

Signed at Washington, DC, on February 8, 1996.

Timothy J. Galvin,

Acting Administrator, Foreign Agriculture Service

[FR Doc. 96-3528 Filed 2-16-96; 8:45 am]

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Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV96-932-11FR]

Expenses and Assessment Rate for Marketing Order Covering Olives Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenses and establishes an assessment rate for the California Olive Committee (Committee) under Marketing Order No. 932 for the 1996 fiscal year. The Committee is responsible for local administration of the marketing order which regulates the handling of California olives. Authorization of this budget enables the Committee to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective beginning January 1, 1996, through December 31, 1996. Comments received by March 21, 1996, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, Fax # (202) 720-5698. 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.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721, telephone 209-487-5901; or Caroline C. Thorpe, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456; telephone 202-720-5127.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Order No. 932 (7 CFR part 932), as amended, 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 (Department) is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, olives grown in California are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable olives during the 1996 fiscal year, beginning January 1, 1996, through December 31, 1996. This interim final 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. A 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 in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

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 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 5 handlers of olives grown in California who are subject to regulation under the order and approximately 1,350 producers of olives in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of 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.

The order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable olives handled during the appropriate crop year, which for this season is August 1, 1995, through July 31, 1996. The budget of expenses for the 1996 fiscal year was prepared by the Committee and submitted to the Department for approval. The Committee consists of handlers and producers. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by actual receipts of olives by handlers during the crop year. Because that rate is applied to actual receipts, it must be established at a rate which will produce sufficient income to pay the Committee's expected expenses.

The recommended budget and rate of assessment is usually acted upon by the Committee after the crop year begins and before the fiscal year starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the Committee will have funds to pay its expenses.

The Committee met on December 14, 1995, and recommended 1996 marketing order expenditures of \$2,600,785 for its budget. This is \$280,865 less in expenses than the previous year. The major budget categories for the 1996 fiscal year include administration (\$388,350), research (\$213,000), and market development (\$1,999,435).

The Committee also recommended an assessment rate of \$28.26 per ton

covering olives from the appropriate crop year. This is \$1.78 less than last year's assessment rate of \$30.04. The assessment rate, when applied to actual handler receipts of 62,182 tons from the 1995 olive crop year, would yield \$1,757,726 in assessment income. This along with approximately \$829,000 from the Committee's authorized reserves will be adequate to cover estimated expenses. Reserve funds for the 1996 fiscal year are estimated at \$210,000 which is within the maximum permitted by the order of one fiscal year's expenses.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the Committee's recommendation, and other available information, it is found that this interim final 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 Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996 fiscal year began on January 1, 1996, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable olives handled during the fiscal year; (3) handlers are aware of this rule which was recommended by the Committee at a public meeting; and (4) this interim final rule provides a 30-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.

NOTE: This section will not appear in the Code of Federal Regulations.

2. A new § 932.229 is added to read as follows:

§ 932.229 Expenses and assessment rate.

Expenses of \$2,600,785 for the California Olive Committee are authorized, and an assessment rate of \$28.26 per ton of assessable olives is established for the 1996 fiscal year ending on December 31, 1996. Unexpended funds may be carried over as a reserve.

Dated: February 12, 1996.

Sharon Bomer Lauritsen,
Deputy Director, Fruit and Vegetable Division.
[FR Doc. 96–3608 Filed 2–16–96; 8:45 am]
BILLING CODE 3410–02–P

7 CFR Part 989

[FV95–989–5FIR]

Raisins Produced From Grapes Grown In California; Reduction in the Production Cap for the 1996 Raisin Diversion Program for Natural (sun-dried) Seedless Raisins

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 reduced the production cap for the 1996 Raisin Diversion Program (RDP) for Natural (sun-dried) Seedless raisins. The production cap, which limits the amount of raisin tonnage per acre for which an RDP participant can receive credit, was reduced from 2.75 tons per acre to 2.2 tons per acre for this program. This reduction is intended to bring the production cap for 1996 in line with 1995 production per acre, which was approximately 20 percent smaller than the 1994 crop yield per acre.

EFFECTIVE DATE: March 21, 1996.

FOR FURTHER INFORMATION CONTACT:

Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: 209–487–5901 or Mark A. Slupek, Marketing Specialist, Marketing Order Administration Branch, Fruit and

Vegetable Division, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: 202–205–2830.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes 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 (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. 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 requesting a modification of the order or to be exempt 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/her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

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 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.