brought about through group action of essentially small entities acting on their own behalf. Thus, both the RFA and the Act have small entity orientation and compatibility. Interested persons were invited to present evidence at the hearing on the probable impact that the proposed amendments to the order would have on small businesses.

During the 1992–93 crop year, 66 handlers were regulated under Marketing Order No. 945. In addition, there are about 2,200 producers of potatoes in the production area. The Act requires the application of uniform rules on regulated handlers. Since handlers covered under the potato marketing order are predominantly small businesses, the order itself is tailored to the size and nature of these small businesses. Marketing orders and amendments thereto, are unique in that they are normally brought about through group action of essentially small entities for their own benefit. Thus, both the RFA and the Act are compatible with respect to small entities.

The proposed amendments to the marketing agreement and order include amending: §945.20 Establishment and membership pertaining to operations of the committee, including providing seed producers representation on the committee; § 945.23 Redistricting and reapportionment authorizing changes in committee size, composition, and representation; § 945.30 Procedure regarding quorum requirements; and § 945.42 Assessments removing a \$1 per carload maximum assessment rate and allowing the committee to impose late payment and interest fees on late assessment payments and borrow monies in an extreme emergency for program administration. These proposed amendments would provide an opportunity for a broader based representation on the committee and more flexibility to adjust to future changes in industry structure, potato production and financial operations. These changes are designed to enhance the administration and functioning of the order and would have negligible, if any, economic impact on small businesses.

The proposal amending § 945.9 Ship or handle would revise the definition of these terms to include the handling of potatoes in the current of commerce within the counties covered by the order's production area, broadening the scope of the order. This would require all regulated shipments of potatoes for fresh market to be inspected and meet order requirements, including grade, size, quality, pack, and payment of assessments. This proposal would improve the market for potatoes handled within the production area. This would benefit both producers and handlers because minimum grade, size and quality requirements established under the order are important to the industry in fostering consumer satisfaction, increasing the demand for Idaho-Eastern Oregon potatoes, and improving industry returns; and the additional assessment income would improve the financial operations of the order. Any added burden on small businesses should be outweighed by the added benefits accruing to them.

The proposed change to allow the rate of assessment to be based on a hundredweight of potatoes rather than an outdated maximum amount of \$1 per railroad carload would improve the financial operations of the order and not adversely impact small businesses. This change would provide more efficient funding of order operations and activities. Fresh potato shipments have stabilized in recent years and the current maximum rate specified will likely not be sufficient to properly fund committee operating costs beyond the next few years if costs continue to rise.

Another recommended change would amend § 945.52 Issuance of regulations to add authority to require accurate and uniform marking and labeling of the containers in which production area potatoes are shipped. The benefits of the expected higher returns that could result from increases in buyer and consumer satisfaction due to accurate marking and labeling should outweigh any potential burden on small businesses.

Another proposed amendment, to §945.80 Reports, would provide confidentiality requirements for reports submitted to the committee. This would safeguard handlers' proprietary information, including that for small businesses, without imposing any burden on them. Additionally, new §945.80 provisions would add authority for the Secretary and the committee to verify the correctness of reports filed by handlers, and to verify handler compliance with recordkeeping requirements. The requirement would not have a significant impact on small entities in the industry.

The proposal to make other miscellaneous changes that would be consistent with the proposed amendments is necessary so that all sections of the order would be consistent if any or all of the amendments are adopted. These changes include deleting and redesignating certain sections of the order.

All these changes are designed to enhance the administration and

functioning of the marketing agreement and order to the benefit of the industry. Accordingly, it is determined that the proposed revisions of the order would not have a significant economic impact on handlers or producers.

The amendments proposed herein have been reviewed under Executive Order 12778, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the amendments.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the reporting and recordkeeping provisions that are included in the proposed amendments will be submitted to the Office of Management and Budget (OMB). They would not become effective prior to OMB approval.

Findings and Conclusions and Rulings on Exceptions

The material issues, findings and conclusions, rulings, and general findings and determinations included in the Recommended Decision set forth in the November 30, 1994, issue of the **Federal Register** (59 FR 61286) are hereby approved and adopted without change.

Marketing Agreement and Order

Annexed hereto and made a part hereof is the document entitled "Order Amending the Order Regulating the Handling of Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon." This document has been decided upon as the detailed and appropriate means of