# **Proposed Rules**

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

### DEPARTMENT OF AGRICULTURE

### **Agricultural Marketing Service**

### 7 CFR Part 945

[Docket No. A0-150-A6; FV-92-945-2]

Irish Potatoes Grown In Certain
Designated Counties In Idaho, and
Malheur County, Oregon; Secretary's
Decision and Referendum Order on
Proposed Further Amendment of
Marketing Agreement and Order No.
945

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

**ACTION:** Proposed rule and referendum order.

**SUMMARY:** This decision proposes amendments to the subject marketing agreement and order (order) and provides potato producers with the opportunity to vote in a referendum to determine if they favor the proposed amendments. The proposed amendments were submitted by the Idaho-Eastern Oregon Potato Committee (committee), the agency responsible for local administration of the order. The proposed changes would include authority to: regulate shipments of potatoes within the production area, change representation and quorum procedures of the committee, set container marking and labeling requirements, and require the committee to consider, at least every six years, changes in committee size or reapportionment of committee membership. Also, other proposals would change committee fiscal operations, add confidentiality and verification provisions to the order, and make other miscellaneous changes that would be consistent with the proposed amendments. These changes are being proposed to improve order operations. DATES: The referendum shall be conducted from April 3 through April 17, 1995. The representative period for the purpose of the referendum herein ordered is August 1, 1993, through July 31, 1994.

FOR FURTHER INFORMATION CONTACT:

Valerie L. Emmer or Jim Wendland, Marketing Specialists, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, D.C. 20090–6456, telephone: 202–205–2829 or 720–2170 respectively, or Fax 202–720–5698; or Gary Olson, OIC, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW. Third Avenue, room 369, Portland, Oregon, 97204; telephone: 503–326–2725, or Fax 503–326–7440.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued on August 3, 1993, and published in the **Federal Register** on August 11, 1993 (58 FR 42696). Recommended Decision and Opportunity to File Written Exceptions issued on November 23, 1994, and published in the **Federal Register** on November 30, 1994 (59 FR 61286).

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

### **Preliminary Statement**

The proposed amendments were formulated on the record of a public hearing held in Idaho Falls, Idaho, on September 8, 1993, to consider the proposed amendment of the Marketing Agreement and Order No. 945, regulating the handling of potatoes grown in designated counties in Idaho, and Malheur County, Oregon, hereinafter referred to collectively as the "order." The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), hereinafter referred to as the Act, and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR part 900). The Notice of Hearing contained several amendment proposals submitted by the Idaho-Eastern Oregon Committee (committee) established under the order to assist in local administration of the program.

The proposals would: (1) Redefine "ship or handle" to include shipments of potatoes within the production area; (2) provide seed producers with

representation on the committee and add authority for the committee to recommend to the Secretary changes in the committee size and composition; (3) update "districts" to show the current composition; (4) require the committee to consider, at least every six years, whether to recommend changes in committee size or reapportionment of committee membership; (5) change committee quorum procedures; (6) remove an outdated assessment limitation of \$1 per carload and allow the committee to impose late payment or interest fees, or both, on late assessment payments, accept advance payments, and borrow monies in an extreme emergency for program administration; (7) add authority for the committee to recommend container marking and labeling requirements; and (8) specify confidentiality requirements for handler reports submitted to the committee. The Department of Agriculture proposed authority for adding requirements regarding verification of reports and to make any necessary conforming changes.

Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of the Agricultural Marketing Service (AMS) on November 30, 1994, filed with the Hearing Clerk, U.S. Department of Agriculture, a Recommended Decision and Opportunity to File Written Exceptions thereto by December 30, 1994. None were filed.

### **Small Business Considerations**

In accordance with the provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities. Small agricultural service firms, which include handlers regulated under this order, have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts of less than \$5,000,000. Small agricultural producers are defined as those having annual receipts of less than \$500,000.

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 and rules issued thereunder are unique in that they are