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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[FV94-948-3FR]

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: Final rule.

SUMMARY: This rule reestablishes regulatory area boundaries by moving Chaffee County from Area No. 3 to Area No. 2, and combines 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 rule will provide for more effective administration of the marketing order and more effective compliance efforts. This 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.

EFFECTIVE DATE: March 31, 1995.

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, DC 20090-6456; telephone: (202) 205-2830.

SUPPLEMENTARY INFORMATION: This final rule 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 final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. 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. 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 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 final 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 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 final rule (1) reestablishes area boundaries by removing Chaffee County from Area 3 and adding it to Area 2, and (2) combines 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 to reestablish boundaries 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 rule increases 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 also enable any Chaffee County producers to be in the same committee area with handlers who most often handle their production.

The rule also modifies the distribution of producer membership of the Area 2 Committee to accommodate the 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 rule combines Chaffee and Saguache Counties as one district for the purpose of nominating a producer member to the Area 2 Committee. The change will continue to provide balanced representation on the Area 2 Committee, consistent with acreage and production. Chaffee County handlers also will 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 will improve the efficiency of marketing order administration. Marketing order compliance in Chaffee County will be more efficiently administered by the Area 2 Administrative Committee office because of its proximity to Chaffee County.

Although this final rule removes Chaffee County from Area 3, regulatory language in the newly created section 948.153 only references 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 automatically removes Chaffee County from Area 3, with no other corresponding change needed.

The proposed rule concerning this action was published in the January 30, 1995, **Federal Register** (60 FR 5597), with a 30-day comment period ending March 1, 1995. No comments were received.

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

After consideration of all relevant matter presented, including the information and recommendations submitted by the committees 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.

Pursuant to 5 U.S.C. 553, it is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) the Area 2 committee is planning to conduct its annual nomination meeting on March 31, 1995; and (2) producers and handlers are aware of this action, which was recommended at open committee meetings, and need no additional time to prepare for operation under this rule.

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 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. In §948.150, paragraph (a) is revised 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 §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: March 27, 1995.

Sharon Bomer Lauritsen,
Deputy Director, Fruit and Vegetable Division.
[FR Doc. 95–7961 Filed 3–30–95; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AWP–1]

Amendment of Class D Airspace; Redding, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class D airspace area at Redding, CA. This action is necessary due the recent closures of Enterprise Skypark, CA and Redding Sky Ranch Airport, CA. This amendment will delete the Redding Sky Ranch Airport and Enterprise Skypark from the Class D airspace area at Redding, CA.

EFFECTIVE DATE: 0901 UTC, July 20, 1995.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 297–0010.

SUPPLEMENTARY INFORMATION:

History

On January 6, 1995, the FAA proposed to amend part 71 of the