



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 946

[Doc. No. AMS-FV-13-0010; FV13-946-1 FIR]

Irish Potatoes Grown in Washington; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture is adopting, as a final rule, without change, an interim rule that decreased the assessment rate established for the State of Washington Potato Committee (Committee) for the 2013-2014 fiscal year and all subsequent fiscal periods from \$0.003 to \$0.0025 per hundredweight of potatoes handled. The Committee locally administers the marketing order for Irish potatoes grown in Washington. Decreasing the assessment rate was necessary to allow the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

DATES: Effective [INSERT DATE 1 DAY AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Teresa Hutchinson, Marketing Specialist, or Gary Olson, Regional Director,

Northwest Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (503) 326-2724, Fax: (503) 326-7440, or E-mail: Teresa.Hutchinson@ams.usda.gov or GaryD.Olson@ams.usda.gov.

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following website:

<http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide>; or by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: Jeffrey.Smutny@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 946, as amended (7 CFR part 946), regulating the handling of Irish potatoes grown in Washington, 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.

Under the order, Washington potato handlers are subject to assessments, which provide funds to administer the order. Assessment rates issued under the order are intended to be applicable to all assessable Washington potatoes for the entire fiscal period, and continue indefinitely until amended, suspended, or terminated. The Committee's fiscal period begins on July 1, and ends on June 30.

In an interim rule published in the **Federal Register** on April 29, 2013, and effective on April 30, 2013 (78 FR 24981, Doc. No. AMS-FV-13-0010, FV13-946-1 IR), § 946.248 was amended by decreasing the assessment rate established for Washington potatoes for the 2013-2014 fiscal year and all subsequent fiscal periods from \$0.003 to \$0.0025 per hundredweight of potatoes handled. The decrease in the per hundredweight assessment rate allows the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural Marketing Service (AMS) has considered the economic impact

of this rule 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 businesses 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.

There are 43 handlers of Washington potatoes subject to regulation under the order and approximately 267 producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration as those having annual receipts of less than \$7,000,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000. (13 CFR 121.201)

During the 2011-2012 marketing year, the Committee reports that 11,018,670 hundredweight of Washington potatoes were shipped into the fresh market. Based on average f.o.b. prices estimated by the USDA's Economic Research Service and Committee data on individual handler shipments, the Committee estimates that 42, or

approximately 98 percent, of the handlers had annual receipts of less than \$7,000,000.

In addition, based on information provided by the National Agricultural Statistics Service, the average producer price for Washington potatoes for 2011 was \$7.90 per hundredweight. The average gross annual revenue for the 267 Washington potato producers is therefore calculated to be approximately \$326,021. In view of the foregoing, the majority of Washington potato producers and handlers may be classified as small entities.

This rule continues in effect the action that decreased the assessment rate established for the Committee and collected from handlers for the 2013-2014 fiscal year and all subsequent fiscal periods from \$0.003 to \$0.0025 per hundredweight of potatoes. The Committee also unanimously recommended 2013-2014 expenditures of \$37,400. This action will allow the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

The quantity of assessable potatoes for the 2013-2014 fiscal period is estimated at 10,000,000 hundredweight. Thus, the \$0.0025 rate should provide \$25,000 in assessment income. Income derived from handler assessments, along

with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses.

This rule continues in effect the action that decreased 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, decreasing 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 Washington potato industry. All interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the January 30, 2013, meeting was a public meeting. All entities, both large and small, were able to express their views on this issue.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581-0178, Vegetable and Specialty Crops Generic Package. No changes in those requirements as a result of

this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

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

Comments on the interim rule were required to be received on or before June 28, 2013. No comments were received. Therefore, for reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to:

<http://www.regulations.gov/#!documentDetail;D=AMS-FV-13-0010-0001>.

This action also affirms information contained in the interim rule concerning Executive Orders 12866 and 12988, and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule,

without change, as published in the **Federal Register** (78 FR 24981, April 29, 2013) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 946

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

PART 946 - IRISH POTATOES GROWN IN WASHINGTON

Accordingly, the interim rule amending 7 CFR part 946, which was published at 78 FR 24981 on April 29, 2013, is adopted as a final rule, without change.

Dated: August 1, 2013

Rex A. Barnes
Associate Administrator
Agricultural Marketing Service

[FR Doc. 2013-19011 Filed 08/07/2013 at 8:45 am; Publication Date: 08/08/2013]