

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

### Subpart—Assessment Rates

#### **§925.215 Assessment rate.**

On and after January 1, 1997, an assessment rate of \$0.01 per lug is established for grapes grown in a designated area of southeastern California.

Dated: January 10, 1997.

Robert C. Keeney,

*Director, Fruit and Vegetable Division.*

[FR Doc. 97-1162 Filed 1-16-97; 8:45 am]

BILLING CODE 3410-02-P

### **7 CFR Part 932**

[Docket No. FV96-932-4 IFR]

#### **Olives Grown In California; Assessment Rate**

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

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

**SUMMARY:** This interim final rule establishes an assessment rate for the California Olive Committee (Committee) under Marketing Order No. 932 for the 1997 fiscal year and subsequent fiscal years. The Committee is responsible for local administration of the marketing order which regulates the handling of olives grown in California.

Authorization to assess olive handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

**DATES:** Effective on January 1, 1997. Comments received by February 18, 1997, will be considered prior to issuance of a final rule.

**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 Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, FAX (202) 720-5698. 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:** Mary Kate Nelson, Marketing Assistant, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721, telephone (209) 487-5901, FAX (209) 487-5906, or Tershirra Yeager, Program Assistant, Marketing Order Administration

Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone (202) 720-5127, FAX (202) 720-5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone (202) 720-2491, FAX (202) 720-5698.

**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 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 (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, 1997, 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.

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.

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. Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

There are approximately 1,200 producers of olives in the production area and approximately 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.

The 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.

The Committee met on December 11, 1996, and recommended 1997 expenditures of \$2,159,265 and an assessment rate of \$14.99 per ton covering olives from the appropriate crop year. The vote on the assessment rate was 13 in favor and 1 opposed, with the opposing grower maintaining that the assessment is not sufficient for the industry's needs. In comparison, last year's budgeted expenditures were \$2,600,785. The assessment rate of \$14.99 is \$13.27 lower than last year's established rate. Major expenditures recommended by the Committee for the 1997 fiscal year include \$390,890 for

administration, \$173,375 for research, and \$1,595,000 for market development. Budgeted expenses for these items in 1996 were \$388,350, \$213,000, and \$1,999,435 respectively.

The order requires that the assessment rate for a particular fiscal year apply to all assessable olives handled during the appropriate crop year, which for this season is August 1, 1996, through July 31, 1997. The assessment rate recommended by the Committee was derived by dividing anticipated expenses by actual receipts of olives by handlers during the crop year. Because that rate is applied to actual receipts, it must be established at a rate which will produce sufficient income to pay the Committee's expected expenses.

The recommended budget and rate of assessment is usually acted upon by the Committee after the crop year begins and before the fiscal year starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the Committee will have funds to pay its expenses. The olive receipts for the year are 144,075 tons which should provide \$2,159,684 in assessment income. Income derived from handler assessments will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

This action will reduce the assessment obligation imposed on handlers. The assessments will be uniform for all handlers. The assessment costs will be offset by the benefits derived from the operation of the marketing order. Therefore, the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The assessment rate established in this rule will 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 will 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. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment

rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1997 budget and those for subsequent fiscal years will be reviewed and, as appropriate, approved by the Department.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1997 fiscal year began on January 1, 1997, and the marketing order requires that the rate of assessment for each fiscal year apply to all assessable olives handled during the appropriate crop year; (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

#### 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 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. A new subpart—Assessment Rates and a new § 932.230 are added to read as follows:

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

#### **Subpart—Assessment Rates**

##### **§ 932.230 Assessment rate.**

On and after January 1, 1997, an assessment rate of \$14.99 per ton is established for assessable olives grown in California.

Dated: January 10, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–1161 Filed 1–16–97; 8:45 am]

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#### **Animal and Plant Health Inspection Service**

#### **9 CFR Part 78**

[Docket No. 96–033–2]

#### **Official Brucellosis Tests**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the brucellosis regulations to add the rapid automated presumptive test to the list of official tests for determining the brucellosis disease status of test-eligible cattle, bison, and swine. We are taking this action because the rapid automated presumptive test has been shown to provide an accurate, automated, and cost-effective means of determining the brucellosis status of test eligible cattle, bison, and swine. Adding the rapid automated presumptive test to the list of official tests for brucellosis in cattle, bison, and swine will help to prevent the spread of brucellosis by making available an additional tool for its diagnosis in those animals.

**EFFECTIVE DATE:** February 18, 1997.

**FOR FURTHER INFORMATION CONTACT:** Dr. M.J. Gilsdorf, National Brucellosis Epidemiologist, Brucellosis Eradication Staff, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737–1228, (301) 734–7708; or E-mail: mgilsdorf@aphis.usda.gov.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Brucellosis is a contagious disease affecting animals and humans, caused by bacteria of the genus *Brucella*. In its principal animal hosts—cattle, bison, and swine—brucellosis is characterized by abortion and impaired fertility. The regulations in 9 CFR part 78 (referred to below as the regulations) govern the interstate movement of cattle, bison, and swine in order to help prevent the spread of brucellosis.

Official brucellosis tests are used to determine the brucellosis disease status of cattle, bison, and swine. The regulations stipulate that certain cattle, bison, and swine must, among other requirements, test negative to an official brucellosis test prior to interstate movement. Official brucellosis tests are also used to determine eligibility for