

■ 2. Section 923.21 is revised to read as follows:

§ 923.21 Term of office.

The term of office of each member and alternate member of the committee shall be for two years beginning April 1 and ending March 31. Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified. Committee members shall not serve more than three consecutive terms. Members who have served for three consecutive terms must leave the committee for at least one year before becoming eligible to serve again.

■ 3. A new § 923.43 is added to read as follows:

§ 923.43 Contributions.

The committee may accept voluntary contributions but these shall only be used to pay expenses incurred pursuant to § 923.45. Furthermore, such contributions shall be free from any encumbrances by the donor and the committee shall retain complete control of their use.

■ 4. Section 923.64 is amended by:

- A. Revising paragraph (c).
  - B. Redesignating paragraph (d) as paragraph (e).
  - C. Adding a new paragraph (d).
- The revisions read as follows:

§ 923.64 Termination.

\* \* \* \* \*

(c) The Secretary shall terminate the provisions of this part whenever it is found that such termination is favored by a majority of growers who, during a representative period, have been engaged in the production of cherries: *Provided*, that such majority has, during such representative period, produced for market more than 50 percent of the volume of such cherries produced for market.

(d) The Secretary shall conduct a referendum six years after the effective date of this section and every sixth year thereafter, to ascertain whether continuance of this subpart is favored by growers. The Secretary may terminate the provisions of this subpart at the end of any fiscal period in which the Secretary has found that continuance of this subpart is not favored by growers who, during a representative period determined by the Secretary, have been engaged in the production of cherries in the production area.

\* \* \* \* \*

Dated: July 27, 2005.  
**Kenneth C. Clayton**,  
*Acting Administrator, Agricultural Marketing Service.*  
[FR Doc. 05-15169 Filed 8-1-05; 8:45 am]  
**BILLING CODE 3410-02-P**

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 946**

[Docket No. FV05-946-2 FR]

**Irish Potatoes Grown in Washington; Modification of Special Purpose Shipment Regulations**

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

**ACTION:** Final rule.

**SUMMARY:** This rule modifies the special purpose shipment regulations currently prescribed under the Washington potato marketing order. The marketing order regulates the handling of Irish potatoes grown in Washington, and is administered locally by the State of Washington Potato Committee (Committee). This rule modifies the reporting requirements, procedures, and safeguard provisions for making certain special purpose potato shipments. Under the marketing order, such special purpose shipments may be exempted from the quality, assessment, or inspection requirements. The changes include removal of the special purpose exemption for exported potatoes, clarification of the reporting procedures for potatoes diverted to processing, and addition of safeguard provisions for shipments of seed potatoes and shipments to charitable organizations. These changes will help facilitate special purpose shipments, while enhancing the Committee's compliance program.

**DATES:** This final rule becomes effective August 3, 2005.

**FOR FURTHER INFORMATION CONTACT:** Teresa Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Suite 385, Portland, Oregon 97204; Telephone: (503) 326-2724, Fax: (503) 326-7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; 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, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: *Jay.Guerber@usda.gov*.

**SUPPLEMENTARY INFORMATION:** This final rule is issued under Marketing Agreement No. 113 and Marketing Order No. 946, both as amended (7 CFR part 946), regulating the handling of Irish potatoes grown in Washington, 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 final 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. A 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 final rule modifies the special purpose shipment regulations prescribed under the order. This rule modifies the reporting requirements, procedures, and safeguard provisions for making certain special purpose potato shipments. Under the marketing order, such special purpose shipments may be exempt from the quality, assessment, or inspection requirements. The modifications were recommended unanimously by the Committee at a meeting on February 3, 2005.

Section 946.52 of the order authorizes the establishment of grade, size, quality, maturity, and pack regulations for any variety or varieties of potatoes grown in the production area. Section 946.51 further authorizes the modification, suspension, or termination of regulations issued under § 946.52. Section 946.60 provides that whenever potatoes are regulated pursuant to § 946.52 such potatoes must be inspected by the Federal-State Inspection Service, and certified as meeting the applicable requirements of such regulations. Section 946.54 authorizes the modification, suspension, or termination of any or all regulations to facilitate shipments of potatoes for specified purposes. Section 946.55 authorizes safeguard requirements for shipments authorized pursuant to § 946.54.

Section 946.120 of the order's administrative rules specifies the application process required when potatoes are shipped for special purposes pursuant to § 946.54. Section 946.336 of the order's administrative rules prescribes the quality, maturity, cleanness, pack, special purpose shipments, safeguards, minimum quantity exemption, and inspection requirements for all fresh market Washington potatoes, except for blue or purple flesh varieties of potatoes. Section 946.336(d) lists the types of special purpose shipments and the minimum grade, size, cleanness, maturity, pack, assessment, and inspection requirements from which such shipments are exempted. Finally, § 946.336(e) prescribes the safeguard requirements that handlers must meet to make the special purpose shipments specified under § 946.336(d).

At its meeting on June 17, 2004, the Committee appointed a subcommittee to review the order's handling regulations. The subcommittee subsequently met on November 22, 2004, and while reviewing the regulations, identified several potential changes to the special purpose shipment procedures, safeguard requirements, and reporting requirements. These changes were further discussed and ratified at an Executive Committee meeting on January 20, 2005, and subsequently recommended to the full Committee at its February 3, 2005, meeting in Moses Lake, Washington.

At this meeting, the Committee unanimously adopted the subcommittee recommendations which entailed modifications to § 946.120 *Application*, § 946.336(d) *Special Purpose Shipments*, and § 946.336(e) *Safeguards*. To conform to the regulatory modifications, as well as to ensure

consistency in the administration of the special purpose procedures, the Committee also recommended that the "Shippers Application for Special Purpose Certificate" (Application) and "Special Purpose Certificate Report" (Report) forms be updated.

Procedures in effect prior to this final rule required that each handler apply annually to the Committee for a Special Purpose Shipment Certificate if planning to make certain specified special purpose shipments. In addition, based on the safeguard provisions under each of the special purpose shipment requirements, each handler and receiver of special purpose potatoes may or may not have been required to submit a report to the Committee for each such shipment depending upon the specific provision. This rule not only clarifies these procedures by making them consistent throughout the rules and regulations, but also changes certain provisions in order to be consistent with the Committee's current operating preferences.

For example, under the procedures in effect prior to this action, any handler desiring to divert potatoes for livestock feed was required to apply for a Special Purpose Shipment Certificate, but was not required to follow up with a report to the Committee indicating the actual quantity diverted. To bring the regulations in line with the Committee's recommendation, this rule changes the procedures so that neither an Application nor a Report are required when diverting potatoes to livestock feed.

Although it varies from one special purpose shipment to another, in most cases handlers of special purpose potatoes are the producers of the potatoes and most receivers are the processors.

Currently, about 85 percent of the Washington potato crop is produced for the processing market. Further, the majority of these processing potatoes are produced specifically for the frozen French fry market, with most of the processing taking place locally within the state. This has been a steadily increasing trend ever since the fast-food restaurant business began requiring an ever increasing portion of the potato crop. Because a majority of the Washington potato crop is diverted to a special purpose category, the Committee believes that the paperwork burden on handlers and receivers can be reduced by obtaining the information needed to ensure compliance with the order from alternative sources.

The Committee contracts with the Washington State Potato Commission (Commission) for its administrative

services. Each processor within the State of Washington provides reports to the Commission indicating the quantity of potatoes received and processed, per producer. By entering into an agreement with the Commission, the Committee will be able to obtain all of the information it needs from this processor-generated report and neither Washington processors nor grower/handlers of processed potatoes will have to complete and return the Report to the Committee. This action will significantly reduce the paperwork burden on any person or entity previously required to submit reports on the volume of processing potatoes shipped, received, and processed. Processors outside of Washington, however, will generally continue to complete and submit the Report form to the Committee unless specific alternative reporting procedures can also be implemented as authorized by this action.

To reduce the paperwork burden and more efficiently utilize procedures already in place, the Committee's recommendation changes the safeguard procedures for shipments of canning, freezing, or "other processing" potatoes so that handlers may provide shipment information in a format other than through the conventional Committee Report form. To accomplish this, language in § 946.336(e)(3)(iii) is changed from "Upon request by the Committee, furnish reports of each shipment pursuant to the applicable Special Purpose Certificate", to "Upon request by the Committee, furnish reports, or cause reports to be furnished, of each shipment pursuant to the applicable Special Purpose Certificate". The Committee believes that the language change will streamline the reporting procedures while clarifying its ability to obtain information from alternative sources to verify compliance and proper potato disposition.

The Committee also recommended changing § 946.336(d)(vi) and § 946.336(e)(iii), which detail the procedures and reporting requirements for potatoes shipped to locations other than the immediate area of production for grading or temporary storage prior to marketing. The regulations in effect prior to the finalization of this rule required that handlers shipping potatoes for the purposes of grading or storing to Morrow or Umatilla Counties in Oregon, or to District No. 5 or to Spokane County in District No. 1 (part of the regulated production area), submit an annual Application form and to subsequently report each shipment that is diverted to one of the other special purposes (or to cause an inspection

certificate to be issued if shipped into the fresh market). Potatoes shipped under this provision are exempt from the quality and inspection requirements until such potatoes are subsequently sold in the fresh market or diverted for any special purpose shipment.

Section 946.7 of the order authorizes, free of regulation, the transportation of ungraded potatoes within the production area for the purpose of having such potatoes prepared for market or stored. Since § 946.7 already provides the necessary authority for transporting potatoes within the production area free from regulation, the Committee recommended that the reference to "District No. 5" and to "Spokane County in District No. 1" be removed from §§ 946.336(d)(1)(vi) and 946.336(e)(2). Reference to these two districts was already absent from the language that refers to this special purpose in § 946.120. The specific authority for shipping potatoes to Umatilla and Morrow Counties in Oregon for special purposes is in § 946.54.

The Committee also reviewed the special purpose procedures for handling potatoes for export. The regulations in effect prior to this rule exempted potatoes for export from the quality and inspection requirements of the order, with the exception that potatoes packed in cartons grade at U.S. No. 1 or better. However, since most importing countries require a quality product, it has been common industry practice to have potatoes for export inspected for quality regardless of this exemption. The Committee believes that all Washington potatoes entering the export market should meet the minimum quality, cleanness, maturity, pack, and inspection requirements of the order, and that the regulations conform with industry practice. Therefore, the Committee recommended that potatoes for export no longer be included as a special purpose shipment exemption.

This change requires removal of §§ 946.120(a)(2), 946.336(d)(1)(vii), and 946.336(e)(5) from the order's rules and regulations. With export removed as a special purpose exemption, paragraphs (a)(3), (a)(4), and (a)(5) in § 946.120 are redesignated as paragraphs (a)(2), (a)(3), and (a)(4), respectively. Similarly, paragraphs (d)(1)(viii) and (e)(6) in § 946.336 are redesignated as §§ 946.336(d)(1)(vii) and 946.336(e)(5), respectively. Finally, § 946.336(d)(2) is revised to reflect these modifications and to correct an existing typographical error.

Sections 946.336(d)(1)(i) and 946.336(d)(2) of the handling regulations exempt potatoes shipped for livestock

feed from the quality, assessment, and inspection requirements of the order. However, there were no corresponding reporting requirements or safeguard provisions specified under §§ 946.120 or 946.336(e) for such shipments, although the Application form contained a check box for livestock feed. Because potatoes that are diverted to livestock feed are generally culls and thus unfit for any other market, the Committee believes such shipments should remain exempt from the quality, inspection, and assessment requirements of the order and that handlers should not be required to submit the Application or Report forms for such shipments.

The Committee thus recommended adding a new paragraph (e)(6) to § 946.336 (*Safeguards*) to clarify that handlers diverting potatoes to livestock feed are not required to submit the Application and Report forms. This change also potentially reduces the reporting burden on handlers and receivers of such potatoes.

The Committee recommendation also included changes to the procedures used for tracking potatoes shipped for charity. Potatoes shipped for charity are exempt from the quality, assessment, and inspection requirements. However, there were no safeguard or reporting requirements delineated in § 946.336. The Committee believes it is important to have reporting requirements to safeguard such shipments, and thus recommended adding a new paragraph (e)(7) to § 946.336 (*Safeguards*) to require that handlers shipping potatoes for charity submit both the Application and Report forms. Because the Committee believes that small gifts to charity should be encouraged, the safeguard and reporting requirements are changed to also specify that charitable contributions of 1,000 pounds or less are exempt from the application and reporting requirements. This will make diverting potatoes a less burdensome process for handlers. A conforming change noting the 1,000 pound provision is also being made to § 946.120(a)(1).

The additions to the special purpose shipment procedures for charitable contributions further specify that any handler of potatoes being diverted to charity also informs the recipient that the gift cannot be resold or otherwise placed into commercial market channels.

The Committee also recommended modifications to the special purpose shipment exemption for seed potato shipments. Section 946.336(d)(1)(iii) provides for an exemption from the quality, assessment, and inspection requirements of the order for potatoes

handled for seed. Although there were not any safeguard provisions or reporting requirements outlined in either § 946.120 or § 946.336, the previous version of the Application form contained a check box for handlers to mark when applying for a Special Purpose Shipment Certificate. However, after discussing the seed potato issue, the subcommittee's recommendation to the full Committee was to add authorization to require a Report from handlers, but not to require an Application form. The actual recommendation will add a new paragraph (e)(8) to § 946.336 (*Safeguards*) stating that handlers shipping potatoes for seed must furnish, at the request of the Committee, a report from handlers on the total volume of seed potatoes handled.

Seed potato handlers are almost always the producer of such potatoes, and generally only produce potatoes for seed. As such, the Committee does not want to require seed potato handlers to apply for a Special Purpose Certificate, but for statistical purposes, wanted to have a procedure in place for the submission of periodic reports. Although potatoes produced for seed are traditionally segregated from potatoes produced for other markets by the very nature of the cultural practices used by farmers and by the various state and federal seed regulations in place, the Committee believes this change will add clarity to the special purpose regulations.

The final change recommended by the Committee relates to § 946.336(g) *Inspection*. Language in this paragraph had referenced a form which is no longer issued by the Federal-State Inspection Service. This form had at one time been issued by the inspection service for accompaniment with any bulk-load potato shipments not relieved by any of the special purpose or minimum quantity exemptions of the order. Since such potato shipments require inspection under the order's provisions and thus should be accompanied by a valid inspection certificate, the Committee recommended removing the sentence from § 946.336(g) that refers to the "Shipping Clearance Report" form.

To ensure conformity with § 946.336, § 946.120 is updated by removing reference to the special purpose use "export", and adding reference to the special purpose use "canning, freezing, and other processing". Furthermore, as previously noted, a proviso is added to paragraph (1) of § 946.120 stating that charitable shipments of 1,000 pounds or less are exempt from the application process. Also, as noted earlier, minor

conforming changes have been made to the Committee's Application and Report forms.

### Final 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 action on small entities. Accordingly, AMS has prepared this final 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 51 handlers of Washington potatoes who are subject to regulation under the marketing order and approximately 272 potato producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$6,000,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000.

During the 2003–2004 marketing year 10,652,495 hundredweight of Washington potatoes were inspected under the order and sold into the fresh market. Based on an estimated average f.o.b. price of \$7.45 per hundredweight, the Committee estimates that 48 handlers, or about 94 percent, had annual receipts of less than \$6,000,000.

In addition, based on information provided by the National Agricultural Statistics Service, the average producer price for Washington potatoes for the 2003 marketing year (the most recent period that final statistics are available) was \$5.25 per hundredweight. The average annual producer revenue for each of the 272 Washington potato producers is therefore calculated to be approximately \$205,609. In view of the foregoing, the majority of the Washington potato producers and handlers may be classified as small entities.

This rule modifies the reporting requirements, procedures, and safeguard provisions for making certain special purpose potato shipments as prescribed under §§ 946.120, 946.336(d) and 946.336(e) of the order. The Committee recommended several changes to the order's special purpose regulations, and conforming changes to the Application

and Report forms. These changes will help facilitate the marketing of certain types of potato shipments, while also enhancing the Committee's compliance efforts. The authority for the special purpose shipments and safeguard requirements is provided in §§ 946.54 and 946.55, respectively, of the order.

The Committee believes that these changes will minimally impact handlers and producers in terms of cost. While there are some changes that could require a few handlers of exported potatoes to undergo inspections when they may not have previously, most of the changes will actually lessen the regulatory and reporting burden on the industry while clarifying the special purpose shipment reporting and safeguard requirements.

During its review of the handling regulations, the subcommittee discussed alternatives to these changes, and felt that the recommended changes adequately met the Committee's originally stated goals of reviewing and, if necessary, fine tuning the special purpose regulations. The Committee reviewed the subcommittee's recommendation carefully and unanimously concurred that, to facilitate the handling of special purpose shipments and to enhance its compliance program specific to such shipments, the changes would effectively improve its administration of the special purpose shipment exemptions.

This rule modifies the reporting requirements, procedures, and safeguard provisions for making certain special purpose potato shipments. Under the order, such special purpose shipments may be exempt from the quality, assessment, or inspection requirements. The modified regulations clarify and update the procedures handlers must follow to qualify for the special purpose exemptions. As previously noted, minor conforming changes have subsequently been made to two of the Committee's forms, the "Shippers Application for Special Purpose Certificate", and the "Special Purpose Shipment Report". Accordingly, this action will not impose any additional reporting or recordkeeping requirements on either small or large potato handlers. This information collection burden has been previously approved by the Office of Management and Budget (OMB) under OMB No. 0581–0178, Vegetable and Specialty Crops Marketing Orders. 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.

As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this final rule.

In addition, the Committee's meeting was widely publicized throughout the Washington 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 February 3, 2005, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on May 16, 2005 (70 FR 25790). Copies of the rule were mailed or sent via facsimile transmission to all Committee members and handlers. Finally, the rule was made available through the Internet by USDA and the Office of the Federal Register. A 30-day comment period ending June 15, 2005, was provided to allow interested persons to respond to the proposal. One response was received during that period. However, that response did not address the substance of this rule.

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.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) The Committee and Washington potato industry handlers want to take advantage of these regulatory improvements as soon as possible; (2) the Committee unanimously recommended these changes at a public meeting and all interested parties had an opportunity to provide input; and (3) handlers are aware of this action and are ready to operate under the changed procedures. Also, a 30-day comment period was provided for in the proposed rule and a response not relevant to the proposed rule was received.

List of Subjects in 7 CFR Part 946

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 946 is amended as follows:

PART 946—IRISH POTATOES GROWN IN WASHINGTON

■ 1. The authority citation for 7 CFR part 946 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In § 946.120, paragraph (a) is revised to read as follows:

§ 946.120 Application.

(a) Whenever shipments for special purposes pursuant to § 946.54 are relieved in whole or in part from regulations issued under § 946.52, each handler desiring to make shipments of potatoes for the following purposes shall submit an application to the committee, prior to initiating such shipments, for a special purpose certificate permitting such shipments:

(1) Charity: Provided, That handlers making shipments for charity of 1,000 pounds or less are exempt from these application requirements;

(2) Prepeeling;

(3) Canning, freezing, and “other processing”;

(4) Grading or storing at any specified location in Morrow or Umatilla Counties in the State of Oregon; and

(5) Experimentation.

\* \* \* \* \*

■ 3. Section 946.336 is amended by:

■ A. Revising paragraph (d)(1)(vi);

■ B. Removing paragraph (d)(1)(vii);

■ C. Redesignating paragraph (d)(1)(viii) as paragraph (d)(1)(vii);

■ D. Revising paragraph (d)(2);

■ E. Revising the introductory text of paragraph (e)(2);

■ F. Revising paragraph (e)(3)(iii);

■ G. Removing paragraph (e)(5);

■ H. Redesignating paragraph (e)(6) as paragraph (e)(5);

■ I. Adding a new paragraph (e)(6), (e)(7), and (e)(8); and

■ J. Revising paragraph (g)(1) to read as follows:

§ 946.336 Handling regulation.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(vi) Grading or storing at any specified location in Morrow or Umatilla Counties in the State of Oregon;

\* \* \* \* \*

(2) Shipments of potatoes for the purposes specified in paragraphs

(d)(1)(i) through (vii) of this section shall be exempt from the inspection requirements specified in paragraph (g) of this section, except that shipments pursuant to paragraph (d)(1)(vi) of this section shall comply with the inspection requirements of paragraph (e)(2) of this section. Shipments specified in paragraphs (d)(1)(i), (ii), (iii), (v) and (vii) of this section shall be exempt from assessment requirements as specified in § 946.248 and established pursuant to § 946.41

(e) \* \* \*

(2) Handlers desiring to ship potatoes for grading or storing to any specified location in Morrow or Umatilla Counties in the State of Oregon shall:

\* \* \* \* \*

(3) \* \* \*

(iii) Upon request by the committee, furnish reports, or cause reports to be furnished, for each shipment pursuant to the applicable Special Purpose Certificate;

\* \* \* \* \*

(6) Handlers diverting potatoes to livestock feed are not required to apply for a Special Purpose Certificate nor report such shipments to the committee.

(7) Each handler desiring to make shipments of potatoes for charity shall:

(i) First apply to the committee for, and obtain, a Special Purpose Certificate for the purpose of making shipments for charity: Provided, That shipments for charity of 1,000 pounds or less are exempt from the application and reporting requirements: And provided further, That potatoes previously graded, assessed, and inspected in preparation for shipment to the fresh market are exempt from the application and reporting requirements.

(ii) Each handler shipping potatoes to charity must inform the recipient that the potatoes cannot be resold or otherwise placed in commercial market channels.

(8) Each handler making shipments of seed potatoes shall furnish, at the request of the committee, reports on the total volume of seed potatoes handled.

\* \* \* \* \*

(g) \* \* \*

(1) Except when relieved by paragraphs (d) or (f) of this section, no person may handle any potatoes unless a Federal-State Inspection Notesheet or certificate covering them has been issued by an authorized representative of the Federal-State Inspection Service and the document is valid at the time of shipment.

\* \* \* \* \*

Dated: July 27, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–15170 Filed 8–1–05; 8:45 am]

BILLING CODE 3410–02–U

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 25

[Docket No. 05–11]

RIN 1557–AB98

FEDERAL RESERVE SYSTEM

12 CFR Part 228

[Regulation BB; Docket No. R–1225]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 345

RIN 3064–AC89

Community Reinvestment Act Regulations

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint final rule.

SUMMARY: The OCC, Board, and FDIC (collectively, “federal banking agencies” or “the agencies”) are issuing this joint final rule that revises certain provisions of our rules implementing the Community Reinvestment Act (CRA). The agencies are taking this action after carefully considering public comments received in response to the joint notice of proposed rulemaking published on March 11, 2005 (the “March proposal”). The joint final rule addresses regulatory burden imposed on small banks with an asset size between \$250 million and \$1 billion by exempting them from CRA loan data collection and reporting obligations. It also exempts such banks from the large bank lending, investment, and service tests, and makes them eligible for evaluation under the small bank lending test and a flexible new community development test. Holding company affiliation is no longer a factor in determining which CRA evaluation standards apply to a bank. In addition, the joint final rule revises the term “community development” to include activities to revitalize and stabilize distressed or underserved rural areas