

Additionally, as stated previously, the costs that would result from the establishment of pink bollworm in the United States are far grater than the regulatory burden and quarantine treatment costs imposed on affected entities in regulated areas.

The United States plays an important role in international trade of cotton. Losses in cotton produced, or any loss of trade, that would result from a widespread pink bollworm infestation, would be very costly and harmful to the U.S. gross national income. The risk of potential disease spread is of great concern to U.S. exporters of cotton. Maintaining high quality standards is essential not only to the cotton industry but to the U.S. economy as a whole. Continued regulation ensures that importers of U.S. cotton and other raw cotton products will maintain their confidence in the safety of U.S. produced cotton products.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

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

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

#### PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 62 FR 23943–23945 on May 2, 1997.

**Authority:** 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 8th day of August 1997.

**Terry L. Medley,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 97–21522 Filed 8–13–97; 8:45 am]

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#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

##### 7 CFR Part 947

[Docket No. FV97–947–1 FIR]

##### **Irish Potatoes Grown in Modoc and Siskiyou Counties, California, and in All Counties in Oregon, Except Malheur County; Define Fiscal Period and Decrease Assessment Rate**

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department), is adopting as a final rule, without change, the provisions of an interim final rule which established, in the regulatory text, the fiscal period of the Oregon-California Potato Committee (Committee) to begin July 1 of each year and end June 30 of the following year, and decreased the assessment rate established under Marketing Order No. 947 for the 1997–98 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of Irish potatoes grown in Modoc and Siskiyou Counties, California, and in all counties in Oregon, except Malheur County. Authorization to assess potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1997–98 fiscal period covers the period July 1 through June 30. The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated.

**EFFECTIVE DATE:** August 15, 1997.

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

*Martha Sue Clark*, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; *Telephone:* (202) 720–2491; *FAX:* (202) 720–5698, or *Teresa L. Hutchinson*, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, Room 369, 1220 Southwest Third Avenue, Portland, OR 97204; *Telephone:* (503) 326–2724; *FAX:* (503) 326–7440. Small businesses may request information on compliance with this regulation by contacting *Jay Guerber*, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; *Telephone:* (202) 720–2491; *FAX:* (202) 720–5698.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 114 and Order No. 947, both as amended (7 CFR part 947) regulating the handling of Irish potatoes grown in Oregon-California, 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. Under the marketing order now in effect, Oregon-California potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes beginning July 1, 1997, and continuing 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 establishes, in regulatory text, the fiscal period of the Committee to begin July 1 of each year and end June 30 of the following year, and decreases the assessment rate established for the Committee for the 1997–98 and subsequent fiscal periods from \$0.005 to \$0.004 per hundredweight.

The Oregon-California potato marketing order provides authority for the Committee, with the approval of the Department, to establish a fiscal period. The Committee has operated under a fiscal period of July 1 through June 30

for many years. This rule adds to the order's rules and regulations a definition of the fiscal period of the Committee to be the 12 month period beginning July 1 and ending June 30 of the following year, both dates inclusive.

The Oregon-California potato marketing order also 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 members of the Committee are producers and handlers of Oregon-California 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 1996-97 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on March 5, 1997, and unanimously recommended 1997-98 expenditures of \$53,600 and an assessment rate of \$0.004 per hundredweight of potatoes. In comparison, last year's budgeted expenditures were \$61,200. The assessment rate of \$0.004 is \$0.001 less than the rate currently in effect. As the Committee's reserve exceeds the amount authorized in the order of one fiscal period's operational expenses, the Committee voted to lower its assessment rate and use more of the reserve to cover its expenses. The Committee discussed alternatives to this rule, including alternative expenditure levels, but recommended that the major expenditures for the 1997-98 fiscal period should include \$30,000 for an agreement with the Oregon Potato Commission to provide miscellaneous services to the Committee, \$4,000 for Committee meeting expenses, \$3,000 for staff travel, and \$3,000 for investigation and compliance. Budgeted expenses for these items in 1996-97 were \$30,000, \$4,200, \$3,000, and \$3,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Oregon-California potatoes. Potato shipments for the year

are estimated at 8,500,000 hundredweight, which should provide \$34,000 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this 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 modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1997-98 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

An interim final rule regarding this action was published in the May 19, 1997, issue of the **Federal Register** (62 FR 27169). That rule provided a 30-day comment period. No comments were received.

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 550 producers of Oregon-California potatoes in the production area and approximately 40 handlers subject to regulation under the marketing order.

Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than \$500,000 and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of Oregon-California potato producers and handlers may be classified as small entities.

This rule establishes, in the regulatory text, the fiscal period of the Committee to begin July 1 of each year and end June 30 of the following year, and decreases the assessment rate established for the Committee and collected from handlers for the 1997-98 and subsequent fiscal periods from \$0.005 to \$0.004 per hundredweight. The Committee unanimously recommended 1997-98 expenditures of \$53,600 and an assessment rate of \$0.004 per hundredweight of potatoes. The assessment rate of \$0.004 is \$0.001 less than the rate currently in effect. As the Committee's reserve exceeds the amount authorized in the order of one fiscal period's operational expenses, the Committee voted to lower its assessment rate and use more of the reserve to cover its expenses.

The Committee discussed alternatives to this rule, including alternative expenditure levels, but recommended that the major expenditures for the 1997-98 fiscal period should include \$30,000 for an agreement with the Oregon Potato Commission to provide miscellaneous services to the Committee, \$4,000 for Committee meeting expenses, \$3,000 for staff travel, and \$3,000 for investigation and compliance. The Committee also discussed the alternative of not decreasing the assessment rate. However, it decided against this course of action because continuation of the higher rate would not allow it to bring its operating reserve in line with the maximum amount authorized under the order. The reduced assessment rate will require the Committee to use more of its reserve for authorized expenses, and help bring the reserve within authorized levels.

Potato shipments for the year are estimated at 8,500,000 hundredweight, which should provide \$34,000 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

Recent price information indicates that the grower price for the 1997-98 marketing season will range between \$4.00 and \$7.00 per hundredweight of

potatoes. Therefore, the estimated assessment revenue for the 1997–98 fiscal period as a percentage of total grower revenue will range between .100 and .057 percent.

This action will reduce the assessment obligation imposed on handlers. While this rule will impose some additional costs on handlers, the costs are minimal and in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. In addition, 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 on all issues. Like all Committee meetings, the March 5, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action will not impose any additional reporting or recordkeeping requirements on either small or large Oregon-California 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.

In the interim final rule published in the **Federal Register** (62 FR 27169) on May 19, 1997, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses. A copy of the interim final rule was also made available on the Internet by the U.S. Government Printing Office. The comment period ended June 18, 1997, and no comments were received concerning the impacts of this action on small businesses.

After consideration of all relevant matter 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 that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This action reduces the current assessment rate; (2) the 1997–98 fiscal period began on July 1, 1997, and

the marketing order requires that the rate of assessment for each fiscal period apply to all assessable potatoes handled during such 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) an interim final rule was published on this action and provided a 30-day comment period; no comments were received.

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

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

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

Accordingly, the interim final rule amending 7 CFR part 947 which was published at 62 FR 27169 on May 19, 1997, is adopted as a final rule without change.

Dated: August 8, 1997.

**Robert C. Keeney,**

*Director, Fruit and Vegetable Division.*

[FR Doc. 97–21526 Filed 8–13–97; 8:45 am]

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#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

##### 7 CFR Part 981

[Docket No. FV97–981–4 FR]

##### Almonds Grown in California; Amended Assessment Rate

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

**ACTION:** Final rule.

**SUMMARY:** This final rule increases the assessment rate for the Almond Board of California (Board) under Marketing Order No. 981 for the 1997–98 and subsequent crop years. The Board is responsible for local administration of the marketing order which regulates the handling of almonds grown in California. Authorization to assess almond handlers enables the Board to incur expenses that are reasonable and necessary to administer the program.

**EFFECTIVE DATE:** August 1, 1997.

**FOR FURTHER INFORMATION CONTACT:** *Martin Engeler*, Assistant Regional Manager, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721;

*Telephone:* (209) 487–5901, *Fax:* (209) 487–5906; or *George Kelhart*, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; *Telephone:* (202) 690–3919, *Fax:* (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting *Jay Guerber*, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; *Telephone:* (202) 720–2491, *Fax:* (202) 720–5698.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds grown in California, hereinafter referred to as the “order.” The marketing 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 final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California almond handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable almonds beginning August 1, 1997, and continuing 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.