individual is not physically located in the room where the briefing is received.

Example 2 to paragraph (d)(2)(ii): The agency described in the preceding example provides a briefing through a videotaped briefing instead of through a video conference link. The employees viewing the videotape are provided with a telephone at the training site and the telephone number of a qualified individual who is standing by during and immediately following the training to answer any questions. The briefing fulfills the physical presence requirement because the employees receiving the briefing have direct and immediate access to a qualified individual.

Example 3 to paragraph (d)(2)(ii): The physical presence requirement would not be met if the facts of Example 2 were varied so that the employees receiving the briefing did not have immediate access to the qualified individual, either because there was no phone provided at the training site or because the qualified individual was not standing by to respond to any questions raised. Merely providing the phone number of the qualified individual, without providing access to that individual who is standing by to answer questions raised during the briefing, does not provide the employees receiving the training with the direct and immediate access to the qualified individual necessary to satisfy the presence requirement.

(iii) *Exceptions.* An agency may provide the annual ethics briefing for employees described in paragraph (b)(3) of this section by means other than as specified in paragraphs (d)(2)(i) and (d)(2)(ii) of this section only under the following circumstances:

(A) Where the Designated Agency Ethics Official, or his or her designee, has made a written determination that circumstances make it impractical to provide the annual verbal ethics briefing with a qualified individual present, to a particular employee or group of employees in accordance with paragraphs (d)(2)(i) and (d)(2)(ii) of this section. In such cases, the annual ethics briefing may be provided without the presence of a qualified individual, provided that a minimum of one hour of official duty time is set aside for employees to attend the presentation or review the written materials, either by:

(*1*) Telecommunications, computer-based methods or recorded means; or

(*2*) Written means.

Example 1 to paragraph (d)(2)(iii)(A): The State Department has one public filer (the Ambassador) in the American Embassy in Ulan Bator, Mongolia. Because of the difference in time zones and the uncertainty of an ambassador's schedule, the designated agency ethics official for the State Department is justified in making a written determination that circumstances make it impractical to provide the annual ethics training as a verbal briefing, either with or without the presence of a qualified individual. The required annual ethics briefing can therefore be provided by written means in accordance with § 2638.704(d)(2)(iii)(A)(*2*). Note that an initial ethics orientation provided in the same calendar year in accordance with § 2638.703 of this subpart will meet this annual written ethics briefing requirement, provided the materials meet the content requirements stated at paragraph (c) of this section.

(B) In the case of special Government employees who are covered employees under paragraph (b)(3) of this section, an agency may (without the presence of a qualified individual) provide the annual ethics briefing by written or other means at the agency's discretion, provided that a minimum of one hour of official duty time is set aside for employees to attend the presentation or review the written materials.

(3) *Annual ethics briefings for all other covered employees.* (i) An agency may satisfy the annual ethics briefing requirement for covered employees other than those described at paragraph (b)(3) of this section for up to two out of every three calendar years through the distribution of a written ethics briefing to those employees. In such case, while not required to provide a minimum of one hour of official duty time, an agency must provide employees receiving their annual ethics briefings under this paragraph with sufficient official duty time to review the written materials provided. Note that an initial ethics orientation provided in the same calendar year in accordance with § 2638.703 of this subpart will meet this annual ethics briefing requirement (as well as that of § 2638.704(d)(3)(iii) of this section), provided the materials meet the content requirements stated at paragraph (c) of this section.

(ii) Except as permitted under paragraph (d)(3)(iii) of this section, the ethics briefing for covered employees other than those described at paragraph (b)(3) of this section shall be presented verbally at least once every three years, either in person or by telecommunications, computer-based methods or recorded means. Employees must be provided a minimum of one hour of official duty time for this verbal briefing. Unlike the annual ethics briefing described at paragraph (d)(2) of this section, for covered employees described at paragraph (b)(3) of this section, a qualified individual need not be present during and immediately following the verbal presentation provided under this paragraph.

(iii) *Exceptions.* An agency can provide covered employees receiving their annual ethics briefings under this paragraph (d)(3) with written briefings only, in accordance with paragraph (d)(3)(i) of this section, every year without the verbal ethics briefing as described at paragraph (d)(3)(ii) of this section at least once in any three calendar year period, under the following circumstances:

(A) Where the Designated Agency Ethics Official, or his or her designee, has made a written determination that circumstances make it impractical to provide an ethics briefing verbally once every three calendar years to a particular employee or group of employees in accordance with paragraph (d)(3)(ii) of this section;

(B) In the case of special Government employees who are expected to work fewer than 60 days in a calendar year;

(C) In the case of officers in the uniformed services who serve on active duty for 30 or fewer consecutive days; or

(D) Where a particular employee or group of employees are covered employees solely because of agency discretionary designation pursuant to paragraph (b)(6) of this section.

[FR Doc. 97–6160 Filed 3–11–97; 8:45 am]

BILLING CODE 6345–01–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV96–932–4 FIR]

Olives Grown In California; Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule establishing 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.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Mary Kate Nelson, Marketing Specialist, 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.

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.

An interim final rule regarding this action was published in the January 17, 1997, issue of the Federal Register (62 FR 2549). That rule provided for a 30-day comment period. No comments were received.

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 reduces 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 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) an interim final rule was published on this action and provided a 30-day comment period, no comments were received.

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

Accordingly, the interim final rule amending 7 CFR part 932 which was published at 62 FR 2549 on January 17, 1997, is adopted as a final rule without change.

Dated: March 4, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–6203 Filed 3–11–97; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL ELECTION COMMISSION

11 CFR Part 111

[Notice 1997–3]

Adjustments to Civil Monetary Penalty Amounts

AGENCY: Federal Election Commission.

ACTION: Final rule.

SUMMARY: This rule implements the Debt Collection Improvement Act of 1996 (''DCIA''), which requires the Commission to adopt a regulation adjusting for inflation the maximum amount of civil monetary penalties (''CMP'') under the Federal Election Campaign Act of 1971 (''FECA'' or ''Act''), as amended. Any increase in CMP shall apply only to violations that occur after the effective date of this regulation.

EFFECTIVE DATE: March 12, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Rita A. Reimer, Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is publishing final rules implementing the Debt Collection Improvement Act of 1996, Pub. L. 104–134, section 31001(s), 110 Stat. 1321–358, 1321–373 (April 26, 1996). The DCIA amended the Federal Civil Penalties Inflation Adjustment Act ''Inflation Adjustment Act''), 28 U.S.C. 2461 nt., to require that the Commission adopt regulations no later than 180 days after enactment of the statute and at least once every four years thereafter, adjusting for inflation that maximum amount of the CMP's contained in the status administered by the Commission.

Explanation and Justification

A CMP is defined at section 3(2) of the Interest Adjustment Act as any penalty, fine, or other sanction that (1) is for a specific amount, or has a maximum amount, as provided by federal law; and (2) is assessed or enforced by an agency in an administrative proceedings or by federal law. This definition covers the monetary penalty provisions administered by the Commission.

The DCIA requires that these penalties be adjusted by the cost of living adjustment set forth in section 5 of the Interest Adjustment Act. The cost of living adjustment is defined as the percentage by which the U.S. Department of Labor's Consumer Price Index (''CPI'') for the month of June of the year preceding the adjustment exceeds the CPI for the month of June for the year in which the amount of the penalty was last set or adjusted pursuant to law. The adjusted amounts are then rounded in accordance with a specified rounding formula. However, the DCIA imposes a 10% maximum increase for each penalty for the first adjustment following its enactment.

Part 111—Compliance Procedure (2 U.S.C. 437g, 437d(a))

Section 11.24 Civil Penalties (2 U.S.C. 437g(a)(5), (6), (12), 28 U.S.C. 2461 nt.

The Commission's general CMP provisions for violations of the FECA are found at 2 U.S.C. 437g(a) (5) and (6). They provide for a civil penalty not to exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in the violation.

These amounts are doubled in the case of a knowing and willful violation, to $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in the violation.

In addition, the Act imposes CMP's on those who violate certain of its confidentiality provisions. 2 U.S.C. 437g(a)(12). The penalty for violating this section is a fine of not more than $2,000 or $5,000 in the case of a knowing and willful violation.

Sections 437g(a) (5) and (6) were enacted in 1976. Pub. L. 94–283, sec. 109, 90 Stat. 475, 483 (May 11, 1976). Section 437g(a)(12) was added in 1980. Pub. L. 96–187, sec. 108.93 Stat. 1339, 1361 (Jan. 8, 1980).

The civil penalties established in those sections have not subsequently been revised. The Commission is therefore increasing the amount of each maximum CMP by 10%. As explained above, neither the CPI formula nor the rounding off formula applies to this situation, since the Interest Adjustment Act limits the first post-enactment adjustment to 10%.

Accordingly, as of March 12, 1997, the maximum civil penalties set forth in 2 U.S.C. 437g(a) (5) and (6) are increased to the greater of the amount of any contribution or expenditure involved in the violation or $5,500. The maximum penalty for a knowing and willful violation is increased to the greater of twice the amount of any contribution or expenditure involved in the violation or $11,000. The maximum penalty for a violation of 2 U.S.C. 437g(a)(12) is