

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 1

#### Privacy Act Regulations; Implementation

**AGENCY:** Office of the Secretary, USDA.  
**ACTION:** Proposed rule.

**SUMMARY:** The Department of Agriculture (USDA) hereby proposes to amend its regulations by adding one system of records to those exempted from certain sections of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(k).

**DATES:** Comments must be received by the contact person listed below on or before March 1, 1995.

**FOR FURTHER INFORMATION CONTACT:** Andrew Johnson, Jr., Acting Deputy Associate Director, Policy and Planning Division, Office of Civil Rights Enforcement, U.S. Department of Agriculture, 14th and Independence Avenue SW., Room 1364—South Building, Washington, DC 20250-9400, (202) 720-1130 (voice/TDD).

**SUPPLEMENTARY INFORMATION:** USDA is proposing to exempt, pursuant to subsection (k)(2) of the Privacy Act, 5 U.S.C. 552a(k)(2), Department-wide system of records Program Discrimination Complaints, USDA/OCRE-1, from subsections (c)(3), (d), (e)(1), (e)(4)(H), (e)(4)(I), and (f) of the Act. A separate notice regarding USDA/OCRE-1 will be published in the Federal Register.

The proposed new system will consist of files on complaints of discrimination in USDA federally assisted or federally conducted programs or activities. The information is collected by the Office of Civil Rights Enforcement (OCRE) and by the civil rights compliance offices of the program agencies involved during the course of investigations of program discrimination complaints and includes investigative notes, signed statements, correspondence, case history and status, personal information concerning agency

personnel and private individuals, financial information and other related information, and reported findings of OCRE and other USDA entities, such as the Office of Inspector General.

The authority for maintenance of this system is 5 U.S.C. 301; 42 U.S.C. 2000d, *et seq.*; 42 U.S.C. 3608(d); 42 U.S.C. 12101, *et seq.*; 20 U.S.C. 1681, *et seq.*; 29 U.S.C. 794; 15 U.S.C. 1691, *et seq.*; and 7 U.S.C. 2011, *et seq.* These statutes authorize USDA to ensure that USDA federally assisted or federally conducted programs or activities are consistent with civil rights laws.

USDA has determined to exempt this system of records from the above-referenced provisions of the Privacy Act because the exemption is necessary for the agency's law enforcement efforts. The subject individuals of the files in these systems know that USDA is maintaining a file on their complaint and the general nature of the information contained in it. Subject individuals of the files in this system have been provided procedures for agency investigation of their program discrimination complaints by USDA regulations at 7 CFR part 15. Subject individuals of the files in this system, as part of the investigative process, are given the opportunity to submit any relevant information during the investigative process. To allow the subject individuals the additional right under the Privacy Act to have access to, and to amend or correct, the records or information submitted by the allegedly discriminating agency or by witnesses would undermine the investigatory process.

List of Subjects in 7 CFR Part 1

Privacy.

Accordingly, 7 CFR part 1 is proposed to be amended to read as follows:

#### PART 1—ADMINISTRATIVE REGULATIONS

##### Subpart G—Privacy Act Regulations

1. The authority citation for part 1, subpart G, continues to read as follows:  
Authority: 5 U.S.C. 552a.

2. Section 1.123 is proposed to be amended by adding the following to read as follows:

##### § 1.123 Specific exemptions.

\* \* \* \* \*

Office of Civil Rights Enforcement

Program Discrimination Complaints, USDA/OCRE-1.

Signed at Washington, DC, on January 11, 1995.

Richard E. Rominger,

*Acting Secretary.*

[FR Doc. 95-1974 Filed 1-27-95; 8:45 am]

BILLING CODE 3410-01-M

## Agricultural Marketing Service

### 7 CFR Part 948

[FV94-948-3PR]

#### Irish Potatoes Grown in Colorado; Reestablishment of Area No. 2 and Area No. 3 Regulatory Boundaries, and Redistribution of Area No. 2 Committee Representation

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would reestablish regulatory area boundaries by moving Chaffee County from Area No. 3 to Area No. 2, and combine Chaffee County with Saguache County for the purpose of providing Chaffee County with producer representation on the Area No. 2, rather than the Area No. 3, Committee. This proposed rule would provide for more effective administration of the marketing order and more effective compliance efforts. This proposed rule was unanimously recommended by the Area No. 2 and Area No. 3 Committees, the administrative agencies established for these regulatory areas under the marketing order for Colorado potatoes.

**DATES:** Comments must be received by March 1, 1995.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2525, South Building, P.O. Box 96456, Washington, DC 20090-6456, FAX: (202) 720-5698. 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.

**FOR FURTHER INFORMATION CONTACT:**

Dennis L. West, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, Oregon 97204-2807; telephone: (503) 326-2724; or Mark A. Slupek, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523-S, Washington, D.C. 20090-6456; telephone: (202) 205-2830.

**SUPPLEMENTARY INFORMATION:** This proposal is issued under Marketing Agreement No. 97 and Marketing Order No. 948 [7 CFR part 948], as amended, regulating the handling of Irish potatoes grown in Colorado. The marketing agreement and order are authorized by 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 is issuing this rule in conformance with Executive Order 12866.

This proposal has been reviewed under Executive Order 12778, 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 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. A 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 requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action 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 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 120 handlers of Colorado potatoes who are subject to regulation under the marketing order and approximately 400 producers of Colorado potatoes in the regulatory areas. Small agricultural service firms have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. The majority of potato producers and handlers regulated under the marketing agreement and order may be classified as small entities.

The production area under Marketing Order No. 948 is divided into three regulatory areas. Area No. 1 (Area 1), also called the Western Slope, consists of 17 counties in the western portion of the State of Colorado. Marketing order regulations are not currently in effect in Area 1 because of limited potato production. Area No. 2 (Area 2), known as the San Luis Valley, consists of 9 counties and is located in the southern part of the State. Area No. 3 (Area 3), the Greeley area, consists of 37 counties covering most of the eastern part of the State. Producers in Areas 2 and 3 produce significant quantities of potatoes, and, thus, have active committees and regulations.

Section 948.150, reestablished area committees as administrative agencies for both of the active areas.

Section 948.53 provides authority for areas, subdivisions of areas, or distribution of representation among the subdivision of areas, to be reestablished by the Secretary upon area committee recommendations.

This proposed rule would (1) reestablish area boundaries by removing Chaffee County from Area 3 and adding it to Area 2, and (2) combine Chaffee County with Saguache County for the purpose of providing Chaffee County with producer representation on the Area 2 Committee.

The Area 2 and Area 3 Committees met on October 13, 1994, and October 18, 1994, respectively, and each unanimously recommended this reestablishment of boundaries between Area 2 and Area 3. The Colorado Potato Committee, which consists of representatives from both of the area Committees, ratified the recommendation on November 2, 1994.

The Area 2 Committee also unanimously recommended that Chaffee County be combined with Saguache County for the purpose of providing Chaffee County with producer representation on the Area 2 Committee, rather than the Area 3 Committee.

The Committees made their recommendations after reviewing a request from a producer/handler located near Salida, Colorado, a relatively new potato production area in Chaffee County. Salida is approximately 250 miles from the administrative headquarters of the Area 3 Committee in Greeley, Colorado, but only 65 miles from the administrative headquarters of the Area 2 Committee in Monte Vista, Colorado.

There are approximately 115 acres of potatoes grown in Chaffee County. Arable land in Chaffee County is generally limited to the area around Salida. Industry estimates place the potential for additional potato production at about 500 acres.

The Chaffee County production area is geographically separated from the rest of Area 3 potato production and is much closer to that of Area 2. Potatoes produced in Chaffee County are marketed similarly to those in Area 2. Potatoes grown in Chaffee County are, for example, often marketed through handlers from Area 2, but seldom marketed by Area 3 handlers located outside of Chaffee County.

The proposed rule would increase the opportunity for the producers or handlers to serve on an area committee by greatly decreasing travel time and cost to attend area Committee meetings. This rule would also enable any Chaffee County producers to be in the same committee area with handlers who most often handle their production.

The proposed rule would also modify the distribution of producer membership of the Area 2 Committee to accommodate the proposed addition of Chaffee County to Area 2. Saguache County, immediately to the south of Chaffee County, currently has one producer representative on the Area 2 Committee. The proposed rule would combine Chaffee and Saguache Counties as one district for the purpose of nominating a producer member to the Area 2 Committee. The change would continue to provide balanced representation on the Area 2 Committee, consistent with acreage and production. Chaffee County handlers also would be represented as the Area 2 Committee has five handler member positions, two representing bulk handlers.

The close proximity of the Area 2 administrative office to Chaffee County would improve the efficiency of

marketing order administration. Marketing order compliance in Chaffee County would be more efficiently administered by the Area 2 Administrative Committee office because of its proximity to Chaffee County.

Although this proposed rule would remove Chaffee County from Area 3, regulatory language in the newly created section 948.153 would only reference the addition of Chaffee County to Area 2. Section 948.4 currently states that Area 3 includes and consists of all the remaining counties in the State of Colorado which are not included in Area 1 or Area 2. Therefore, the addition of Chaffee County to Area 2 would automatically remove Chaffee County from Area 3, with no other corresponding change needed.

Based on available information, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments received within the comment period 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, it is proposed that 7 CFR Part 948 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 (a) to read as follows:

#### **§ 948.150 Reestablishment of committee membership.**

\* \* \* \* \*

(a) Area No. 2 (San Luis Valley): Seven producers and five handlers selected as follows:

Two (2) producers from Rio Grande County;

One (1) producer from Chaffee County and Saguache County;

One (1) producer from Conejos County;

Two (2) producers from Alamosa County;

One (1) producer from all other counties in Area No. 2;

Two (2) handlers representing bulk handlers in Area No. 2;

Three (3) handlers representing handlers in Area No. 2 other than bulk handlers.

\* \* \* \* \*

3. A new § 948.153 is added to read as follows:

#### **§ 948.153 Reestablishment of area.**

Pursuant to section 948.53, Area No. 2 is reestablished as follows:

Area No. 2 (San Luis Valley) includes and consists of the counties of Chaffee, Saguache, Huerfano, Las Animas, Mineral, Archuleta, Rio Grande, Conejos, Costilla, and Alamosa, in the State of Colorado.

Dated: January 24, 1995.

Sharon Bomer Lauritsen,

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 95-2217 Filed 1-27-95; 8:45 am]

BILLING CODE 3410-02-P

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

[Docket No. 94-NM-98-AD]

#### **Airworthiness Directives; Airbus Industrie Model A320-231 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Model A320-231 series airplanes. This proposal would require repetitive functional checks to detect leakage of the distribution piping of the engine fire extinguishing system, and repair, if necessary; and modification of the piping, which would terminate the inspection requirements. This proposal is prompted by reports of cracking of the engine fire extinguisher pipe, which resulted in leakage of the fire extinguisher agent. The actions specified by the proposed AD are intended to prevent leakage of the fire extinguishing agent, which could prevent the proper distribution of the agent within the nacelle in the event of a fire.

**DATES:** Comments must be received by March 13, 1995.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-98-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; telephone (206) 227-2797; fax (206) 227-1320.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94-NM-98-AD." The postcard will be date stamped and returned to the commenter.

##### **Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-98-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

##### **Discussion**

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A320-231 series airplanes. The DGAC advises that, during regularly scheduled maintenance of in-service airplanes, two operators found cracking