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**Authority:** 7 U.S.C. 166, 1622n, 7756, and 7761-7772; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 4th day of March 2003.

**Bobby R. Acord,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 03-5427 Filed 3-7-03; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 932

[Docket No. FV03-932-1 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 2003 and subsequent fiscal years from \$10.09 to \$13.89 per ton of olives handled. The committee locally administers the marketing order regulating the handling of olives grown in California. Authorization to assess olive handlers enables the committee to incur expenses that are reasonable and necessary to administer 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 9, 2003.

**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 viewed at: <http://www.ams.usda.gov/fv/moab.html>.

**FOR FURTHER INFORMATION CONTACT:** Toni Sasselli, Program Assistant, California

Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 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 proposed herein would be applicable to all assessable olives beginning on January 1, 2003, 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 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 2003 and subsequent fiscal years from \$10.09 per ton to \$13.89 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 the 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 2002 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 11, 2002, and unanimously recommended fiscal year 2003 expenditures of \$1,230,590 and an assessment rate of \$13.89 per ton of olives. In comparison, last year's budgeted expenditures were \$1,428,585. The assessment rate of \$13.89 is \$3.80 higher than the \$10.09 rate currently in effect.

Expenditures recommended by the committee for the 2003 fiscal year include \$633,500 for marketing development, \$347,090 for administration, and \$250,000 for research. Budgeted expenses for these items in 2002 were \$811,935 for marketing development, \$339,650 for administration, and \$250,000 for research.

The assessment rate recommended by the committee was derived by considering anticipated expenses, actual olive tonnage received by handlers, and additional pertinent factors. The California Agricultural Statistics Service (CASS) reported olive receipts for the 2002-03 crop year at 89,006 tons, which compares to 123,439 for the 2001-02 crop year. The reduction in the crop size for the 2002-03 crop year, due in large part to the alternate-bearing

characteristics of olives, has made it necessary for the committee to recommend an increase in the assessment rate from the current \$10.09 per assessable ton to \$13.89 per assessable ton, an increase of \$3.80 per ton. Income derived from handler assessments, interest, and utilization of reserve funds 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 period's expenses (\$ 932.40).

The assessable tonnage for the 2003 fiscal year is expected to be less than the receipts of 89,006 tons reported by CASS, because some olives may be diverted by handlers to uses that are exempt from marketing order requirements. The quantity of olives that is expected to be diverted cannot be published in this document. The olive industry consists of only three handlers, two of which are much larger than the third, and the confidentiality of this handler information must be maintained to protect the proprietary business positions of each of the handlers.

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 2003 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), 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 1,200 producers of olives in the production area and 3 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000.

Based upon information from the committee, the majority of olive producers may be classified as small entities. One of the handlers may be classified as a small entity, but the majority 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 2003 and subsequent fiscal years from \$10.09 per ton to \$13.89 per ton of olives. The committee unanimously recommended 2003 expenditures of \$1,230,590 and an assessment rate of \$13.89 per ton. The proposed assessment rate of \$13.89 per ton is \$3.80 per ton higher than the 2002 rate. The quantity of olive receipts for the 2002-03 crop year was reported by CASS to be 89,006 tons, but the actual assessable tonnage for the 2003 fiscal year is expected to be 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 amount of assessable tonnage cannot be reported in this document. The amount of the exempt tonnage must be kept confidential so the business position of each of the three olive handlers is not revealed. The \$13.89 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 period's expenses (\$ 932.40).

Expenditures recommended by the committee for the 2003 fiscal year include \$633,500 for marketing development, \$347,090 for administration, and \$250,000 for research. Budgeted expenses for these items in 2002 were \$811,935 for marketing development, \$339,650 for

administration, and \$250,000 for research.

Last year's olive receipts totaled 123,439 tons compared to this year's tonnage of 89,006. Although the committee decreased 2003 expenses, the significant decrease in olive production makes the higher assessment rate necessary.

The research expenditures will fund studies to develop chemical and scientific defenses to counteract a threat from the olive fruit fly in the California production area. Market development expenditures are lower because the committee's marketing program for 2003 is limited to consumer and nutritionist activities. The committee reviewed and unanimously recommended 2003 expenditures of \$1,230,590, which reflects decreases in the research, market development, and administrative budgets.

Prior to arriving at this budget, the committee considered information from various sources, such as the committee's Executive Subcommittee and the Market Development Subcommittee. 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 \$13.89 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 2002-03 crop year is estimated to be approximately \$672 per ton for canning fruit and \$306 per ton for limited-use size fruit. Approximately 85 percent of a ton of olives are canning fruit sizes and 10 percent are limited-use sizes, leaving the balance as unusable cull fruit. Total grower revenue on 89,006 tons would then be \$53,563,811 given the percentage of canning and limited-use sizes and current grower prices for those sizes. Therefore, if the assessment rate is increased from \$10.09 to \$13.89, the estimated assessment revenue is expected to be approximately 2.3 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 are 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 11, 2002, 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 proposed rule would impose no additional reporting or recordkeeping requirements on 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.

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 2003 fiscal year began on January 1, 2003, 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 to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the committee at a public meeting 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 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, 2003, an assessment rate of \$13.89 per ton is established for California olives.

Dated: March 4, 2003.

**A.J. Yates,**  
*Administrator, Agricultural Marketing Service.*

[FR Doc. 03–5561 Filed 3–7–03; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 94–ANE–08–AD]

RIN 2120–AA64

#### Airworthiness Directives; Turbomeca Arriel 1 Series Turboshaft Engines

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The Federal Aviation Administration (FAA) proposes to supersede an existing airworthiness directive (AD), applicable to Turbomeca Arriel 1 A, 1 A1, 1 A2, 1 B, 1 C, 1 C1, 1 C2, 1 D, and 1 D1 turboshaft engines. That AD currently requires repetitive checks for engine rubbing noise during gas generator rundown following engine shutdown, and for free rotation of the gas generator by rotating the compressor manually after the last flight of the day. In addition, the AD 95–11–01 requires installation of modification TU 202 or TU 197 as terminating action to the repetitive checks. This proposal would add additional engine models to the applicability section, would eliminate the installation of modification TU 197 as a terminating action to the repetitive checks, would require additional inspections for engines that have modification TU 197 installed, and would require the replacement of modifications TU 76 and TU 197 with modification TU 202, as a terminating action to the repetitive checks and inspections. This proposal is prompted by a report of an in-flight engine shutdown on an engine that had modification TU 197 installed, and the need to update the modification standard on certain engine models. The actions specified by the proposed AD are intended to prevent engine failure due to rubbing of the 2nd stage turbine disk on the 2nd stage turbine nozzle guide vanes, which could result in complete engine failure and damage to the helicopter.

**DATES:** Comments must be received by May 9, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 94–ANE–08–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: [9-ane-adcomment@faa.gov](mailto:9-ane-adcomment@faa.gov). Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in the proposed rule may be obtained from 40220 Tarnos, France; telephone (33) 05 59 64 40 00, fax (33) 05 59 64 60 80. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

#### FOR FURTHER INFORMATION CONTACT:

Antonio Cancelliere, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7751; fax (781) 238–7199.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped