AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

(ii) Make shipments only to those firms whose names appear on the committee's current list of manufacturers of potato products;

(iii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;

(iv) Mail to the committee's office a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment, unless other arrangements are made with the committee office;

(v) Bill each shipment directly to the applicable processor.

(3) Each receiver of potatoes for processing pursuant to paragraph (e) of this section shall:

(i) Complete and return an application form for listing as a manufacturer of potato products;

(ii) Certify to the committee and to the Secretary that potatoes received from the production area for processing will be used for such purposes and will not be placed in fresh market channels;

(iii) Report on shipments received as the committee may require and the Secretary approve.

(4) Each handler making shipments of certified seed potatoes pursuant to paragraph (e) of this section shall furnish, at the request of the committee, reports on the total volume of seed potatoes handled.

(g) *Minimum quantity exemption*. Each handler may ship up to, but not to exceed, five hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment that exceeds five hundredweight of potatoes.

(h) *Definitions*. The terms *U.S. Extra No. 1*, *U.S. No. 1*, *U.S. No. 2*, *Size B*, *fairly clean*, *moderately skinned*, and *slightly skinned* shall have the same meaning as when used in the United States Standards for Potatoes (7 CFR 51.1540–51.1566), including the tolerances set forth therein. The term *prepeeling* means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling, or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in §52.2422 of the United States Standards for Peeled Potatoes (7 CFR 52.2421–52.2433). The term *other processing* has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute ''other processing.'' The terms *Idaho Utility* grade and *Oregon Utility* grade shall have the same meaning as when used in the standards for potatoes for the respective State. Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 98 and Order No. 945, both as amended.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

[47 FR 34355, Aug. 9, 1982]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §945.341, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.govinfo.gov*.

PART 948—IRISH POTATOES GROWN IN COLORADO

Subpart A—Order Regulating Handling

DEFINITIONS

Sec.
948.1 Secretary.
948.2 Act.
948.3 Person.
948.4 Area.
948.5 Potatoes.
948.6 Seed potatoes.
948.7 Handler.
948.8 Handle or ship.
948.9 Producer.
948.10 Fiscal period.
948.11 Grade, size and maturity.
948.12 Varieties.
948.13 Pack.
948.14 Container.
948.15 Culls.
948.16 Committee.
948.17 Export.

REGULATION

948.20 Marketing policy.

948.21 Recommendations for regulations.
948.22 Issuance of regulations.
948.23 Handling for special purposes.
948.24 Safeguards.

EXEMPTIONS

948.28 Policy.
948.29 Procedure.
948.30 Granting exemptions.
948.31 Investigation.
948.32 Appeal.

RESEARCH AND DEVELOPMENT

948.35 Research and development.

INSPECTION

948.40 Inspection and certification.

COMMITTEES

948.50 Area committees.
948.51 Colorado Potato Committee.
948.52 Alternates.
948.53 Reestablishment.
948.54 Eligibility.
948.55 Term of office.
948.56 Nomination and selection.
948.57 Failure to nominate.
948.58 Vacancies.
948.59 Qualification.
948.60 Compensation and expenses.
948.61 Procedure.
948.62 Powers.
948.63 Duties.

EXPENSES AND ASSESSMENTS

948.75 Expenses.
948.76 Budget.
948.77 Assessments.
948.78 Accounting.

REPORTS

948.80 Reports.

COMPLIANCE

948.81 Compliance.

MISCELLANEOUS PROVISIONS

948.82 Right of the Secretary.
948.83 Effective time.
948.84 Termination.
948.85 Proceedings after termination.
948.86 Effect of termination or amendment.
948.87 Duration of immunities.
948.88 Agents.
948.89 Derogation.
948.90 Personal liability.
948.91 Separability.
948.92 Amendments.

Subpart B—Administrative Requirements

GENERAL

948.100 Order.
948.101 Terms.
948.102 Communications.
948.103 Fiscal period.
948.104 Term of office.

SAFEGUARDS

948.120 General.
948.121 Qualification.
948.122 Application.
948.123 Approval.
948.124 Reports.
948.125 Disqualification.
948.126 General cull regulation.

EXEMPTIONS

948.130 Application for exemption certificates.
948.131 Federal-State inspection reports.
948.132 Issuance of exemption certificates.

MODIFICATION OF INSPECTION REQUIREMENTS

948.140 Application.
948.141 Issuance.
948.142 Reports.
948.143 Cancellation.
948.150 Reestablishment of committee membership.
948.151 Colorado Potato Committee membership.
948.153 Reestablishment of area.

Subpart C—Accounting and Collections

948.200 Accounting and collections.
948.215 Assessment rate.
948.216 Assessment rate.

Subpart D—Handling Requirements

948.386 Handling regulation.
948.387 Handling regulation.

AUTHORITY: 7 U.S.C. 601–674.

Subpart A—Order Regulating Handling

SOURCE: 25 FR 7092, July 27, 1960, unless otherwise noted. Redesignated at 26 FR 12751, Dec. 30, 1961.

DEFINITIONS

§ 948.1 Secretary.

Secretary means the Secretary of Agriculture of the United States, or any officer or employee of the Department of Agriculture to whom authority has heretofore been delegated, or to whom authority hereafter may be delegated, to act in his stead.

§ 948.2 Act.

Act means Public Act No. 10 73d Congress, as amended and as reenacted and

amended by the Agricultural Marketing Agreement Act of 1937, as amended (sections 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

§ 948.3 Person.

Person means an individual, partnership, corporation, association, legal representative, or any organized group or business unit of individuals.

§ 948.4 Area.

Area means any of the subdivisions of the State of Colorado as set forth in this section or as reestablished pursuant to § 948.53.

(a) *Area No. 1,* commonly known as the Western Slope, includes and consists of the counties of Routt, Eagle, Pitkin, Gunnison, Hinsdale, La Plata, in the State of Colorado, and all counties in said State west of the aforesaid counties.

(b) *Area No. 2,* commonly known as the San Luis Valley, includes and consists of the counties of Saguache, Huerfano, Las Animas, Mineral, Archuleta, in the State of Colorado, and all counties in said State, south of the counties enumerated in this definition of Area No. 2.

(c) *Area No. 3* includes and consists of all the remaining counties in the State of Colorado which are not included in Area No. 1 or Area No. 2.

§ 948.5 Potatoes.

Potatoes means and includes all varieties of Irish potatoes grown within any of the aforesaid areas.

§ 948.6 Seed potatoes.

Seed potatoes or *seed* means any potatoes which have been certified by the official seed certification agency of the State of Colorado and bear the official tags, seals, or other appropriate identification indicating such certification.

§ 948.7 Handler.

Handler is synonymous with *shipper* and means any person, except a common or contract carrier of potatoes owned by another person, who handles potatoes.

§ 948.8 Handle or ship.

Handle or *ship* means to transport, sell, or in any way to place potatoes in the current of the commerce between the State of Colorado and any point outside thereof.

§ 948.9 Producer.

Producer means any person engaged in the production of potatoes for market.

§ 948.10 Fiscal period.

Fiscal period means the period beginning and ending on the dates approved by the Secretary pursuant to recommendations by an area committee.

§ 948.11 Grade, size and maturity.

Grade, means any of the officially established grades of potatoes, *Size* means any of the officially established sizes of potatoes, and *Maturity* means any of the stages of development or condition of the outer skin (epidermis) of potatoes, as defined in the United States Standards for Potatoes issued by the United States Department of Agriculture (§§ 51.1540 to 51.1556, inclusive of this title) or Colorado grades established by the Commissioner, or amendments thereto, or modifications thereof, or variations based on any of the foregoing.

§ 948.12 Varieties.

Varieties means all classifications or subdivisions of Irish potatoes according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture.

§ 948.13 Pack.

Pack means a quantity of potatoes in any type of container, which falls within specific weight limits, numerical limits, grade limits, or any combination of these recommended by the committee and approved by the Secretary.

§ 948.14 Container.

Container means a sack, bag, crate, box, basket, barrel, or bulk load or any other receptacle used in the packaging, transportation, or sale of potatoes.

§ 948.15 Culls.

Culls means potatoes which do not meet the requirements set forth in § 948.20.

§ 948.16 Committee.

Committee means any of the area committees established pursuant to § 948.50 or the Colorado Potato Committee established pursuant to § 948.51.

§ 948.17 Export.

Export means the shipment of potatoes to any destination which is not within the 48 contiguous States, or the District of Columbia, of the United States.

REGULATION

§ 948.20 Marketing policy.

(a) *General cull regulation.* (1) It shall be the marketing policy for the production area to maintain a general cull regulation in effect prohibiting the handling of potatoes for fresh market, except as otherwise provided in this subpart, which do not meet the requirements of the U.S. No. 2, or better, grade, 1½ inches minimum diameter and larger.

(2) Upon recommendation of the Colorado Potato Committee, or on other available information, the general cull regulation may be suspended or modified by the Secretary during a specified period with respect to any or all varieties of potatoes.

(b) *Area marketing policies.* Each season prior to or at the same time as initial recommendations are made pursuant to § 948.21, each area committee shall submit to the Secretary a report setting forth the marketing policy it deems desirable for the industry to follow in handling the respective area's potatoes during the ensuing season. Additional reports shall be submitted from time to time if it is deemed advisable by an area committee to adopt a new marketing policy because of changes in the demand and supply situation with respect to potatoes. The committee shall publicly announce the submission of each such marketing policy report and copies thereof shall be available at the committee's office for inspection by any producer or any handler. In determining each such marketing policy the committee shall give due consideration to the following:

(1) Supply of potatoes by grade, size, quality, and maturity in the respective area, in the production area, and in other areas;

(2) Market prices for fresh potatoes, including grower, shipping point, and terminal market prices by grade, size, and quality in different packs or in different containers;

(3) Market prices for potatoes in other outlets, including growers' and other market price levels by grade, size, and quality;

(4) The trend and level of consumer income;

(5) Establishing and maintaining such orderly marketing conditions for potatoes as will be in the public interest; and

(6) Other relevant factors.

§ 948.21 Recommendations for regulations.

An area committee upon complying with the requirements of § 948.20 may recommend regulations, or modifications, suspension or termination thereof, to the Secretary whenever it finds that such regulations as provided for in this subpart will tend to effectuate the declared policies of the act.

§ 948.22 Issuance of regulations.

(a) The Secretary shall limit by regulation the handling of potatoes whenever he finds from recommendations and information submitted by an area committee, or from other available information, that such regulation would tend to effectuate the declared policy of the act. Such regulation may:

(1) Limit the handling of particular grades, sizes, qualities, or maturities of any or all varieties of potatoes, or any combination of the foregoing during any period.

(2) Limit the handling of particular grades, sizes, qualities, or maturities of potatoes differently, for different varieties, for different containers, for different packs, for different portions of the production area, for different purposes under § 948.23, or for any combination of the foregoing, during any period.

(3) Provide a method through rules and regulations issued pursuant to this subpart for fixing the size, capacity, weight, dimensions, or pack of the container, or containers, which may be

used in the packaging or handling of potatoes, or both.

(4) Establish in terms of grades, sizes, or both, minimum standards of quality and maturity.

(b) Any regulation issued hereunder may be amended, modified, suspended, or terminated by the Secretary on recommendations by an area committee, or on other available information, to provide for

(1) Such changes in regulations found necessary by changes in supplies, demand, or prices;

(2) Minimum quantities which should be relieved of regulatory or administrative obligations; or

(3) Relief from regulations no longer tending to effectuate the declared policies of the Act.

(c) The Secretary shall notify each committee of each regulation recommended by it and issued pursuant to this section. The respective committee shall give reasonable notice thereof to handlers. No regulation, except when relieving limitations, shall become effective less than two days after issuance thereof.

§ 948.23 Handling for special purposes.

Upon the basis of recommendations and information submitted by an area committee, or other available information, the Secretary, whenever he finds that it will tend to effectuate the declared purposes of the Act, shall modify, suspend, or terminate requirements in effect pursuant to §§ 948.20 to 948.22, inclusive, or §§ 948.40 or 948.77, or any combination thereof, to facilitate handling of potatoes for

(a) Relief or charity;

(b) Livestock feed;

(c) Export;

(d) Seed;

(e) Potatoes, other than certified seed, sold to a producer exclusively for planting within specific geographic limits;

(f) Manufacture or conversion into specified products;

(g) Other purposes recommended by the committees and approved by the Secretary.

§ 948.24 Safeguards.

(a) Each area committee, with the approval of the Secretary, shall prescribe adequate safeguards for potatoes handled pursuant to § 948.23 from entering trade channels other than those authorized by regulations and by such rules as may be necessary and incidental thereto.

(b) Such safeguards may include requirements that handlers or processors desiring to handle potatoes pursuant to § 948.23 shall:

(1) Apply for and obtain Certificates of Privilege from the area committee for handling potatoes affected or to be affected under the provisions of § 948.23;

(2) Obtain inspection as required by § 948.40, or pay the assessment levied pursuant to § 948.77, or both, except as modified pursuant to § 948.23 in connection with shipments made under any such certificate; and

(3) Furnish the committee such information, and execute or obtain execution of such documents, as the committee may require.

(c) An area committee may rescind or deny to any handler permission to handle potatoes pursuant to § 948.23 of this subpart if proof satisfactory to the committee is obtained that potatoes handled by him for a purpose stated in § 948.23 were handled contrary to the provisions of this subpart.

(d) The committee shall make reports to the Secretary, as requested, showing the number of applications for such certificates, the quantity of potatoes covered by such applications, the number of such applications denied and certificates granted, the quantity of potatoes handled under duly issued certificates, and such other information as may be requested.

EXEMPTIONS

§ 948.28 Policy.

Any producer whose potatoes have been adversely affected by acts beyond the control or reasonable expectation of a prudent grower and who, by reason of any regulation issued pursuant to this part, is or will be prevented from shipping or having shipped during the then current marketing season, or a specific portion thereof, as large a proportion of his potato crop as the average proportion shipped or to be shipped during comparable portions of the season by all producers in his immediate

area of production, may apply to the committee for exemptions from such regulations for the purpose of obtaining equitable treatment under such regulations.

§ 948.29 Procedure.

Rules and procedures for granting exemptions may be issued by the Secretary, upon recommendation of area committees. Such rules and procedures may provide for methods of determinations by area committees of average proportions of crops shipped or being shipped in respective areas or subdivisions thereof during any or all portions of a season, for processing applications for exemption, for issuing or denying certificates of exemption, for administrative compliance with certificates issued, for reports by handlers thereon, and for such other procedures as may be necessary to administration hereof.

§ 948.30 Granting exemptions.

An area committee may issue certificates of exemption to any qualified applicant who furnishes adequate evidence to such committee:

(a) That the grade, size, or quality of the applicant's potatoes have been adversely affected by acts beyond his control or reasonable expectations;

(b) That by reason of regulations issued pursuant to § 948.20 or § 948.22, the applicant will be prevented as a producer from shipping or having shipped as large a proportion of his production as the average proportion of production shipped by all producers in said applicant's immediate area of production during the season, or a specific portion thereof.

(c) Each such certificate issued shall permit the person identified therein to ship or have shipped the potatoes described thereon, and evidence of such certificates shall be made available to subsequent handlers thereof.

§ 948.31 Investigation.

An area committee shall be permitted at any time to make a thorough investigation of any applicant's claim pertaining to exemptions.

§ 948.32 Appeal.

If any applicant for exemption certificates is dissatisfied with the determination by an area committee with respect to his application, he may file an appeal with the committee. Any applicant filing an appeal shall furnish evidence satisfactory to the committee for a determination on the appeal.

RESEARCH AND DEVELOPMENT

§ 948.35 Research and development.

The committee, with the approval of the Secretary, may provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of potatoes and may make available committee information and data to any person, or to any employee of an agency or its agent, authorized by the committee as its agent with the approval of the Secretary, to conduct such projects.

INSPECTION

§ 948.40 Inspection and certification.

(a) During any period in which the handling of potatoes is regulated pursuant to § 948.20 through § 948.24, inclusive, no handler shall handle potatoes unless such potatoes are inspected by an authorized representative of the Federal or a Federal-State Inspection Service and are covered by a valid inspection certificate, except when relieved of such requirements by § 948.22(b), § 948.23, or § 948.40(b).

(b) Rules may be issued by the Secretary, upon recommendation of the Colorado Potato Committee requiring inspection on regraded, resorted or repacked lots, or providing for special inspection requirements or relief therefrom. Such rules may provide distinctions, insofar as practical, between handling at shipping point and handling in receiving markets within the production area.

(c) Upon recommendation of an area committee and approval by the Secretary, any or all potatoes so inspected and certified shall be identified by appropriate seals, stamps, or tags to be

affixed to the containers by the handler under the direction and supervision of a Federal or Federal-State Inspector or the committee. Master containers may bear the identification instead of the individual containers within said master container.

(d) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(e) When potatoes are inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the inspection service.

(f) Area committees with the approval of the Colorado Potato Committee may recommend and the Secretary may require that no handler shall transport or cause the transportation of potatoes by motor vehicle or by other means unless such shipment is accompanied by a copy of the inspection certificate issued thereon, or other document authorized by the committee to indicate that such inspection has been performed. Such certificate or document shall be surrendered to such authority as may be designated.

COMMITTEES

§ 948.50 Area committees.

A committee is hereby established as an administrative agency for each area. Each area committee shall be comprised of members and alternates as set forth in this section or as reestablished by § 948.53.

(a) Area No. 1 (Western Slope): Four producers and three handlers selected as follows:

Two (2) producers and one (1) handler from the counties of Eagle, Garfield, Pitkin, Moffat, and Routt, in the State of Colorado;
Two (2) producers and one (1) handler from the remaining counties of Area No. 1;
One (1) handler representing all producers' cooperative marketing associations in Area No. 1.

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

Three (3) producers from Rio Grande County;
One (1) producer from Saguache County;
One (1) producer from Conejos County;
One (1) producer from Alamosa County;
One (1) producer from all other counties in Area No. 2;
Two (2) handlers representing all producers' cooperative marketing associations in Area No. 2;
Three (3) handlers representing handlers in Area No. 2 other than producers' cooperative marketing associations.

(c) Area No. 3: Five Producers and four handlers selected as follows:

Three (3) producers from Weld County;
One (1) producer from Morgan County;
One (1) producer from the remaining counties of Area No. 3;
Four (4) handlers from Area No. 3.

EFFECTIVE DATE NOTE: At 57 FR 61774, Dec. 29, 1992, in § 948.50, paragraph (a) was suspended indefinitely.

§ 948.51 Colorado Potato Committee.

The Colorado Potato Committee is hereby established consisting of six members, with alternates. Two members and alternates shall be selected from each area committee. Committeepersons shall be selected by the Secretary from nominations of area committee members or alternates.

[25 FR 7092, July 27, 1960. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 88 FR 82234, Nov. 24, 2023]

EFFECTIVE DATE NOTE: At 57 FR 61774, Dec. 29, 1992, § 948.51 was amended by suspending indefinitely the second sentence.

§ 948.52 Alternates.

(a) For each committee member there shall be an alternate who shall have the same qualifications. During a member's absence, or when called upon to do so in accordance with the terms hereof, or in the event of a member's death, removal, resignation, or disqualification, an alternate shall act in his place and stead until the member's successor is selected and has qualified.

(b) Area committees, with the Secretary's approval, may provide through rules for members or for alternates to recommend regulations for early crop potatoes or for late crop potatoes and to specify the particular crop for which each group shall be responsible.

§ 948.53 Reestablishment.

Areas, subdivisions of areas, the distribution of representation among the subdivision of areas, or among marketing organizations within respective areas may be reestablished by the Secretary upon area committee recommendations. Upon approval therefor of respective committees affected thereby, areas may be reestablished. In recommending any such changes, the committee shall consider (a) the relative importance of new producing sections, (b) relative production, (c) changes in marketing organizations and their relative status in the industry, (d) the geographic locations of producing sections as they would affect the efficiency of administration of this part, and (e) other relevant factors.

§ 948.54 Eligibility.

Area committee members and alternates shall be individuals who shall be residents of, and producers or handlers, as the case may be, in the respective area. Also, each member or alternate to qualify as a representative (a) for producers shall be a producer, or an officer or employee of a producer; (b) for producer's cooperative marketing associations shall be members or employees of such associations; or (c) for handlers other than cooperative marketing associations shall be a handler, or an officer or employee of a handler.

§ 948.55 Term of office.

The term of office of each area committee member and alternate shall be for two years. The term of office for Colorado Potato Committee members and alternates shall be for one year. The dates on which terms of office for each committee shall begin and end shall be established by the Secretary pursuant to respective committee recommendation. Terms of office of area committee members shall be arranged so that approximately one-half shall terminate each year. Determination of which initial members and alternates shall serve for one year or two years shall be by lot.

§ 948.56 Nomination and selection.

(a) Each area committee shall hold or cause to be held, not less than 15 days prior to the expiration date of respective terms of office, meetings of producers and handlers for each subdivision in which terms expire or in which vacancies otherwise occur.

(b) At each such meeting one or more nominees shall be designated for each impending vacancy as member or alternate. Such designation may be by ballot or by motion at the option of those present in voting capacity.

(c) Only producers may participate in designating producer nominees; only handlers may participate in designating handler nominees; and only duly authorized representatives of producers' cooperative marketing associations may participate in designating nominees to represent such associations. If no separate representation is provided for producers' cooperative marketing associations, duly authorized representatives of such associations may participate in designating handler nominees.

(d) Each producers' cooperative marketing association shall be entitled to cast only one vote in designating nominees to represent such associations. Each producer and each handler shall be entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives.

(e) If a producer, handler, or producers' cooperative marketing association is engaged in producing or handling potatoes in more than one area, or in more than one subdivision of an area, such producer, handler, or producers' cooperative marketing association shall elect the area or subdivision in which he may participate in designating nominees. In no event shall there be participation in more than one area or subdivision.

§ 948.57 Failure to nominate.

If nominations are not made pursuant to the provisions of § 948.56 by the date provided therein, the Secretary may, without regard to nominations, select members and alternates on the basis of the representation provided for in this part.

§ 948.58 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate to qualify,

or in the event of the death, removal, resignation, or disqualification of a member or alternate, a successor for his unexpired term may be selected by the Secretary from nominations made pursuant to § 948.56, from previously unselected nominees on the current nominee list, or from other eligible persons.

§ 948.59 Qualification.

Each person selected as a member or as an alternate shall qualify by promptly filing a written acceptance with the Secretary.

§ 948.60 Compensation and expenses.

(a) Members of each area committee and their alternates shall serve without salary, but may be compensated at a rate not in excess of $10 per day while engaged on committee business, and may be reimbursed for necessary expenses actually incurred while so engaged. At the discretion of an area committee, alternates may be requested to attend any or all committee meetings and receive compensation and expenses therefor regardless of attendance by the respective members.

(b) The compensation and expenses of members and alternates of the Colorado Potato Committee shall be paid by the respective area committee they represent.

(c) Such other expenses as may be incurred by the Colorado Potato Committee pursuant to a budget of expenses approved by the Secretary shall be allotted to, and paid by, one or more of the area committees, as may be specified in an order issued by the Secretary pursuant to the provisions of this subpart.

§ 948.61 Procedure.

(a) A majority of all members of a committee shall be necessary to constitute a quorum or to pass and motion or approve any committee action.

(b) Each committee may provide for the members thereof, including the alternate members when acting as members, to vote by mail, telegraph, telephone, or other means of communication, provided that any such vote cast orally shall be confirmed promptly in writing. If any assembled meeting is held all votes shall be cast in person.

§ 948.62 Powers.

Each committee shall have the following powers:

(a) To administer the provisions of this subpart as specified herein;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 948.63 Duties.

(a) Each committee shall:

(1) Meet and organize as soon as practical after the beginning of each term of office, select a chairperson and such other officers as may be necessary, select subcommittees and adopt such rules and procedures for the conduct of its business as it may deem advisable;

(2) Act as intermediary between the Secretary and any producer or handler;

(3) Appoint such employees, agents and representatives as it may deem necessary and determine the salaries and define the duties of each;

(4) Keep minutes, books, and records which clearly reflect all its acts and transactions. Such minutes, books and records shall be subject to examination at any time by the Secretary;

(5) Furnish promptly notices of meetings, copies of the minutes of each committee meeting, and such other reports or information as may be requested by the Secretary, including annual reports of each area committee's operations for the preceding marketing season or fiscal period;

(6) Make available to producers, and to other area committees and the Colorado Potato Committee the committee's voting record on recommended regulations and other matters of policy;

(7) Meet jointly with other area committees when requested to do so by the Colorado Potato Committee;

(8) Consult, cooperate, and exchange information with other area committees, with other marketing agreement committees and other agencies or individuals in connection with proper committee activities and objectives;

(9) Take any proper action necessary to carry out the provisions of this subpart; and

(10) Cause the books of the committee to be audited by a competent accountant at least once each fiscal period.

(b) The Colorado Potato Committee shall also:

(1) Supervise the regulation of shipments pursuant to the provisions of the general cull regulation in the absence of more restrictive regulations, and shall cooperate with any area committee in administering any regulation issued pursuant to this subpart;

(2) Make recommendations to the Secretary with respect to suspending or modifying the provisions of the general cull regulation;

(3) Make available to area committees its voting record on recommendations for modification of the cull regulation and other matters of policy;

(4) Submit to each area committee such available information as may be requested; and

(5) Call joint meetings of area committees on matters requiring consideration of statewide marketing policies when requested to do so by an area committee.

[25 FR 7092, July 27, 1960. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 88 FR 82234, Nov. 24, 2023]

EXPENSES AND ASSESSMENTS

§ 948.75 Expenses.

Each area committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred during each fiscal period for its maintenance and functioning, and for purposes determined to be appropriate for administration of this part. Handlers shall share expenses upon the basis of a fiscal period. Each handler's share of such expenses shall be proportionate to the ratio between the total quantity of potatoes handled by him as the first handler thereof during a fiscal period and the total quantity of potatoes handled by all handlers as first handlers thereof during such fiscal period.

§ 948.76 Budget.

As soon as practicable after the beginning of each fiscal period and as may be necessary thereafter, each area committee shall prepare an estimated budget of income and expenditures necessary for its administration of this part. Each area committee may recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. Each area committee shall present such budget to the Secretary with an accompanying report showing the basis for its calculations.

§ 948.77 Assessments.

(a) The funds to cover each area committee's expenses shall be acquired by the levying of assessments upon handlers as provided in this subpart. Each handler who first handles potatoes under this part, shall pay assessments to his respective area committee upon demand, which assessments shall be in payment of such handler's pro rata share of the area committee's expenses.

(b) Assessments shall be levied upon handlers at rates established by the Secretary. Such rates may be established upon the basis of each area committee's budget, recommendations, and other available information. Such rates may be applied to specified containers used in the production area.

(c) At any time during, or subsequent to, a given fiscal period each area committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all potatoes grown within the particular area where an area committee recommends such increase and which were handled by the first handler thereof during such fiscal period.

(d) The payment of assessments for the maintenance and functioning of each area committee may be required under this part throughout the period it is in effect irrespective to whether particular provisions thereof are suspended or become inoperative.

(e) In order to provide funds to enable each area committee to perform its

functions under this part, handlers may make advance payment of assessments.

§ 948.78 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (a)(2) of this section, it shall be refunded proportionately to the persons from whom it was collected.

(2) An area committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided,* That funds already in the reserve are less than approximately two fiscal period's expenses. Such reserve funds may be used (i) to defray expenses, during any fiscal period, prior to the time assessment income is sufficient to cover such expenses; (ii) to cover deficits incurred during any fiscal period when assessment income is less than expenses; (iii) to defray expenses incurred during any period when any or all provisions of this subpart are suspended or are inoperative; (iv) to cover necessary expenses of liquidation in the event of termination of this subpart. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate. To the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by an area committee pursuant to the provisions of this part shall be used solely for the purposes specified herein. The Secretary may at any time require an area committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of an area committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to such committee, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such committee full title to all of the property funds and claims vested in such member pursuant to this part.

(d) Each area committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other committee property during periods of suspension of this subpart, or during any period or periods when regulations are not in effect and if the Secretary determines such action appropriate, he may direct that such person or persons shall act as trustee or trustees for such committee.

REPORTS

§ 948.80 Reports.

Upon request of an area committee or of the Colorado Potato Committee through an area committee, each handler within the respective area of such area committee shall furnish to the area committee in such manner and at such time as it may prescribe, reports and other information as may be necessary for the committee to perform its duties under this part.

(a) Such reports may include, but are not necessarily limited to the following examples:

(1) The quantities of potatoes received by a handler during any or all periods of a season;

(2) The quantities disposed of by him, segregated as to quantities subject to regulation, and where necessary segregated as to types of outlets and special or modified regulations applicable to alternative outlets, and including quantities not subject to grade, inspection, assessment, or other similar regulations;

(3) The date of each such disposition and the identification of the carrier transporting such potatoes;

(4) Information essential to identification of any or all specific quantities, lots, and disposition of potatoes handled under §§ 948.23 to 948.30, inclusive, which may include identification of inspection certificates, exemption certificates, certificates of privilege, or other appropriate identification, including the destination of each special shipment, where necessary.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to prohibition of disclosure of individual handlers' identities or operations.

(c) Each handler shall maintain for at least two succeeding years such records of the potatoes received and disposed of by such handler as may be necessary to verify the reports he submits to the committee pursuant to this section.

COMPLIANCE

§ 948.81 Compliance.

Except as provided in this subpart, no handler shall handle potatoes, the handling of which has been prohibited by the Secretary in accordance with provisions of this subpart, and no handler shall handle potatoes except in conformity to the provisions of this subpart.

MISCELLANEOUS PROVISIONS

§ 948.82 Right of the Secretary.

The members of each area committee (including successors and alternates) and any agent or employee appointed or employed by any committee shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of each committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 948.83 Effective time.

The provisions of this subpart or any amendments thereto shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in this subpart.

[25 FR 7092, July 27, 1960, as amended at 26 FR 11483, Dec. 5, 1961. Redesignated at 26 FR 12751, Dec. 30, 1961]

§ 948.84 Termination.

(a) The Secretary may at any time terminate any or all provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may at any time terminate or suspend the operations of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the Act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers, who during a representative period, as determined by the Secretary have been engaged in the production of potatoes for market: *Provided*, That such majority has, during such representative period, produced for market more than fifty percent of the volume of such potatoes produced for market.

(d) The provisions of this subpart shall in any event terminate whenever the provisions of the Act authorizing them cease to be in effect.

[25 FR 7092, July 27, 1960, as amended at 26 FR 11483, Dec. 5, 1961. Redesignated at 26 FR 12751, Dec. 30, 1961]

§ 948.85 Proceedings after termination.

(a) Upon the termination of the provisions of this subpart the then functioning members of each area committee shall continue as joint trustees for the purpose of liquidating the affairs of their respective area committee of all funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall from time to time

account for all receipts and disbursements and deliver all property on hand, together with all books and records of said committees and of the trustees, to such person as the Secretary may direct; and shall upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in said committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered by an area committee or its members pursuant to this section shall be subject to the same obligations imposed upon the members of such committees and upon the said trustees.

§ 948.86 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart or the issuance of any amendments to either thereof, shall not (a) effect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart; or (b) release or extinguish any violation of this subpart or of any regulations issued under this subpart; or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violations.

§ 948.87 Duration of immunities.

The benefits, privileges and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 948.88 Agents.

The Secretary may, by designation in writing, name any person, including any officer or employee of the United States or name any agency in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ 948.89 Derogation.

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the Act or otherwise, or in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 948.90 Personal liability.

No member or alternate of any committee or any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee, except for acts of dishonesty, willful misconduct or gross negligence.

§ 948.91 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance or thing shall not be affected thereby.

§ 948.92 Amendments.

Amendments to this subpart may be proposed from time to time by a committee or by the Secretary.

Subpart B—Administrative Requirements

GENERAL

SOURCE: 26 FR 5219, June 10, 1961, unless otherwise noted. Redesignated at 26 FR 12751, Dec. 30, 1961.

§ 948.100 Order.

Order means §§ 948.1 to 948.92 (Order No. 948 as amended) regulating the handling of Irish potatoes grown in the State of Colorado.

§ 948.101 Terms.

The terms used in this subpart shall have the same meaning as when used in §§ 948.1 to 948.92.

§ 948.102 Communications.

Unless otherwise provided in §§ 948.1 to 948.92, or by specific direction of an area committee, all reports, applications, submittals, requests and communications in connection with the order shall be addressed to the office of the committee for the area in which the potatoes involved are grown.

§ 948.103 Fiscal period.

Pursuant to § 948.10, the fiscal periods for each area shall be as follows:

(a) Area No. 1 and Area No. 3 shall begin July 1 and end June 30, of the following year, both dates inclusive;

(b) Area No. 2 shall begin September 1 and end August 31, of the following year, both dates inclusive. The 1986–87 fiscal period which began July 1, 1986, will be extended two months to August 31, 1987.

[52 FR 12515, Apr. 17, 1987]

EFFECTIVE DATE NOTE: At 57 FR 61774, Dec. 29, 1992, in § 948.103, in paragraph (a), the words ''Area No. 1 and'' were suspended indefinitely.

§ 948.104 Term of office.

(a) Pursuant to § 948.55, the two-year term of office for area committee members and alternates shall be as follows:

(1) Area No. 1 and Area No. 2 shall begin June 1 and end May 31 of the second year following;

(2) Area No. 3 shall begin May 1 and end April 30 of the second year following.

(b) The one-year term of office of Colorado Potato Committee members shall begin as of June 1 of each year.

[52 FR 12515, Apr. 17, 1987]

EFFECTIVE DATE NOTE: At 57 FR 61774, Dec. 29, 1992, in § 948.104, in paragraph (a)(1), the words ''Area No. 1 and'' were suspended indefinitely.

SAFEGUARDS

SOURCE: Sections 948.120 through 948.126 appear at 26 FR 10792, Nov. 18, 1961, unless otherwise noted. Redesignated at 26 FR 12751, Dec. 30, 1961.

§ 948.120 General.

Whenever shipments of potatoes for special purposes under § 948.23 are relieved in whole or in part from grade and size regulations issued under § 948.22 the committee shall require information and evidence as to the manner, methods, and timing of such shipments as safeguards against the entry of any such potatoes into trade channels other than those for which intended. Such information and evidence shall include the requirements set forth below with respect to Certificates of Privilege.

§ 948.121 Qualification.

Before handling potatoes for special purposes which do not meet regulations issued under § 948.22 a handler must qualify with the committee to handle shipments for special purposes. To qualify he must (a) apply for and receive a Certificate of Privilege indicating his intent to so handle potatoes; (b) agree to comply with reporting and other requirements set forth in §§ 948.121 to 948.125, inclusive, with respect to such shipments; and (c) receive approval of the committee to so handle potatoes. Such approval will be based upon evidence furnished in his application for a Certificate of Privilege, and other information available to the committee.

§ 948.122 Application.

(a) Application for Certificate of Privilege shall be made in person, by telephone, or on forms furnished by the committee. Each application may contain, but need not be limited to, the name and address of the handler; the quantity by grade, size, quality and variety of the potatoes to be shipped; the mode of transportation; the consignee; the destination; the purpose for which the potatoes are to be used; a certification to the United States Department of Agriculture and to the committee as to the truthfulness of the information shown thereon; and any other appropriate information or documents deemed necessary by the committee for the purposes stated in § 948.120.

(b) [Reserved]

§ 948.123 Approval.

The committee or its duly authorized agents shall give prompt consideration to each application for a Certificate of Privilege. Approval of an application

based upon a determination as to whether the information contained therein and other information available to the committee supports approval, shall be evidenced by the issuance of a Certificate of Privilege to the applicant. Each certificate shall cover a specified period, and specified qualities and quantities of potatoes to be sold or transported to the designated consignee for the purposes declared.

§ 948.124 Reports.

Each handler of potatoes shipping under Certificates of Privilege shall supply the committee with reports as requested by the committee or its duly authorized agents showing the name and address of the shipper; the car or truck identification; the loading point; destination; consignee; the inspection certificate number when inspection is required; and any other information deemed necessary by the committee.

§ 948.125 Disqualification.

The committee from time to time may conduct surveys of handling of potatoes for special purposes requiring Certificates of Privilege to determine whether handlers are complying with the requirements and regulations applicable to such certificates. Whenever the committee finds that a handler or consignee is failing to comply with requirements and regulations applicable to handling of potatoes in special outlets, and requiring such certificates, a Certificate or Certificates of Privilege issued such handler may be rescinded and further certificates denied. Such disqualification shall apply to, and not exceed, a reasonable period of time as determined by the committee but in no event shall it extend beyond the end of the succeeding fiscal period. Any handler who has a certificate rescinded or denied may appeal to the committee in writing for reconsideration of his disqualification.

§ 948.126 General cull regulation.

(a) No handler shall handle potatoes grown in the State of Colorado which do not meet the requirements of U.S. No. 2 or better grade, or are less than ¾-inch in diameter.

(b) This General Cull Regulation shall remain in effect until suspended or modified pursuant to § 948.20(a)(2).

(c) The term U.S. No. 2 grade has the same meaning as when used in the U.S. Standards for Potatoes (§§ 51.1540 to 51.1556 of this title), or amendments thereto or modifications thereof.

(d) Applicability to imports: Pursuant to section 608e–1 of the act and § 980.1 *Import Regulations; Irish potatoes* (part 980 of this chapter), in the absence of more restrictive regulations in effect for potatoes grown in Areas Nos. 2 and 3 in Colorado, this cull regulation shall be used in a basis for import regulations for the red skinned, round type and for other round type potatoes, during the periods specified and as designated in said § 980.1 of this chapter.

[35 FR 11988, July 25, 1970, as amended at 78 FR 35745, June 14, 2013]

EXEMPTIONS

SOURCE: Sections 948.130 through 948.132 appear at 26 FR 10793, Nov. 18, 1961, unless otherwise noted. Redesignated at 26 FR 12751, Dec. 30, 1961.

§ 948.130 Application for exemption certificates.

Any producer applying for exemption from any grade and size regulation issued under § 948.22 shall make application to the respective area committee for the area in which the applicant's potatoes were grown or are stored, on forms to be furnished by the area committee. The application shall include:

(a) The name and address of the applicant;

(b) The location, or locations, of the potatoes with respect to which exemption is requested;

(c) The total estimated quantity of potatoes (excluding culls) produced by the applicant during the current season, stated in hundredweights, by varieties, grades, and sizes;

(d) The estimated percentage of the applicant's potato crop (excluding culls) which cannot be shipped because of grade and size regulations then in effect and the acts beyond his control or reasonable expectation adversely affecting his potatoes;

(e) The quantity of potatoes of each variety (excluding culls) which has already been sold or otherwise shipped during the current season;

(f) The signature of the applicant and certification that the statements given in the application are true and correct; and

(g) Such additional information as the area committee may find necessary in making a determination regarding the granting of an exemption certificate.

§ 948.131 Federal-State inspection reports.

Each application for exemption shall be accompanied by a written report of a Federal-State Inspector, which shall contain the following:

(a) A statement by the inspector that he personally inspected the potatoes with respect to which exemption is requested, and that he took a representative sample of such potatoes;

(b) A statement of the percentage of the potatoes (excluding culls) which fail to meet the requirements of the grade and size regulations then in effect;

(c) A statement of the defects or damage causing the potatoes to fail to meet grade and size requirements then in effect.

In the event that more than one variety of potatoes is being regulated the above percentage shall be determined separately for each variety of the applicant's potatoes. The cost of Federal-State inspection and report shall be borne by the applicant for exemption.

§ 948.132 Issuance of exemption certificates.

(a) The respective area committee receiving an application for exemption shall give prompt consideration thereto and determine on the basis of the statements and facts therein contained and the factors set forth in § 948.30 whether the application may be approved. The determination, if favorable, shall be evidenced by the issuance of a certificate of exemption pursuant to §§ 948.28 through 948.32. If the applicant's request for exemption is denied, he shall be so notified in writing.

(b) Each certificate of exemption issued as provided in this subpart, shall contain the name and address of the applicant, the location of his farm or ranch, the location, or locations, of all potatoes remaining to be shipped, the total quantity of potatoes which may be shipped under the certificate of exemption, and such other information as the area committee may deem desirable.

(c) The committee may furnish each applicant receiving a certificate of exemption with appropriate subcertificates of exemption to identify each lot of exempted potatoes and a subcertificate shall be transferable with the lot of potatoes to which it applies. Each applicant receiving a certificate of exemption shall report each shipment of potatoes made under such certificate to the respective area committee issuing the certificate. The report shall state the name and address of the person to whom the potatoes were sold, the quantity sold, the date of transfer, and such other information as the committee may request.

MODIFICATION OF INSPECTION REQUIREMENTS

§ 948.140 Application.

Any handler whose packing facilities are located in an area where inspection is not readily available or the actual cost for inspection would otherwise exceed 1⅓ times the current per hundredweight inspection fee, may apply to the respective area committee for a waiver from the reinspection requirements. Applications shall be made on forms furnished by the respective area committee and shall contain such information as the respective area committee, with the approval of the Secretary, may find necessary in making a determination regarding the issuance of such waiver.

[55 FR 41181, Oct. 10, 1990]

§ 948.141 Issuance.

Each respective area committee shall give prompt consideration to each application for a waiver from reinspection. In granting a waiver, the handler shall agree to comply with all marketing order requirements. Approval of an application shall be evidenced by the issuance of an applicable waiver by

the respective area committee to the handler.

[55 FR 41181, Oct. 10, 1990]

§ 948.142 Reports.

Each handler shipping potatoes pursuant to a waiver from reinspection shall report periodically as specified by the respective area committee on forms furnished by the respective committee the following information on each shipment: quantity of potatoes, variety or varieties, grade, size, type of container(s), date of shipment, carrier, destination, and name and address of receiver.

[55 FR 41181, Oct. 10, 1990, as amended at 88 FR 82234, Nov. 24, 2023]

§ 948.143 Cancellation.

Whenever the respective area committee finds that shipments of potatoes pursuant to a reinspection waiver are not in accordance with the established application and safeguard provisions, such waiver may be cancelled.

[55 FR 41181, Oct. 10, 1990]

§ 948.150 Reestablishment of committee membership.

Pursuant to § 948.53, membership on each area committee shall be reestablished as follows:

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

(1) Two (2) producers from Rio Grande County;
(2) Two (2) producers from either Saguache County or Chaffee County;
(3) One (1) producer from either Conejos or Costilla County.
(4) Two (2) producers from Alamosa County;
(5) One (1) producer from all other counties in Area No. 2;
(6) One (1) producer representing certified seed producers in Area No. 2;
(7) Two (2) handlers representing bulk handlers in Area No. 2;
(8) Three (3) handlers representing handlers in Area No. 2 other than bulk handlers.

(b) *Area No. 3:* Three producers and two handlers selected as follows: Three (3) producers and two (2) handlers from any county in Area No. 3.

[52 FR 12515, Apr. 17, 1987, as amended at 58 FR 8541, Feb. 16, 1993; 60 FR 16566, Mar. 31, 1995; 67 FR 68021, Nov. 8, 2002; 68 FR 40119, July 7, 2003; 78 FR 30745, May 23, 2013]

§ 948.151 Colorado Potato Committee membership.

The Colorado Potato Committee shall be comprised of six members and alternates selected by the Secretary. Three members and three alternates shall be selected from nominations of Area 2 committee members or alternates, and three members and three alternates shall be selected from nominations of Area 3 committee members or alternates.

[57 FR 61774, Dec. 29, 1992]

§ 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.

[60 FR 16566, Mar. 31, 1995]

Subpart C—Accounting and Collections

§ 948.200 Accounting and collections.

(a) Each handler's assessment account with Area No. 2 (San Luis Valley) Committee shall become due and payable upon presentation of a statement thereof to such handler.

(b) If settlement of such an assessment account is not completed on or before the 20th day following presentation of a statement of such account, each handler failing to so complete settlement of his account may be declared delinquent by said area committee.

(c) The name of each person who is declared delinquent may be forwarded to the Secretary and, in addition, the names of persons declared delinquent pursuant to paragraph (b) of this section may be publicized by said area committee.

(d) Terms used in this section shall have the same meaning as when used in

Marketing Agreement No. 97 and Order No. 948 (§§ 948.1 to 948.92).

[19 FR 8647, Dec. 17, 1954. Redesignated at 26 FR 12751, Dec. 30, 1961]

§ 948.215 Assessment rate.

On or after July 1, 2005, an assessment rate of $0.02 per hundredweight is established for Colorado Area No. 3 potatoes.

[70 FR 36816, June 27, 2005]

§ 948.216 Assessment rate.

On and after September 1, 2018, an assessment rate of $0.006 per hundredweight is established for Colorado Area No. 2 potatoes.

[83 FR 43503, Aug. 27, 2018]

Subpart D—Handling Requirements

§ 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) *All varieties.* U.S. No. 2 or better grade, 2 inches minimum diameter or 4 ounces minimum weight.

(2) *1½-inch minimum to 2¼-inch maximum diameter (Size B).* U.S. Commercial grade or better, except that red varieties may be U.S. No. 2 grade or better.

(3) *¾-inch minimum to 1⅞-inch maximum diameter.* U.S. Commercial grade or better.

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

(b) *Maturity (skinning) requirements.* From August 1 through October 31 shall be:

(1) *For U.S. No. 2 grade.* Not more than ''moderately skinned.''

(2) *All other grades.* Not more than ''slightly skinned.''

(c) *Inspection.* (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purposes of operation under this part it is hereby determined pursuant to § 948.40(d) that each inspection certificate shall be valid for a period not to exceed five days following the date of inspection as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto and the copy is made available for examination at any time upon request.

(3) Each handler who handles potatoes after such potatoes are regraded, resorted, or repacked shall have such potatoes reinspected, unless such handler has received a waiver from reinspection pursuant to rules established by the Secretary upon the recommendation of the committee.

(d) *Special purpose shipments.* (1) The grade, size, maturity, and inspection requirements of paragraphs (a), and (b), and (c) of this section and the assessment requirements of this part shall not be applicable to shipments of potatoes for:

(i) Livestock feed;

(ii) Relief or charity; or

(iii) Canning, freezing, and ''other processing'' as hereinafter defined.

(2) The grade, size, maturity and inspection requirements of paragraphs (a), (b), and (c) of this section shall not be applicable to shipments of potatoes for experimentation, the manufacture or conversion into specified products, or for seed pursuant to section 948.6, but such shipments shall be subject to assessments.

(e) *Safeguards.* Each handler of potatoes which do not meet the grade, size, and maturity requirements of paragraphs (a) and (b) of this section and which are handled pursuant to paragraph (d) of this section for any of the special purposes set forth therein shall:

(1) Prior to handling, apply for and obtain a Certificate of Privilege from the committee.

(2) Furnish the committee such reports and documents as requested, including certification by the buyer or receiver as to the use of such potatoes; and

(3) Bill each shipment directly to the applicable processor or receiver.

(f) *Minimum quantity.* For purposes of regulation under this part, each person may handle up to but not to exceed 2,000 pounds of potatoes without regard to the requirements of paragraphs (a), (b), and (c) of this section, but this exception shall not apply to any shipment which exceeds 2,000 pounds of potatoes.

(g) *Definitions.* The terms *U.S. No. 1, U.S. Commercial, U.S. No. 2, Size B, slightly skinned,* and *moderately skinned* shall have the same meaning as when used in the U.S. Standards for Potatoes (7 CFR 2851.1540–2851.1566), including the tolerances set forth therein. The term *other processing* has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute ''other processing.'' The term *manufacture or conversion into specified products* means the preparation of potatoes for market into products by peeling, slicing, dicing, applying material to prevent oxidation, or other means approved by the committee, but not including other processing. Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

[46 FR 52324, Oct. 27, 1981]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 948.386, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.govinfo.gov.*

§ 948.387 Handling regulation.

On and after August 1, 1982, no person shall handle any lot of potatoes grown in Area No. 3 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—All varieties.* (1) U.S. No. 2 or better grade, 1⅞ inches minimum diameter or 4 ounces minimum weight.

(2) U.S. No. 1 grade, Size B (1½ inches minimum to 2¼ inches maximum diameter).

(3) U.S. No. 1 grade, ¾ inch minimum to 1⅞ inches maximum diameter.

(b) *Maturity (skinning) requirements—All Varieties.* During the period beginning July 1 and ending December 31 each season for U.S. No. 2 grade, not more than ''moderately skinned,'' and for all other grades, not more than ''slightly skinned''; thereafter no maturity requirements.

(c) *Inspection.* (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purpose of operation under this part it is hereby determined pursuant to paragraph (d) of § 948.40, that each inspection certificate shall be valid for a period not to exceed five days following the date of inspection as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto and the copy is made available for examination at any time upon request.

(3) Each handler who handles potatoes after such potatoes are regraded, resorted, or repacked shall have such potatoes reinspected, unless such handler has received a waiver from reinspection pursuant to rules established by the Secretary upon the recommendation of the committee.

(d) *Special purpose shipments.* (1) The grade, size, maturity and inspection requirements of paragraphs (a), (b), and

(c) of this section and the assessment requirements of this part shall not be applicable to shipments of potatoes for:

(i) Livestock feed;

(ii) Charity;

(iii) Canning, freezing, and ''other processing'' as hereinafter defined; and

(iv) Certified seed potatoes (§948.6).

(v) Experimentation and the manufacture or conversion into specified products.

(2) The maturity requirements set forth in paragraph (b) of this section shall not be applicable to shipments of potatoes for prepeeling.

(e) *Safeguards.* Each handler making shipments of potatoes pursuant to paragraph (d) of this section shall:

(1) Prior to shipment, apply for and obtain a Certificate of Privilege from the committee;

(2) Furnish the committee such reports and documents as required, including certification by the buyer or receiver on the use of such potatoes; and

(3) Bill each shipment directly to the applicable buyer or receiver.

(f) *Minimum quantity.* For purpose of regulation under this part, each person may handle up to but not to exceed 2,000 pounds of potatoes per shipment without regard to the requirements of paragraphs (a) and (b) of this section, but this exception shall not apply to any shipment of over 2,000 pounds of potatoes.

(g) *Definitions.* The terms *U.S. No. 1, U.S. No. 2, Size B, moderately skinned* and *slightly skinned* shall have the same meaning as when used in the United States Standards for Grades of Potatoes (7 CFR 51.1540–51.1566) including the tolerances set forth therein. The term *prepeeling* means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in §52.2422 United States Standards for Grades of Peeled Potatoes (7 CFR 52.2421–52.2433). The term *other processing* has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute ''other processing.'' The term *manufacture or conversion into specified products* means the preparation of potatoes for market into products by peeling, slicing, dicing, applying material to prevent oxidation, or other means approved by the committee, but not including other processing. All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

[47 FR 32911, July 30, 1982, as amended at 52 FR 7269, Mar. 10, 1987; 55 FR 41181, Oct. 10, 1990; 66 FR 49513, Sept. 28, 2001; 74 FR 65393, Dec. 10, 2009; 75 FR 17036, Apr. 5, 2010; 76 FR 80214, Dec. 23, 2011; 80 FR 3142, Jan. 22, 2015]

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

Subpart A—Order Regulating Handling

Sec.

955.1 Secretary.
955.2 Act.
955.3 Person.
955.4 Production area.
955.5 Vidalia onion.
955.6 Handler.
955.7 Handle.
955.9 Producer.
955.10 Producer-handler.
955.12 Committee.
955.13 Fiscal period.

COMMITTEE

955.20 Establishment and membership.
955.21 Term of office.
955.22 Nominations.
955.23 Selection.
955.24 Acceptance.
955.25 Alternates.
955.26 Vacancies.
955.27 Failure to nominate.
955.28 Procedure.
955.29 Expenses.
955.30 Powers.
955.31 Duties.

EXPENSES AND ASSESSMENTS

955.40 Expenses.