

# Rules and Regulations

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## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Part 2641

RIN 3209-AA14

#### Post-Employment Conflict of Interest Regulations; Exempted Senior Employee Positions; Withdrawal of Final Rule

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Withdrawal of final rule.

**SUMMARY:** The Office of Government Ethics is withdrawing the final rule "Post-Employment Conflict of Interest Regulations; Exempted Senior Employee Positions" published October 3, 2013, at 78 FR 61153.

**DATES:** *Effective Date:* The final rule published on October 3, 2013, at 78 FR 61153 is withdrawn, effective November 25, 2013.

**FOR FURTHER INFORMATION CONTACT:** Christopher J. Swartz, Assistant Counsel, Ethics Law & Policy Branch, Office of Government Ethics; telephone: 202-482-9300; TTY: 800-877-8339; FAX: 202-482-9237.

**SUPPLEMENTARY INFORMATION:** On October 3, 2013, the U.S. Office of Government Ethics (OGE) published a final rule in the **Federal Register**, at 78 FR 61153, concerning the revocation of certain regulatory exemptions of senior employee positions at the Securities and Exchange Commission (SEC) from the one-year post-employment restrictions of 18 U.S.C. 207(c) and (f). Pursuant to the rulemaking action taken on October 3, 2013, the revocation of regulatory exemptions for covered positions at the SEC, as well as the removal of those exempted positions from Appendix A to 5 CFR part 2641, was to be effective on January 2, 2014. At the request of the SEC, OGE is now withdrawing its final rule of October 3, 2013, to allow the SEC time to effectively educate affected

employees before the exemption revocation takes effect. For that reason, the notice of revocation is being rescinded and the final rule withdrawn. Positions that would have been affected by the issuance of October 3, 2013, shall continue to be exempted from the prohibitions of 18 U.S.C. 207(c) and (f), until 90 days from such time that OGE republishes notice of revocation in the **Federal Register**. OGE anticipates republishing this notice and final rule in January 2014.

Approved: November 19, 2013.

**Walter M. Shaub, Jr.,**

*Director, Office of Government Ethics.*

[FR Doc. 2013-28156 Filed 11-22-13; 8:45 am]

**BILLING CODE 6345-03-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 948 and Part 980

[Doc. No. AMS-FV-13-0001; FV13-948-1 FIR]

#### Irish Potatoes Grown in Colorado; Modification of the General Cull and Handling Regulation for Area No. 2

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

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that modified the size requirements for potatoes handled under the Colorado potato marketing order, Area No. 2 (order). The order regulates the handling of Irish potatoes grown in Colorado and is administered locally by the Colorado Potato Administrative Committee, Area No. 2 (Committee). The interim rule revised the 1-inch minimum to 1<sup>3</sup>/<sub>4</sub>-inch maximum diameter size allowance for U.S. Commercial and better grade potatoes contained in the order's handling regulation for Area No. 2 to <sup>3</sup>/<sub>4</sub>-inch minimum to 1<sup>5</sup>/<sub>8</sub>-inch maximum diameter. In addition, this action revised the minimum size requirement under the order's general cull regulation to <sup>3</sup>/<sub>4</sub>-inch diameter. As required under section 8e of the Agricultural Marketing Agreement Act of 1937, this action also revised the size requirements for imported round type potatoes, other

than red-skinned varieties. This change is expected to facilitate the handling and marketing of the Area No. 2 potato crop; provide producers, handlers, and importers with increased returns; and offer consumers increased potato purchasing options.

**DATES:** Effective November 26, 2013.

**FOR FURTHER INFORMATION CONTACT:** Sue Coleman, Marketing Specialist, or Gary D. Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (503) 326-2724, Fax: (503) 326-7440, or Email: [Sue.Coleman@ams.usda.gov](mailto:Sue.Coleman@ams.usda.gov) or [GaryD.Olson@ams.usda.gov](mailto:GaryD.Olson@ams.usda.gov).

Small businesses may obtain information on complying with this and other marketing order and agreement regulations by viewing a guide at the following Web site: <http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide/>; or by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or Email: [Jeffrey.Smutny@ams.usda.gov](mailto:Jeffrey.Smutny@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 97 and Marketing Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado and 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."

This rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including potatoes, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

The handling of potatoes grown in Area No. 2 of Colorado is regulated by

7 CFR part 948. Prior to this change, the smallest potatoes that could be shipped outside the state of Colorado under the order were 1-inch to 1 $\frac{3}{4}$ -inch diameter potatoes that met or exceeded the requirements of the U.S. Commercial grade. Potatoes measuring less than 1-inch could not be shipped outside the state, regardless of grade. This restrictive requirement precluded the Colorado Area No. 2 handlers from supplying an emerging market for smaller size U.S. Commercial grade potatoes. Therefore, this rule continues in effect the interim rule that relaxed the allowable minimum diameter for U.S. Commercial and better grade potatoes to  $\frac{3}{4}$ -inch, which is in line with the minimum size requirements contained in the handling regulations of the other domestic potato marketing orders.

Additionally, prior to this change, the order's general cull regulation required all potatoes handled under the order to meet the minimum requirements of the U.S. No. 2 grade, or be greater than 1 $\frac{1}{2}$ -inches in diameter. For marketing purposes, the general cull regulations need to be consistent with the handling regulations. Therefore, this rule also continues in effect the interim rule that relaxed the minimum size requirement under the order's general cull regulation to  $\frac{3}{4}$ -inch diameter.

Imported potatoes are subject to regulations specified in 7 CFR part 980. Under those regulations, imported potatoes must meet the same or comparable grade, size, quality, and maturity requirements as specified for domestic potatoes under the order. Therefore, the relaxation of the size requirements effectuated by this rule for domestic potatoes covered by the order likewise relaxes the size requirements for U.S. Commercial and better grade round type potatoes, other than red-skinned varieties, that are imported into the United States. Importers may now ship Creamer size ( $\frac{3}{4}$ -inch minimum to 1 $\frac{5}{8}$ -inch maximum diameter) U.S. Commercial and better grade round type potatoes, other than red-skinned varieties, into the United States.

In an interim rule (Doc. No. AMS-FV-13-0001; FV13-948-1 IR) published in the **Federal Register** on June 14, 2013, and effective on June 15, 2013 (78 FR 35743), § 948.126 was amended by changing the minimum diameter for potatoes handled under the order from 1 $\frac{1}{2}$ -inch to  $\frac{3}{4}$ -inches. Likewise, § 948.386 was modified by relaxing the size allowance for U.S. Commercial and better grade potatoes from 1-inch minimum to 1 $\frac{3}{4}$ -inch maximum diameter to  $\frac{3}{4}$ -inch minimum to 1 $\frac{5}{8}$ -inch maximum diameter (Creamer size).

### Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), 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 businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 80 handlers of Colorado Area No. 2 potatoes subject to regulation under the order and approximately 180 producers in the regulated production area. In addition, there are approximately 571 potato importers. Small agricultural service firms are defined by the Small Business Administration as those having annual receipts of less than \$7,000,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000. (13 CFR 121.201)

During the 2011–2012 marketing year, the most recent full marketing year for which statistics are available, 15,072,963 hundredweight of Colorado Area No. 2 potatoes were inspected under the order and sold into the fresh market. Based on an estimated average f.o.b. price of \$12.60 per hundredweight, the Committee estimates that 66 Area No. 2 handlers, or about 83 percent, had annual receipts of less than \$7,000,000. In view of the foregoing, the majority of Colorado Area No. 2 potato handlers may be classified as small entities.

In addition, based on information provided by the National Agricultural Statistics Service, the average producer price for the 2011 Colorado fall potato crop was \$10.70 per hundredweight. Multiplying \$10.70 by the shipment quantity of 15,072,963 hundredweight yields an annual crop revenue estimate of \$161.281 million. Therefore, the average annual fresh potato revenue for each of the 180 Colorado Area No. 2 potato producers is calculated to be approximately \$896,000 (\$161.281 million divided by 180), which is greater than the SBA threshold of \$750,000. Consequently, on average, many of the Area No. 2 Colorado potato producers may not be classified as small entities.

Information from the Foreign Agricultural Service, USDA, indicates that the dollar value of imported fresh potatoes averaged \$128.962 million over the past five years, ranging from a low of approximately \$106.502 million in 2012 to a high of approximately \$155.358 million in 2008. Using these values, it is estimated that the majority of the 571 potato importers have annual receipts of less than \$7 million and may be classified as small entities.

This rule continues in effect the action that relaxed the size allowance for U.S. Commercial and better grade potatoes in the order's handling regulation and modified the size requirement in the order's general cull regulation. Prior to this action, the smallest size range allowed to be handled under the order was 1-inch minimum diameter to 1 $\frac{3}{4}$ -inch maximum diameter if the potatoes were otherwise U.S. Commercial or better grade. As a result of this rule, Creamer size ( $\frac{3}{4}$ -inch to 1 $\frac{5}{8}$ -inch diameter) U.S. Commercial and better grade potatoes may now be handled under the order. Additionally, the minimum size requirement under the order's general cull regulation was changed from 1 $\frac{1}{2}$ -inch to  $\frac{3}{4}$ -inch diameter. All other size requirements in the order's handling regulation remain unchanged. Authority for this action is contained in §§ 948.20, 948.21, and 948.22.

This relaxation is expected to benefit the producers, handlers, importers, and consumers of potatoes by allowing a greater quantity of fresh potatoes to enter the market. This anticipated increase in volume is expected to translate into greater returns for producers, handlers, and importers, and more purchasing options for consumers.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178 (Generic Vegetable and Specialty Crops). No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large potato handlers and importers. 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. In addition, USDA has not identified any

relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Colorado Area No. 2 potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the December 20, 2012, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

Comments on the interim rule were required to be received on or before August 13, 2013. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to: <http://www.regulations.gov/#!documentDetail;D=AMS-FV-13-0001-0001>.

This action also affirms information contained in the interim rule concerning Executive Orders 12866 and 12988, the Paperwork Reduction Act (44 U.S.C. Chapter 35), and the E-Gov Act (44 U.S.C. 101).

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this rule.

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (78 FR 35743, June 14, 2013) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

Accordingly, the interim rule that amended 7 CFR part 948 and that was published at 78 FR 35743 on June 14, 2013, is adopted as a final rule, without change.

Dated: November 18, 2013

**Rex A. Barnes,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2013-28067 Filed 11-22-13; 8:45 am]

**BILLING CODE 3410-02-P**

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 213

[Docket No. R-1469]

## BUREAU OF CONSUMER FINANCIAL PROTECTION

### 12 CFR Part 1013

[Docket No. CFPB-2013-0034]

#### Consumer Leasing (Regulation M)

**AGENCY:** Board of Governors of the Federal Reserve System (Board); and Bureau of Consumer Financial Protection (Bureau).

**ACTION:** Final rules, official interpretations and commentary.

**SUMMARY:** The Board and the Bureau are publishing final rules amending the official interpretations and commentary for the agencies' regulations that implement the Consumer Leasing Act (CLA). The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended the CLA by requiring that the dollar threshold for exempt consumer leases be adjusted annually by any annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). Based on the annual percentage increase in the CPI-W as of June 1, 2013, the Board and the Bureau are adjusting the exemption threshold to \$53,500, effective January 1, 2014. Because the Dodd-Frank Act also requires similar adjustments in the Truth in Lending Act's threshold for exempt consumer credit transactions, the Board and the Bureau are making similar amendments to each of their respective regulations implementing the Truth in Lending Act elsewhere in the **Federal Register**.

**DATES:** This final rule is effective January 1, 2014.

#### FOR FURTHER INFORMATION CONTACT:

**Board:** Vivian W. Wong, Counsel, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452-3667; for users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

**Bureau:** David Friend, Counsel, Office of Regulations, Bureau of Consumer Financial Protection, at (202) 435-7700.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) increased the threshold in the Consumer Leasing Act (CLA) for exempt consumer leases from

\$25,000 to \$50,000, effective July 21, 2011.<sup>1</sup> In addition, the Dodd-Frank Act requires that this threshold be adjusted annually for inflation by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), as published by the Bureau of Labor Statistics. In April 2011, the Board issued a final rule amending Regulation M (which implements the CLA) consistent with these provisions of the Dodd-Frank Act.<sup>2</sup>

Title X of the Dodd-Frank Act transferred rulemaking authority for a number of consumer financial protection laws from the Board to the Bureau, effective July 21, 2011. In connection with this transfer of rulemaking authority, the Bureau issued its own Regulation M implementing the CLA in an interim final rule, 12 CFR part 1013 (Bureau Interim Final Rule).<sup>3</sup> The Bureau Interim Final Rule substantially duplicated the Board's Regulation M, including the revisions to the threshold for exempt transactions made by the Board in April 2011. Although the Bureau has the authority to issue rules to implement the CLA for most entities, the Board retains authority to issue rules under the CLA for certain motor vehicle dealers covered by section 1029(a) of the Dodd-Frank Act, and the Board's Regulation M continues to apply to those entities.<sup>4</sup>

Section 213.2(e)(1) of the Board's Regulation M and § 1013.2(e)(1) of the Bureau's Regulation M, and their accompanying commentaries, provide that the exemption threshold will be adjusted annually effective January 1 of

<sup>1</sup> Public Law 111-203 § 1100E, 124 Stat. 1376 (2010).

<sup>2</sup> 76 FR 18349 (Apr. 4, 2011).

<sup>3</sup> 76 FR 78500 (Dec. 19, 2011).

<sup>4</sup> Section 1029(a) of the Dodd-Frank Act states: "Except as permitted in subsection (b), the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority \* \* \* over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both." 12 U.S.C. 5519(a). Section 1029(b) of the Dodd-Frank Act states: "Subsection (a) shall not apply to any person, to the extent that such person (1) provides consumers with any services related to residential or commercial mortgages or self-financing transactions involving real property; (2) operates a line of business (A) that involves the extension of retail credit or retail leases involving motor vehicles; and (B) in which (i) the extension of retail credit or retail leases are provided directly to consumers; and (ii) the contract governing such extension of retail credit or retail leases is not routinely assigned to an unaffiliated third party finance or leasing source; or (3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service." 12 U.S.C. 5519(b).