

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because the regulations apply only to appointment procedures for certain employees in Federal agencies.

Executive Order 12866, Regulatory Review

This interim rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects

5 CFR Part 550

Administrative practice and procedure, Government employees, Claims, Wages.

5 CFR Part 553

Administrative practice and procedure, Government employees, Military Personnel, Retirement, Wages.

Office of Personnel Management.

Janice R. Lachance

Director.

Accordingly, OPM is amending parts 550 and 553 of title 5, Code of Federal Regulations, as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart F—[Removed and Reserved]

1. The authority citation for subpart F continues to read as follows:

Authority: 5 U.S.C. 5532.

2. Subpart F consisting of §§ 550.601, 550.602 and 550.603 is removed and reserved.

PART 553—REEMPLOYMENT OF MILITARY AND CIVILIAN RETIREES TO MEET EXCEPTIONAL EMPLOYMENT NEEDS

3. The authority citation for part 553 is revised to read as follows:

Authority: 5 U.S.C. 8344, 8468, Sec. 651, Pub. L. 106-65 (113 STAT. 664).

4. Section 553.101 is revised to read as follows:

§ 553.101 Applicability.

This part applies to employment of civilian annuitants who would be subject to termination of annuity or annuity offset under 5 U.S.C. 8344 or 5 U.S.C. 8468. Agencies may request exceptions as provided in subpart B of this part from the reemployed annuitant

provisions of 5 U.S.C. 8344 (for Civil Service Retirement System annuitants) or 8468 (for Federal Employees' Retirement System annuitants), as appropriate.

5. In § 553.102, paragraph (c) is revised to read as follows:

§ 553.102 Definitions.

* * * * *

(c) Retiree, as used in this part refers to an annuitant as defined in paragraph (b) of this section.

6. In § 553.103, paragraph (b) is revised to read as follows:

§ 553.103 General policy.

* * * * *

(b) Application of exceptions. An exception to the salary offset provisions of 5 U.S.C. 8344 or 8468 authorized by OPM or an agency under this part applies only to the particular individual for whom it was authorized and only while that individual continues to serve in the same or a successor position. The exception terminates upon the individual's assignment to a different position unless a new exception is authorized under the provisions of this part.

7. In § 553.201, paragraph (c)(2), is revised to read as follows:

§ 553.201 Requesting OPM approval for reemployment without reduction in individual cases.

* * * * *

(c) * * *

(2) *Need for the individual's services.*

The agency must show either that the individual is uniquely qualified for the emergency response work to be done or that the number of positions to be filled and/or urgency of response justifies making the particular appointment without further delay. OPM will not approve reemployment without penalty under 5 U.S.C. 8344, or 8468 solely to meet normal seasonal workload fluctuations.

8. In § 553.203, paragraph (b) is revised to read as follows:

§ 553.203 Status of individuals serving without reduction.

* * * * *

(b) *Retired members of the uniformed services.* Except for individuals to whom paragraph (a) of this section is applicable, retired members of uniformed services are considered employees for the purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, subject to the same conditions as apply to any other employees.

[FR Doc. 00-8838 Filed 4-11-00; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV00-932-1 FIR]

Olives Grown in California; Decreased 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 which decreased the assessment rate established for the California Olive Committee (Committee) for the 2000 and subsequent fiscal years from \$26.18 to \$21.73 per ton of olives handled. 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: May 12, 2000.

FOR FURTHER INFORMATION CONTACT: Diane Purvis, Marketing Assistant, and Rose Aguayo, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, 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 complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone (202) 720-2491, Fax: (202) 720-5698, or E-mail: Jay.Guerber@usda.gov.

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 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 assessment olives beginning on January 1, 2000, 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 continues the decrease in the assessment rate established for the Committee for the 2000 and subsequent fiscal years from \$26.18 per ton to \$21.73 per ton of olives handled.

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 1999 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 9, 1999, and unanimously recommended fiscal year 2000 expenditures of \$2,472,235 and an assessment rate of \$21.73 per ton of olives. In comparison, last year's budgeted expenditures were \$1,845,185. Recommended budget expenditures for research are significantly higher this year because of higher anticipated research expenses. The higher research budget of \$868,550 is needed to fund: (1) Continued research and development of the mechanical olive harvester and (2) scientific studies to develop chemical or biological defenses to counteract a potential threat from the olive fruit fly in the California production area.

The following table compares major budget expenditure recommendations for the 2000 fiscal year with those from last year.

Budget Expenditure	1999	2000
Administration	\$346,485	\$356,190
Research	302,000	868,550
Market Development	1,190,500	1,212,495

The assessment rate recommended by the Committee was derived by considering anticipated expenses, an estimated assessable tonnage, and additional pertinent factors. The estimate of assessable olives for the 2000 fiscal year is 113,750 tons. This compares to an assemble tonnage of 67,990 for fiscal year 1999. The increase in fiscal year 2000, due in large part to the alternate-bearing nature of olives, allowed the Committee to lower the assessment rate from \$26.18 to \$21.73 per ton, a decrease of \$4.45. Income derived from handler assessments, interest, and carryover of reserve funds will be adequate to cover budgeted expenses. Funds in the reserve at the end of fiscal year 2000 will be less than the maximum permitted by § 932.40 of the order (approximately one fiscal year's expenses).

The assessment rate 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 for 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 fiscal year 2000 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 121.201) 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 continues the decrease in the assessment rate established for the Committee and collected from handlers for the 2000 and subsequent fiscal years from \$26.18 per ton to \$21.73 per ton of olives. The Committee unanimously recommended fiscal year 2000 expenditures of \$2,472,235 and an assessment rate of \$21.73 per ton. The assessment rate of \$21.73 is \$4.45 lower than the 1999 rate. The estimated

quantity of assessable olives for the 2000 fiscal year is 113,750 tons. Thus, the \$21.73 rate should 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 2000 fiscal year with those from last year.

	Budget Expenditure	
	1999	2000
Administration	\$346,485	\$356,190
Research	302,000	868,550
Market Development	1,190,500	1,212,495

The higher research budget of \$868,550 is needed to fund: (1) Continue research and development of the mechanical olive harvester and (2) scientific studies to develop chemical and scientific defenses to counteract a potential threat from the olive fruit fly in the California production area.

A lower assessment rate was recommended for fiscal year 2000 because the estimated 2000 fiscal year assessable tonnage is approximately 40 percent larger than last fiscal years tonnage, due in large part to the alternate bearing nature of the crop. A comparison of assessable tonnage for fiscal year 2000 with the two previous fiscal years is listed below:

	1998	1999	2000
85,585		67,990	113,750

The Committee reviewed and unanimously recommended fiscal year 2000 expenditures of \$2,472,235, which reflects increases in the research, market development, and administrative budgets. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Executive Subcommittee, the Research Subcommittee, and the Marketing Subcommittee. Alternate spending levels were discussed by these groups, based upon potential reductions in the funding of various research and marketing projects. The Committee determined it was not necessary to increase the assessment rate to cover these expenses because the increased estimated tonnage will provide sufficient funds to cover anticipated expenses. The assessment rate of \$21.73 per ton of assessable olives was derived by considering anticipated expenses, as estimated assessable tonnage of olives, and additional pertinent factors.

A review of historical and preliminary information pertaining to the current fiscal year indicates that the grower

revenue for the 1999–2000 crop year will approximate \$64,126,725. With an assessment rate of 421.73 per ton and assessable tonnage totaling 113,750 tons, the Committee's assessment revenue for fiscal year 2000 will be \$2,471,788, or approximately 3.9 percent of grower revenue.

This action continues to decrease in the assessment obligation imposed on handlers for fiscal year 2000 by \$506,187. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. 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 9, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action 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.

An interim final rule concerning this action was published in the **Federal Register** on January 19, 2000 (65 FR 2839). Copies of that rule were also mailed or sent via facsimile to all commodity handlers. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on March 20, 2000, and no comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following web site: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

PART 932—OLIVES GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 932 which was published at 65 FR 2839 on January 19, 2000, is adopted as a final rule without change.

Dated: April 4, 2000.

Robert C. Keeney,
Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–9038 Filed 4–11–00; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1206

RIN 2700–AC36

Availability of Agency Records to Members of the Public

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule; technical amendment.

SUMMARY: This amendment to NASA's regulations on availability of agency records to members of the public clarifies an inconsistency in the provisions relating to notice to submitters of commercial information.

DATES: Effective April 12, 2000.

ADDRESSES: Freedom of Information Act Officer, Code PO, NASA Headquarters, Washington, DC 20546

FOR FURTHER INFORMATION CONTACT: Kellie N. Robinson, 202/358–2265, or Sharon S. Seward, 202/358–2085.

SUPPLEMENTARY INFORMATION: The National Aeronautics and Space Administration published a Final Rule to revise its Freedom of Information Act (FOIA) regulations on July 22, 1999 (64 FR 39404), in accordance with the EFOIA of 1996 as amended by Public Law 104–231. This amendment provides clarification of an inconsistency in that Final Rule. This amendment removes § 1206.610(e)(4) so that § 1206.610(e) is consistent with the provisions of § 1206.610(d).