budget and the monetary reserve to determine whether assessment rate reinstatement is needed and at what level. Further rulemaking will be undertaken as necessary. The Committee's 2006–2007 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

#### **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 rule 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 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.

Based on Committee data, there are 8 producers and 8 handlers in the production area subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$6,500,000.

Based on the total number of Colorado Area No. 3 potato producers (8), 2004 fresh potato production of 557,826 hundredweight (Committee records), and the average 2004 producer price of \$6.30 per hundredweight as reported by National Agricultural Statistics Service (NASS), average annual revenue per producer from the sale of potatoes can be estimated at approximately \$439,288. In addition, based on Committee records and an estimated average 2004 f.o.b. price of \$8.40 per hundredweight (\$6.30 per hundredweight NASS producer price plus Committee estimated packing and handling costs of \$2.10 per hundredweight), all of the Colorado Area No. 3 potato handlers ship under \$6,500,000 worth of potatoes. In view of the foregoing, it can be concluded that

the majority of the Colorado Area No. 3 potato producers and handlers may be classified as small entities.

This rule suspends the continuing assessment rate established for the Committee and collected from handlers for the 2006–2007 and subsequent fiscal periods. Funds from the Committee's authorized reserve, along with interest and other income, will be adequate to cover budgeted expenses.

As of July 1, 2005, the Committee had \$49,237 in its reserve fund. With the 2006–2007 budget set at \$20,268, the current maximum reserve permitted by the order is approximately \$40,536 (approximately two fiscal periods' expenses (\$ 948.78)). To meet 2006–2007 expenses the Committee plans on drawing approximately \$15,814 from its reserve, and may additionally earn approximately \$4,454 from interest and other income. Thus, with a suspended assessment rate, the Committee's reserve at the end of the 2006–2007 fiscal period could be reduced to approximately \$33,423. This amount would be consistent with the order's requirements.

The major expenditures recommended by the Committee for the 2006–2007 fiscal period include \$8,610 for salary, \$3,000 for office rent, \$1,750 for office expenses, and \$1,000 for utilities. These budgeted expenses are the same as those approved for the 2005–2006 fiscal period.

For the 2005–2006 fiscal period, the Committee recommended a decrease in the assessment rate. However, the decreased assessment rate did not reduce the Committee's reserve as anticipated. Therefore, the Committee recommended suspending the continuing assessment rate to enable an increased draw on the reserve, thus maintaining the level of the reserve within program limits of approximately two fiscal periods' operational expenses.

The Committee discussed alternatives to this rule, including alternative expenditure levels, but determined that the recommended expenses were reasonable and necessary to adequately cover program operations. Other assessment rates were considered, but not recommended because they would not reduce the reserve as quickly as suspension of the assessment rate.

This action suspends the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, suspending the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Colorado

potato industry and all interested persons were invited to attend and participate in the Committee's deliberations on all issues. Like all Committee meetings, the May 11, 2006, meeting was a public meeting and all entities, both large and small, were able to express views on the issues. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large Colorado 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.

AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

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

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ama.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 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 upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and 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 2006–2007 fiscal period begins on July 1, 2006, and the order requires that the assessment rate suspension apply to all assessable Colorado potatoes handled during such fiscal period; (2) this action relieves restrictions on handlers by suspending the assessment rate beginning with the 2006–2007 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) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

#### 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 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.

#### § 948.215 [Suspended]

■ 2. In part 948, § 948.215 is suspended in its entirety.

Dated: July 11, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–11303 Filed 7–17–06; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1402

RIN 0560–AH22

#### Policy for Certain Commodities Available for Sale

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule amends regulations of the Commodity Credit Corporation (CCC) relating to marketing procedures for commodities in CCC inventory to update agency provisions and provide for commodity sales through Internet-based marketing systems. This rule is intended to modernize and streamline CCC commodity marketing procedures. **DATES:** Effective August 17, 2006.

#### FOR FURTHER INFORMATION CONTACT:

Mark Overbo, Warehouse and Inventory Division, Farm Service Agency (FSA), United States Department of Agriculture (USDA), STOP 0553, 1400 Independence Avenue, SW., Washington, DC 20250–0553, telephone (202) 720–4647 or send e-mail to: [Mark.Overbo@wdc.usda.gov](mailto:Mark.Overbo@wdc.usda.gov). Persons with disabilities who require alternative

means of communication (braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

#### SUPPLEMENTARY INFORMATION:

##### Discussion of Final Rule

Since the enactment of the Agricultural Act of 1949, CCC's major activity has been the administration and implementation of nonrecourse loans to producers of major agricultural commodities. Generally, Congress establishes loan rates for certain commodities on a per-unit basis. Under the program's "nonrecourse" provisions, the producer may satisfy the loan obligation through forfeiture to CCC of the commodity pledged as collateral for the loan. As a result, CCC acquires commodities that are forfeited or delivered under these nonrecourse loans. The accumulation of stocks of these forfeited commodities requires CCC to maintain provisions for their eventual disposal. The acquisition, procurement, storage, distribution, and disposal of commodities are handled by the Farm Service Agency under the administration of the Deputy Administrator for Commodity Operations. The regulations at 7 CFR part 1402 contain CCC policy for certain commodities available for sale by CCC.

This rule updates the regulations regarding the dissemination of general sales offering information to reflect current CCC policies. Current regulations at 7 CFR part 1402 provide that CCC will disseminate general sales information through a "CCC Sales List," published in press release or similar form, and revised and republished periodically as necessary. Methods of providing commodity sales and CCC inventory listings have improved considerably since the regulations were last updated. Currently, sales offerings are being made electronically via several sources such as CCC's Commodity Operations Web site at <http://www.fsa.usda.gov/daco/catalogs> and through other privately-maintained, fully interactive on-line sales systems. This rule replaces the provisions dealing with the publication of the CCC Sales List with the current policies and procedures for Internet posting of commodity inventories offered for sale.

##### Notice and Comment

The changes made in this rule are a general edit and reorganization of part 1402 as a whole, which provides how CCC will disseminate information. Thus, this rule is exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553) for publication of a proposed rule for public