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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206-AD49

Federal Employees Health Benefits; Medicare Eligible Individuals

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing regulations to implement the Medicare Catastrophic Coverage Act of 1988. The regulations define Medicare eligible individuals who are entitled to a reduced health insurance premium under the law.

EFFECTIVE DATE: June 26, 1989.

FOR FURTHER INFORMATION CONTACT: Margaret C. Randall, (202) 632-4634.

SUPPLEMENTARY INFORMATION: The Medicare Catastrophic Coverage Act of 1988, Pub. L. 100-360, was enacted on July 1, 1988. It expands benefits under Medicare Parts A and B effective January 1, 1989 and January 1, 1990, respectively. Some of the additional coverage provided under the new law duplicates coverage provided under the Federal Employees Health Benefits Program (FEHBP). In order to avoid having Federal annuitants pay premiums for overlapping coverage, Section 422 of the law provides for a reduction in FEHBP premium rates for Medicare eligible Federal annuitants. The amount of the reduced premium and the manner in which it is administered will be determined by the Office of Personnel Management.

On October 14, 1988, OPM published an interim regulation in the **Federal Register** (53 FR 40203) to define those individuals who will be eligible for the reduced premiums. OPM received one written response to the interim regulation from an association of Government employees. They suggested that OPM publish the procedures used to determine the rate reduction in order to ensure that the process is proper and timely. The law requires that OPM consult with the FEHBP carriers in determining the premium rate reduction. Otherwise, it does not address the methodology. In determining the 1989 rate reduction amount, OPM consulted with all the carriers and intends to continue in that vein each year. OPM does not believe that publishing the process would in any way add to its appropriateness or timeliness and would reduce our ability to respond quickly to changes in the FEHB and Medicare Programs.

The association also asked questions about the effective dates of the rate reductions and when the rate reduction amount would be published. Because the Act clearly states that the reduced rates shall apply as of the effective dates of the respective amendments to the Act, OPM sees no need to restate those effective dates in the regulations. The rate reductions are effective on the dates stated in the law regardless of when OPM publishes the amount of the reduction. OPM intends to publish the amount of each year's reduction in the **Federal Register** in advance of the FEHB Program open season. The 1989 rate reduction was published on October 26, 1988 (53 FR 43308).

The association questioned the use of language to define Medicare eligible individual in the regulation that is different from the language used in the Act. The regulation uses language which OPM believes is more commonly understood than the language in the law (for example, Medicare Part A instead of title XVIII of the Social Security Act). The terms "annuitant" and "former spouse" are undefined in the Act. As part of its normal function of clarification, the regulation refers to existing definitions of "annuitant" and "former spouse" established in Chapter 89 of Title 5, United States Code. The language used in the regulation is largely for administrative ease and in no way reduces the coverage of the Act.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regualtions will not have a significant economic impact on a substantial number of small entities because they primarily affect Federal employees, annuitants, and former spouses.

List of Subjects in 5 CFR Part 890

Administrative practice and procedures, Government employees, Health insurance.

U.S. Office of Personnel Management.
Constance Horner,
Director.

PART 890—[AMENDED]

Accordingly, OPM is adopting its interim rule amending 5 CFR Part 890 published in the **Federal Register** (53 FR 40203, October 14, 1988) as a final rule without change.

[FR Doc. 89-12519 Filed 5-24-89; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 980

[FV-89-008]

Irish Potatoes Imported Into the United States; Final Rule Clarifying Exemption for Certified Seed

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule clarifies the exemption for certified seed potatoes in the potato import regulation. This action clarifies that such potatoes are exempt from the size, quality, and inspection requirements of the import regulation, when used for the purpose intended and are not sold in fresh market channels.

EFFECTIVE DATE: Final rule effective May 30, 1989.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone (202) 447-2020.

SUPPLEMENTARY INFORMATION: This rule amends 7 CFR Part 980 regulating Irish

potatoes imported into the United States. The potato import regulation is authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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 (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 import regulations 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 20 potato importers subject to the requirements of the potato import regulation. The Small Business Administration (13 CFR 121.2) has defined small agricultural producers as those having annual gross revenue for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of importers of potatoes may be classified as small entities.

Section 8e of the Act requires that when certain domestically produced commodities, including Irish potatoes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements. Section 8e also provides that whenever two or more marketing orders regulating a commodity produced in different areas of the United States are concurrently in effect, the Secretary shall determine which of the areas produces the commodity in most direct competition with the imported commodity. Imports then must meet the quality standards set for that particular area.

In the case of potatoes, the current import regulation (§ 980.1, 37 FR 8059, April 25, 1972) specifies that import requirements for long types be based on those in effect for potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon (7 CFR Part 945) during each month of the year. The import requirements for round white types are based on those in effect for potatoes grown in the Southeastern States from June 5 to July 31 (7 CFR Part 953), and on those in effect for potatoes grown in Colorado Area 3 for the remainder of the year (7 CFR Part 948). The import requirements for round red types are based on those in effect for potatoes grown in Washington during the months of July and August (7 CFR Part 946), and on those in effect for potatoes grown in Colorado Area 2 for the remainder of the year (7 CFR Part 948).

The handling requirements established under the marketing orders are intended to provide that potatoes shipped to the fresh market meet standards of acceptable size and quality for that market. Exemptions are provided for potatoes used in certain other outlets to recognize that there are situations in which it is unnecessary or unreasonable to require potatoes to meet fresh market requirements. To the extent practicable, comparable exemptions are provided in the import regulation.

Under each marketing order regulation, an exemption is provided for potatoes used as seed because the requirements for this outlet differ markedly from those for the fresh market. Seed potatoes are grown and handled under special conditions to ensure that they possess the necessary attributes for seed, such as being free from disease. Each major potato producing State operates a seed certification program under which requirements for seed potatoes are established. If these requirements are met, seed potatoes are certified and identified as such by the State's certifying agency. Marketing order exemptions for seed potatoes specify that in order to qualify for the exemption, potatoes must be officially certified as seed. Further, the potatoes must actually be used as seed.

The import regulation also exempts potatoes that are officially certified as seed. However, it does not specify that these potatoes must be utilized as seed to qualify for the exemption. To clarify this provision, the import regulation is being revised to expressly state that the exemption for certified seed potatoes applies only to potatoes which meet the requirements for such potatoes and are used for such purpose. This revision makes the import regulation's exemption provision comparable to domestic regulations.

In addition, all potatoes imported into the United States are currently grown in Canada, which operates a seed certification program similar to those existing in the United States. The current import regulation incorrectly identifies the official Canadian seed certifying agency. Accordingly, a revision is being made in the regulation to correctly identify that agency as the Plant Health Directorate, Food Production and Inspection Branch, Agriculture Canada.

Based on the above, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Notice of this action was given in the February 24, 1989, **Federal Register** (54 FR 7936) providing interested persons until March 27, 1989, to file written comments.

One comment was submitted by Dr. Richard T. Zink on behalf of the Minnesota Certified Seed Potato Growers Association. Dr. Zink expressed opposition to this action, stating that seed potatoes should continue to be subject to the import regulation. He indicated that lifting the grade, size, and inspection requirements for seed potato imports would be detrimental to the domestic potato industry, because it would result in a serious disease threat. Further, potatoes imported as seed are not necessarily used for that purpose and, in fact, are often sold in fresh market channels.

Imports of seed potatoes are currently exempt from the fresh market standards imposed by the import regulation in question, and the notice did not propose eliminating the current exemption. While seed potatoes would continue to be exempt from the grade, size, and maturity requirements of the import regulation, they would still be required to be inspected and certified by Agriculture Canada. As in this country, the seed certification program in Canada has as its main objective assuring that seed potatoes are free from disease. The clarification in the import regulation exemption for seed potatoes contained in this final rule would have no effect on Canada's certification requirements, and therefore should not subject domestic growers to any additional disease risks. Accordingly, this aspect of the comment is denied.

Dr. Zink's comment with respect to potatoes imported as seed being sold on the fresh market lends support to this action. As previously indicated, the exemption provision of the import regulation does not expressly state that imported seed potatoes must be used for that purpose. Adding such a statement would clarify the intent of the exemption, and should prevent seed potatoes being sold on the fresh market. Since the exempt seed potatoes would

be required to be tagged, they would be readily identifiable in wholesale markets. Therefore, it is believed that this action would adequately assist in assuring that exempt potatoes are not sold in the commercial fresh market channels contrary to the intent of the potato import regulation.

After consideration of all relevant information, including the proposal set forth in the notice and the comment filed with respect thereto, it is found that the rule as hereinafter set forth will tend to effectuate the declared policy of the Act.

It is hereby further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register (5 U.S.C. 553) in that (1) This action clarifies an existing exemption and does not impose additional regulatory requirements on potato imports; and (2) importation of 1988–89 season potatoes is continuing and this revision should be made as soon as possible to clarify the intent of the exemption.

List of Subjects in 7 CFR Part 980

Marketing agreements and orders, Imports, Potatoes.

For the reasons set forth in the preamble, 7 CFR Part 980 is amended as follows:

PART 980—VEGETABLES; IMPORT REGULATIONS; POTATOES

1. The authority citation for 7 CFR Part 980 continues to read as follows:

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

2. Section 980.1 is amended by revising paragraph (e) to read as follows:

Note: This section will appear in the Code of Federal Regulations.

§ 980.1 Import regulations; Irish potatoes.

* * * * *

(e) *Certified seed.* Certified seed potatoes shall include only those potatoes which are officially certified and tagged as seed potatoes by the Plant Health Directorate, Food Production and Inspection Branch, Agriculture Canada, and which are subsequently used as seed.

* * * * *

Dated: May 19, 1989.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–12491 Filed 5–24–89; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 998

[Docket No. FV–89–041]

Marketing Agreement 146 Regulating the Quality of Domestically Produced Peanuts; Expenses, Assessment Rate, and Indemnification Reserve for the Peanut Administrative Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures for administration and indemnification, establishes an assessment rate, and authorizes the continuation of an indemnification reserve under Marketing Agreement 146 for the 1989–90 crop year. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATES: July 1, 1989 through June 30, 1990 (§ 998.402).

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2530–S, Washington, DC 20090–6456, telephone 202–475–3862.

SUPPLEMENTARY INFORMATION:

This final rule is issued under Marketing Agreement 146 (7 CFR Part 998) regulating the quality of domestically produced peanuts. This agreement is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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 (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subjects to such actions in order that small businesses will not be unduly or disproportionately burdened.

There are approximately 68 handlers of peanuts covered under the peanut marketing agreement, and approximately 46,950 producers in the 16 states covered under the agreement. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. Some of the handlers covered under the agreement are small entities, and a majority of producers may be classified as small entities.

Under the marketing agreement, the assessment rate for a particular crop year applies to all assessable tonnage handled from the beginning of such year (i.e., July 1). An annual budget of expenses is prepard by the Peanut Administrative Committee (Committee) and submitted to the Department of Agriculture for approval. The members of the Committee are handlers and producers of peanuts. They are familiar with the Committee's needs and with the costs for goods, services and personnel for program operations and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed at industry-wide public meetings. Thus, all directly affected persons have an opportunity to participate and provide input. The handlers of peanuts who will be directly affected have signed the marketing agreement authorizing approval of expenses that may be incurred and the imposition of assessments.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected receipts and acquisitions of farmers' stock peanuts. It automatically applies to all assessable peanuts received by handlers from July 1, 1989. Because that rate is applied to actual receipts and acquisitions, it must be established at a rate which will produce sufficient income to pay the Committee's expected expenses. The recommended budget, rate of assessment, and the continuation of an indemnification reserve were acted upon by the Committee on March 28–29, 1989, and expenses are incurred on a continuous basis. Therefore, this budget and assessment rate approval must be expedited so that the Committee will have funds to pay its expenses starting on July 1, 1989.

Notice of this action was published in the Federal Register on April 28, 1989 (54 FR 18297). The comment period ended May 9, 1989. No comments were received.

The Committee unanimously recommended a 1989–90 budget of administrative expenses of $850,000 or $34,000 more than budgeted last year. Budget items for 1989–90 which have increased compared to those from 1988–89 (in parentheses) are: Executive salaries, $119,521 ($114,374); field representative salaries, $225,500 ($218,000); clerical salaries, $136,000 ($120,000); employee benefits, $89,000 ($77,000); and office rent and parking, $45,700 ($43,000). All other items are

budgeted at about last year's amounts except for staff travel expenses which have been decreased from $11,000 to $5,000. The administrative budget includes a reserve for contingencies amounting to $5,279.

The recommended administrative assessment rate for the 1989–90 crop year is $0.50 per ton of assessable peanuts. Last year the assessment rate was $2.48 per ton ($0.48 for administrative expenses and $2.00 for indemnification expenses). The 1989–90 assessable tonnage was estimated at 1.7 million tons, the same as last year. Application of the assessment rate to this estimate will result in $850,000 for administrative expenses.

Approximately $8.4 million will be carried forward into the 1989–90 crop year as a reserve under the agreement to meet 1989–90 indemnification expenses. This reserve is deemed adequate to cover indemnification expenses for the 1989–90 crop year. Therefore, the Committee did not recommend an assessment to make monetary additions to the indemnification reserve. The reserve is well within the limits authorized by the agreement. Funding for the indemnification account will also be generated from interest on time deposits.

While this action may impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers signatory to the agreement. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing agreement.

Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of the information and recommendations submitted by the Committee, it is found that this final rule will tend to effectuate the declared policy of the Act.

This final rule should be expedited because the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis. Therefore, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 998

Marketing agreement, Peanuts.

For the reasons set forth in the preamble, 7 CFR Part 998 is amended as follows:

PART 998—MARKETING AGREEMENT REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS

1. The authority citation for 7 CFR Part 998 continues to read as follows:

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

2. New § 998.402 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 998.402 Expenses, assessment rate, and indemnification reserve.

(a) *Administrative expenses.* The budget of expenses for the Peanut Administrative Committee for the crop year beginning July 1, 1989, shall be in the amount of $850,000, such amount being reasonable and likely to be incurred for the maintenance and functioning of the Committee and for such purposes as the Secretary may, pursuant to the provisions of the marketing agreement, determine to be appropriate.

(b) *Indemnification expenses.* Expenses of the Committee for indemnification payments, pursuant to the terms and conditions of indemnification applicable to the 1989 crop, effective July 1, 1989, are not expected to exceed the balance of the indemnification reserve (approximately $8.4 million), such amount being reasonable and likely to be incurred.

(c) *Rate of assessment.* Each handler shall pay to the Committee, in accordance with § 998.48 of the marketing agreement, an assessment at the rate of $0.50 per net ton of farmers' stock peanuts received or acquired other than from those described in § 998.31 (c) and (d). All funds generated from this assessment shall be for administrative expenses.

(d) *Indemnification reserve.* Monetary additions to the indemnification reserve, established in the 1965 crop year pursuant to § 998.48 of the agreement, shall continue. That portion of the total assessment funds accrued from previous crop years and not expended in providing indemnification on the 1989 crop peanuts shall be kept in such reserve and shall be available to pay indemnification expenses on subsequent crops.

Dated: May 19, 1989.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–12492 Filed 5–24–89; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 61

RIN 3150–AB89

Disposal of Radioactive Wastes

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The NRC is amending its regulations to require disposal of greater-than-Class-C (GTCC) low-level radioactive wastes in a deep geologic repository unless disposal elsewhere has been approved by the Commission. The amendments are necessary to ensure that GTCC wastes are disposed of in a manner that would protect the public health and safety and therefore obviate the need for altering existing classifications of radioactive wastes as high-level or low-level.

EFFECTIVE DATE: The rule will become effective on June 26, 1989.

FOR FURTHER INFORMATION CONTACT: W. Clark Prichard, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3884.

SUPPLEMENTARY INFORMATION:

Background

On May 18, 1988, the Nuclear Regulatory Commission published in the **Federal Register** (53 FR 17709) proposed amendments to Part 61 to require geologic repository disposal of greater-than-Class-C (GTCC) low level radioactive waste (LLW) unless an alternative means of disposal was approved by the Commission. The proposed amendments requiring geologic repository disposal, or an approved alternative, were aimed at insuring that GTCC waste would be disposed of in a manner consistent with the protection of public health and safety. This action was taken in lieu of a revision of the definition of high level radioactive waste (HLW). In proposing the amendments, the Commission outlined its rationale for not proceeding with a revision of the definition of HLW along the lines proposed in the advance notice of proposed rulemaking (ANPRM) published in February 27, 1987 (51 FR 5992).

It is the Commission's view that intermediate disposal facilities may never be available. In this event, a repository would be the only type of facility generally capable of providing safe disposal for GTCC wastes. At the