

permitting access and amendment to such information could disclose classified and other security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(f) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise establishing procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with subsection (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS's ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g)(1) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: November 17, 2016.

**Jonathan Cantor,**

*Acting Chief Privacy Officer, Department of Homeland Security.*

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**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 932**

[Doc. No. AMS-SC-16-0031; SC16-932-1 FIR]

**Olives Grown in California;  
Suspension and Revision of Incoming  
Size-Grade Requirements**

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

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that suspended the incoming size-grade authority under the California olive marketing order, which regulates the handling of olives in California. The rule, which was recommended by the California Olive Committee (Committee), also made conforming changes to the corresponding size-grade requirements in the order's rules and regulations and two Committee forms. The Committee locally administers the order and is comprised of producers and handlers of olives operating within the area of production. The interim rule suspended the incoming size-grade authority of the marketing order and revised the corresponding size-grade requirements in the order's rules and regulations. The change is expected to benefit handlers because the current size-grading requirements hinder handler operations and flexibility, increase costs, and diminish their competitiveness.

**DATES:** Effective November 28, 2016.

**FOR FURTHER INFORMATION CONTACT:** Peter Sommers, Marketing Specialist, or Jeffrey Smutny, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487-5901, Fax: (559) 487-5906, or Email: [PeterR.Sommers@ams.usda.gov](mailto:PeterR.Sommers@ams.usda.gov) or [Jeffrey.Smutny@ams.usda.gov](mailto:Jeffrey.Smutny@ams.usda.gov).

Small businesses may obtain information on complying with this and other marketing order and agreement regulations by viewing a guide at the following Web site: <http://www.ams.usda.gov/rules-regulations/moa/small-businesses>; or by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202)

720-8938, or Email: [Richard.Lower@ams.usda.gov](mailto:Richard.Lower@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Marketing Order No. 932, both as amended (7 CFR part 905), 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 Orders 12866, 13563, and 13175.

Prior to this change, the size requirements were based on count ranges, mid-points and average counts per pound, while new technology sizes olives using mass and volume. Thus, the size-grading requirements and the more advanced sizing technology available now are incompatible and hinder handler operations and flexibility, increase costs, and diminish handler competitiveness. Suspending the incoming size-grading requirements will provide an opportunity for the industry to develop new requirements applicable both to currently-available technology and future needs.

In an interim rule published in the **Federal Register** on July 18, 2016, and effective on July 19, 2016, (81 FR 46567, Doc. No. AMS-SC-16-0031, SC16-932-1 IR), paragraphs (a)(1)(ii) through (a)(5) in § 932.51 were suspended indefinitely. In addition, the rule revised language in § 932.151, bringing that section into conformity with the intent of the rule, and necessitated minor conforming changes to two Committee forms, the Weight & Grade Report (COC-3c) and Report of Limited and Undersize and Cull Olives Inspection and Disposition (COC-5).

**Final 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 action 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.

There are two California olive handlers subject to regulation under the marketing order and about 1,000 olive producers in the production area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$7,500,000, and small agricultural producers are defined as those whose annual receipts are less than \$750,000 (13 CFR 121.201). Based upon information from the Committee and the National Agricultural Statistics Service (NASS), the average producer price for the 2013–14 crop year (the last year information was available) was \$1,150 per ton of canning-size olives and \$385 per ton for limited-use size olives. The total assessable volume was 85,668 tons. Canning sizes represented 88 percent of the assessable olive volume, while limited-use sizes represented 12 percent of the assessable olive volume. Based on production, producer prices, and the total number of California olive producers, the average annual producer revenue is less than \$750,000. Thus, the majority of olive producers may be classified as small entities. Both of the handlers may be classified as large entities.

This rule continues in effect the suspension of the incoming size-grading regulations in § 932.51, beginning with the 2016–17 crop year. It also continues in effect the revision of regulations in § 932.151, bringing the rules and regulations into conformity with the rule and its intent. In addition, the rule continues in effect conforming changes made to the Committee forms, COC–3c and COC–5.

This action is expected to result in increased handler flexibility and competitiveness, while reducing some of the costs associated with size-grading. In addition, this action will allow the Committee time to develop new requirements that address advancing technology and equipment.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178. Minor conforming changes to those requirements were necessary as a result of this action. AMS submitted a request to OMB to make minor conforming changes to forms COC–3c and COC–5.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large 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. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, 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. Like all Committee meetings, the February 17, 2016, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

Comments on the interim rule were required to be received on or before September 16, 2016. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to: <https://www.gpo.gov/fdsys/pkg/FR-2016-07-18/pdf/2016-16704.pdf>.

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; the Paperwork Reduction Act (44 U.S.C. Chapter 35); and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (81 FR 46567, July 18, 2016) 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.

■ Accordingly, the interim rule that amended 7 CFR part 932 and that was published at 81 FR 46567 on July 18, 2016, is adopted as a final rule, without change.

Dated: November 18, 2016.

**Bruce Summers,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2016–28254 Filed 11–23–16; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 948

[Doc. No. AMS–SC–16–0042; SC16–948–1 FR]

#### Irish Potatoes Grown in Colorado; Modification of the Handling Regulation for Area No. 2

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

**ACTION:** Final rule.

**SUMMARY:** This rule implements a recommendation from the Colorado Potato Administrative Committee, Area No. 2 (Committee) to revise the grade requirement currently prescribed for 1½-inch minimum to 2¼-inch maximum diameter (Size B) potatoes under the Colorado potato marketing order (order). The Committee locally administers the order and is comprised of producers and handlers of potatoes operating within the area of production. This rule relaxes the current minimum grade requirement for Size B red potatoes from U.S. Commercial grade or better to U.S. No. 2 grade or better. Relaxing this grade requirement will allow area handlers to supply new markets with U.S. No. 2 grade Size B red potatoes and is expected to benefit producers, handlers, and consumers.

**DATES:** Effective November 28, 2016.

**FOR FURTHER INFORMATION CONTACT:** Sue Coleman, Marketing Specialist, or Gary D. Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: [Sue.Coleman@ams.usda.gov](mailto:Sue.Coleman@ams.usda.gov) or [GaryD.Olson@ams.usda.gov](mailto:GaryD.Olson@ams.usda.gov).

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: [Richard.Lower@ams.usda.gov](mailto:Richard.Lower@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This final rule is issued under Marketing Agreement No. 97 and Marketing Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado, 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.”