

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 946

[Doc. No. AMS-FV-10-0052; FV10-946-1 FIR]

#### **Irish Potatoes Grown in Washington; Temporary Change to the Handling Requirements and Reporting Requirements**

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, with changes, the provisions of an interim rule that suspended, for the 2010–2011 season only, the minimum quality, maturity, pack, marking, and inspection requirements currently prescribed for russet potato varieties 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 continues in effect the action that suspended regulation for russet potatoes for the 2010–2011 season and established temporary reporting requirements for russet potato handlers during the suspension. These changes are needed to reduce overall industry expenses and increase net returns to producers and handlers while allowing the industry to explore alternative marketing strategies. Changes to the interim rule clarify that assessment reports are required for russet potatoes handled beginning on July 24, 2010, and restore regulatory text that was inadvertently deleted from the regulation when the interim rule was published.

**DATES:** Effective Date: Effective January 13, 2011.

**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 request information on complying with this regulation 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 Order No. 946, 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 rule has been reviewed under Executive Order 12988, Civil Justice Reform. This 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 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 there from. 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.

In an interim rule published in the **Federal Register** on July 23, 2010 (75 FR 43042), the order’s handling regulations

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for russet potato varieties were suspended for the 2010–2011 season. This rule continues in effect that action. This change allows the Washington potato industry to market russet potatoes for one year without regard to the minimum quality, maturity, pack, marking, and inspection requirements prescribed under the Washington potato marketing order. The suspension was effective July 24, 2010, and will continue through June 30, 2011. After June 30, 2011, regulation will again be in effect for the 2011–2012 season and will continue indefinitely unless modified, suspended, or terminated.

This rule also continues in effect the action that established reporting requirements for russet potato handlers during the same 12-month suspension period. The Committee will continue to collect assessments on all fresh russet potatoes handled during the suspension period. The reporting requirements allow the Committee to obtain information necessary to facilitate assessment collection.

Section 946.52 of the order authorizes the establishment of grade, size, quality, or maturity regulations for any variety or varieties of potatoes grown in the production area. Section 946.52 also authorizes regulation of the size, capacity, weight, dimensions, pack, and marking or labeling of the container, or containers, which may be used in the packing or handling of potatoes, or both. 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 Program (FSIP) and certified as meeting the applicable requirements of such regulations.

Section 946.70 authorizes the Committee, with the approval of USDA, to require information from handlers that will enable the Committee to fulfill its duties under the order.

Section 946.336 of the order’s administrative rules and regulations prescribes the grade, size, quality, cleanliness, maturity, pack, marking, and inspection requirements for fresh market Washington potatoes.

The Committee meets regularly to consider recommendations for modification, suspension, or termination of the regulatory

requirements for Washington potatoes, which have been issued on a continuing basis. Committee meetings are open to the public, and interested persons may express their views at these meetings. USDA reviews Committee recommendations, information submitted by the Committee, and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

At its January 26, 2010, meeting, the Committee was asked to evaluate the benefits of handling regulations and mandatory inspection for Washington potatoes. As a consequence, the Committee formed a subcommittee that met on May 11, 2010, to consider the implications of regulatory and inspection requirement suspension. Subsequently, at its June 1, 2010, meeting, the Committee unanimously recommended suspending the handling regulation for russet potatoes for the 2010–2011 fiscal period, which ends on June 30, 2011. The Committee also recommended establishing a requirement that handlers report their russet potato shipments during this period to the Committee on a specially developed form.

Historically, an objective of the order's handling regulations has been to ensure that only quality Washington potatoes enter the fresh market, thereby ensuring consumer satisfaction, increased sales, and improved returns to producers. While the industry continues to support quality as an important factor in maintaining sales, the Committee believes the cost of inspection (mandated when the handling regulations are in effect) may exceed the benefits currently derived from the russet potato quality regulations.

With russet potato prices reportedly at low levels in recent years, the Committee, as noted earlier, has been studying the possibility of reducing costs through the elimination of mandatory inspection. In evaluating the relative benefits of quality control versus a regulation-free market, some concern was expressed at the meeting that elimination of the quality requirements could result in low quality potatoes being shipped to the fresh market, thereby negatively affecting consumer demand. Also, there was some concern that overall quality of the product may decline, and that the Washington potato industry could lose russet potato sales to production areas that are covered by quality and inspection requirements. Furthermore, because russet potatoes comprise about 76 percent of the fresh market

Washington potato crop, the Committee is concerned about future availability of inspection services if the FSIP reduced staff as a result of the decrease in the demand for their services. With these concerns in mind, and having the desire to explore the benefits of non-regulation, the Committee recommended temporarily suspending the russet potato handling regulation for one season only. This would enable the Committee to study the impacts of the suspension and consider appropriate actions for ensuing seasons.

This rule continues in effect the action that permits handlers to ship russet potatoes without regard to minimum quality, maturity, pack, marking, and inspection requirements for 2010–2011 fiscal period, which ends June 30, 2011. Although russet potato handlers may temporarily decrease their total costs by choosing not to have their potatoes inspected during the suspension period, handlers may continue to seek inspection on a voluntary basis. The Committee will evaluate the effects of the temporary regulatory suspension at its next meeting.

Suspension of mandatory inspections resulted in the suspension of the monthly FSIP inspection report for russet potatoes. The Committee typically uses these monthly reports, which are compiled by the FSIP from inspection certificates, as a basis for assessment collection. During the suspension of the regulations for russet potatoes, the Committee will instead require handlers to file the newly established report specific to russet potato shipments so that the Committee may calculate assessments and compile statistics.

For that purpose, a new § 946.143—*Assessment reports*, was added to the administrative rules and regulations requiring each person handling russet type potatoes to submit a monthly report to the Committee containing the following information: (a) The name and address of the handler; (b) the date and quantity of russet potatoes shipped; (c) the assessment payment due; and (d) other information as may be requested by the Committee. Each handler's first assessment report shall include all the required information pertaining to shipments from the beginning of the regulatory suspension period through the end of December 2010.

Authorization to assess handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. This reporting requirement enables the Committee to continue collecting the

funds needed to cover necessary program costs.

The beginning date of the additional reporting requirements should have been the same date as the beginning date of the regulatory suspension, which is July 24, 2010. However, the interim rule erroneously provided that the new reporting requirements would cover handling starting on July 26, 2010. This rule makes a change to the interim rule by establishing July 24, 2010, as the beginning date for the new reporting requirements.

In addition to adding a new § 946.143 containing the additional reporting requirements, the interim rule revised § 946.336 by adding a provision that russet type potatoes are exempt from the handling requirements of that section during the 2010–2011 fiscal period. However, several paragraphs of § 946.336 were inadvertently deleted when the interim rule was published. Therefore, this rule makes a change to the interim rule by revising only the introductory paragraph of § 946.336 and by adding paragraphs (a) through (h), which were inadvertently deleted when the interim rule was published, back into the section.

#### 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.

There are 45 handlers of Washington potatoes subject to regulation under the order (inclusive of the 33 russet potato handlers) and approximately 267 producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) 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.

During the 2008–2009 marketing year, the Committee reported that 10,279,734 hundredweight of Washington potatoes were shipped into the fresh market. Based on the USDA Economic Research

Service estimate that the 2008 average f.o.b. price for fresh domestic potatoes was \$8.42 per hundredweight, the average gross returns for each of the 45 handlers was less than \$2,000,000.

In addition, based on information provided by the National Agricultural Statistics Service, the average producer price for Washington potatoes for 2009 was \$7.10 per hundredweight. The average gross annual revenue for each of the 267 Washington potato producers is therefore calculated to be approximately \$273,356. In view of the foregoing, the majority of Washington potato handlers and producers may be classified as small entities.

This rule continues in effect the action that suspended the handling regulation and established reporting requirements for handlers of russet type potatoes for the 2010–2011 fiscal period, which ends June 30, 2011. These changes are expected to reduce overall industry expenses while providing the industry with the opportunity to explore alternative marketing strategies.

The authority for regulation is provided in § 946.52 of the order, while authority for reports and records is provided in § 946.70. The handling regulation is specified under § 946.336 of the order's administrative rules and regulations. The new reporting requirement is specified in § 946.143.

The Committee anticipates that this rule will not negatively impact small businesses. This rule continues to suspend minimum quality, maturity, pack, marking, and inspection requirements. Though inspections will not be mandated for russet potatoes handled under the order during the 2010–2011 season, handlers may at their discretion choose to have their potatoes inspected. Handlers are thus able to control costs—which are generally passed on to producers—based on the demands of their customers. The Committee reports that during the 2008–2009 season, the total cost of inspection—at \$0.07 per hundredweight for the approximately 7,800,000 hundredweight of Washington russet potatoes shipped—was about \$546,000. This represents approximately \$12,133 per handler.

The Committee discussed alternatives to this recommendation. In addition to making no changes to the regulations, the Committee considered temporarily suspending the handling regulation for all types of potatoes, not just russet type potatoes. However, the Committee believes that it is beneficial to the industry to maintain the handling regulation and inspection requirements for round type potatoes. The Committee reports that round type potatoes

generally command premium prices. The Washington potato industry believes that the order's round potato quality regulations, in conjunction with mandatory inspections, are valuable marketing tools. Therefore, the Committee recommended suspending the handling regulation for russet potatoes only.

An alternative to establishing the alternative reporting requirements would have been relieving handlers from paying assessments on shipments of russet potatoes. However, approximately 76 percent of the fresh potato shipments in Washington are comprised of russet varieties (as opposed to round white and round red or long white type potatoes), which generates a substantial portion of the Committee's revenue. The Committee determined that it would not be able to cover the cost of its operation if shipments of russet potatoes were not assessed.

This rule continues in effect the action that established a monthly reporting requirement for russet potato handlers. The report will provide the Committee with information necessary to track shipments and collect assessments. While this rule establishes new reporting requirements for russet potato shipments, the suspension of the handling regulation for russet potatoes also temporarily suspends the more frequent reporting requirements that are specified under the safeguard requirements for russet potatoes shipped under the order's special purpose shipment exemptions (§ 946.336(d) and (e)). Under these paragraphs, handlers are required to provide detailed reports whenever they divert regulated potatoes for livestock feed, charity, seed, prepeeling, processing, grading and storing in specified counties in Oregon, and for experimentation.

The burden of additional reporting or recordkeeping requirements on either small or large russet potato handlers is expected to be offset by the temporary suspension of other reporting requirements normally in effect. Also, the suspension of the handling regulation and inspection requirements for russet potatoes is expected to further reduce industry expenses.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

The Committee's meetings were widely publicized throughout the Washington potato industry and all interested persons were invited to participate in Committee deliberations. Like all committee meetings, the January 26, May 11, and June 1, 2010,

meetings were public meetings, and all entities, both large and small, were able to express views on this issue.

An interim rule concerning this action was published in the **Federal Register** on July 23, 2010 (75 FR 43042). Copies of the rule were provided to handlers by the Committee's staff. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 60-day comment period, which ended September 21, 2010. No comments were received on the regulatory or information collection aspects 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/MarketingOrdersSmallBusinessGuide>. Any questions about the compliance guide should be sent to Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

#### **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the additional information collection burden and form associated with the new reporting requirements have been approved by the Office of Management and Budget (OMB) and merged into OMB No. 0581–0178, Generic OMB Vegetable and Specialty Crops.

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.

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.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim rule, with the following changes, will tend to effectuate the declared policy of the Act.

The interim rule added § 946.143 to the order's administrative rules and regulations and specified that handlers would be required to report russet potato shipments beginning on July 26, 2010. This final interim rule revises § 946.143 to specify that the first assessment report from handlers shall contain the required information for russet potatoes handled beginning on July 24, 2010.

In addition, when the interim rule was published, several paragraphs of the regulatory text of § 946.336 were inadvertently deleted. This rule corrects § 946.336 by adding the deleted paragraphs back into the regulation.

#### List of Subjects in 7 CFR Part 946

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

■ Accordingly, the interim rule amending 7 CFR part 946, which was published at 75 FR 43042 on July 23, 2010, is adopted as a final rule with the following changes:

#### 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 [Amended]

■ 2. Amend the introductory text of § 946.143 by removing the words “July 26, 2010” and adding in their place the words “July 24, 2010.”

■ 3. Section 946.336 is revised to read as follows:

#### § 946.336 Handling regulation.

No person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a), (b), (c), and (g) of this section or unless such potatoes are handled in accordance with paragraphs (d) and (e), or (f) of this section, except that shipments of the blue or purple flesh varieties of potatoes shall be exempt from both this handling regulation and the assessment requirements specified in § 946.41: *Provided*, That from July 24, 2010, through June 30, 2011, russet type potatoes shall be exempt from the requirements of paragraphs (a), (b), (c), (d), (e), and (g) of this section.

(a) *Minimum quality requirements*—  
(1) *Grade*: All varieties—U.S. No. 2 or better grade.

(2) *Size*: (i) At least 1 7/8 inches in diameter, except that all red, yellow fleshed, and white types may be 3/4 inch (19.1 mm) minimum diameter, if they otherwise meet the requirements of U.S. No. 1.

(ii) All Russet types, 2 inches (54.0 mm) minimum diameter, or 4 ounces minimum weight.

(iii) Any type of any size may be packed in a 3-pound or less container if the potatoes otherwise meet the requirements of U.S. No. 1 grade or better at the time of packing.

(iv) *Tolerances*—The tolerance for size contained in the U.S. Standards for Grades of Potatoes shall apply.

(3) *Cleanliness*: All varieties and grades—as required in the United States Standards for Grades of Potatoes. For example: U.S. No. 2—“not seriously damaged by dirt,” and U.S. No. 1—“fairly clean.”

(b) *Minimum maturity requirements*—

(1) *Red, yellow fleshed and white types*: Not more than “moderately skinned.”

(2) *Russet types*: Not more than “slightly skinned.”

(c) *Pack and marking*:

(1) *Domestic*: Potatoes packed in cartons shall be either:

(i) U.S. No. 1 grade or better, except that potatoes which fail to meet the U.S. No. 1 grade only because of internal defects may be shipped without regard to this requirement provided the lot contains no more than 10 percent damage by any internal defect or combination of internal defects but not more than 5 percent serious damage by any internal defect or combination of internal defects.

(ii) U.S. No. 2 grade, provided the cartons are permanently and conspicuously marked as to grade. This marking requirement does not apply to cartons containing potatoes meeting the requirements of (c)(1)(i).

(2) *Export*: Potatoes packed in cartons shall be U.S. No. 1 grade or better.

(d) *Special purpose shipments*. (1) The minimum grade, size, cleanliness, maturity, and pack requirements set forth in paragraphs (a), (b), and (c) of this section shall not apply to shipments of potatoes for any of the following purposes:

(i) Livestock feed;

(ii) Charity;

(iii) Seed;

(iv) Prepeeling;

(v) Canning, freezing, and “other processing” as hereinafter defined;

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

(vii) Experimentation.

(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) *Safeguards*. (1) Handlers desiring to make shipments of potatoes for prepeeling shall:

(i) Notify the committee of intent to ship potatoes by applying on forms

furnished by the committee for a certificate applicable to such special purpose shipments;

(ii) Prepare on forms furnished by the committee a special purpose shipment report on each such shipment, a copy of which must also accompany each shipment. The handler shall forward copies of each such special purpose shipment report to the committee office and to the receiver with instructions to the receiver to sign and return a copy to the committee office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for cancellation of such handler’s certificate applicable to such special purpose shipments and/or the receiver’s eligibility to receive further shipments pursuant to such certificate. Upon cancellation of such certificate, the handler may appeal to the committee for reconsideration; such appeal shall be in writing;

(iii) Before diverting any such special purpose shipment from the receiver of record as previously furnished to the committee by the handler such handler shall submit to the committee a revised special purpose shipment report.

(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:

(i) Notify the committee of intent to ship potatoes by applying on forms furnished by the committee for a certificate applicable to such special purpose shipment. Upon receiving such application, the committee shall supply to the handler the appropriate certificate after it has determined that adequate facilities exist to accommodate such shipments and that such potatoes will be used only for authorized purposes;

(ii) If reshipment is for any purpose other than as specified in paragraph (d) of this section, each handler desiring to make reshipment of potatoes which have been graded or stored shall, prior to reshipment, cause each such shipment to be inspected by an authorized representative of the Federal-State Inspection Service. Such shipments must comply with the minimum grade, size, cleanliness, maturity, and pack requirements specified in paragraphs (a), (b), and (c) of this section;

(iii) If reshipment is for any of the purposes specified in paragraph (d) of this section, each handler making reshipment of potatoes which have been graded or stored shall do so in accordance with the applicable safeguard requirements specified in paragraph (e) of this section.

(3) Each handler making shipments of potatoes for canning, freezing, or "other processing" pursuant to paragraph (d) of this section shall:

(i) First apply to the committee for and obtain a Special Purpose Certificate to make shipments for processing;

(ii) Make shipments only to those firms whose names appear on the committee's list of canners, freezers, or other processors of potato products maintained by the committee, or to persons not on the list provided the handler furnishes the committee, prior to such shipment, evidence that the receiver may reasonably be expected to use the potatoes only for canning, freezing, or other processing;

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

(iv) Mail to the office of the committee a copy of the bill of lading for each Special Purpose Certificate shipment promptly after the date of shipment unless other arrangements are made;

(v) Bill each shipment directly to the applicable processor.

(4) Each receiver of potatoes for processing pursuant to paragraph (d) of this section shall:

(i) Complete and return an application form for consideration of approval as a canner, freezer, or other processor of potato products;

(ii) Certify to the committee and to the Secretary that potatoes received from the production area for processing will be used for such purpose and will not be placed in fresh market channels;

(iii) Report on shipments received as the committee may require and the Secretary approve.

(5) Each handler desiring to make shipments of potatoes for experimentation shall:

(i) First apply to the committee for and obtain a Special Purpose Certificate to make shipments for experimentation;

(ii) Upon request by the committee, furnish reports of 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.

(f) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed 5 hundredweight of potatoes per day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment over 5 hundredweight of potatoes.

(g) *Inspection.* (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.

(2) U.S. No. 1 grade or better potatoes in the State of Washington which are resorted or repacked within 72 hours of being inspected and certified are exempt from reinspection.

(h) *Definitions.* The terms *U.S. No. 1*, *U.S. No. 2, not seriously damaged by dirt, fairly clean, slightly skinned, and moderately skinned* shall have the same meaning as when used in the United States Standards for Grades of Potatoes (7 CFR 51.1540–51.1566), including the tolerances set forth in it. The term *prepeeling* means the commercial preparation in the prepeeling plant of clean, sound, fresh tubers by washing, peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 United States Standards for Grades of Peeled Potatoes (7 CFR 52.2421–52.2433). The term *other processing* has the same meaning as the term appearing in the Act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." Other terms used in this section have the same meaning as

when used in the marketing agreement, as amended, and this part.

Dated: December 7, 2010.

**David R. Shipman,**  
*Acting Administrator.*

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Docket ID: DoD–2010–OS–0141; RIN 0790–AI66]

### 32 CFR Part 241

#### Pilot Program for the Temporary Exchange of Information Technology Personnel

**AGENCY:** Department of Defense (DoD), Assistant Secretary of Defense (Networks and Information Integration)/DoD Chief Information Officer (ASD(NII)/DoD CIO).

**ACTION:** Interim final rule.

**SUMMARY:** The Department of Defense (DoD) is issuing regulations to implement provisions contained in section 1110 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010, October 28, 2009, which authorizes DoD to establish a Pilot Program for the Temporary Exchange of Information Technology (IT) Personnel. This statute authorizes the temporary assignments of DoD IT employees to private sector organizations. This statute also gives DoD the authority to accept IT employees for temporary assignments from private sector organizations. This Pilot is envisioned to promote the interchange of DoD and private sector IT professionals to enhance skills and competencies. The prompt implementation of an interim final rule is crucial in assisting DoD to pilot a program to enhance its position and expertise in the IT field, particularly in cybersecurity.

The Administration has expressed considerable interest in the IT area, and stressed its importance in a recent Cyberspace Review Report. Given the changing workforce dynamics in the IT field, DoD needs to take advantage of these types of professional development programs to proactively position itself to keep pace with the changes in technology.

The immediate implementation of an Interim Final Rule is viable to enhance IT professional skills, particularly in the area of cybersecurity. Several Components including Defense Information Systems Agency, Defense