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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV99–932–1 FR]

Olives Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate from $17.10 to $26.18 per ton of olives established for the California Olive Committee (Committee) under Marketing Order No. 932 for the 1999 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. The fiscal year began January 1 and ends December 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: March 30, 1999.

FOR FURTHER INFORMATION CONTACT: Diane Purvis, Marketing Assistant, and Terry Vawter, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (559) 487–5901; Fax: (559) 487–5906; or George Kelhart, Technical Advisor, 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) 720–5698. Small businesses may request information on compliance with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders 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) 720–5698, or E-mail: Jay__N__Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

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 on January 1, 1999, and continue 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 increases the assessment rate established for the Committee for the 1999 and subsequent fiscal years from $17.10 per ton to $26.18 per ton of olives.

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 1998 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 10, 1998, and unanimously recommended 1999 expenditures of $1,845,185 and an assessment rate of $26.18 per ton of olives. In comparison, last year's budgeted expenditures were $1,750,000. The assessment rate of $26.18 is $9.08 higher than the rate currently in effect. A higher assessment rate is needed because:

(1) Assessable tonnage is down for the second year in a row due in large part this crop year to adverse conditions created by the weather phenomenon El Nino. Assessable tonnage in 1996 totaled 144,075 tons, in 1997 it totaled 85,585 tons, and in 1998 the assessable tonnage totaled 67,990 tons; and

(2) Rather than reduce 1999 expenditures, the Committee determined that more funds are needed to continue the development of an improved mechanical olive harvester that can efficiently harvest most orchard configurations. The California olive

industry recognized that it needs to make reducing harvesting costs a top priority if it is to remain competitive with imports. Consequently, after considerable discussion, the Committee recommended increasing the $52,000 1999 Research Fund initially suggested by Committee members by an additional $250,000. The additional $250,000 is to be used specifically for the purpose of further development of a mechanical harvester that can be more effectively utilized by growers throughout the California olive industry while at the same time reducing harvesting costs.

The following table compares major budget expenditure recommendations for the 1999 fiscal year with those from last year:

Budget expenditure	1998	1999
Administration ...	$357,900	$346,485
Research	50,000	302,000
Market Development	1,308,500	1,190,500

The assessment rate recommended by the Committee was derived by considering anticipated expenses, actual receipts of olives, and additional pertinent factors. The quantity of assessable olives for the 1999 fiscal year is 67,990 tons which should provide $1,779,978 in assessment income. Income derived from handler assessments, interest, and carryover of reserve funds should be adequate to cover budgeted expenses. Funds in the reserve (currently $316,409) 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 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 will be in effect 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 1999 budget and those for subsequent fiscal years will 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 final 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 3 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. The majority of olive producers may be classified as small entities, while none of the olive handlers may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 1999 and subsequent fiscal years from $17.10 per ton to $26.18 per ton of olives. The Committee unanimously recommended 1999 expenditures of $1,845,185 and an assessment rate of $26.18 per ton. The assessment rate of $26.18 is $9.08 higher than the 1998 rate. The quantity of assessable olives for the 1999 fiscal year is 67,990 tons. Thus, the $26.18 rate should provide $1,779,978 in assessment income and be adequate to meet this year's budgeted expenses, when combined with funds from the authorized reserve and interest income.

The following table compares major budget expenditure recommendations for the 1999 fiscal year with those from last year:

Budget expenditure	1998	1999
Administration ...	$357,900	$346,485
Research	50,000	302,000
Market Development	1,308,500	1,190,500

A higher assessment rate is needed for 1999 because:

(1) Assessable tonnage is down for the second year in a row due in large part this crop year to adverse conditions created by the weather phenomenon El Nino. Assessable tonnage in 1996 totaled 144,075 tons, in 1997 it totaled 85,585 tons, and in 1998 the assessable tonnage totaled 67,990 tons; and

(2) Rather than reduce 1999 expenditures, the Committee determined that more funds are needed to continue the development of an improved mechanical olive harvester that can efficiently harvest most orchard configurations. The California olive industry recognized that it needs to make reducing harvesting costs a top priority if it is to remain competitive with imports. Consequently, after considerable discussion, the Committee recommended increasing the $52,000 1999 Research Fund initially suggested by Committee members by an additional $250,000. The additional $250,000 is to be used specifically for the purpose of further development of a mechanical harvester that can be more effectively utilized by growers throughout the California olive industry while at the same time reducing harvesting costs.

The Committee reviewed and unanimously recommended 1999 expenditures of $1,845,185 which included the $250,000 increase in research development of an improved mechanical olive harvester. To finance this additional research allotment, the Committee considered reducing the Market Development budget item by amounts ranging from $100,000 to $309,530. The prevailing opinion was that the money allocated for 1999 Market Development recommended by the Marketing Subcommittee remain the same ($1,190,500) as initially suggested, which is $118,000 less than budgeted for 1998. The Committee members believed that the Administrative Budget had already been reduced as low as possible ($11,415 less than for 1998). The only other alternative was to increase the assessment rate. The assessment rate of $26.18 per ton of assessable olives was then derived by considering anticipated expenses, actual receipts of olives, and additional pertinent factors.

Based on a review of historical and preliminary marketing and price information, grower revenue for the 1998–99 crop year (August 1 through July 31) is estimated to be approximately $39,500,000. Therefore, the estimated assessment revenue of $1,779,978 for the 1999 fiscal year will be approximately 4.5 percent of grower revenue.

This action increases 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 will 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 10, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This final rule imposes no additional reporting or recordkeeping requirements on California olive handlers. 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 proposed rule concerning this action was published in the Federal Register on January 28, 1999 (64 FR 4350). Copies of the proposed rule were also mailed or sent via facsimile to all olive handlers. Finally, the proposal was made available through the Internet by the Office of the Federal Register. A 30-day comment period ending March 1, 1999, was provided for interested persons to respond to the proposal. No comments were received.

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 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 begin assessing handlers at the $26.18 per ton rate as soon as possible to generate sufficient funds to pay its expenses; (2) the 1999 fiscal year began on January 1, 1999, and the order requires that the rate of assessment for each fiscal year apply to all assessable olives handled during the current crop year (August 1, 1998–July 31, 1999); and (3) all three handlers are represented on the Committee and participated in deliberations. Also, a 30-day comment period was provided for in the proposed rule and 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

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 revised to read as follows:

§ 932.230 Assessment rate.

On and after January 1, 1999, an assessment rate of $26.18 per ton is established for assessable olives grown in California.

Dated: March 24, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–7650 Filed 3–26–99; 8:45 am]

BILLING CODE 3410–02–U

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1728

Electronic Overhead Distribution Lines; Specifications and Drawings for 24.9/14.4 kV Line Construction

AGENCY: Rural Utilities Service, USDA.

ACTION: Compliance with Bulletin 50–5 or 1728F–803.

SUMMARY: In 1998 the Rural Utilities Service (RUS) updated and revised its bulletin of specifications and drawings for 24.9/14.4 kV overhead distribution line construction. The bulletin, formerly named Bulletin 50–5, was renamed ''RUS Bulletin 1728F–803; Specifications and Drawings for 24.9/14.4 kV Line Construction.'' This bulletin is incorporated by reference in 7 CFR Part 1728. As published in the **Federal Register**, Vol. 63, No. 251, Thursday, December 31, 1998, this bulletin was approved by the Director of the Federal Register effective February 1, 1999.

To allow borrowers to conduct an orderly transition from the old bulletin to the new construction assemblies and assembly numbers, it is acceptable to RUS for borrowers to utilize construction drawings in either Bulletin 50–5 or the new Bulletin 1728F–803 until December 31, 1999. After December 31, 1999, only Bulletin 1728F–803 standard drawings shall be used.

It is anticipated that this action will also allow borrowers sufficient time to make necessary changes in engineering and accounting procedures and associated computer software.

EFFECTIVE DATE: March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. James K, Bohlik, Electrical Engineer, Distribution Branch, Electric Staff Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW, STOP 1569, Washington, DC 20250–1569. Telephone: (202) 720–1967. Fax: (202) 720–7491.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act of 1936 as amended (7 U.S.C. 901 *et seq.*), the Rural Utilities Service (RUS) amended 7 CFR Chapter XVII, Part 1728, Electric Standards and Specification for Materials and Construction, by revising RUS Bulletin 50–5 (D–803), Specification and Drawings for 14.4/24.9 kV Line Construction, and renumbered it as RUS Bulletin 1728F–803. RUS maintains a system of bulletins that contains construction standards and specifications for materials and equipment. These standards and specifications apply to system facilities constructed by RUS electric and telecommunications borrowers in accordance with the RUS loan contract, and contains standard construction units, material, and equipment units commonly used in RUS electric and telecommunication borrowers' systems.

RUS Bulletin 1728F–803 provides dimensioned drawings of standard assembly units and specifications for the construction of 24.9/14.4 kV overhead electric distribution lines. RUS changed the bulletin number from RUS Bulletin 50–5 to RUS Bulletin 1728F–803. The change in the bulletin number and reformatting was necessary to conform to RUS' new publications and directives system. This bulletin is incorporated by reference in 7 CFR part 1728.97. It may be purchased from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250–7954.

Dated: March 23, 1999.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 99–7649 Filed 3–26–99; 8:45 am]

BILLING CODE 3410–15–P