

Rules and Regulations

Federal Register

Vol. 86, No. 35

Wednesday, February 24, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 407 and 457

RIN 0563–AC70

[Docket ID FCIC–20–0008]

Area Risk Protection Insurance Regulations; Common Crop Insurance Policy Basic Provisions; Common Crop Insurance Regulations, Sunflower Seed Crop Insurance Provisions; and Common Crop Insurance Regulations, Dry Pea Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Correcting amendment.

SUMMARY: On November 30, 2020, the Federal Crop Insurance Corporation published a final rule which revised the Area Risk Protection Insurance Regulations; Common Crop Insurance Policy Basic Provisions; Common Crop Insurance Regulations, Sunflower Seed Crop Insurance Provisions; and Common Crop Insurance Regulations, and Dry Pea Crop Insurance Provisions. Changes were published in the final rule that were inadvertently not incorporated when the changes were made in the Code of Federal Regulations (CFR) as currently reflected in the electronic CFR. This rule makes those corrections.

DATES: *Effective:* February 24, 2021.

FOR FURTHER INFORMATION CONTACT: Francie Tolle; telephone (816) 926–7730; email francie.tolle@usda.gov. Persons with disabilities who require alternative means of communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

We published a final rule in the **Federal Register** on November 30, 2020, (85 FR 76420–76428), that included changes to the Cancellation and

Termination Dates in the Sunflower Seed Crop Insurance provisions and the Insurance Period in the Dry Pea Crop Insurance provisions. Changes were published in the final rule that were inadvertently not incorporated when the changes were made in the Code of Federal Regulations (CFR) as currently reflected in the electronic CFR.

Additionally, there was a typo in one of the changes. This rule makes the required corrections.

This correction is being published to correct section 4, Cancellation and Termination Dates, in the Sunflower Seed Crop Insurance Provisions. The table that provided specific state and county cancellation and termination dates was inadvertently omitted. Additionally, a comma is being removed in section 11, Settlement of Claim. The correction to the Dry Pea Crop Insurance Provisions will replace the phrase “the sales closing date” with “its sales closing date” that was inadvertently omitted in section 7, Insured Crop. Additionally, the word “types” was inadvertently included twice in a row in section 9, Insurance Period; that section is being edited to remove the repetitive word.

List of Subjects in 7 CFR Part 457

Acreage allotments, Crop insurance, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 457 is corrected by making the following correcting amendments:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(o).

■ 2. Amend § 457.108 by:

■ a. Revising section 4;

■ b. In section 11, in paragraph (d)(3)(i), removing the comma following the phrase “or conditions”.

The revision reads as follows:

§ 457.108 Sunflower seed crop insurance provisions.

* * * * *

4. Cancellation and Termination Dates.

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are:

State and county	Cancellation and termination dates
Hidalgo, Jim Wells, Nueces, and Starr Counties, Texas.	January 31.
All other Texas counties and all other States.	March 15.

* * * * * § 457.140 Amended]

■ 3. Amend § 457.140 by:

■ a. In section 7, in paragraph (c), removing the phrase “the sales closing date” and add the phrase “its sales closing date” in its place.

■ b. In section 9, in paragraph (a), removing the phrase “spring-planted types types” and add “spring-planted types” in its place.

Richard Flournoy,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 2021–03502 Filed 2–23–21; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 946

[Doc. No. AMS–SC–20–0062; SC20–946–1 FR]

Irish Potatoes Grown in Washington; Suspension of Reporting and Assessment Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule suspends the reporting and assessment requirements prescribed under the marketing order regulating Irish potatoes grown in Washington. In a separate action, the State of Washington Potato Committee recommended termination of the marketing order. This final rule indefinitely suspends the reporting and assessment requirements of the marketing order during the period that USDA is processing the termination request.

DATES: Effective March 26, 2021 §§ 946.143 and 946.248 are stayed indefinitely.

FOR FURTHER INFORMATION CONTACT: Gregory A. Breasher, Marketing

Specialist, or Gary Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326-2724 or Email: Gregory.Breasher@usda.gov or GaryD.Olson@usda.gov.

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, or Email: Richard.Lower@usda.gov.

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This final rule is issued under Marketing Order No. 946, as amended (7 CFR part 946), regulating the handling of Irish potatoes grown in Washington. Part 946 (referred to as 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 Washington Potato Committee (hereinafter referred to as the “Committee”) locally administers the Order and is comprised of producers and handlers of Irish potatoes operating within the production area.

The Department of Agriculture (USDA) is issuing this final rule in conformance with Executive Orders 13563 and 13175. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule is not intended to have retroactive effect.

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 a marketing order may file with USDA a petition stating that the marketing order, any provision of the marketing order, or any obligation imposed in connection with the marketing order is not in accordance with law and request a modification of the marketing 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.

The Committee meets regularly to consider recommendations for modification, suspension, or termination of the Order’s regulatory requirements. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA reviews Committee recommendations, including information provided by the Committee and from other available sources, and determines whether modification, suspension, or termination of the regulatory requirements will tend to effectuate the declared policy of the Act.

On June 11, 2020, the Committee met and, after much deliberation, unanimously recommended that USDA terminate the Order. Additionally, the Committee recommended that the Order’s reporting and assessment requirements—the only regulatory activities of the Order in effect at the time—be suspended while the recommendation for termination is being processed by USDA. The termination is a separate regulatory action from the suspension of administrative requirements.

Section 946.41 of the Order provides authority for the Committee to assess handlers for their pro rata share of the Committee expenses authorized each fiscal period. Section 946.70 of the Order authorizes the Committee to collect reports and other information necessary for the Committee to perform its duties under the Order. This rule suspends—or “stays”—§ 946.248, which establishes a continuing assessment rate of \$0.0025 per hundredweight, effective for the 2013–2014 and subsequent fiscal periods, and § 946.143, which requires monthly reporting of fresh potato shipments from the production area.

The Order has been in effect since 1949, providing the Washington potato industry authority for grade, size, quality, maturity, pack, and container requirements, as well as authority for inspection requirements. Based on the Committee’s recommendation in 2010, USDA suspended the Order’s handling requirements for Russet potatoes. The Committee believed that the costs of inspection outweighed the benefits provided from having the Order’s regulatory requirements in effect for that type potato.

In 2013, also upon the recommendation of the Committee, USDA suspended handling requirements temporarily, through June 30, 2014, for all yellow flesh and white type potatoes. The Committee believed

that the costs of inspection outweighed the benefits provided from regulation for these type potatoes as well.

In 2014, the handling requirements for red type potatoes were indefinitely suspended. Also in 2014, the temporary suspension of handling requirements for yellow flesh and white types was extended indefinitely. The sum of the previous actions effectively suspended the handling requirements for all types of Washington potatoes after the 2013–2014 marketing year. The Committee believed operating without handling regulation offered Washington potato handlers a cost savings through the elimination of mandatory inspection fees. Also, the Committee had determined that the potential negative market impact of operating without mandatory quality and inspection requirements was minimal.

Following the suspension of the handling requirements in 2014, the Committee continued to levy assessments and to maintain its administrative function. The Committee believed that it should continue to fund its full operational capability, collect industry statistics on an ongoing basis, and maintain the program if regulating quality was again deemed necessary.

The Committee met on June 11, 2020, to discuss the status of the Washington potato industry and the relevance of the Order. The Committee determined that the suspension of the Order’s handling requirements has not negatively impacted the industry and that there is no longer a need for the Order. Also, the Committee concluded that the collection of information under the Order’s authority is redundant, as the Washington Potato Commission has similar handler reporting requirements as the Order, and that the statistical information collected by the Commission is provided to the industry. Thus, the Committee unanimously recommended terminating the Order.

In addition, the Committee determined that there is no need to continue collecting assessments and requiring reports while USDA considers its termination recommendation. Therefore, the Committee also unanimously recommended that the assessment and reporting requirements of the Order be immediately suspended. This action relieves handlers of the assessment and reporting burden during the pendency of the termination process.

At the June meeting, the Committee recommended a budget of \$41,150 for the indefinite period leading up to the termination of the Order. The budgeted amount was established based on the funds remaining in the Committee’s

monetary reserve and expected future expenses. The budget, in its entirety, will provide for such operating expenses as are necessary during the termination process, including a final financial review and management compensation.

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 final rule 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 250 producers of Washington potatoes and approximately 26 fresh potato handlers in the production area subject to regulation by the Order.

Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$30,000,000, and small agricultural producers are defined as those having annual receipts of less than \$1,000,000.

According to USDA Market News, the average shipping point price for fresh Washington potatoes during the 2019 shipping season was approximately \$15.79 per hundredweight. The Committee reported 2019–2020 marketing year fresh potato shipments were 9,687,170 hundredweight. Using the average price and shipment information along with the number of handlers, average annual receipts for a handler were significantly less than \$30,000,000 (\$15.79 times 9,687,170 hundredweight equals \$152,960,414, divided by 26 handlers equals \$5,883,093 per handler).

In addition, USDA National Agricultural Statistics Service reported an average producer price of \$8.20 per hundredweight for the 2019 crop. Given the number of Washington potato producers, the average annual producer revenue is well below \$1,000,000 (\$8.20 times 9,687,170 hundredweight equals \$79,434,794, divided by 250 producers equals \$317,739 per producer). Therefore, most handlers and producers

of fresh Washington potatoes may be classified as small agricultural businesses.

This final rule suspends the reporting and assessment requirements of the Order. The handler reporting requirement that is suspended is the monthly collection of Washington fresh potato shipment information. The assessment rate that is suspended is the \$0.0025 per hundredweight rate that was established beginning July 1, 2013. The Committee also recommended a budget of expenditures of \$41,150 for the period beginning July 1, 2020 and ending with termination of the Order. The budget was based on the Committee's estimated financial resources on June 30, 2020. Budgeted expenditures include administrative expenses and a final financial review.

The Committee made the recommendation to suspend the reporting and assessment requirements as an adjunct to the recommendation to terminate the Order. As such, the only other alternative discussed by the Committee was to maintain the status quo, continue to assess handlers, and to require monthly handling reports. After consideration, the Committee determined that the Order is no longer beneficial to the industry and that the best recourse was to cease operations and terminate the Order.

This action suspends the Order's reporting and assessment obligations imposed on handlers. When in effect, assessments are applied uniformly on all handlers, and some of those costs may be passed on to producers. Suspension of the reporting and assessment requirements reduces the regulatory burden on handlers and is also expected to reduce the burden on producers.

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 OMB and assigned OMB No. 0581–0178 Vegetable and Specialty Crops. This final rule suspends those information collection requirements, and any reporting and recordkeeping requirements under the Order.

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 final rule.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

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 June 11, 2020, meeting was a public meeting, and all entities, both large and small, were able to express their views on these issues.

A proposed rule concerning this action was published in the **Federal Register** on October 13, 2020 (85 FR 64415). Copies of the proposal were provided by the Committee to members and handlers. Finally, the proposed rule was made available through the internet by USDA and the Office of the Federal Register. A 60-day comment period ending December 14, 2020, was provided to allow interested persons to respond to the proposal. No comments were submitted. Accordingly, no changes have been made to the rule as proposed.

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/rules-regulations/moa/small-businesses>. Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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

List of Subjects in 7 CFR Part 946

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agriculture Marketing Service amends 7 CFR part 946 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.

§§ 946.143 and 946.248 [Stayed]

■ 2. Stay §§ 946.143 and 946.248 indefinitely.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2021-03528 Filed 2-23-21; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 1206**

[Document No. AMS-SC-20-0086]

Mango Promotion, Research and Information Order; Removal of Frozen Mangos

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the Mango Promotion, Research and Information Order (Order) by removing the provisions of frozen mangos as a covered commodity. The Order is administered by the National Mango Board (Board) with oversight by the U.S. Department of Agriculture (USDA). In a referendum, first handlers and importers voted to remove frozen mangos as a covered commodity under the Order. This rule will remove frozen mangos as a covered commodity, discontinue the collection of assessments on frozen mangos, remove frozen mango entity representation on the Board, and make necessary conforming changes.

DATES:

Effective date: February 25, 2021. Assessment collection on frozen mangos will discontinue on the effective date of this rule.

Comments due: Comments which are received by April 26, 2021 will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. All comments must be submitted through the Federal e-rulemaking portal at: <http://www.regulations.gov> and should reference the document number and the date and page number of this issue of the **Federal Register**. All comments submitted in response to this rule will be included in the rulemaking record and will be made available to the public. Please be advised that the identity of individuals or entities submitting comments will be made

public on the internet at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Marlene Betts, Marketing Specialist, Promotion and Economics Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Room 1406-S, Stop 0244, Washington, DC 20250-0244; telephone: (202) 720-5057; or email: Marlene.Betts@usda.gov.

SUPPLEMENTARY INFORMATION: This rule affecting 7 CFR part 1206 (the Order) is authorized under the Commodity Promotion, Research, and Information Act of 1996 (1996 Act) (7 U.S.C. 7411-7425).

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

Executive Order 12988

In addition, this rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have a retroactive effect. Section 524 of the 1996 Act (7 U.S.C. 7423) provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the 1996 Act (7 U.S.C. 7418), a person subject to an order issued under the Act may file a written petition with USDA stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with the law, and request a modification of the order or an exemption from the order. Any petition

filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

Background

The Mango Promotion, Research, and Information Order (Order) took effect in November 2004 (69 FR 59120), and assessment collection began in January 2005 for fresh mangos. The Order is administered by the National Mango Board (Board) with oversight by the U.S. Department of Agriculture. Currently, the program is funded by assessments on first handlers and importers of fresh and frozen mangos, and is focused on maintaining and expanding existing markets and uses for fresh and frozen mangos through its research, promotion and information efforts.

Frozen mangos as a covered commodity was added to the Order on February 21, 2019 (84 FR 5335), and a referendum was held in 2019 to determine whether the industry favored the inclusion of frozen mangos as a covered commodity under the Order. In the 2019 referendum, 52.5 percent of first handlers and importers of fresh and frozen mangos were in favor of the amendment to add frozen mangos to the Order. Since the vote passed by a small margin, the frozen mango industry asked the Board to conduct another referendum on whether frozen mangos should continue as a covered commodity under the Order.

The Order prescribes that every five years, the USDA conduct a referendum to determine if first handlers and importers of mangos favor the continuation of the Order. Such a referendum was required to be conducted in 2020. At the Board's September 2019 meeting, it was unanimously recommended to the USDA to add a second question to the continuance referendum ballot concerning frozen mangos as a covered commodity. USDA conducted a referendum from September 21 through October 9, 2020, among eligible first handlers and importers to (1) ascertain whether the continuance of the Order is