

Proposed Rules

Federal Register

Vol. 67, No. 41

Friday, March 1, 2002

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.

GENERAL ACCOUNTING OFFICE

4 CFR Part 21

General Accounting Office, Administrative Practice and Procedure, Bid Protest Regulations, Government Contracts; Correction

AGENCY: General Accounting Office.

ACTION: Advance notice of proposed rulemaking; correction.

SUMMARY: This document corrects information in the Supplementary Information section in an advance notice of proposed rulemaking published in the **Federal Register** of February 25, 2002 (67 FR 8485) regarding revisions to the General Accounting Office's (GAO) Bid Protest Regulations. This correction states the correct GAO electronic mail address to which public comments may be sent.

FOR FURTHER INFORMATION CONTACT: John M. Melody, 202-512-8274.

Correction

In advance notice of proposed rulemaking FR Doc. 02-4337, beginning on page 8485 in the issue of February 25, 2002, make the following correction, in the Supplementary Information section. On page 8485 in the 3rd column, the last paragraph should be corrected to read as follows: "Comments may be submitted by hand delivery or mail to the address in the address line, by e-mail at BidProtestRegs@gao.gov, or by facsimile at 202-512-9749."

Dated: February 26, 2002.

John M. Melody,

Assistant General Counsel.

[FR Doc. 02-4944 Filed 2-28-02; 8:45 am]

BILLING CODE 1610-02-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Docket No. FV02-948-1 PR]

Irish Potatoes Grown in Colorado; Increase the Minimum Size Requirement for Area No. 2

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the minimum size requirement for all varieties of potatoes produced in Area No. 2 of Colorado, except for the round varieties, and the Russet Burbank, Russet Norkotah, and Silverton Russet varieties. This rule would raise the minimum size requirement from 1 7/8 inches to 2 inches in diameter or 4 ounces in weight. This size change is based on a recommendation of the Colorado Potato Administrative Committee (Committee), the agency responsible for local administration of the marketing order for potatoes grown in Colorado. This change is intended to improve the marketing of Colorado potatoes and increase returns to producers.

DATES: Comments must be received by April 30, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 720-8938, or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

FOR FURTHER INFORMATION CONTACT: Dennis L. West, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, Oregon 97204-2807; telephone: (503) 326-2724, Fax: (503) 326-7440; or George Kelhart, Technical Advisor,

Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, fax: (202) 720-8938, or e-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado, 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.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This 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 USDA 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 USDA 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 to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the minimum size requirement for all varieties of potatoes produced in Area No. 2 of Colorado, except for the round varieties, and the Russet Burbank, Russet Norkotah, and Silverton Russet varieties. This rule would raise the minimum size requirement from 1 $\frac{7}{8}$ inches in diameter to 2 inches in diameter or 4 ounces in weight. This action is based on a recommendation of the Committee made on August 16, 2001.

Section 948.4 of the order defines the counties included in Area No. 2, which is commonly known as the San Luis Valley. Section 948.22 of the order authorizes the issuance of regulations for grade, size, quality, maturity, and pack for any variety or varieties of potatoes grown in different portions of the production area during any period. Section 948.23 authorizes the issuance of regulations that modify, suspend, or terminate requirements issued under § 948.22. Size regulations for potatoes grown in Area No. 2 are currently in effect under § 948.386. Current regulations prescribe minimum size requirements of 2 inches in diameter for round varieties and 1 $\frac{7}{8}$ inches in diameter for long varieties.

This proposed rule would increase the minimum size requirement for all varieties of potatoes from 1 $\frac{7}{8}$ inches in diameter to 2 inches in diameter or 4 ounces in weight, except for the round varieties and the Russet Burbank, Russet Norkotah, and Silverton Russet varieties. Potatoes subject to minimum size requirements would meet the size requirements if they are at least 2 inches in diameter or 4 ounces in weight. Some long and thin potatoes might be smaller than 2 inches in diameter, but weigh at least 4 ounces. These potatoes would meet the proposed size requirements. Some potatoes might weigh less than 4 ounces, but be at least 2 inches in diameter. These potatoes also would meet the proposed minimum size requirements.

According to the Committee, quality assurance is very important to the Colorado potato industry and to its customers. Providing the public with acceptable quality produce that is appealing to the consumer on a consistent basis is necessary to maintain buyer confidence in the marketplace. The Committee reports that potato size is important to buyers and that providing the sizes desired is necessary to promote sales. Overall producer prices during the period 1995 through 1999 averaged \$4.26 per hundredweight.

Nine members voted in favor of the recommendation, two members voted in

opposition and one member abstained. The Committee made the recommendation to provide buyers with the sizes they prefer and to maintain buyer confidence. The Committee also believes that this would help improve the marketing of Colorado potatoes under the order and help improve producer returns.

To obtain additional information on the need for the change, the Committee conducted a producer survey. The survey indicated that 58 percent of the producers supported an increase in the minimum size to 2 inches in diameter or 4 ounces in weight for all varieties of potatoes, except for the round varieties and the Russet Burbank, Russet Norkotah, and Silverton Russet varieties.

The Committee further believes that the current minimum size requirement of 2 inches in diameter for all round varieties of potatoes continues to be appropriate. The Russet Burbank, Russet Norkotah, and Silverton Russet are long and thin varieties of potatoes. Because of their shape, these varieties have a tendency, when sitting on end, to fall through the potato sizing equipment, even when the potatoes are of good size (e.g., 4 ounces or larger). This is particularly a problem when the sizing equipment is set at larger size settings such as 2 or 2 $\frac{1}{4}$ inches in diameter. Because of this problem, the Committee decided that the current minimum size requirement for these varieties of 1 $\frac{7}{8}$ inches in diameter continues to be appropriate. However, one Committee member who opposed the recommendation believed all potato varieties should have a minimum size requirement of 2 inches in diameter or 4 ounces in weight. The Committee believes that handlers might lose a high percentage of acceptable potatoes of these varieties through the sizing equipment if the minimum size requirement on such potatoes was increased to 2 inches in diameter or 4 ounces in weight. Another Committee member opposing the recommendation did not believe that the producer survey results supporting an increase was a sufficient reason for the Committee to recommend an increase in the minimum size requirements. While the survey provided information for the Committee to make its recommendation, the primary purposes for the change are to better meet the needs of buyers and consumers, improve the image of Colorado potatoes, and improve sales and prices.

Initial Regulatory Flexibility Analysis

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

Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial 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 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 230 producers of Colorado Area No. 2 potatoes and approximately 80 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000.

Information provided by the National Agricultural Statistics Service was considered in determining the number of large and small producers by acreage, production, and producer prices. According to the information provided, the recent average yield per acre was 335 hundredweight, the average farm size was 306 acres of potatoes, and the recent season average producer price was \$4.20 per hundredweight. This equates to average gross annual producer receipts of approximately \$430,542 each. In addition, based upon information provided by the Committee, all handlers of Area No. 2 potatoes have shipped under \$5,000,000 worth of potatoes during the most recent season for which statistics are available. Based on the foregoing, it can be concluded that a majority of producers and handlers of Area No. 2 potatoes may be classified as small entities.

The National Agricultural Statistics Service estimated planted acreage for the 2001–02 crop in Area No. 2 at 68,100 acres, a decrease of 7,500 acres when compared with the 75,600 acres harvested in 2000–01. Approximately 90 percent of the potatoes harvested enter into the fresh market (including potatoes produced for seed).

Russet varieties accounted for 81.4 percent of the acres planted for the 2001–02 crop year. Russet Norkotah, the most popular variety, was planted on 53.8 percent of the total potato acreage. Other Russet varieties accounted for 27.6 percent of the total acres planted, with various other varieties making up

the remaining 18.6 percent. While exact acreage is not known, plantings of Russet Burbank and Silverton Russet varieties of potatoes are estimated to make up only a small percentage of the total potato acreage.

This rule would increase the minimum size requirement for all varieties of potatoes produced in Area No. 2 of Colorado, except for the round varieties and the Russet Burbank, Russet Norkotah, and Silverton Russet varieties. This rule would raise the minimum size requirement from 1 $\frac{7}{8}$ inches in diameter to 2 inches in diameter or 4 ounces in weight. Only a small portion of the crop (i.e., that portion smaller than 2 inches in diameter or 4 ounces in weight but larger than 1 $\frac{7}{8}$ inches in diameter) is expected to be affected by the proposed size increase. The Committee believes that the expected benefits of improved quality, increased purchases and sales volume, and increased returns received by producers would greatly outweigh the costs related to the regulation.

Alternatives considered by the Committee included increasing the minimum size requirement for all Russet varieties or not making any changes. The Committee does not believe it is desirable to increase the minimum size requirement for the Russet Burbank, Russet Norkotah, and Silverton Russet varieties because these long and thin varieties have a tendency, when sitting on end, to fall through the potato sizing equipment even when the potatoes are of good size. This is particularly a problem when the sizing equipment is set at larger size settings such as 2 or 2 $\frac{1}{4}$ inches. Because of this problem, the Committee decided that the current minimum size requirement for these varieties of 1 $\frac{7}{8}$ inches in diameter continues to be appropriate. The Committee believes that handlers might lose a high percentage of acceptable potatoes through the sizing equipment if the minimum size requirement on such potatoes was increased to 2 inches in diameter or 4 ounces in weight.

The alternative of taking no action would not have addressed the marketing problems.

This rule would change the size requirements currently prescribed under the marketing order. Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large 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 proposed rule.

In addition, the Committee's meeting was widely publicized throughout the Colorado Area No. 2 potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the Committee meeting on August 16, 2001, was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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 proposed to 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 948.386 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 948.386 Handling regulation.

No person shall handle any lot of potatoes grown in Area No. 2 unless such potatoes meet the requirements of paragraphs (a), (b), and (c) of this section, or unless such potatoes are handled in accordance with paragraphs (d) and (e), or (f) of this section.

(a) *Minimum grade and size requirements*— (1) *Round varieties*. U.S. No. 2, or better grade, 2 inches minimum diameter.

(2) *All other varieties*. U.S. No. 2, or better grade, 2 inches minimum diameter or 4 ounces minimum weight: *Provided*, That the Russet Burbank, Russet Norkotah, and Silverton Russet varieties, shall be 1 $\frac{7}{8}$ inches minimum diameter.

(3) *All varieties*. Size B, if U.S. No. 1 grade.

(4) *All varieties*. 1-inch minimum diameter to 1 $\frac{3}{4}$ inches maximum diameter, if at least U.S. No. 1 grade.

(5) None of the categories of potatoes identified in paragraphs (a)(1) through (a)(4) of this section may be commingled in the same bag or other container.

* * * * *

Dated: February 22, 2002.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 02–4706 Filed 2–28–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–44–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. This proposed AD would require you to inspect the left and right main landing gear (MLG) assemblies for bolts with a serial number (S/N) beginning with the letters “AT” and numbers 299 or lower and replace each bolt with a bolt that does not have a S/N with both the letters “AT” and a number of 299 or lower. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this proposed AD are intended to detect and replace defective MLG assembly bolts that have an improper cadmium plating, which could cause hydrogen embrittlement and bolt failure. Such failure could lead to MLG collapse during landing.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before April 1, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–44–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location