

from organizations seeking local eligibility for 30 calendar days as determined by the LFCC, and must issue notice of its eligibility decisions within 15 business days of the closing date for receipt of applications.

(b) The Director will annually issue a timetable for accepting and processing national applications.

### Subpart I—Payroll Withholding

#### § 950.901 Payroll allotment.

The policies and procedures in this section are authorized for payroll withholding operations in accordance with the Office of Personnel Management Pay Administration regulations in part 550 of this Title.

(a) Applicability. Voluntary payroll allotments will be authorized by all Federal departments and agencies for payment of charitable contributions to local CFC organizations.

(b) Allotments. The allotment privilege will be made available to Federal personnel as follows:

(1) Employees whose net pay regularly is sufficient to cover the allotment are eligible. An employee serving under an appointment limited to 1 year or less may make an allotment to a CFC when an appropriate official of the employing Federal agency determines that the employee will continue employment for a period to justify an allotment. This includes military reservists, National Guard, and other part-time and intermittent employees who are regularly employed.

(2) Members of the Uniformed Services are eligible, excluding those on only short-term assignment (less than 3 months).

(c) Authorization. Allotments will be totally voluntary and will be based upon contributor's individual authorization.

(1) The CFC Pledge Card, in conformance with § 950.402, is the only form for authorization of the CFC payroll allotment and may be printed or purchased from a central source by each PCFO. The pledge cards and official brochure will be distributed to employees when charitable contributions are solicited.

(2) The original copy of each pledge card (payroll allotment authorization) should be transmitted to the contributor's servicing payroll office as promptly as possible, preferably by December 15. However, if pledge cards are received after that date they should be accepted and processed by the payroll office.

(d) Duration. Authorization of allotments will be in the form of a term allotment. Term authorizations will be in effect for 1 full year—26, 24, or 12

pay periods depending on the allotter's pay schedule—starting with the first pay period beginning in January and ending with the last pay period that begins in December. Three months of employment is considered the minimum amount of time that is reasonable for establishing an allotment.

(e) Amount. Allotments will make a single allotment that is apportioned into equal amounts for deductions each pay period during the year.

(1) The minimum amount of the allotment will be determined by the LFCC but will not be less than \$1 per payday, with no restriction on the size of the increment above that minimum.

(2) No change of amount will be authorized for term allotments.

(3) No deduction will be made for any period in which the allotter's net pay, after all legal and previously authorized deductions, is insufficient to cover the CFC allotment. No adjustment will be made in subsequent periods to make up for missed deductions.

(f) Remittance. One check will be sent by the payroll office each pay period, in the gross amount of deductions on the basis of current authorizations, to the Central Receipt and Accounting Point (CRP) at each local CFC location for which the payroll office has received allotment authorizations. The Director will provide a list of the authorized CRP's to Federal payroll offices.

(1) The check will be accompanied by a statement identifying the agency, the dates of the pay period, and the total number of employee deductions.

(2) There will be no listing of allotments included or of allotment discontinuances.

(g) Discontinuance. Term allotments will be discontinued automatically on expiration of the 1 year withholding period, or on the death, retirement, or separation of the allotter from the Federal service, whichever is earlier.

(1) An allotter may revoke a term authorization at any time by requesting it in writing from the payroll office. Discontinuance will be effective the first pay period beginning after receipt of the written revocation in the payroll office.

(2) A discontinued allotment will not be reinstated.

(h) Transfer. When an allotter moves to another organizational unit served by a different payroll office in the same CFC location, whether in the same office or a different Department or agency, his or her allotment authorization should be transferred to the new payroll office.

(i) Accounting. Federal payroll offices will oversee the establishment of individual allotment accounts, the deductions each pay period, and the reconciliation of employee accounts in accordance with agency and General

Accounting Office requirements. The payroll office will accept responsibility for the accuracy of remittances, as supported by current allotment authorizations, and internal accounting and auditing requirements.

(1) The PCFO shall notify the federated groups, national agencies, and local agencies as soon as practicable after the completion of the campaign, but in no case later than February 15, of the amounts, if any, designated to them and their member agencies and of the amounts of the undesignated funds, if any, allocated to them.

(2) The PCFO is responsible for the accuracy of disbursements it transmits to recipients. It shall transmit at least monthly for campaigns of \$500,000 or more or quarterly if less than that amount, minus only the approved proportionate share for administrative cost reimbursement and the PCFO fee set forth in § 950.106(d). It shall remit the contributions to each organization or to the federated group, if any, of which the organization is a member. For campaigns with gross receipts in excess of \$500,000, the PCFO will distribute all CFC receipts beginning April 1, and monthly thereafter. For campaigns with gross receipts of \$500,000 or less, the PCFO will distribute all CFC receipts beginning June 1, and quarterly thereafter. At the close of each disbursement period, the PCFO's CFC account shall have a balance of zero.

(3) The PCFO may make one-time disbursements to organizations receiving minimal donations from Federal employees. The LFCC must determine and authorize the amount of these one-time disbursements. The PCFO may deduct the proportionate amount of each organization's share of the campaign's administrative costs and the average of the previous 3 years pledge loss from the one-time disbursement. This is the only approved application of adjusting for pledge loss.

(4) Federated and national charitable organizations, or their designated agents, will accept responsibility for:

(i) The accuracy of distribution amount the charitable organizations of remittances from the PCFO; and

(ii) Arrangements for an independent audit conducted by a certified public accountant agreed upon by the participating charitable organizations.

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BILLING CODE 6325-01-M

**DEPARTMENT OF AGRICULTURE****Federal Crop Insurance Corporation****7 CFR Part 400**

RIN 0563-AB08

**General Administrative Regulations;  
Reinsurance Agreement—Standards  
for Approval**

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

**SUMMARY:** The Federal Crop Insurance Corporation ("FCIC") hereby amends its General Administrative Regulations, effective for the 1997 and succeeding reinsurance years, by revising the general qualifications for being awarded a Standard Reinsurance Agreement. The intended effect of this rule is to provide additional information and amended procedures so that FCIC can more accurately identify those insurance companies experiencing a significant weakening in financial conditions.

**EFFECTIVE DATE:** November 24, 1995.

**FOR FURTHER INFORMATION CONTACT:** Diana Moslak, Regulatory and Procedural Development Staff, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone (202) 254-8314.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed under United States Department of Agriculture ("USDA") procedures established by Executive Order 12866 and Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is March 31, 1999.

This rule has been determined to be "exempt" for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget ("OMB").

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implication to warrant the preparation of a Federalism Assessment. The provisions and procedures contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various level of government.

This regulation will not have a significant impact on a substantial number of small entities. This action does not increase the paperwork burden on the reinsured company because the reinsured company must already provide the additional information required by this regulation to the state in which it is licensed. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605) and no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in subsections 2(a) and 2(b)(2) of Executive Order 12778. The provisions of this rule are not retroactive and will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions contained in the Standard Reinsurance Agreement must be exhausted before judicial action may be brought.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

**Background**

On Tuesday, June 14, 1994, FCIC published a proposed rule in the Federal Register at 59 FR 30533 proposing to amend the General Crop Insurance Regulations, subpart L, Reinsurance Agreement; Standards for Approval by revising the general qualification requirements for being awarded a Standard Reinsurance Agreement (Agreement).

Following publication of the proposed rule, the public was afforded 15 days to submit written comments, data, and opinions. The comments received and FCIC responses are as follows:

*Comment:* Two comments, one from an insurance company and one from a legal firm, stated that the proposed regulations would greatly increase the insurance company's paperwork burden and would have a significant adverse economic effect on a substantial number of small entities and should, therefore,

require a Regulatory Flexibility Analysis and be subject to the provisions of the Regulatory Flexibility Act.

*Response:* The information required by these regulations is currently required by and filed with the state insurance departments where a company is licensed. With the exception of the requirements contained in § 400.171, financial reports not currently prepared by an insurance company will not be requested unless determined to be critical to the qualification process. This action will not have a significant economic impact on small entities and their ability to compete. These regulations are the basis of company financial condition evaluation to ensure that the obligations to both the policyholder and FCIC are met, regardless of the company's size.

*Comment:* Two comments, one from an insurance company and one from the parent company of an insurance company, objected to the required submission of an annual Generally Accepted Accounting Principles (GAAP) financial statement stating that this would be an additional burden and cost if the insurance company does not prepare financial statements in accordance with GAAP.

*Response:* FCIC agrees with the comment and has removed § 400.170(e)(5) and (6). As a result of this change, § 400.170(e)(7) is redesignated as § 400.170(e)(6). However, these and other statements may be requested by FCIC under § 400.170(e)(6).

*Comment:* One comment from a professional association stated that the definition of Annual Statutory Financial Statement in § 400.161(a) should be clarified as it appears that a new audit is required. They also stated that the term "certified" in § 400.171 should be replaced by "audited" and that "in accordance with generally accepted auditing standards" should be included when making reference to a Certified Public Accountant audit.

*Response:* FCIC has revised the definition of "Annual Statutory Financial Statement" and added § 400.170(e)(5) the "Annual Audited Financial Report" prepared by an independent Certified Public Accountant and filed with the state insurance department as prescribed in the National Association of Insurance Commissioners Property and Casualty Annual Statement Instructions. The other recommended revisions have also been made.

*Comment:* One comment from a professional association stated that the requirement proposed in § 400.170(e)(6) for an "Audited Annual Report to Shareholders" should be restated as

“Annual Report to Shareholders” because the report itself is not audited but rather the financial statements included in the report.

*Response:* FCIC agrees with the comment and the requirement contained in § 400.170(e)(6) has been removed.

*Comment:* Four comments, two from insurance companies, one from a legal firm and one from the parent company of an insurance company, stated that proposed regulations favor large multiple line companies when there is no valid correlation between a company's size and its financial soundness. The ratio results for a company writing primarily crop insurance business may be adversely impacted due to the unique nature of crop insurance, compared to a company writing standard property and casualty lines for which these ratios were developed.

*Response:* FCIC disagrees with the comment. The proposed regulations incorporate the use of financial ratios which are calculated from the Annual Statutory Financial Statement. The ratios are a quantitative measure of potential financial weakness regardless of company size. FCIC is aware that the insurance lines of business a company writes may impact the ratio results and gives a company the opportunity to address this impact under § 400.172(a).

*Comment:* Two comments, one from an insurance company and one from a legal firm stated that the statement in § 400.170(d), “and comply with § 400.172.” was illogical.

*Response:* The proposed language in § 400.170(d) contained a typographical error and has been changed to read “or comply with § 400.172.”

*Comment:* Four comments, two from insurance companies, one from a legal firm and one from the parent company of an insurance company, questioned requiring the Gross Premium to Surplus ratio when the reinsured company does not have the option of rejecting MPCI business, and FCIC as a reinsurer is not considered a collection risk.

*Response:* FCIC agrees with the comment and has defined “Gross Premium” in the Gross Premium to Surplus ratio in § 400.162(c) as the company's gross premium adjusted to exclude MPCI premium assumed by FCIC. The reduction in a company's gross premium by the amount assumed by FCIC will give a more accurate measure of a company's reliance on commercial reinsurance.

*Comment:* Two comments, one from an insurance company and one from a legal firm, objected to requiring the two ratios—Gross Premium to Surplus of

less than 900% and Net Premium to Surplus of less than 300%—stating that no single ratio should be weighted more than another.

*Response:* FCIC disagrees with the comment. The MPUL calculation determines the amount of MPCI premium and associated liability a company may retain based on policyholder surplus. The Gross Premium to Surplus and Net Premium to Surplus ratios measure the adequacy of surplus to absorb above-average losses considering the company's total book of business, exclusive and inclusive of the effects of reinsurance. A company's surplus exposure must be addressed considering its use in ratio and MPUL calculations.

*Comment:* Two comments, one from an insurance company and one from a legal firm, objected to the requirement that a company satisfy at least 10 of the 15 optional ratios, stating that a company “should have the opportunity to explain non-compliance and should not be automatically eliminated for failure to meet ten of the ratios.”

*Response:* FCIC disagrees with the comment. Failure to meet the requirements of § 400.170(d) does not automatically eliminate a company from participating in the MPCI program. Section 400.172 allows a company the opportunity to address the ratios failed in § 400.170(d). If a company meets the requirements of § 400.172, the company may continue to participate in the MPCI program.

*Comment:* Three comments, one from an insurance company, one from a legal firm and one from the parent company of an insurance company, objected to the Maximum Possible Underwriting Loss (MPUL) calculation provided in § 400.170(c) and its interpretation by FCIC. They stated that using MPUL to determine adequate surplus level was inconsistent with basic insurance underwriting principles, and that revising the MPUL to maximum probable underwriting loss would be more reasonable.

*Response:* FCIC disagrees with the comment. The proposed MPUL calculation adequately considers MPCI loss potential, over-lapping of reinsurance years, and a company's geographic spread of risk.

*Comment:* Two comments, one from an insurance company and one from a legal firm, addressed FCIC's statement in the background section of the proposed rule referencing the current surplus requirement that, if a reinsured company underwrites only MPCI and crop hail insurance, both liabilities would be considered in calculating the minimum required surplus. They stated

there was no rational basis for including crop hail liabilities in the MPUL calculation when a company writes only crop hail and MPCI business, while using only MPCI liabilities for companies writing multiple lines.

*Response:* FCIC agrees with the comment and will not consider crop-hail, or any other lines of business in the MPUL calculation. All other lines of business written by a company will be analyzed to determine their impact on the ratio results of § 400.170(d), and the company's overall financial condition.

In addition to the changes indicated in the responses to comments, FCIC has made the following changes:

1. The definition of “financial statement” contained in § 400.161 was not removed as proposed but revised to mean “any documentation submitted by a company as required by this subpart”.

2. A definition for “Quarterly Statutory Financial Statement” was added to § 400.161 to facilitate its use in § 400.170(c).

3. The definitions of “Current Assets”, “Current Liabilities”, and “Non-affiliated Company” were removed from § 400.161 because these terms are no longer used in this subpart.

4. Section 400.163 has been revised to reflect that these regulations are “effective for the 1997 and subsequent reinsurance years”.

5. In § 400.170(c) “MPUL for the gross premium” was replaced with “MPUL for the company's estimated retained premium” to be consistent with the MPUL definition.

6. In § 400.170(c) “all its reinsured gross premium” was replaced with “all its reinsured retained premium” to accurately represent geographic spread of risk.

7. The proposed §§ 400.162(d) and 400.170(d)(xii) were deleted after determining them to be non-essential.

Accordingly, the rule, “General Crop Insurance Regulations; Reinsurance Agreement—Standards for Approval” published at 59 FR 30533 as revised and set out below is hereby adopted as final rule.

#### List of Subjects in 7 CFR Part 400

Crop insurance.

#### Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*) the Federal Crop Insurance Corporation hereby amends 7 CFR part 400, subpart L of the General Administrative Regulations, effective for the 1997 and succeeding reinsurance years, as follows:

**PART 400—GENERAL ADMINISTRATIVE REGULATIONS**

**Subpart L—Reinsurance Agreement—Standards for Approval; Regulations for the 1997 and Subsequent Reinsurance Years**

1. The authority citation for 7 CFR part 400, subpart L is revised to read as follows:

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

2. The heading for part 400, subpart L is revised as set forth above.

3. Section 400.161 is amended by removing paragraphs (c), (d) and (j); redesignating paragraphs (a) and (b), (e) through (i), (k) and (l), and (m) through (o), as paragraphs (b) and (c), (d) through (h), (i) and (j), and (l) through (n), respectively; and revising redesignated paragraph (e) and adding new paragraphs (a) and (k) to read as follows:

**§ 400.161 Definitions.**

\* \* \* \* \*

(a) *Annual Statutory Financial Statement* means the annual financial statement of an insurer prepared in accordance with Statutory Accounting Principles and submitted to the state insurance department if required by any state in which the insurer is licensed.

\* \* \* \* \*

(e) *Financial statement* means any documentation submitted by a company as required by this subpart.

\* \* \* \* \*

(k) *Quarterly Statutory Financial Statement* means the quarterly financial statement of an insurer prepared in accordance with Statutory Accounting Principles and submitted to the state insurance department if required by any state in which the insurer is licensed.

\* \* \* \* \*

4. Section 400.162 is revised to read as follows:

**§ 400.162 Qualification ratios.**

The sixteen qualification ratios include:

(a) Eleven National Association of Insurance Commissioner's (NAIC's) Insurance Regulatory Information System (IRIS) ratios found in §§ 400.170(d)(1)(ii) and 400.170(d)(2) (i), (ii), (iii), (vi), (vii), (ix), (xi), (xii), (xiii), and (xiv) and referenced in "Using the NAIC Insurance Regulatory Information System" distributed by NAIC, 120 West 12th St., Kansas City, MO 64105-1925;

(b) Three ratios used by A.M. Best Company found in § 400.170(d)(2) (v), (viii), and (x) and referenced in Best's Key Rating Guide, A.M. Best, Ambest Road, Oldwick, N.J. 08858-0700;

(c) One ratio found in § 400.170(d)(1)(i) is calculated the same as the Gross Premium to Surplus IRIS ratio, with Gross Premium adjusted to exclude the MPCII premium assumed by FCIC; and

(d) One ratio found in § 400.170(d)(2)(iv) which is formulated by FCIC and is calculated the same as the One-Year Change to Surplus IRIS ratio but for a two-year period.

5. Section 400.163 is revised to read as follows:

**§ 400.163 Applicability.**

The standards contained herein shall be applicable to insurers who apply for or enter into a Standard Reinsurance Agreement effective for the 1997 and subsequent reinsurance years or who continue with a prior years Standard Reinsurance Agreement into the 1997 and subsequent reinsurance years.

6. Section 400.170 is revised to read as follows:

**§ 400.170 General qualifications.**

To qualify initially or thereafter for a Standard Reinsurance Agreement with FCIC, an insurer must:

(a) Be licensed or admitted in any state, territory, or possession of the United States;

(b) Be licensed or admitted, or use as a policy-issuing Company an insurer that is licensed or admitted, in each state from which the insurer will cede policies to FCIC for reinsurance;

(c) Have surplus, as reported in its most recent Annual or Quarterly Statutory Financial Statement, that is at least equal to the MPUL for the company's estimated retained premium proposed to be reinsured, multiplied by the appropriate Minimum Surplus Factor found in the Minimum Surplus Table. For the purposes of the Minimum Surplus Table, an insurer is considered to issue policies in a state if at least two and one-half percent (2.5%) of all its reinsured retained premium is written in that state;

**MINIMUM SURPLUS TABLE**

Number of states in which a company issues FCIC-reinsured policies	Minimum surplus factor (multiplied by MPUL)
1 through 10 .....	2.5
11 or more .....	2.0

(d) Have and meet the ratio requirements of the Gross Premium to Surplus and Net Premium to Surplus required ratios and at least ten of the fourteen analytical ratios in this section based on the most recent Annual

Statutory Financial Statement, or comply with § 400.172:

Ratio	Ratio requirement
(1) Required:	
(i) Gross Premium to Surplus.	Less than 900%.
(ii) Net Premium to Surplus.	Less than 300%.
(2) Analytical:	
(i) Two-Year Overall Operating Ratio.	Less than 100%.
(ii) Agents' Balances to Surplus.	Less than 40%.
(iii) One-Year Change in Surplus.	Greater than -10% and less than 50%.
(iv) Two-Year Change in Surplus.	Greater than -10%.
(v) Combined Ratio After Policyholder Dividends.	Less than 115%.
(vi) Change in Writing.	Greater than -33% and less than 33%.
(vii) Surplus Aid to Surplus.	Less than 15%.
(viii) Quick Liquidity.	Greater than 20%.
(ix) Liabilities to Liquid Asset.	Less than 105%.
(x) Return on Surplus.	Greater than -5%.
(xi) Investment Yield.	Greater than 4.5% and less than 10%.
(xii) One-Year Reserve Development to Surplus.	Less than 20%.
(xiii) Two-Year Reserve Development to Surplus.	Less than 20%.
(xiv) Estimated Current Reserve Deficiency to Surplus.	Less than 25%.

(e) Submit to FCIC all of the following statements:

- (1) Annual and Quarterly Statutory Financial Statements;
- (2) Statutory Management Discussion & Analysis;
- (3) Most recent State Insurance Department Examination Report;
- (4) Actuarial Opinion of Reserves;
- (5) Annual Audited Financial Report; and

(6) Any other appropriate financial information or explanation of IRIS ratio discrepancies as determined by the company or as requested by FCIC.

7. Section 400.171 is revised to read as follows:

**§ 400.171 Qualifying when a state does not require that an Annual Statutory Financial Statement be filed.**

An insurer exempt by the insurance department of the states where they are licensed from filing an Annual Statutory Financial Statement must, in addition to the requirements of § 400.170 (a), (b), (c) and (d), submit an Annual Statutory Financial Statement audited by a Certified Public Accountant in accordance with generally accepted auditing standards, which if not exempted, would have been filed with the insurance department of any state in which it is licensed.

8. Section 400.172 is revised to read as follows:

**§ 400.172 Qualifying with less than two of the required ratios or ten of the analytical ratios meeting the specified requirements.**

An insurer with less than two of the required ratios or ten of the analytical ratios meeting the specified requirements in § 400.170(d) may qualify if, in addition to the requirements of § 400.170 (a), (b), (c) and (e), the insurer:

(a) Submits a financial management plan acceptable to FCIC to eliminate each deficiency indicated by the ratios, or an acceptable explanation why a failed ratio does not accurately represent the insurer's insurance operations; or

(b) Has a binding agreement with another insurer that qualifies such insurer under this subpart to assume financial responsibility in the event of the reinsured company's failure to meet its obligations on FCIC reinsured policies.

**§ 400.173 [Reserved]**

9. Section 400.173 is removed and reserved.

**§ 400.174 [Amended]**

10. In § 400.174, the words "financial statement" are revised to the plural form "financial statements".

**§ 400.175 [Amended]**

11. In § 400.175(a), the words "financial statement" are revised to the plural form "financial statements".

**§ 400.177 [Reserved]**

12. Section 400.177 is removed and reserved.

Done in Washington, D.C., on November 9, 1995.

Kenneth D. Ackerman,  
Manager, Federal Crop Insurance  
Corporation.

[FR Doc. 95-28558 Filed 11-22-95; 8:45 am]

BILLING CODE 3410-FA-P

**Agricultural Marketing Service****7 CFR Part 945**

[FV95-945-2IFR]

**Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Modification of the Handling Regulation**

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

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule changes pack requirements and establishes marking requirements for Idaho-Eastern Oregon potatoes. These changes are expected to improve the marketing of such potatoes and increase returns to producers. These changes were recommended by the Idaho-Eastern Oregon Potato Committee (Committee), the agency responsible for local administration of the marketing order program. The interim final rule also includes several conforming changes which recognize that the marketing order regulates shipments of potatoes within the production area, as well as shipments outside the production area.

**DATES:** Effective November 24, 1995. Comments which are received by December 26, 1995 will be considered prior to the issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; FAX: (202) 720-5698. All comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204-2807; telephone: (503) 326-2724 or FAX (503) 326-7440; or Valerie L. Emmer, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456; telephone: (202) 205-2829, or FAX (202) 720-5698.

**SUPPLEMENTARY INFORMATION:** This interim final rule is issued under Marketing Agreement and Marketing

Order No. 945 (7 CFR part 945), as amended, hereinafter referred to as the "order," regulating the handling of Irish potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon. 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 is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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 the Secretary 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 therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary 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 in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

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. Thus, both statutes have small entity orientation and compatibility.

There are approximately 65 handlers of Idaho-Eastern Oregon potatoes that are subject to regulation under the order and approximately 1,600 producers in the production area. Small agricultural service firms, which include handlers of Idaho-Eastern Oregon potatoes, have