

- (n) Konjac flour (CAS # 37220-17-0).
- (o) Lecithin—unbleached.
- (p) Lemongrass—frozen.
- (q) Orange shellac-unbleached (CAS # 9000-59-3).
- (r) Pectin (high-methoxy).
- (s) Peppers (Chipotle chile).
- (t) Starches.
- (1) Cornstarch (native).
- (2) Rice starch, unmodified (CAS # 977000-08-0)—for use in organic handling until June 21, 2009.
- (3) Sweet potato starch—for bean thread production only.
- (u) Turkish bay leaves.
- (v) Wakame seaweed (*Undaria pinnatifida*).
- (w) Whey protein concentrate.

Dated: June 22, 2007.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 07-3142 Filed 6-22-07; 3:00 pm]

BILLING CODE 3410-02-P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 948

[Docket No. AMS-FV-06-0180; FV06-948-610 Review]

#### Irish Potatoes Grown in Colorado; Section 610 Review

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

**ACTION:** Confirmation of regulations.

**SUMMARY:** This action summarizes the results under the criteria contained in section 610 of the Regulatory Flexibility Act (RFA), of an Agricultural Marketing Service (AMS) review of Marketing Order No. 948, regulating the handling of Irish potatoes grown in Colorado (order). AMS has determined that the order should be continued.

**ADDRESSES:** Interested persons may obtain a copy of the review. Requests for copies should be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938; e-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov) or Internet: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Teresa Hutchinson or Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Portland, Oregon 97204; Telephone: (503) 326-2724; Fax: (503) 326-7440; or e-mail:

[Teresa.Hutchinson@usda.gov](mailto:Teresa.Hutchinson@usda.gov) or [GaryD.Olson@usda.gov](mailto:GaryD.Olson@usda.gov).

**SUPPLEMENTARY INFORMATION:** Marketing Order No. 948, as amended (7 CFR part 948), regulates the handling of Irish potatoes grown in Colorado, hereinafter referred to as the “order.” The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the “Act.”

The State of Colorado is divided into three areas for marketing order purposes. Currently, only Area No. 2 and Area No. 3 are active.

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.

Area No. 2, commonly known as the 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.

Area No. 3, commonly known as Northern Colorado, 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.

The order establishes administrative committees for each of these areas (area committees).

The Area No. 2 administrative committee is comprised of 14 members and their respective alternates. Nine members represent producers and five members represent handlers. Two producers are from Rio Grande County, two producers are from either Saguache County or Chaffee County, one producer is from Conejos County, two producers are from Alamosa County, one producer represents all other counties in Area No. 2, and one producer represents certified seed producers in Area No. 2. Two handlers represent bulk handlers in Area No. 2 and three handlers represent handlers in Area No. 2 other than bulk handlers.

The Area No. 3 administrative committee is comprised of five members and their respective alternates. Three producers and two handlers represent producers and handlers from any county in Area No. 3.

With regulations in Area No. 1 suspended, there is currently no need for an Area No. 1 administrative committee.

The order also establishes the Colorado Potato Committee (CPC) which is comprised of six members and alternates selected by the Department of Agriculture (USDA). Three members

and three alternates are selected from nominations of Area No. 2 committee members or alternates, and three members and three alternates are selected from nominations of Area No. 3 committee members or alternates.

Currently, there are approximately 175 producers and 95 handlers of Colorado potatoes in both of the active areas. The majority of producers and handlers may be classified as small entities. The regulations implemented under the order are applied uniformly and designed to benefit all entities, regardless of size.

AMS published in the **Federal Register** on February 18, 1999 (64 FR 8014), a plan to review certain regulations, including Marketing Order No. 948, under criteria contained in section 610 of the RFA (5 U.S.C. 601-612). Updated plans were published in the **Federal Register** on January 4, 2002 (67 FR 525), August 14, 2003 (68 FR 48574), and again on March 24, 2006 (71 FR 14827). Accordingly, AMS published a notice of review and request for written comments on the Colorado potato marketing order in the February 21, 2006, issue of the **Federal Register** (71 FR 8810). The deadline for comments ended April 24, 2006. Two comments were received in support of the order, and are discussed later in this document.

The review was undertaken to determine whether the Colorado potato marketing order should be continued without being changed, amended, or rescinded to minimize the impacts on small entities. In conducting this review, AMS considered the following factors: (1) The continued need for the order; (2) the nature of complaints or comments received from the public concerning the order; (3) the complexity of the order; (4) the extent to which the order overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the order has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the order.

The order authorizes grade, size, quality, maturity, pack, and container regulations as well as inspection requirements. The grade, size, quality, maturity, and inspection regulations are also applied to imported potatoes under section 608e of the Act. The order also authorizes the area committees to establish projects including marketing research and development projects, designed to assist, improve, or promote the marketing, distribution, and consumption of potatoes.

These order requirements have helped ensure that only quality product reaches the consumer. Quality requirements have helped increase and maintain demand for Colorado potatoes over the years. The compilation and dissemination of statistical information has helped producers and handlers make production and marketing decisions. Funds to administer the order are obtained from handler assessments.

Regarding complaints or comments received from the public concerning the order, USDA received two comments, one each from the Area No. 2 and Area No. 3 Committees. Both comments were in favor of the continuation of the order and addressed each of the five factors under consideration by AMS.

Marketing order issues and programs are discussed at public meetings, and all interested persons are allowed to express their views. All comments are considered in the decision making process by the area committees and the USDA before any program changes are implemented.

In considering the order's complexity, AMS has determined that the order is not unduly complex.

During the review, the order was also checked for duplication and overlap with other regulations. AMS did not identify any relevant Federal rules, or State and local regulations that duplicate, overlap, or conflict with the marketing order for Colorado potatoes. There is a Colorado State marketing order for potatoes authorized to conduct programs similar to those under the Federal order. However, the State program cooperates with the Federal order to ensure that their efforts are not duplicative. For instance, the State order currently conducts production and marketing research and market promotion, which are authorized—but not being conducted—under the Federal order.

The order was established in August 1941. During the 65 years the order has been effective, AMS and the Colorado potato industry have continuously monitored marketing operations. Changes in regulations have been implemented to reflect current industry operating practices, and to solve marketing problems as they occur. The goal of periodic evaluations is to assure that the order and the regulations implemented under it fit the needs of the industry and are consistent with the Act.

The CPC and both area committees meet several times a year to discuss the order and the various regulations issued thereunder, and to determine if, or what, changes may be necessary to reflect current industry practices. As a

result, regulatory changes have been made numerous times over the years to address industry operation changes and to improve program administration. In addition, in 1960, the area committees made several recommendations to improve quality regulations and program operations through formal amendment of the order. An amendment hearing was subsequently held in Denver, Colorado, on February 1–2, 1960, to receive evidence regarding the recommendations. As a result, a referendum was held June 20–28, 1960, to determine producer support for the proposed amendments. The proposed amendments were favored by a majority of the producers voting in the referendum.

Based on the potential benefits of the order to producers, handlers, and consumers, AMS has determined that the Colorado potato marketing order should be continued. The order was established to help the Colorado potato industry work with USDA to solve marketing problems. The order regulations on grade, size, quality, maturity, pack, container, and marketing research and development activities continue to be beneficial to producers, handlers, and consumers. AMS will continue to work with the Colorado potato industry in maintaining an effective marketing order program.

Dated: June 21, 2007.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E7–12396 Filed 6–26–07; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1209

[Docket No. : AMS–FV–07–0019; FV–06–704 FR]

#### **Mushroom Promotion, Research, and Consumer Information Order; Reallocation of Mushroom Council Membership**

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule that reapportioned the membership of the Mushroom Council (Council) to reflect shifts in United States mushroom production. The final rule continues in effect the realignment of the Mushroom Promotion, Research,

and Consumer Information Order's (Order) four United States geographic regions, and reallocates Council member representation in two of the four United States geographic regions (Regions 1 and 4). The Council, which administers the Order, proposed the amendments in conformance with Order requirements to review—at least every 5 years and not more than every three years—the geographic distribution of United States mushroom production volume and import volume. These changes to the Council are effective for the Secretary of Agriculture's 2008 appointments.

**DATES:** Effective Date: July 27, 2007.

**FOR FURTHER INFORMATION CONTACT:** Daniel Manzoni, Marketing Specialist, or Sonia N. Jimenez, Chief, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, Stop 0244-Room 0634-S, 1400 Independence Avenue, SW., Washington, DC 20250–0244; telephone (202) 720–9915 or (888) 720–9917 (toll free); fax: (202) 205–2800; or e-mail: [daniel.manzoni@usda.gov](mailto:daniel.manzoni@usda.gov) or [sonia.jimenez@usda.gov](mailto:sonia.jimenez@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under the Mushroom Promotion, Research, and Consumer Information Order [7 CFR part 1209]. The Order is authorized under the Mushroom Promotion, Research, and Consumer Information Act of 1990 (Act) [7 U.S.C. 6101–6112].

#### **Executive Order 12866**

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

#### **Executive Order 12988**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have a retroactive effect and will not affect or preempt any other State or Federal law authorizing promotion or research relating to an agricultural commodity.

The Act provides that any person subject to the Order may file a written petition with the Department of Agriculture (Department) if they believe that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not established in accordance with law. In any petition, the person may request a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Department would rule on the petition. The Act provides that the district court of the United States in any district in which the petitioner resides