Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV98–932–1 PR]

Olives Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the California Olive Committee (Committee) under Marketing Order No. 932 for the 1998 and subsequent fiscal years. The Committee is responsible for local administration of the marketing order which regulates the handling of olives grown in California. Authority to assess olive handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal year began January 1 and ends December 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by March 19, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090–6456; Fax: (202) 205–6632. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Diane Purvis, Marketing Assistant, or Terry Vawter, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (209) 487–5901, Fax: (209) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090-6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 148 and Order No. 932, both as amended (7 CFR part 932), regulating the handling of olives grown in California, hereinafter referred to as the ''order.'' The marketing agreement and order are 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 (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California olive handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable olives beginning January 1, 1998, and continuing until amended, suspended, or terminated. This 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. Such 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 to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 1998 fiscal year and subsequent fiscal years from $14.99 per ton to $17.10 per ton.

The California olive marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California olives. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1997 fiscal year and subsequent fiscal years, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal year to fiscal year unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on December 11, 1997, and unanimously recommended 1998 fiscal year expenditures of $1,750,400 and an assessment rate of $17.10 per ton of olives received during the 1997–98 crop year, which began August 1, 1997, and ends July 31, 1998. In comparison, last year's budgeted expenditures were $2,159,265. The assessment rate of $17.10 is $2.11 higher than the rate currently in effect.

Olive trees have an alternate-bearing characteristic causing a large crop one year and a small crop the next. Handler receipts of olives for the 1997–98 crop year were 85,585 tons, which is 59% less than the 144,075 tons received in 1996–97. Although the 1998 fiscal year budgeted expenditures are less than those in the prior year, the decrease in olive receipts necessitates an increase in the assessment rate to cover all

anticipated expenditures. If the assessment rate is not increased from the 1997 fiscal year assessment rate of $14.99, funds will fall approximately $467,481 short of 1998 fiscal year's budgeted expenses.

The major expenditures recommended by the Committee for the 1998 year include $357,900 for administration, $50,000 for research, and $1,308,500 for market development. Budgeted expenses for these items in 1997 were $390,890, $173,375, and $1,595,000, respectively.

The assessment rate recommended by the Committee was derived by considering anticipated expenses, actual receipts of olives, and additional pertinent factors. The revised assessment rate should provide $1,463,504 in assessment income. Income derived from handler assessments, interest, and carryover of reserve funds would be adequate to cover budgeted expenses. Funds in the reserve (currently $287,996) would be kept within the maximum permitted by the order (approximately one fiscal year's expenses; § 932.40).

The assessment rate established in this rule would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee would continue to meet prior to or during each fiscal year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department and are published in local newspapers. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 1998 fiscal year budget and those for subsequent fiscal years would be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the 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 1,200 producers of olives in the production area and 4 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. None of the olive handlers may be classified as small entities, while the majority of olive producers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 1998 fiscal year and subsequent fiscal years from $14.99 per ton to $17.10 per ton. The Committee unanimously recommended 1998 fiscal year expenditures of $1,750,400 and an assessment rate of $17.10 per ton. The increased assessment rate is needed because the quantity of assessable olives for the 1998 fiscal year is 85,585 tons, a decrease of 59% from last year's crop of 144,075 tons. The $17.10 rate should provide $1,463,504 in assessment income and be adequate to meet this year's budgeted expenses, when combined with funds from the authorized reserve and interest income.

A review of historical and preliminary information pertaining to the upcoming fiscal year indicates that the grower prices for the 1997–98 crop year could range from $150 to $825 per ton of olives for canning sizes. Therefore, the estimated assessment revenue for the 1998 fiscal year as a percentage of total grower revenue could range between 11.4 and 2 percent, respectively. Because most of the canning sizes will probably be sold closer to the $825 per ton price, the estimated assessment revenue for the 1998 fiscal year as a percentage of total grower revenue will be closer to 2 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are expected to be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the California olive industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the December 11, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on California olive handlers, none of which are small entities. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1998 fiscal year began on January 1, 1998, and the marketing order requires that the rate of assessment for each fiscal year apply to all assessable olives handled during such fiscal year; (3) all four handlers are represented on the Committee and participated in deliberations; and (4) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 932 is proposed to be amended as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 932 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 932.230 is proposed to be revised to read as follows:

§ 932.230 Assessment rate.

On and after January 1, 1998, an assessment rate of $17.10 per ton is established for assessable olives grown in California.

Dated: February 9, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–3869 Filed 2–13–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

7 CFR Parts 3015, 3016 and 3019

RIN 0503–AA16

Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

AGENCY: Department of Agriculture, USDA.

ACTION: Notice of proposed rulemaking.

SUMMARY: USDA is proposing to revise its grants management regulations in order to bring the entitlement programs it administers under the same regulations that already apply to nonentitlement programs; and to identify exceptions to these general rules that apply only to entitlement programs. The effect of the first change would be that only one set of Federal administrative requirements would apply to awards that a grantee or subgrantee organization receives under USDA programs. That would be consistent with how most other Federal awarding agencies handle their codifications of governmentwide rules for grantees and subgrantees. In making the second change, this proposed rule would establish the following exceptions for entitlement programs: States and their governmental subgrantees would be required to conduct procurements under USDA entitlement programs in accordance with the specific procurement rules stated in the USDA regulations; the option to use State rules that differed from these Federal rules would not be available, as it is for procurements under nonentitlement programs; States and their governmental subgrantees would be required to exclude from consideration for a contract award any contractor that had developed draft product specifications, requirements, statements of work, invitations for bid, and/or requests for proposals for use by the grantee or subgrantee in conducting procurements under USDA entitlement programs; Financial reporting requirements under USDA entitlement programs would continue to be provided in the program-specific regulations rather than in the departmental regulations. This would not affect the reporting requirements themselves.

DATES: Written comments must be submitted on or before May 19, 1998.

ADDRESSES: Comments must be mailed or faxed to Gerald Miske, Supervisory Management Analyst, Fiscal Policy Division, Office of the Chief Financial Officer, USDA, Room 3022 South Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250; FAX (202) 690–1529. Written comments may be inspected at the above address from 8:00 a.m. to 5:00 p.m. A copy of the Regulatory Cost/Benefit Assessment referenced in the Regulatory Impact Analysis section of this preamble can be obtained from Gerald Miske, Supervisory Management Analyst, Fiscal Policy Division, Office of the Chief Financial Officer, USDA, Room 3022 South Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250. This assessment may be examined at the same address.

FOR FURTHER INFORMATION CONTACT: Gerald Miske, Supervisory Management Analyst, Fiscal Policy Division, Office of the Chief Financial Officer, USDA, at the above address; telephone (202) 720–1553.

SUPPLEMENTARY INFORMATION:

Background

The administrative requirements for awards and subawards under all USDA entitlement programs are currently in 7 CFR Part 3015, ''Uniform Federal Assistance Regulations.'' The corresponding requirements for awards and subawards to State and local governmental organizations under USDA nonentitlement programs are in Subparts A through D of 7 CFR Part 3016, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;'' and the administrative requirements for awards and subawards to nongovernmental, nonprofit organizations are in 7 CFR Part 3019, ''Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.'' This proposed rule would expand the scope of Parts 3016 and 3019 to include entitlement programs, and delete administrative requirements for awards and subawards under such programs from the scope of Part 3015. It would also establish, in Subpart E to Part 3016, certain exceptions to the general administrative requirements that would apply only to the entitlement programs. The following text outlines the evolution of these proposed changes.

On March 11, 1988, USDA joined other Federal agencies in publishing a final grants management common rule applicable to assistance relationships established by grants and cooperative agreements, and by subawards thereunder, to State and local governments. Prior to that date, administrative requirements for awards and subawards under all USDA programs were codified at 7 CFR Part 3015. USDA implemented the common rule at 7 CFR Part 3016. At that time, the common rule did not apply to entitlement programs such as the Food Stamp and Child Nutrition Programs administered by the Food and Nutrition Service, USDA, and the public assistance programs administered by the Department of Health and Human Services (DHHS). However, Subpart E was reserved in the rule to subsequently address provisions specific to entitlement programs. Pending the publication of Subpart E to Part 3016, the USDA entitlement programs have remained under Part 3015. These programs included:

(1) Entitlement grants under the following programs authorized by the National School Lunch Act, as amended: (a) National School Lunch Program, General and Special Meal Assistance (sections 4 and 11 of the Act, respectively), (b) Commodity Assistance (section 6 of the Act), (c) Summer Food Service Program for Children (section 13 of the Act), and (d) Child and Adult Care Food Program (section 17 of the Act); (2) Entitlement grants under the following programs authorized by the Child Nutrition Act of 1966, as amended: (a) Special Milk Program for Children (section 3 of the Act), (b) School Breakfast Program (section 4 of the Act), and (c) State Administrative Expense Funds (section 7 of the Act); and (3) Entitlement grants for State Administrative Expenses under the Food Stamp Act of 1977, as amended (section 16 of the Act).

The exclusion of these programs from the scope of Part 3016 made that regulation apply only to USDA's nonentitlement programs. The principal nonentitlement programs administered by the Food and Nutrition Service include the Special Supplemental