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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Doc. No. AMS-FV-09-0089; FV10-932-1 PR]

Olives Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the California Olive Committee (Committee) for the 2010 and subsequent fiscal years from \$28.63 to \$44.72 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 would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by April 2, 2010.

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 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: Jeffrey S. Smutny, 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:* Jeffrey.Smutny@ams.usda.gov or Kurt.Kimmel@ams.usda.gov.

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, 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:* Antoinette.Carter@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 proposed herein would be applicable to all assessable olives beginning on January 1, 2010, and continue until amended, suspended, or terminated.

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 would increase the assessment rate established for the Committee for the 2010 and subsequent fiscal years from \$28.63 to \$44.72 per ton of olives.

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 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 formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2009 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 15, 2009, and unanimously recommended 2010 fiscal year expenditures of \$929,923 and an assessment rate of \$44.72 per ton of olives. In comparison, last year's budgeted expenditures were \$1,482,349. The assessment rate of \$44.72 is \$16.09 higher than the rate currently in effect. The Committee recommended the higher assessment rate because the 2009-10 assessable olive receipts as reported by the California Agricultural Statistics Service (CASS) are only 22,150 tons, which compares to 49,067 tons in 2008-09. Unusual weather conditions, including untimely temperatures that fell below freezing, contributed to a substantially smaller crop. The Committee also plans

to use available reserve funds to help meet its 2010 expenses.

The major expenditures recommended by the Committee for the 2010 fiscal year include \$300,000 for research, \$255,000 for marketing activities, and \$324,923 for administration. Budgeted expenditures for these items in 2009 were \$495,000, \$627,800, and \$359,549, respectively.

The assessment rate recommended by the Committee was derived by considering anticipated fiscal year expenses, actual olive tonnage received by handlers during the 2009–10 crop year, and additional pertinent factors. Actual assessable tonnage for the 2010 fiscal year is expected to be lower than the 2009–10 crop receipts of 22,150 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 interest income and funds from the Committee's authorized reserve, would 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 proposed assessment rate would 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 would be in effect for an indefinite period, the Committee would 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 would be undertaken as necessary. The Committee's 2010 budget and those for subsequent fiscal years would 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. 601–602), 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 1000 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 would increase the assessment rate established for the Committee and collected from handlers for the 2010 and subsequent fiscal years from \$28.63 to \$44.72 per ton of assessable olives. The Committee unanimously recommended 2010 expenditures of \$929,923 and an assessment rate of \$44.72 per ton. The proposed assessment rate of \$44.72 is \$16.09 higher than the 2009 rate. The higher assessment rate is necessary because assessable olive receipts for the 2009–10 crop year were reported by the CASS to be 22,150 tons, compared to 49,067 tons for the 2008–09 crop year. Actual assessable tonnage for the 2010 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 \$44.72 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).

The major expenditures recommended by the Committee for the 2010 fiscal year include \$300,000 for research, \$255,000 for marketing activities, and \$324,923 for administration. Budgeted expenses for these items in 2009 were \$495,000, \$627,800, and \$359,549 respectively. The Committee recommended decreases in all major expense categories due to

the huge decrease in assessable crop volume as reported by the CASS.

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 \$44.72 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 and preliminary information pertaining to the upcoming fiscal year indicates that the grower price for the 2009–10 crop year was approximately \$1,193.94 per ton for canning fruit and \$375.01 per ton for limited-use sizes, leaving the balance as unusable cull fruit. Approximately 91 percent of a ton of olives are canning fruit sizes and 5 percent are limited use sizes, leaving the balance as unusable cull fruit. Grower revenue on 22,150 total tons of canning and limited-use sizes would be \$24,321,145 given the current grower prices for those sizes. Therefore, with an assessment rate increased from \$28.63 to \$44.72, the estimated assessment revenue is expected to be approximately 4 percent of grower revenue.

This action would increase 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 would 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 15, 2009, 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 comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose 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.

The 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 Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2010 fiscal year began on January 1, 2010, 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 and unanimously recommended at a public meeting, and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 932

Olives, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 932 is proposed to be 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, 2010, an assessment rate of \$44.72 per ton is established for California olives.

Dated: February 25, 2010.

David R. Shipman,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2010–4338 Filed 3–2–10; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0049; Airspace Docket No. 08–AWA–1]

RIN 2120–AA66

Proposed Modification of Class B Airspace; Charlotte, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify the Charlotte, NC, Class B airspace area to ensure the containment of aircraft, accommodate the implementation of area navigation (RNAV) departure procedures, and to support operations of the third parallel runway planned for commissioning in early 2010. The FAA is proposing this action to improve the flow of air traffic, enhance safety, and reduce the potential for midair collision in the Charlotte terminal area.

DATES: Comments must be received on or before May 3, 2010.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2010–0049 and Airspace Docket No. 08–AWA–1, at the beginning of your comments. You may also submit comments through the Internet at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis

supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2010–0049 and Airspace Docket No. 08–AWA–1) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at <http://www.regulations.gov>.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: “Comments to Docket Nos. FAA–2010–0049 and Airspace Docket No. 08–AWA–1.” The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at http://www.faa.gov/regulations_policies/rulemaking/recently_published/.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed