

Regarding the impact of this action on the affected entities, both large and small entities are expected to benefit from the changes, and the costs of compliance are not expected to be significantly different between large and small entities.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large nectarine or peach handlers. 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, as stated in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the committees' meetings were widely publicized throughout the nectarine and peach industry and all interested parties were invited to attend the meetings and participate in Committee deliberations. The committees have appointed a number of joint subcommittees to review certain issues and make recommendations to the committees. The Compliance Subcommittee met on November 3, 2009, and discussed this issue in detail. Their recommendations were presented at the meetings of both committees on December 10, 2009. Like all committee meetings, the November 3, 2009 and December 10, 2009, meetings were public meetings 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 June 4, 2010. 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/search/Regs/home.html#documentDetail?R=0900006480acfc3e>.

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).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (75 FR 17027, April 5, 2010) will tend to effectuate the declared policy of the Act.

## List of Subjects

### 7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

### 7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

## PARTS 916 AND 917—[AMENDED]

■ Accordingly, the interim rule that amended 7 CFR parts 916 and 917 and that was published at 75 FR 17027 on April 5, 2010, is adopted as a final rule, without change.

Dated: June 29, 2010.

**Robert C. Keeney,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2010-16342 Filed 7-2-10; 8:45 am]

## BILLING CODE P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 948

[Doc. No. AMS-FV-08-0115; FV09-948-2 IFR]

#### Irish Potatoes Grown in Colorado; Relaxation of Handling Regulation for Area No. 3

**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 relaxed the size requirement prescribed under the Colorado potato marketing order. The interim rule provided for the handling of all varieties of potatoes with a minimum diameter of  $\frac{3}{4}$  inch, if the potatoes otherwise meet U.S. No. 1 grade. This change is intended to provide potato handlers with greater marketing flexibility, producers with increased returns, and consumers with a greater supply of potatoes.

**DATES:** Effective July 7, 2010.

#### FOR FURTHER INFORMATION CONTACT:

Teresa Hutchinson or Gary Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Telephone: (503) 326-2724, Fax: (503) 326-7440, or E-mail: [Teresa.Hutchinson@ams.usda.gov](mailto:Teresa.Hutchinson@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/AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide>; or by contacting Antoinette Carter, 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: [Antoinette.Carter@ams.usda.gov](mailto:Antoinette.Carter@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR part 948), regulating 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 Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

The handling of Irish potatoes grown in Colorado is regulated by 7 CFR part 948. Prior to this change, the regulations for Colorado Area No. 3 potatoes provided that U.S. No. 2 grade potatoes,  $1\frac{7}{8}$  inches minimum diameter or 4 ounces minimum weight, and Size B potatoes ( $1\frac{1}{2}$  to  $2\frac{1}{4}$  inches in diameter), if U.S. No. 1 grade or better, may be handled.

The Committee believes that in recent years consumer demand has been increasing for smaller potatoes which often command premium prices. The market for these smaller potatoes was primarily supplied by potato production areas outside Colorado Area No. 3. Having the ability to handle smaller potatoes enables Colorado Area No. 3 potato handlers to market a larger portion of their crop while satisfying consumer demand for smaller potatoes. Therefore, this rule continues in effect the rule that relaxed the size requirement for all varieties of Colorado Area No. 3 potatoes by allowing the handling of potatoes with a minimum diameter of  $\frac{3}{4}$  inch, if the potatoes otherwise meet U.S. No. 1 Grade.

In an interim rule published in the **Federal Register** on April 5, 2010, and effective on April 6, 2010, (75 FR 17034, Doc. No. AMS-FV-08-0115, FV09-948-2 IFR), § 948.387, paragraph (a) was revised.

### 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 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.

Based on Committee data, there are nine producers (eight of whom are also handlers) in the regulated area and nine handlers (eight of whom are also producers) subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$750,000, and small agricultural service firms are defined as those having annual receipts of less than \$7,000,000.

Also based on Committee data, 825,617 hundredweight of Colorado Area No. 3 potatoes were produced for the fresh market during the 2007 season. Based on National Agricultural Statistics Service (NASS) data, the average producer price for Colorado summer potatoes for 2007 was \$7.75 per hundredweight. The average annual producer revenue for the nine Colorado Area No. 3 potato producers is therefore calculated to be approximately \$710,948. Using Committee data regarding each individual handler's total shipments during the 2007–2008 fiscal period and a Committee estimated average f.o.b. price for 2007 of \$9.95 per hundredweight (\$7.75 per hundredweight plus estimated packing and handling costs of \$2.20 per hundredweight), all of the Colorado Area No. 3 potato handlers ship under \$7,000,000 worth of potatoes. Thus, the majority of handlers and producers of Colorado Area No. 3 potatoes may be classified as small entities.

This rule continues in effect the action that provided for the handling of all varieties of potatoes with a minimum diameter of 3/4 inch, if they otherwise meet the requirements of U.S. No. 1 grade. This change enables handlers to respond to consumer demand for small potatoes. Authority for regulating grade and size is provided in § 948.22 of the order. Section 948.387(a) of the order's

administrative rules and regulations prescribes the actual size requirements.

This action is expected to have a beneficial impact on handlers and producers due to the increased volume of potatoes. There should be no extra cost to producers or handlers because current harvesting and handling methods can accommodate the sorting of these smaller potatoes. The size relaxation will result in a greater quantity of potatoes meeting the minimum requirements of the handling regulation. This should translate into an increased market for small potatoes and greater returns for handlers and producers.

By providing Colorado Area No. 3 handlers the flexibility to pack smaller potatoes, the Committee believes the industry will remain competitive in the marketplace. The small potato market is a premium market and this action is expected to further increase sales of Colorado potatoes to benefit the Colorado potato industry. The benefits of this rule are not expected to be disproportionately greater or lesser for small entities than for large entities.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large potato handlers. 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 meetings were widely publicized throughout the Colorado potato industry and all interested persons were invited to participate in Committee deliberations. Like all Committee meetings, the June 4 and November 17, 2009, meetings were public meetings and all entities, both large and small, were able to express views on this issue.

Comments on the interim rule were required to be received on or before June 4, 2010. No comments were received. Therefore, for 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/search/Regs/home.html#documentDetail?R=0900006480acfc3d>.

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).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (75 FR 17034, April 5, 2010) 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.

### PART 948—IRISH POTATOES GROWN IN COLORADO—[AMENDED]

■ Accordingly, the interim rule that amended 7 CFR part 948 and that was published at 75 FR 17034 on April 5, 2010, is adopted as a final rule, without change.

Dated: June 29, 2010.

**Robert C. Keeney,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2010–16337 Filed 7–2–10; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 522

[Docket No. FDA–2010–N–0002]

#### Implantation or Injectable Dosage Form New Animal Drugs; Propofol

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Fort Dodge Animal Health, Division of Wyeth. The NADA provides for veterinary prescription use of propofol as an anesthetic in dogs and cats.

**DATES:** This rule is effective July 6, 2010.

**FOR FURTHER INFORMATION CONTACT:** Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8337, email: [melanie.berson@fda.hhs.gov](mailto:melanie.berson@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Fort Dodge Animal Health, Division of Wyeth, a wholly owned subsidiary of Pfizer, Inc., 235 East 42d St., New York, NY 10017 filed NADA 141–303 that provides for veterinary prescription use of PROPOCLEAR (propofol) in dogs and