

present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Office of Management and Budget (OMB) has approved the information collection and recordkeeping requirements included in this proposed rule, and there are no new requirements. The assigned OMB control number is 0581-0128.

AMS is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

#### List of Subjects

##### 7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

##### 7 CFR Part 57

Eggs and egg products, Exports, Food grades and standards, Food labeling, Imports, Reporting and recordkeeping requirements.

■ For reasons set forth in the preamble, 7 CFR parts 56 and 57 are amended as follows:

#### PART 56—VOLUNTARY GRADING OF SHELL EGGS

■ 1. The authority citation for part 56 continues to read as follows:

**Authority:** 7 U.S.C. 1621-1627.

■ 2. In § 56.1, revise the term *Washed ungraded eggs* to read as follows:

##### § 56.1 Meaning of words and terms defined.

\* \* \* \* \*

*Washed ungraded eggs* means eggs which have been washed and that are either sized or unsized, but not segregated for quality.

#### PART 57—INSPECTION OF EGGS (EGGS PRODUCTS INSPECTION ACT)

■ 3. The authority citation for part 57 continues to read as follows:

**Authority:** 21 U.S.C. 1031-1056.

■ 4. In § 57.1, revise the term *Washed ungraded eggs* to read as follows:

##### § 57.1 Definitions.

\* \* \* \* \*

*Washed ungraded eggs* means eggs which have been washed and that are either sized or unsized, but not segregated for quality.

Dated: March 8, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 06-2366 Filed 3-10-06; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 932

[Docket No. FV06-932-1 IFR]

#### Olives Grown in California; Decreased Assessment Rate

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

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

**SUMMARY:** This rule decreases the assessment rate established for the California Olive Committee (committee) for the 2006 and subsequent fiscal years from \$15.68 to \$11.03 per assessable ton of olives handled. The committee locally administers the marketing order which regulates the handling of olives grown in California. Assessments upon olive handlers are used by the committee to fund reasonable and necessary expenses of 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.

**DATES:** Effective March 14, 2006. Comments received by May 12, 2006, 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 to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938, or E-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov). 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, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

**FOR FURTHER INFORMATION CONTACT:** Laurel May, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs,

AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, CA 93721; Telephone: (559) 487-5901, Fax: (559) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto: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 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 (USDA) 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 effective beginning on January 1, 2006, apply to all assessable olives from the current crop year, and will 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 USDA 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 USDA 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 USDA'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 decreases the assessment rate established for the committee for the 2005 and subsequent fiscal years from \$15.68 to \$11.03 per ton of assessable olives from the applicable crop years.

The California olive marketing order provides authority for the committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The fiscal year, which is the 12-month period between January 1 and December 31, begins after the corresponding crop year, which is the 12-month period beginning August 1 and ending July 31 of the subsequent year. Fiscal year budget and assessment recommendations are made after the corresponding crop year olive tonnage is reported. The members of the committee are producers and handlers of California olives. They are familiar with the committee's needs and with 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 discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2005 and subsequent fiscal years, the committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal year to fiscal year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the committee or other information available to USDA.

The committee met on December 13, 2005, and made recommendations regarding their fiscal year 2006 expenditures and assessment rate. Subsequently, the committee revised its budget recommendation because it anticipated higher administrative expenses than it had estimated earlier. In a mail vote completed on January 27, 2006, the committee unanimously recommended 2006 fiscal year expenditures of \$1,301,121 and an assessment rate of \$11.03 per ton of assessable olives. In comparison, the budgeted expenditures for fiscal year 2005 were \$1,217,014. The assessment rate of \$11.03 is \$4.65 lower than the rate currently in effect.

The major expenditures recommended by the committee for the 2006 fiscal year include \$800,700 for marketing activities, \$290,421 for administration, and \$210,000 for

research. Budgeted expenditures for these items in 2005 were \$680,000, \$337,014, and \$200,000, respectively.

The assessment rate recommended by the committee was derived by considering anticipated fiscal year expenses, actual olive tonnage received by handlers during the 2005–06 crop year, and additional pertinent factors. The California Agricultural Statistics Service (CASS) reported assessable olive receipts for the 2005–06 crop year at 114,761 tons, compared to 85,862 tons for the 2004–05 crop year. The increased production of assessable olives for the 2005–06 crop year is due in part to the alternate-bearing nature of olives, with heavy production in one year followed by light production the next. Although the committee's budgeted expenses for fiscal year 2006 are higher than those for 2005, the increased production would yield increased total assessment funds, even at the lower rate, covering the increased expenditures. Additionally, actual administrative expenditures in 2005 were less than the amount budgeted, enabling the committee to carry excess funds into the 2006 fiscal year and offset the assessments needed to cover budgeted expenses.

Income derived from handler assessments, along with interest income and funds from the committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order of approximately one fiscal year's expenses (§ 932.40).

The assessable tonnage for the 2006 fiscal year is expected to be slightly less than the 2005–06 crop receipts of 114,761 tons reported by CASS because some olives may be diverted by handlers to uses that are exempt from marketing order requirements.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA 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 USDA.

Committee meetings are open to the public and interested persons may express their views at these meetings. USDA 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 2006 budget and those for subsequent fiscal years will be reviewed and, as appropriate, approved by USDA.

#### Regulatory Flexibility Analysis

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 850 producers of olives in the production area and 2 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$6,000,000.

Based upon information from the committee, the majority of olive producers may be classified as small entities. Both of the handlers may be classified as large entities.

This rule decreases the assessment rate established for the committee and collected from handlers for the 2006 and subsequent fiscal years from \$15.68 to \$11.03 per ton of assessable olives. The committee unanimously recommended 2006 expenditures of \$1,301,121 and an assessment rate of \$11.03 per ton. The recommended assessment rate is \$4.65 lower than the current rate.

The quantity of assessable olive receipts for the 2005–06 crop year was reported by CASS to be 114,761 tons, but the actual assessable tonnage for the 2006 fiscal year is expected to be slightly lower. This is because some of the receipts are expected to be diverted by handlers to exempt outlets on which assessments are not paid.

The \$11.03 per ton assessment rate should be adequate to meet this year's expenses when combined with funds from the authorized reserve and interest income. Funds in the reserve will be kept within the maximum permitted by

the order of about one fiscal year's expenses (\$ 932.40).

Expenditures recommended by the committee for the 2006 fiscal year include \$800,700 for marketing development, \$290,421 for administration, and \$210,000 for research. Budgeted expenses for these items in 2005 were \$680,000, \$337,014, and \$200,000, respectively.

Assessable olive receipts for the 2005–06 crop year were 114,761 tons, compared to 85,862 tons for the 2004–05 crop year. The increased production of assessable olives will yield increased assessment funds, even at the lower rate. These funds, along with unused assessments from the 2005 fiscal year that have been carried into 2006, and interest income, cover the increased expenditures.

The committee reviewed and unanimously recommended 2006 expenditures of \$1,301,121. This reflects increases in the committee's research and market development budgets and a decrease in the administrative budget. The committee recommended a larger research budget intended to further the study of olive fly management and development of a mechanical olive harvesting method. The 2006 marketing program recommendation includes participation in media activities in conjunction with the release of a new diet plan book, translation of some of the committee's education and nutrition materials into Spanish, and continuation of several outreach activities including cookbook contributions, Web site development, and educational programs for school children. Recommended decreases in the administrative budget are due mainly to personnel changes in the committee's staff.

Prior to arriving at this budget, the committee considered information from various sources, such as the committee's Executive, Market Development, and Research Subcommittees. Alternate spending levels were discussed by these groups, based upon the relative value of various research and marketing projects to the olive industry and the anticipated olive production. The assessment rate of \$11.03 per ton of assessable olives was derived by considering anticipated expenses, the volume of assessable olives, and additional pertinent factors.

A review of historical and preliminary information pertaining to the upcoming fiscal year indicates that the grower price for the 2005–06 crop year is estimated to be approximately \$714 per ton for canning fruit and \$314 per ton for limited-use sizes, leaving the balance as unusable cull fruit. Approximately 76 percent of a ton of olives are canning

fruit sizes and 17 percent are limited use sizes, leaving the balance as unusable cull fruit. Total grower revenue on 114,761 tons would then be \$73,485,966, given the percentage of canning and limited-use sizes and current grower prices for those sizes. Therefore, with an assessment rate decreased from \$15.68 to \$11.03, the estimated assessment revenue is expected to be approximately 1.72 percent of grower revenue.

This action decreases the assessment obligation imposed on handlers. 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 13, 2005, 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 action imposes no additional reporting or recordkeeping requirements on either small or large 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.

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

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <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.

Pursuant to 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 2006 fiscal year began on January 1, 2006, and the marketing order requires that the rate of assessment for each fiscal year apply to all assessable olives handled during such fiscal year; (2) the committee needs sufficient funds to pay its expenses, which are incurred on a continuous basis; and (3) handlers are aware of this action, which was discussed by the committee at a public meeting and unanimously recommended by a mail vote, 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 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, 2006, an assessment rate of \$11.03 per ton is established for California olives.

Dated: March 7, 2006.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 06–2367 Filed 3–10–06; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2005–23159; Directorate Identifier 2005–SW–10–AD; Amendment 39–14510; AD 2006–06–02]

RIN 2120–AA64

**Airworthiness Directives; Eurocopter France Model SA–365N, SA–365N1, AS–365N2, and SA–366G1 Helicopters**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD) that currently applies to Eurocopter