

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of Feb., in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

[Amdt. 16]

Child Care Food Program; Appeals of Actions Based on Federal Audits

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Child Food Program (CCFP) regulations to permit State agencies to refuse to grant appeals of actions taken as a result of findings made by Federal audits. The rule further stipulates that if State agencies do not offer institutions an appeal at the State level in these instances, appeals will be afforded by the Department of Agriculture. This regulation implements a nondiscretionary provision included in Pub. L. 99-500 and 99-591 and will enhance the integrity of Federal audits while ensuring that institutions have appropriate avenues of administrative redress.

EFFECTIVE DATE: February 25, 1987.

FOR FURTHER INFORMATION CONTACT:

Mr. Lou Pastura, Chief, Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, 3101 Park Center Drive, Room 509, Alexandria, Virginia 22302, (703) 756-3620.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291 and has been classified as not major because it will not have an annual effect on the economy of \$100 million, will not cause a major increase in costs or prices for Program participants, individual

industries, Federal agencies, State or local government agencies or geographic regions, and will not have a significant economic impact on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or foreign markets.

This regulation has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). Pursuant to the review, the Administrator of the Food and Nutrition Service has certified that this final rule does not have a significant economic impact on a substantial number of small entities because State agencies are not "small entities" as defined under the Act.

This final rule implements a provision included in Pub. L. 99-500 and 99-591 which is nondiscretionary. For this reason, the Administrator of the Food and Nutrition Service has determined, in accordance with 5 U.S.C. 553(b) and 553(d), that prior notice and comment is unnecessary and contrary to the public interest and that good cause exists for making the rule effective upon publication. In addition, since this rule merely implements cited statutory provisions, it constitutes an interpretive rule for which notice and comment rulemaking and a 30-day period before taking effect are not required by 5 U.S.C. 553.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping requirements that are included in this final rule have been approved by the Office of Management and Budget (OMB) under clearance 0584-0055.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.558 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, and final rule related Notice published at 48 FR 29114, June 24, 1983.).

Background

Under the Child Care Food Program (CCFP), audits of participating public and nonprofit private institutions must be conducted in accordance with the Office of Management and Budget Circulars A-128 and A-110, respectively.

Further, State agencies must conduct audits of proprietary Title XX institutions at least once every 2 years. In addition to these audits, program audits of institutions may be carried out by State agencies and the Department's Office of the Inspector General. Under current regulations, there is one group of audits—those conducted directly by the Department's Office of the Inspector General—that has created a unique situation which is addressed in section 361 of Pub. L. 99-500 and 99-591 and this final regulation. Specifically, § 226.14(b) of the CCFP regulations prohibits State agencies from disregarding overpayments or waiving collection actions against institutions arising from the findings of Federal audits. Moreover, § 226.6(j)(12) of the regulations specifies that if a State review official dismisses a claim based on a Federal audit, the State agency may be held liable for the loss. The Department's position in this area reflects the fact that once a Federal claim has been established against a State agency based on Federal audit findings, only the Department has the authority to adjust, settle, compromise or deny the claim.

Nevertheless, until the law was amended States were required to afford institutions the right to appeal any actions which could affect participation or reimbursement, including actions stemming from Federal audit findings. Consequently, there was some potential for a State to be placed in an untenable position when complying with Federal audit recommendations. If, for example, a State appeals officer were to rule against a State agency which was attempting to enforce an audit finding, that State agency could be subject to a recovery action by the Department and, at the same time, be prevented from taking a similar action against the institutions in question.

To remedy this potential for conflict, section 361 of Pub. L. 99-500 and 99-591, amended section 17(e) of the National School Lunch Act to stipulate that States would not be required to offer appeals of actions which arise from Federal audit findings. The amendment further provides that if States do not allow appeals in these situations, the institutions may appeal the actions to the Department. Since the Department has no latitude in implementing these legislative mandates, these provisions are being incorporated into the CCFP

regulations through a final rule without opportunity for public comment.

As a final note, the Department wishes to emphasize that the legislation in no way changed institutions' appeal rights with respect to any other adverse actions taken by State agencies. State agencies will continue to be required to allow appeals of all other adverse actions, including actions arising from the findings of audits performed in accordance with § 226.8 of the CCFP regulations, except for those conducted by the Department's Office of the Inspector General.

List of Subjects in 7 CFR Part 226

Day care, Food assistance programs, Grant programs—health, Infants and children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR Part 226 is amended as follows:

PART 226—CHILD CARE FOOD PROGRAM

1. The Authority citation for Part 226 is revised to read as follows:

Authority: Sec. 361, Pub. L. 99-500 and 99-951 (42 U.S.C. 1766), secs. 803, 810, and 820, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1758, 1766); sec. 2, Pub. L. 95-627, 92 Stat. 3603 (42 U.S.C. 1766); sec. 10, Pub. L. 89-642, 80 Stat. 889 (42 U.S.C. 1779), unless otherwise noted.

§ 226.6 [Amended]

2. Section 226.6 is amended by removing the word "Each" at the beginning of the first sentence of the introductory text of paragraph (j) and adding "Except as provided in § 226.8(g), each".

3. Section 226.8 is amended by adding a new paragraph (g), to read as follows:

§ 226.8 Audits.

(g) State agencies are not required to provide a hearing to an institution for State actions taken on the basis of a Federal audit determination. If a State agency does not provide a hearing in such situations, FNS will provide a hearing, upon request, in accordance with procedures set forth in § 226.6(j) of this part.

Dated: February 17, 1987.

Robert E. Leard,
Administrator.

[FR Doc. 87-3880 Filed 2-24-87; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 929

Cranberries Grown in Massachusetts et al.; Increase in Base Quantity Reserve

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule increases the base quantity reserve for the 1986-87 crop year from the required minimum of 2.0 percent to 7.24 percent of the total base quantities currently issued to cranberry growers, in order to update and expand base quantities for the benefit of growers. This should help to facilitate the appropriate and equitable operation of the cranberry marketing order with the establishment in the future of any marketable quantity and annual allotment. The rule also expands the criteria for determining a bona fide effort (i.e., a condition for the continuing validity of a grower's base quantity) to provide conditions under which a grower's base quantity may be reduced or cancelled. The rule is intended to ensure that base quantities remain with growers who have demonstrated a bona fide effort to produce and sell cranberries. The final rule is virtually identical to the proposal published in the August 21, 1986, *Federal Register*, with the exception of three adjustments. These adjustments include revising slightly the base quantity reserve percentage, delaying the implementation of the new bona fide effort requirement from 1987 to 1988, and expanding the criteria the committee considers on whether a grower has made a bona fide effort to produce and sell cranberries.

EFFECTIVE DATE: February 25, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, Telephone (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1, and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the FRA 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 and rules issued thereunder, pursuant to the Agricultural Marketing Agreement Act of 1937, 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.

It is estimated that 31 handlers and 950 producers of cranberries under the marketing order will be subject to regulation during the course of the current season. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2 (1985)) as those having average annual gross revenues for the last three years of less than \$100,000, and agricultural service firms have been defined as those whose gross annual receipts are less than \$3,500,000. The majority of handlers and producers of cranberries may be characterized as small entities.

As discussed later in this document, the impact of this regulation will be on growers and will not be significant because the changes represent either a relaxation of restrictions (i.e., the increase in the base quantity reserve) or establishment of additional conditions to demonstrate that a producer is making a bona fide effort in the production and sales of cranberries necessary to retain base quantity under the terms of the order. We have examined various alternatives, including maintaining the current requirements, and have concluded that this amendment is the appropriate alternative. We also conclude that any potential costs to growers appear to be significantly offset when compared to the potential benefits of greater and more equitable allocation of allotment bases to growers. Finally, this final rule imposes no new reporting or recordkeeping requirements on the affected parties.

On August 21, 1986, notice was published in the *Federal Register* (51 FR 29936) to amend § 929.153 of Subpart—Rules and Regulations. Interested persons were invited to submit comments on the proposal. Four comments were filed with the Docket Clerk.

This final rule is issued under marketing agreement and Order No. 929, as amended (7 CFR Part 929). The order regulates the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. The agreement

and order are effective under the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601-674). This final rule is based on a recommendation by the Cranberry Marketing Committee (committee), comments received from interested persons, and other information.

Each year prior to May 1, the committee considers its marketing policy for the coming season and estimates a marketable quantity of cranberries. Such quantity is the amount of cranberries necessary to meet the season's total market demand and provide for an adequate carryover of cranberries to the next season. If the Secretary finds from a recommendation of the committee, or from other available information, that limiting the quantity of cranberries that may be purchased or handled on behalf of growers would tend to effectuate the declared policy of the Act, the Secretary shall determine and establish the marketable quantity for that crop year. The marketable quantity shall be apportioned among all eligible growers by applying an allotment percentage to each grower's base quantity, pursuant to § 929.48.

Such base quantities are issued to growers: (a) Based on their sales during the period 1968-69 through 1973-74; (b) as a result of transfers of base quantities from other growers; or (c) as part of an annual reserve of at least 2 percent of the total base quantities. The reserve is used for the issuance of base quantities to new growers and adjustments in base quantities for existing growers, with 25 percent being made available for new growers and 75 percent available for adjustments for existing growers. Any unallocated portion of the 25 percent available to new growers may, at the discretion of the committee, be prorated among eligible existing growers on an equitable basis.

On February 27-28, 1986, the Cranberry Marketing Committee held its annual winter meeting to formulate its marketing policy for the 1986-87 crop year. It determined that implementation of § 929.49 (i.e., the establishment of a marketable quantity and annual allotment) was not warranted. However, the committee noted that cranberry production was projected to exceed the total of all allotment bases and recommended that additional base be issued to all qualified new and existing growers to the full amount to which each grower is entitled, contingent on the grower's demonstrated ability to produce and sell cranberries. Such an increase would make additional quantities of base quantity available to

new and existing growers. The committee said this change would also aid in the updating of base quantities which would be necessary for any future establishment of a marketable quantity and annual allotment.

In his comment, a Grayland, Washington, grower stated that no such increase is warranted because it is predicated on a projected increase in production. That is, the grower commented that the proposed increase in base quantities would only serve to encourage more production. He also stated that the demand for cranberries is growing at a slower rate than production. Moreover, the grower concluded that, in the event of any volume regulation, the large size of the total of all base quantities would result in a regulation which would be more burdensome on "smaller or average growers" than on larger growers. On review, however, the increase in base quantity is not based on projected production, but is based on a grower's demonstrated sales of cranberries. Moreover, in the event of volume regulation, the allotment percentage would be uniformly applied to all growers. Finally, the proposed increase in allotment bases should be considered in conjunction with the changes in bona fide effort requirements (discussed later in this document). The purpose of the changes in the bona fide effort requirements are to insure that base quantities remain with growers who have demonstrated a bona fide effort to produce and sell cranberries regardless of the size of their farming operations.

In its comment, the committee stated that, following a comprehensive review of computerized grower files, it was determined that discrepancies existed which necessitated a recomputation of the additional base quantity amount. The corrected figures represented 7.24 percent, or 237,249 barrels, of the total aggregate of base quantities held by all producers. (The proposed rule specified 7.74 percent, or 254,629 barrels). The committee noted that as recomputed the change in the allocation amount and corresponding percentage does not adversely affect the intent of the committee to allocate the full amount of additional base quantity to all qualified new and existing growers for which they are entitled, contingent on their demonstrated ability to produce and sell cranberries. Therefore, § 929.153(a) is established to provide for the 1986-87 crop year, the reserve base quantity shall be 7.24 percent.

Section 929.48, and § 929.153(d) which implements that section, provides that a condition for the continuing validity of a

grower's base quantity is the production of cranberries in a proprietary capacity. If no bona fide effort is made to produce and sell cranberries thereunder for five consecutive seasons, commencing with the 1978-79 season, the base quantity may be reduced or declared invalid due to lack of use and cancelled at the end of the fifth season of nonproduction. Section 929.48 also provides that the committee shall establish criteria, subject to approval by the Secretary, whereby the committee may determine whether a bona fide effort has been made to produce and sell cranberries produced on the grower's own acreage.

In order to assure that base quantities are held by growers who have demonstrated their ability to produce and sell cranberries on their established acreage, and to prepare for any future recommendation for a marketable quantity and annual allotment, the committee recommended stricter criteria for determining bona fide effort. The committee observed that its proposal was intended as a means to treat all cranberry growers in an equitable manner since base quantities would remain only with growers who demonstrate a bona fide effort and who are not merely holding base quantities in anticipation of any future volume regulation. Such a practice is unfair to growers who are currently producing and selling cranberries to the full extent of their base quantities. The committee's proposal was intended to apply criteria which would recognize certain factors characteristic of cranberry production which are beyond the control of growers using accepted normal cultural practices. Such characteristic factors include: (1) Fluctuations in quantity and quality caused by weather, disease and other natural phenomena beyond a grower's control; and (2) the generally low production yields on new or recently replanted acreage.

Thus, the committee recommended the bona fide effort criteria be expanded to include both: (1) The present operational provision that the base quantity of a grower who has not produced and sold cranberries for five consecutive seasons, commencing with the 1978-79 season, may be declared invalid and cancelled at the end of the fifth such season due to lack of use; and (2) a new requirement operational in 1987, that the base quantity of a grower who has not maintained an average production and sales level for the best four of the most recent six years, commencing with the 1981-82 season, equal to at least 50 percent of the grower's base quantity, may be reduced to an amount equal to the average

production and sales for the best four of the most recent six years.

The proposed rule contained the above committee recommendations. However, it is now clear that the new requirement with respect to the most recent six years of production should not be made operational until 1988, in order to provide growers an adequate opportunity to make necessary adjustments in their cultural practices or other operational changes. Thus, it is appropriate that the bona fide effort requirement be based on the best four of the most recent six years, commencing with the 1982-83 season and no action would be taken to reduce base quantities until after the 1987-88 crop year. The 1987-88 crop year begins on September 1, 1987.

In order to provide growers with advance notice of the possibility of an impending reduction in their base quantities, the proposed rule also provided that the committee shall notify growers by registered mail when a grower's production and sales records show, for the best three out of the most recent five years, that the grower's production is 40 percent or more below the established base quantity. The proposed rule stated that the first such notification would occur shortly after the production and sales figures for the 1985-86 season, as reported by growers and handlers, are known, and each year thereafter. However, as previously discussed it is necessary to delay implementation of the bona fide effort rule regarding the removal of allotment base one year later than proposed. Thus, the committee will make the first notification utilizing 1986-87 crop production and sales figures as reported by growers and handlers. This notification should provide growers with ample opportunity to adjust their cultural practices, or to transfer base quantities to other growers who have more production and sales than base quantities.

A comment was received from a Middleboro, Massachusetts, grower who favored the proposed changes, but was concerned that growers with less than six years experience would be unfairly affected. However, the bona fide effort rule applies only to growers with at least six years of production and sales experience.

The final rule provides that the committee review production and sales records annually to determine if such a bona fide review effort is being made to produce and sell cranberries from

growers' established acreages. The committee would take due consideration of any available information which might indicate that specified factors beyond growers' control may have had an effect on growers' abilities to make bona fide efforts.

A Long Beach, Washington, grower submitted a comment which discussed the grower's own production experience with cranberry acreage which had not been harvested in the eight years previous to his ownership. He concluded that, despite his best efforts in the following five years, his base would be reduced unfairly under the terms of the proposal. Thus, he proposed that the proposed rule be modified so that the committee could consider the low production yields on new or recently replanted and rejuvenated acreage as a mitigating factor beyond a grower's control in making a bona fide effort. Consideration of renovated acreage (the term more widely used than "rejuvenated" to describe the production and cultural practices associated with acreage which has not been recently maintained and harvested) is appropriate because some growers employing good commercial practices may experience low yields on such acreage. Such low yields may be considered outside of a grower's control. Therefore, the final rule has been modified herein to provide for committee consideration of such renovated acreage.

The rule also reaffirms and incorporates an existing requirement that growers should be responsible for furnishing the committee with the necessary records and any other pertinent information in order for the committee to perform its determination.

The rules and regulations currently in effect under the order provide review procedures that any grower could follow if that grower was dissatisfied with the committee's determination. In summary, § 929.125 provides that such grower may submit to the committee, within 30 days after notification of any committee action with respect to a grower's base quantity, a request for a review by the committee of that determination, along with any materials which the grower feels are pertinent. The committee would review its determination, taking into account all materials submitted by the grower, and any other appropriate information. Thereupon, the committee must make a redetermination, and notify the grower of its conclusions, accompanied by the reasons for its

decision. If the grower is not satisfied with the subsequent decision of the committee, the grower may appeal, through the committee, to the Secretary, within 30 days. The Secretary shall promptly review the decision of the committee and make a decision which shall be final.

After consideration of all relevant matter presented, including the comments received, and other available information, it is found that the amendment of § 929.153, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that it is impracticable and contrary to the public interest to postpone the effective date until 30 days after publication in the *Federal Register* (5 U.S.C. 553), because a final rule should be issued before the February 25 committee meeting, in order for growers to have an established base allotment in the event volume regulation is recommended for the 1987-88 marketing season. Also, this rule needs to be effective before that meeting in order for the committee to evaluate the need for additional base in the 1987-88 marketing year.

List of Subjects in 7 CFR Part 929

Marketing agreements and orders, Cranberries, Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, New York.

PART 929—[AMENDED]

1. The authority citation for 7 CFR Part 929 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 929.153 is amended by revising paragraphs (a) and (d) to read as follows:

§ 929.153 Base quantity reserve.

(a) *Establishment.* An annual reserve base quantity equal to 2 percent of total base quantities is hereby established: *Provided, That*, for the 1986-87 crop year, the reserve base quantity shall be 7.24 percent.

(d) *Invalidation of base quantity.* As a condition for the continuing validity of a grower's base quantity, the grower shall make a bona fide effort to produce and sell cranberries on the grower's established acreage. In determining whether a grower has made a bona fide

effort, the committee shall apply the following criteria and procedures:

(1) The committee shall review production and sales records of growers annually to determine if a bona fide effort is being made to produce and sell cranberries. Growers are responsible for furnishing the committee with the necessary records and any other pertinent information in order for the committee to perform its duties under this paragraph.

(2) The base quantity of a grower who has not produced and sold cranberries for five consecutive seasons, commencing with the 1978-79 season, may be declared invalid and cancelled at the end of the fifth season due to lack of use. In addition, commencing with the 1982-83 season, the base quantity of a grower who has not maintained an average production and sales level for the best four of the most recent six years equal to at least 50 percent of the grower's established base quantity, may be reduced to an amount equal to the average production and sales for the best four of the most recent six years. Due consideration shall be given to any available information which indicates that production and sales were adversely affected by the following factors which are beyond a grower's control: (i) Fluctuations in quantity and quality as affected by weather, disease, and other natural phenomena; and (ii) the generally low production yields on new, or recently replanted or renovated, acreage.

(3) Any grower who is dissatisfied with a committee determination may appeal such determination pursuant to § 929.125. In its reconsideration, the committee shall consider the grower's production and sales data and shall take due consideration of any information submitted regarding the above specified factors beyond a grower's control, which may have an effect on a grower's ability to produce and sell cranberries.

(4) After the production and sales for the 1986-87 season are known, and each year thereafter, the committee shall notify a grower by registered mail when the grower's production and sales records show for the best three out of the most recent five years that the grower's production is 40 percent or more below such grower's established base quantity.

Dated: February 20, 1987.

William J. Doyle
Acting Deputy Director, Fruit and Vegetable
Division.

[FR Doc. 87-3955 Filed 2-24-87; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 945

[Amdt. No. 1]

Irish Potatoes Grown in Certain Designated Counties in Idaho and Malheur County, OR; Amendment to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule permits handlers to ship up to 200 hundredweight per day of yellow fleshed Finnish-type potatoes exempt from grade, size, maturity, pack, inspection, and assessment requirements, permits the shipment of prepeeled potatoes exempt from quality requirements, and permits potatoes for prepeeling to be handled without a Certificate of Privilege. Yellow fleshed Finnish-type potatoes often fail marketing order requirements although there is a small specialized market for them. There is a limited market for prepeeled potatoes and such potatoes will not enter normal fresh market channels.

EFFECTIVE DATE: March 27, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of 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 Agricultural Marketing Agreement 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.

This action relieves restrictions on handlers regulated under the marketing agreement and order program and will not increase handler costs.

Marketing Order No. 945 regulates the handling of potatoes grown in

designated counties in Idaho and Malheur County, Oregon. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Idaho-Eastern Oregon Potato Committee, established under the order, is responsible for its local administration.

Notice was given in the May 22, 1986, *Federal Register* (51 FR 18796) affording interested persons until June 23, 1986, to file written comments. None were filed.

At its meeting on January 15, 1986, the committee recommended that yellow fleshed Finnish-type potatoes be exempt from the grade, size, maturity, pack, and inspection requirements of the handling regulation, and from assessment requirements. These potatoes are generally small and often misshapen, and frequently do not meet the quality requirements of the order. However, there is a small but specialized market for this product which is often marketed as "organically grown." The committee believes that by permitting handlers to ship up to 200 hundredweight per day of these potatoes a small part of the consuming public could be served and a few growers and handlers could benefit, all with no adverse impact on the marketing of potatoes. There are few growers and even fewer handlers presently involved with this type of potato. If, however, the shipments of this type of potato reached a significant level, the committee would review the situation and would make any necessary changes at that time.

The committee also recommended that handlers be permitted to ship prepeeled potatoes exempt from quality and pack requirements. According to committee sources, there is only one active prepeeler in the area. The market for prepeeled potatoes is limited, with most going to local restaurants throughout the production area and nearby locations. Hence, the exemption is not expected to adversely affect fresh market shipments.

The committee also recommended removing the requirement that potatoes for prepeeling move under a Certificate of Privilege. Since such potatoes must be inspected and certified as meeting minimum grade and size requirements specified by the handling regulation, the committee believes that the Certificate of Privilege is unnecessary. Eliminating the requirement for a Certificate of Privilege in this instance will simplify the regulation and lessen the paperwork burden on handlers without compromising the quality control efforts of the industry.