

# Rules and Regulations

Federal Register

Vol. 60, No. 171

Tuesday, September 5, 1995

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 945

[Docket No. FV95-945-1FIR]

#### Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, OR; Expenses and 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 that authorized expenses and established an assessment rate that generated funds to pay those expenses under Marketing Order No. 945 for the 1995-96 fiscal period. That rule also increased the level of authorized expenses for the 1993-94 fiscal period. Authorization of this budget enables the Idaho-Eastern Oregon Potato Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Authorization of the increase in the level of authorized expenses for the 1993-94 fiscal period is necessary because the Committee exceeded its budget for that period. Funds to administer this program are derived from assessments on handlers.

**EFFECTIVE DATE:** Section 945.248 is effective August 1, 1995, through July 31, 1996. The amendment to § 945.246 was effective August 1, 1993, through July 31, 1994.

**FOR FURTHER INFORMATION CONTACT:** Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918; or Dennis L. West, Northwest Marketing Field Office, Fruit and

Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97205, telephone 503-326-2724.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 98 and Order No. 945, both as amended (7 CFR part 945), regulating the handling of Irish potatoes grown in designated counties in Idaho, and Malheur County, Oregon. 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 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, Idaho-Eastern Oregon potatoes are subject to assessments. Funds to administer the Idaho-Eastern Oregon potato marketing order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes handled during the 1995-96 fiscal period, which began August 1, 1995, and ends July 31, 1996. This final 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 in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural

Marketing Service (AMS) has considered the economic impact of this rule on small entities.

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 2,100 producers of Idaho-Eastern Oregon potatoes under this marketing order, and approximately 60 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of 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 Idaho-Eastern Oregon potato producers and handlers may be classified as small entities.

The budget of expenses for the 1995-96 fiscal period was prepared by the Idaho-Eastern Oregon Potato Committee, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Committee are producers and handlers of Idaho-Eastern Oregon potatoes. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of fresh Idaho-Eastern Oregon potatoes. Because that rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the Committee's expenses.

The Committee met June 6, 1995, and unanimously recommended a 1995-96 budget of \$111,732, \$11,853 more than the previous year. Budget items for 1995-96 which have increased compared to those budgeted for 1994-95

(in parentheses) are: Salaries, \$63,232 (\$55,479), meetings and miscellaneous, \$2,500 (\$2,000), Federal payroll taxes, \$5,300 (\$4,700), and reserve/auto purchase, \$9,000 (\$6,000). All other items are budgeted at last year's amounts.

The Committee also unanimously recommended an assessment rate of \$0.0026 per hundredweight, the same as each year for the past decade. This rate, when applied to anticipated shipments of 34,000,000 hundredweight, will yield \$88,400 in assessment income. This, along with \$23,332 from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the Committee's authorized reserve at the beginning of the 1995-96 fiscal period, estimated at about \$80,000, will be within the maximum permitted by the order of one fiscal period's expenses.

The 1993-94 budget was published in the **Federal Register** as an interim final rule on July 16, 1993 (58 FR 38274) and finalized on October 28, 1993 (58 FR 57957). That rule authorized Committee expenses of \$98,942. The Committee exceeded its authorized expenses by \$713, for total expenses of \$99,655. Funds to cover this increase were taken from the Committee's authorized reserve. The 1993-94 budget is amended to cover this increase.

An interim final rule was published in the **Federal Register** on July 17, 1995 (60 FR 36339). That interim final rule added § 945.248 to authorize expenses and establish an assessment rate for the Committee. That rule also amended § 945.246 to increase the level of authorized expenses for the 1993-94 fiscal period. That rule provided that interested persons could file comments through August 16, 1995. No comments were received.

While this rule will impose some additional costs on handlers, the costs are 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. Therefore, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the information and recommendations 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.

It is further found that good cause exists for not postponing the effective

date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1995-96 fiscal period began on August 1, 1995. The marketing order requires that the rate of assessment for the fiscal period apply to all assessable potatoes handled during the fiscal period. In addition, handlers are aware of this rule which was recommended by the Committee at a public meeting and published in the **Federal Register** as an interim final rule.

#### List of Subjects in 7 CFR Part 956

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 945 is amended as follows:

#### PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

Accordingly the interim final rule amending § 945.246 and adding § 945.248, which was published at 60 FR 36339 on July 17, 1995, is adopted as a final rule without change.

Dated: August 29, 1995.

**Ron Cioffi,**

*Acting Deputy, Director, Fruit and Vegetable Division.*

[FR Doc. 95-21936 Filed 9-1-95; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Part 399

[Docket No. OST-95-397]

RIN 2105-AC-27

#### Aviation Economic Rules; Correction

**AGENCY:** Department of Transportation, Office of the Secretary.

**ACTION:** Correction to final rule.

**SUMMARY:** This document contains a correction to the final rule (Docket OST-95-397) published Tuesday, August 22, 1995 (60 FR 43521). The regulation at issue—14 CFR 399.21—sets forth the policy of the Department concerning requests for exemptions from 49 U.S.C. 41102 by air carriers seeking to perform charter air transportation.

**EFFECTIVE DATE:** September 21, 1995.

**FOR FURTHER INFORMATION CONTACT:** Carol A. Woods, Air Carrier Fitness

Division, X-56, Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590, (202) 366-9721.

#### SUPPLEMENTARY INFORMATION:

##### Background

By final rule (Docket OST-95-397) published on August 22, 1995 (60 FR 43521), the Department amended various provisions regarding aviation economic rules in order to eliminate obsolete provisions and correct outdated organizational and statutory references.

##### Need for Correction

As published, the final rule contains an error which may prove to be misleading and is in need of correction. Specifically, the rule (at page 43531, second column, paragraph 172) states erroneously that § 399.21 is being removed; rather, that section is being amended in the manner stated in the following paragraph on that page (paragraph 173).

##### Correction of Publication

Accordingly, the publication on August 22, 1995, of the final rule (Docket OST-95-397) that was the subject of 60 FR 43521, is corrected as follows:

#### § 399.21 [Corrected]

1. On page 43531, second column, paragraph 172, remove the reference "399.21".

Dated: August 29, 1995.

**Patrick V. Murphy,**

*Acting Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 95-21956 Filed 9-1-95; 8:45 am]

BILLING CODE 4910-62-P

## DEPARTMENT OF JUSTICE

### 28 CFR Part 0

[DEA-136F]

#### Redelegation of Functions; Delegation of Authority to Drug Enforcement Administration Official

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** Under delegated authority, the Administrator of the Drug Enforcement Administration (DEA), Department of Justice, is amending the appendix to the Justice Department regulations to redelegate certain functions and authority which were vested in the Attorney General by the Controlled Substances Act and subsequently redelegated to the