

Subpart F—Locality-Based Comparability Payments

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2. In § 531.602, the definitions of *CMSA* and *MSA* are revised to read as follows:

§ 531.603 Definitions

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CMSA means the geographic scope of a Consolidated Metropolitan Statistical Area, as defined by the Office of Management and Budget (OMB) in List II of the attachments to OMB Bulletin 99–04.

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MSA means the geographic scope of a Metropolitan Statistical Area, as defined by the Office of Management and Budget (OMB) in List I of the attachments to OMB Bulletin 99–04.

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3. In § 531.606, paragraph (g) is revised to read as follows:

§ 531.606 Administration of locality rates of pay.

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(g) In the event of a change in the geographic coverage of a locality pay area, the effective date of the change in an employee's entitlement to a locality rate of pay under this subpart is the first day of the first applicable pay period beginning on or after the date on which the change in geographic coverage becomes effective.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Docket No. FV02–948–2 PR]

Irish Potatoes Grown in Colorado; Reduction of Membership on the Area No. 3 Colorado Potato Administrative Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on reducing the number of members on the Area No. 3 Colorado Potato Administrative Committee (Committee) established under the Colorado potato marketing order (order). The order regulates the handling of Irish potatoes grown in Colorado and is administered locally by the Committee. This rule would decrease the number of positions

on the Committee from five producer and four handler members to three producer and two handler members, respectively. The number of producers and handlers in Area No. 3 has decreased significantly in recent years and the industry has been unable to fill several positions on the Committee. Reducing Committee membership would allow the Committee to function more effectively while still providing equitable representation for producers and handlers.

DATES: Comments must be received by September 26, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. 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, or E-mail: 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:

Teresa Hutchinson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, Oregon 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

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 Avenue SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR part 948), 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 (USDA) is issuing this rule in conformance with Executive Order 12866.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal 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. A 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 would decrease the number of positions on the Committee from five producer and four handler members to three producer and two handler members, respectively. Each position would continue to have an alternate. The Committee has been unable to fill several positions on the Committee and has been unable to conduct business at some meetings because of the lack of a quorum. Reducing Committee membership would allow the Committee to function more effectively while still providing equitable representation for producers and handlers.

Section 948.50 of the order establishes three areas within the State of Colorado and provides authority for the establishment of a committee to be the administrative agency for each area. This section further provides that each area committee shall be comprised of members and alternates as set forth in that section or as reestablished by § 948.53. Section 948.53 provides authority for the reestablishment of each area committee.

Section 948.150 of the order's administrative rules and regulations prescribes the current membership on each area committee. For Area No. 3, the Committee currently consists of five producers and four handlers. Three producers and two handlers are from

Weld County, and two producers and two handlers are from all other counties in Area No. 3.

At its meeting on June 13, 2002, the Committee did not have enough members in attendance to constitute a quorum. Those members present recommended that a mail vote be held by the Committee to reduce the number of positions on the Committee from five producer and four handler members to three producer and two handler members, respectively. In addition, they recommended the removal of all requirements that positions be filled from nominees from certain counties. A subsequent mail vote to all Committee members and alternates was conducted. Seven Committee members voted in favor of this change and one member voted against it. The member who voted against the motion supported suspension of regulations because of the decline in the size of the industry. One handler member and alternate position was not voted as both positions are vacant.

The number of Area No. 3 potato producers and handlers has decreased significantly in recent years. Reasons for this decline include low potato prices, water shortages, and increasing production costs. With a total of only 13 producers and handlers (several producers are also handlers), the Committee has been unable to fill the 18 positions (nine members and nine alternates) on the Committee. One member and six alternate positions are currently vacant. This has resulted in the Committee being unable to conduct business at certain meetings because of the lack of a quorum. The Committee does not believe that the current requirement that only producers and handlers from specific counties may be nominated to certain positions serves any useful purpose. They believe that these requirements may, in some instances, have contributed to the difficulty the Committee has had in filling positions. Reducing Committee membership would allow the Committee to function more effectively while still providing equitable representation for producers and handlers.

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 action 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 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 12 producers, (9 of whom are also handlers) and 10 handlers (9 of whom are also producers) in the production area subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$750,000, and small agricultural firms are defined as those whose annual receipts are less than \$5,000,000.

Based on Committee data, the production of Area No. 3 Colorado potatoes for the 2001–2002 marketing year was 773,053 hundredweight. Based on National Agricultural Statistics Service data, the average producer price for Colorado summer potatoes for the 2001–2002 marketing year was \$7.63 per hundredweight. The average annual producer revenue for the 12 Colorado Area No. 3 potato producers is therefore calculated to be approximately \$491,533. Using Committee data regarding each individual handler's total shipments during the 2001–2002 marketing year and a Committee estimated average F.O.B. average price during the 2001–2002 marketing year of \$9.83 per hundredweight (\$7.63 per hundredweight plus estimated packing and handling costs of \$2.10 per hundredweight), all of the Colorado Area No. 3 potato handlers ship under \$5,000,000 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 would decrease the number of positions on the Committee from five producer and four handler members to three producer and two handler members, respectively. Each position would continue to have an alternate.

The number of Area No. 3 potato producers and handlers has decreased significantly in recent years. Reasons for this decline include low potato prices, water shortages, and increasing production costs. With a total of only 13 producers and handlers, the Committee has been unable to fill the 18 positions (nine members and nine alternates) on the Committee. One member and six alternate positions are currently vacant. This has resulted in the Committee being unable to conduct business at certain meetings because of the lack of

a quorum. Reducing Committee membership would allow the Committee to function more effectively while still providing equitable representation for producers and handlers.

This rule is expected to slightly decrease the costs of administering the order. With a smaller Committee, meeting costs should decline slightly and the ability of the Committee to obtain a quorum and conduct business should increase. The benefits for this rule are not expected to be disproportionately greater or less for small producers or handlers than for larger entities.

The Committee discussed alternatives to this change, including not reducing the Committee membership. The Committee considered suspension of all regulations and activities under Area No. 3. However, the Committee believes that the regulations issued under the order are beneficial to the Colorado Area No. 3 potato industry and the benefits of the program outweigh the costs.

This proposed rule would decrease the number of positions on the Committee. Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large Area No. 3 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.

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

In addition, the Committee's meeting was widely publicized throughout the Area No. 3 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 June 13, 2002, 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.

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.

A 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate because this rule would

need to be in place as soon as possible so that the Committee can nominate members and alternates to the new Committee as soon as possible. All written comments timely received will be considered before a final determination is made on this matter.

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 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 948.150 is amended by revising paragraph (b) to read as follows:

§ 948.150 Reestablishment of committee membership.

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(b) *Area No. 3:* Three producers and two handlers selected as follows: Three (3) producers and two (2) handlers from any county in Area No. 3.

Dated: September 4, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 102

RIN 3245–AE94

Disclosure of Information Regulations

AGENCY: U.S. Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) proposes to amend its regulations implementing the Freedom of Information Act (FOIA). This amendment is necessary to implement the Electronic Freedom of Information Act Amendments of 1996 (EFOIA) and to update SBA's FOIA regulations to conform to current law and procedure. SBA's amended regulations will make more information available electronically, allow requesters to obtain rapid disclosure decisions, give SBA more time to respond to some requests, and increase processing fees to more accurately reflect the full cost of search and

document review. SBA presents the changes in a simple user-friendly format.

DATES: Comments must be received on or before November 12, 2002.

ADDRESSES: Written comments should be addressed to Lisa J. Babcock, Chief, Freedom of Information/Privacy Acts Office, Small Business Administration, 409 3rd Street, SW., Suite 5900, Washington, DC 20416 or via the Internet at: foia@sba.gov.

FOR FURTHER INFORMATION CONTACT: Kitty Higgins, Paralegal Specialist, Freedom of Information/Privacy Acts Office, 202–401–8203.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) upon request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: The Electronic Freedom of Information Act Amendments of 1996 (EFOIA), 5 U.S.C. 552(a)(2), includes provisions authorizing or requiring agencies to promulgate regulations implementing certain of its requirements, including the tracking of Freedom of Information Act (FOIA) requests, the aggregation of FOIA requests, and the expedited processing of FOIA requests. In addition, EFOIA changes the time limit for responding to a FOIA request from ten to twenty working days, the requirements for reporting FOIA activities to the Department of Justice, and the cases in which an agency may extend the time within which it will respond to a FOIA request. EFOIA also includes provisions regarding the availability of documents in electronic form, the treatment of electronic records, and the establishment of “electronic reading rooms.” SBA proposes to amend its regulation implementing the FOIA, 13 CFR Part 102, Subpart A. The proposed amendments will revise SBA's FOIA regulations to comply with EFOIA and to reflect current SBA FOIA procedures and practices.

Section-by-Section Analysis

Proposed § 102.1, General provisions, provides that Subpart A of Part 102 describes the procedures SBA follows for responding to FOIA requests.

Proposed § 102.2, Public reading rooms, provides that SBA maintain physical and electronic reading rooms. SBA's electronic reading room is at <http://www.sba.gov/library/>.

Proposed § 102.3, Requirements for making requests, provides the procedures for the public to make a FOIA request to the SBA. The request

must be in writing and be received by mail, fax or e-mail. The request will be considered “perfected” or accepted for processing when the records sought are described in sufficient detail to be found by an SBA employee with a reasonable amount of effort, the requester states how much he or she is willing to pay, and an advance payment is made if the estimated fees will exceed \$250 or the requester owes SBA for past FOIA search fees. Past due charges and interest and the advance payment must be paid before the request is perfected. Records on an individual will only be released to a third party upon the written authorization of the individual whose records are sought. Privacy Act requests will be processed under Subpart B of Part 102 and not Subpart A.

Proposed § 102.4, Timing of responses to requests, provides for the timing of general, multitrack, and expedited processing for FOIA requests.

Section 102.4(a), provides that once a “perfected” request is received by the correct SBA office, that SBA will respond within 20 working days. However, this period can be extended for an additional 10 working days by an SBA office if: (1) The need arises to search for and collect the requested records from a field facility or other establishment separate from the processing office; (2) the need arises to search for, collect, and appropriately examine a voluminous amount of separate and distinct records demanded in a single request; or (3) the need arises for consultation with another Federal agency having a substantial interest in the determination of the request. When one of these reasons arises and requires an extension for more than 10 working days, SBA will notify the requester in writing that unusual circumstances exist and allow the requester an opportunity to modify the request so it can be processed within usual time limits.

Multitrack processing is covered in § 102.4(b), which provides for three-track processing. With multitrack processing, EFOIA recognizes that some requests do not lend themselves to a 20 working-day deadline. Therefore, EFOIA authorizes agencies to establish separate systems within the agency for handling simple and complex requests. Requests on each track will be processed in the order received. Under multitrack processing, requests are categorized based on the amount of agency effort involved with processing the request. The first track, “fast track,” is for simple requests clearly identified that have been previously released or placed in an SBA Reading Room, that can be processed within 10 working