



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 953

[Doc. No. AMS-FV-14-0011; FV14-953-1 FIR]

Irish Potatoes Grown in Southeastern States; Suspension of Marketing Order Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that continued the previous suspension of the marketing order for Irish potatoes grown in Southeastern states (order). The interim rule continued the suspension of all provisions of the order, and the rules and regulations implemented thereunder, through March 1, 2017, as requested by representatives of the Virginia/North Carolina Irish potato industry. This provides the industry more time to consider changes which could affect the need for the order. If the industry does not petition to have the order reactivated by the end of the suspension period, the Agricultural Marketing Service (AMS) will propose to terminate the order.

DATES: Effective [INSERT DATE 1 DAY AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER] through March 1, 2017.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (863) 324-3375, Fax: (863) 291-8614, or E-mail: Doris.Jamieson@ams.usda.gov or Christian.Nissen@ams.usda.gov.

Small businesses may obtain information on complying with this and other marketing order and agreement 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 Agreement No. 104 and Marketing Order No. 953, both as amended (7 CFR part 953), regulating the handling of Irish potatoes grown in Southeastern states, 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."

USDA is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

The handling of Irish potatoes grown in Southeastern states is regulated by 7 CFR part 953. Prior to this change, the marketing order, and the rules and regulations implemented thereunder, had been suspended until March 1, 2014. Even though the Southeastern Potato Committee does not function under the suspended order and regulations, representatives of the Virginia/North Carolina Irish potato industry met on December 18, 2013, and requested that the suspension of all provisions of the order, and the rules and regulations implemented thereunder, be continued through March 1, 2017. This gives the industry more time to consider the need for the order. Therefore, this rule continues in effect the rule that suspended, through March 1, 2017, the provisions of Federal Marketing Order No. 953 and the rules and regulations issued thereunder. If the industry does not petition to have the order reactivated by the end of the suspension period, AMS will propose to terminate the order.

In an interim rule published in the **Federal Register** on April 1, 2015, and effective on April 2, 2015, (80 FR 17307, Doc. No. AMS-FV-14-0011, FV14-953-1 IR), 7 CFR 953 was suspended through March 1, 2017.

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 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.

There are approximately 10 handlers of Irish potatoes grown in Southeastern states who are subject to regulation under the order and approximately 20 potato producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$7,000,000, and small

agricultural producers are defined as those whose annual receipts are less than \$750,000 (13 CFR 121.201).

Using prices reported by AMS' Market News Service, the average f.o.b. price for Southeastern potatoes for the 2012-13 marketing season was around \$25 per hundredweight. USDA has estimated production for the 2012-13 season at approximately 600,000 hundredweight of potatoes. Based on this information, average annual receipts for handlers would be less than \$7,000,000. Information provided by the National Agricultural Statistics Service indicates that the average producer price for Irish potatoes grown in North Carolina and Virginia in 2012 was approximately \$12.16 per hundredweight. Considering estimated production, average producer revenue would be about \$400,000 for the 2012-13 season. Therefore, the majority of Southeastern potato handlers and producers may be classified as small entities.

This rule continues in effect the action that continued the previous suspension of the order and the associated rules and regulations through March 1, 2017. The continued suspension gives the industry more time to consider the need for the order. If the industry does not petition to have the order reactivated by the end of the suspension period, AMS will publish a proposal to terminate

the order. Authority for this action is provided in section 8c(16) (A) of the Act.

Suspension of the order and its corresponding regulations relieves handlers of quality, inspection, and assessment burdens during the suspension period. Also, handler reports will not be required. Suspension of the order is therefore expected to reduce the regulatory burden on handlers and growers of all sizes.

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. 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 rule will not impose any additional reporting or recordkeeping requirements on either small or large Southeastern Irish 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. In

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

Further, the industry's meeting was widely publicized throughout the Southeastern Irish potato industry and interested persons were invited to attend the meeting and participate in industry deliberations. The December 18, 2013, meeting was an open meeting and entities, both large and small, were able to express their views on this issue.

Comments on the interim rule were required to be received on or before June 1, 2015. No comments were received. Therefore, for the 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-14-0011-0001>

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; the Paperwork Reduction Act (44 U.S.C. Chapter 35); 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** (80 FR

17307, April 1, 2015) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 953

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

Accordingly, the interim rule that suspended 7 CFR part 953 and that was published at 80 FR 17307 on April 1, 2015, is adopted as a final rule, without change.

Dated: August 13, 2015

Rex A. Barnes
Associate Administrator
Agricultural Marketing Service

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