

Flare® 30), Burnectfifteen (Summer Flare® 27), Burnectseventeen (Summer Flare® 32), Candy Gold, Candy Pearl, Diamond Ray, Early Red Jim, Fire Pearl, Fire Sweet, Giant Pearl, Grand Bright, Grand Candy, Grand Pearl, Grand Sweet, Honey Blaze, Honey Dew, Honey Diva, Honey Fire, Honey Kist, Honey Rose, Honey Royale, July Pearl, July Red, Kay Pearl, La Pinta, La Reina, Larry's Red, Late Red Jim, Mike's Red, Neptune, Orange Honey, P-R Red, Prima Diamond IX, Prima Diamond X, Prima Diamond XIX, Prima Diamond XXIV, Prima Diamond XXVIII, Prince Jim 3, Red Bright, Red Diamond, Red Glen, Red Jim, Red Pearl, Regal Pearl, Regal Red, Royal Giant, Ruby Bright, Ruby Diamond, Ruby Pearl, Ruby Sweet, Saucer, September Bright (26P-490), September Free, September Red, Signature, Sparkling June, Spring Bright, Spring Pearl™, Spring Sweet, Sugar Pearl™, Sugarine, Summer Blush, Summer Bright, Summer Diamond, Summer Fire, Summer Jewel, Summer Lion, Summer Red, Sunburst, Sun Valley Sweet, Terra White, Zee Glo or Zephyr variety nectarines unless:

\* \* \* \* \*

#### PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

■ 3. Section 917.459 is amended by revising the introductory text of paragraphs (a)(2), (a)(3), (a)(5), (a)(6), and by adding paragraph (a)(6)(iii) to read as follows:

##### § 917.459 California peach grade and size regulation.

(a) \* \* \*

(2) Any package or container of April Snow, Earlitreat, Snow Angel, Supechfifteen, or Super Lady variety peaches unless:

\* \* \* \* \*

(3) Any package or container of Island Prince, Snow Kist, Snow Peak, Spring Princess, or Super Rich variety peaches unless:

\* \* \* \* \*

(5) Any package or container of Babcock, Bev's Red, Bright Princess, Brittney Lane, Burpeachone (Spring Flame® 21), Burpeachfourteen (Spring Flame® 20), Burpeachnineteen (Spring Flame® 22), Candy Red, Crimson Lady, Crown Princess, David Sun, Early May Crest, Flavorcrest, Honey Sweet, Ivory Queen, June Lady, Magenta Queen, May Crest, May Sweet, Prima Peach IV, Queencrest, Rich May, Sauzee Queen, Scarlet Queen, Sierra Snow, Snow Brite, Springcrest, Spring Lady, Spring Snow, Springtreat (60EF32), Sugar Time (214LC68), Supecheight (012-094),

Supechnine, Sweet Scarlet, Sweet Crest or Zee Diamond variety peaches unless:

\* \* \* \* \*

(6) Any package or container of August Lady, August Saturn, Autumn Flame, Autumn Jewel, Autumn Red, Autumn Rich, Autumn Rose, Autumn Snow, Autumn Sun, Burpeachtwo (Henry II®), Burpeachthree (September Flame®), Burpeachfour (August Flame®), Burpeachfive (July Flame®), Burpeachsix (June Flame®), Burpeachseven (Summer Flame® 29), Burpeachfifteen (Summer Flame® 34), Burpeachtwenty (Summer Flame®), Burpeachtwentyone (Summer Flame® 26), Candy Princess, Coral Princess, Country Sweet, Diamond Candy, Diamond Princess, Earlich, Early Elegant Lady, Elegant Lady, Fancy Lady, Fay Elberta, Full Moon, Galaxy, Glacier White, Henry III, Henry IV, Ice Princess, Ivory Princess, Jasper Gem, Jasper Treasure, Jillie White, Joanna Sweet, John Henry, Kaweah, Klondike, Last Tango, Natures #10, O'Henry, Peach-N-Cream, Pink Giant, Pink Moon, Prima Gattie 8, Prima Peach 13, Prima Peach XV, Prima Peach 20, Prima Peach 23, Prima Peach XXVII, Queen Jewel, Rich Lady, Royal Lady, Ruby Queen, Ryan Sun, Saturn (Donut), September Blaze, September Lady, September Snow, September Sun, Sierra Gem, Sierra Rich, Snow Beauty, Snow Blaze, Snow Fall, Snow Gem, Snow Giant, Snow Jewel, Snow King, Snow Magic, Snow Princess, Sprague Last Chance, Spring Candy, Strawberry, Sugar Crisp, Sugar Giant, Sugar Lady, Summer Dragon, Summer Fling, Summer Lady, Summer Sweet, Summer Zee, Sweet Blaze, Sweet Dream, Sweet Henry, Sweet Kay, Sweet September, Tra Zee, Valley Sweet, Vista, White Lady, or Zee Lady variety peaches unless:

\* \* \* \* \*

(iii) Such peaches in any container when packed other than as specified in paragraphs (a)(6)(i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 73 peaches, except for Peento type peaches.

\* \* \* \* \*

Dated: February 13, 2009.

**David R. Shipman,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. E9-3585 Filed 2-19-09; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 932

[Doc. No. AMS-FV-08-0105; FV09-932-1 IFR]

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

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

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

**SUMMARY:** This rule increases the assessment rate established for the California Olive Committee (committee) for the 2009 and subsequent fiscal years from \$15.60 to \$28.63 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 February 21, 2009. Comments received by April 21, 2009, 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 Internet: <http://www.regulations.gov>. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.regulations.gov>. All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:** Jennifer R. Garcia, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487-5901, Fax: (559) 487-5906; or E-mail:

Jennifer.Garcia@ams.usda.gov or Kurt.Kimmel@ams.usda.gov.

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@ams.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 applicable to all assessable olives beginning on January 1, 2009, 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 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 there from. 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 increases the assessment rate established for the committee for the 2009 and subsequent fiscal years from \$15.60 to \$28.63 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 2008 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 10, 2008, and unanimously recommended 2009 fiscal year expenditures of \$1,482,349 and an assessment rate of \$28.63 per ton of assessable olives. In comparison, last year's budgeted expenditures were \$1,588,552. The assessment rate of \$28.63 is \$13.03 higher than the rate currently in effect. The committee recommended the higher assessment rate because the 2008-09 assessable olive receipts as reported by the California Agricultural Statistics Service (CASS) are only 49,067 tons, which compares to 108,059 tons in 2007-08. A series of very high temperatures and a large crop in 2007 contributed to a substantially smaller crop in 2008. The committee also plans to use available reserve funds to help meet its 2009 expenses.

The major expenditures recommended by the committee for the 2009 fiscal year include \$495,000 for research, \$627,800 for marketing activities, and \$359,549 for administration. Budgeted expenditures for these items in 2008 were \$500,000, \$750,000, and \$288,552, respectively. The 2009 marketing and research programs will be scaled back. Recommended increases in the administrative budget are due to

additional costs associated with the anticipated hiring of a new Executive Director.

The assessment rate recommended by the committee was derived by considering anticipated fiscal year expenses, actual olive tonnage received by handlers during the 2008-09 crop year, and additional pertinent factors. Actual assessable tonnage for the 2009 fiscal year is expected to be lower than the 2008-09 crop receipts of 49,067 tons reported by the CASS because some olives may be diverted by handlers to uses that are exempt from marketing order requirements. Income derived from handler assessments, along with funds from the committee's authorized reserve and interest income, should be adequate to cover budgeted expenses. Funds in the reserve would be kept within the maximum permitted by the order of 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 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 would 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 2009 budget and those for subsequent fiscal years will be reviewed and, as appropriate, approved by USDA.

#### Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), 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.

There are approximately 1,000 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 \$7,000,000.

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 increases the assessment rate established for the committee and collected from handlers for the 2009 and subsequent fiscal years from \$15.60 to \$28.63 per ton of assessable olives. The committee unanimously recommended 2009 expenditures of \$1,482,349 and an assessment rate of \$28.63 per ton. The assessment rate of \$28.63 is \$13.03 higher than the 2008 rate. The higher assessment rate is necessary because assessable olive receipts for the 2008–09 crop year were reported by the CASS to be 49,067 tons, compared to 108,059 tons for the 2007–08 crop year. Actual assessable tonnage for the 2009 fiscal year is expected to be lower because some of the receipts may be diverted by handlers to exempt outlets on which assessments are not paid.

Income generated from the \$28.63 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 would 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 2009 fiscal year include \$495,000 for research, \$627,800 for marketing activities, and \$359,549 for administration. Budgeted expenditures for these items in 2008 were \$500,000, \$750,000, and \$288,552, respectively. The 2009 marketing and research programs will be scaled back.

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 reduced olive production. The assessment rate of \$28.63 per ton of assessable olives was

derived by considering anticipated expenses, the volume of assessable olives and additional pertinent factors.

A review of historical information indicates that the grower price for the 2008–09 crop year was approximately \$1,109.47 per ton for canning fruit and \$380.71 per ton for limited-use sizes, leaving the balance as unusable cull fruit. Approximately 84 percent of the total tonnage of olives received is canning fruit sizes and 11 percent is limited use sizes, leaving the balance as unusable cull fruit. Grower revenue on 49,067 total tons of canning and limited-use sizes would be \$49,283,177 given the current grower prices for those sizes. Therefore, with an assessment rate increased from \$15.60 to \$28.63, the estimated assessment revenue is expected to be almost 3 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, 2008, 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.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

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/>

*AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide*. 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 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 2009 fiscal year began on January 1, 2009, 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; (3) handlers are aware of this action, which was discussed by the committee and unanimously recommended at a public meeting, and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-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. Section 932.230 is revised to read as follows:

#### **§ 932.230 Assessment rate.**

On and after January 1, 2009, an assessment rate of \$28.63 per ton is established for California olives.

Dated: February 13, 2009.

**David R. Shipman,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. E9-3596 Filed 2-19-09; 8:45 am]

BILLING CODE 3410-02-P

For the Nuclear Regulatory Commission.

**Michael T. Lesar,**

*Chief, Rulemaking, Directives, and Editing Branch, Division of Administrative Services, Office of Administration.*

[FR Doc. E9-3629 Filed 2-19-09; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 30

[NRC-2005-0001]

RIN 3150-AH57

### Protection of Safeguards Information; Correction

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects a rule that appeared in the *Federal Register* on October 24, 2008 (73 FR 63546), that amends the regulations for the protection of Safeguards Information (SGI) to protect SGI from inadvertent release and unauthorized disclosure which might compromise the security of nuclear facilities and materials. This document is necessary to correct an erroneous amendatory instruction which resulted in duplicate paragraph designations.

**DATES:** The correction is effective February 23, 2009, the date the original rule becomes effective.

**FOR FURTHER INFORMATION CONTACT:** Michael T. Lesar, Chief, Rulemaking, Directives and Editing Branch, Office of Administration, Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone 301-492-3663, e-mail [Michael.Lesar@nrc.gov](mailto:Michael.Lesar@nrc.gov).

**SUPPLEMENTARY INFORMATION:** In FR doc. E8-24904, published on October 24, 2008, on page 63570, in the third column, instruction 13 is corrected to read as follows:

■ 13. In § 30.34, paragraph (l) is added to read as follows:

#### § 30.34 Terms and conditions of licenses.

\* \* \* \* \*

(l) Each licensee shall ensure that Safeguards Information is protected against unauthorized disclosure in accordance with the requirements in §§ 73.21 and 73.23 of this chapter, as applicable.

Dated at Rockville, Maryland, this 13th day of February 2009.

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 229

[Regulation CC; Docket No. R-1352]

### Availability of Funds and Collection of Checks

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Board of Governors (Board) is amending the routing number guide to next-day availability checks and local checks in Regulation CC to delete the reference to the Baltimore branch office of the Federal Reserve Bank of Richmond and to reassign the Federal Reserve routing symbols currently listed under that office to the head office of the Federal Reserve Bank of Philadelphia. These amendments reflect the restructuring of check-processing operations within the Federal Reserve System.

**DATES:** The final rule will become effective on April 18, 2009.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey S. H. Yeganeh, Financial Services Manager (202/728-5801), or Joseph P. Baressi, Financial Services Project Leader (202/452-3959), Division of Reserve Bank Operations and Payment Systems; or Sophia H. Allison, Senior Counsel (202/452-3565), Legal Division. For users of Telecommunications Devices for the Deaf (TDD) only, contact 202/263-4869.

**SUPPLEMENTARY INFORMATION:** Regulation CC establishes the maximum period a depository bank may wait between receiving a deposit and making the deposited funds available for withdrawal.<sup>1</sup> A depository bank generally must provide faster availability for funds deposited by a “local check” than by a “nonlocal check.” A check is considered local if it is payable by or at or through a bank located in the same Federal Reserve check-processing region as the depository bank.

<sup>1</sup> For purposes of Regulation CC, the term “bank” refers to any depository institution, including commercial banks, savings institutions, and credit unions.

Appendix A to Regulation CC contains a routing number guide that assists banks in identifying local and nonlocal banks and thereby determining the maximum permissible hold periods for most deposited checks. The appendix includes a list of each Federal Reserve check-processing office and the first four digits of the routing number, known as the Federal Reserve routing symbol, of each bank that is served by that office for check-processing purposes. Banks whose Federal Reserve routing symbols are grouped under the same office are in the same check-processing region and thus are local to one another.

On April 18, 2009, the Reserve Banks will transfer the check-processing operations of the Baltimore branch office of the Federal Reserve Bank of Richmond to the head office of the Federal Reserve Bank of Philadelphia. As a result of this change, some checks that are drawn on and deposited at banks located in the Baltimore and Philadelphia check-processing regions and that currently are nonlocal checks will become local checks subject to faster availability schedules. To assist banks in identifying local and nonlocal checks and making funds availability decisions, the Board is amending the list of routing symbols in appendix A associated with the Federal Reserve Banks of Richmond and Philadelphia to reflect the transfer of check-processing operations from the Baltimore branch office of the Federal Reserve Bank of Richmond to the head office of the Federal Reserve Bank of Philadelphia. To coincide with the effective date of the underlying check-processing changes, the amendments to appendix A are effective April 18, 2009. The Board is providing notice of the amendments at this time to give affected banks ample time to make any needed processing changes. Early notice also will enable affected banks to amend their availability schedules and related disclosures if necessary and provide their customers with notice of these changes.<sup>2</sup>

### Administrative Procedure Act

The Board has not followed the provisions of 5 U.S.C. 553(b) relating to notice and public participation in connection with the adoption of the final rule. The revisions to appendix A are technical in nature and are required by the statutory and regulatory definitions of “check-processing

<sup>2</sup> Section 229.18(e) of Regulation CC requires that banks notify account holders who are consumers within 30 days after implementing a change that improves the availability of funds.