

belmoreana from Lord Howe Island into the United States as a restricted article.

Also, during our review of this request, we found no evidence that the other species of sentry palm, *Howea forsteriana*, was immune to the cadang-cadang or lethal yellowing pathogens. Because pathogens attack most species within a genus, we decided to extend the import prohibition to both species of *Howea*. However, we decided to allow *Howea forsteriana* to be imported from Lord Howe Island as a restricted article, due to the disease status of the island and the phytosanitary restrictions in effect there.

All of the 22 comments objecting to the interim rule requested that we reconsider the prohibition with respect to *Howea* species grown in Australia, Norfolk Island (a self-governing territory of Australia), and New Zealand. The comments point out that Australia, Norfolk Island, and New Zealand are free of the cadang-cadang and lethal yellowing pathogens. Also, they maintained that the plant protection agencies of Australia, Norfolk Island, and New Zealand impose phytosanitary restrictions in regard to palm imports comparable to those imposed on Lord Howe Island by New South Wales.

We have confirmed this information and now believe that both species of *Howea* can be imported from Australia (including Norfolk Island) and New Zealand with a negligible degree of risk of introducing exotic palm pests into the United States. Therefore, this final rule will allow both species of *Howea* to be imported into the United States from Australia (including Lord Howe and Norfolk Islands) and New Zealand, as restricted articles. In the future, we will welcome for review information regarding the relevant disease status and phytosanitary programs of additional countries that wish to export *Howea* species into the United States.

Miscellaneous

We are correcting the misspelling of *Howea forsteriana* in the interim rule.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. Since August 30, 1994, growers in Australia (including Norfolk Island) have had to divert to other destinations shipments of *Howea forsteriana* palms originally destined for

the United States; U.S. entities counting on these shipments have had to find other sources for *Howea forsteriana* palms. Making this rule effective upon publication will grant immediate relief to these entities. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 601 *et seq.*, we have performed a Final Regulatory Flexibility Analysis, set forth below, regarding the economic impact of this rule on small entities.

In an August 30, 1994, interim rule, we prohibited the importation of both species of *Howea* (sentry palm) from everywhere but Lord Howe Island, New South Wales, Australia. As a result of comments received on the rule and a subsequent reappraisal of phytosanitary risks, we have decided to finalize this rule with revisions prohibiting the importation of both species of *Howea* from everywhere except Australia (including Lord Howe and Norfolk Islands) and New Zealand.

Although USDA does not collect information on trade in *Howea*, domestic and foreign industry sources indicate the *Howea forsteriana* seeds and seedlings have growing import markets in the United States, particularly in Hawaii, California, and Florida. (Neither the interim rule nor this final rule affect trade in seeds of *Howea*.) Some sources estimate annual revenues generated by *Howea forsteriana* trade in the United States to be as high as \$15 million.

Growers in mainland Australia and on Lord Howe and Norfolk Islands have been the major suppliers of *Howea forsteriana* seed and seedlings. Since the publication of the interim rule prohibiting the importation of *Howea* plants from everywhere but Lord Howe Island, growers in mainland Australia and on Norfolk Island have had to divert shipments of *Howea forsteriana* seedlings originally destined for the United States. Also, U.S. entities trading with these growers have had to find other sources for the seedlings.

This final rule will grant relief to these foreign growers and to U.S. entities trading with them by again allowing the importation of *Howea*

forsteriana plants from all of Australia, including Norfolk Island. Furthermore, this rule will provide market opportunities for foreign growers and U.S. entities trading with them by allowing *Howea belmoreana* plants to be imported into the United States from Australia (including Norfolk Island) and New Zealand, subject to certain conditions.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB), and there are no new requirements. The assigned OMB control number is 0579-0049.

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR part 319 is amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151-167, 450; 21 U.S.C. 136 and 136a; 7 CFR 2.17, 2.51, and 371.2(c).

§ 319.37-5 Special foreign inspection and certification requirements.

2. In § 319.37-5, paragraph (n), the phrase "Lord Howe Island, New South Wales, Australia," is removed and the phrase "Australia or New Zealand" is added in its place; and, the phrase "(must be Lord Howe Island)" is removed.

Done in Washington, DC, this 18th day of January 1995.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95-1741 Filed 1-23-95; 8:45 am]

BILLING CODE 3410-34-P

Agricultural Marketing Service**7 CFR Part 932**

[Docket No. FV94-932-2IFR]

Olives Grown in California; Expenses and Assessment Rate for 1995 Fiscal Year**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 1995 fiscal year. Authorization of this budget enables the Committee to incur expenses that are reasonable and necessary to administer this program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective beginning January 1, 1995, through December 31, 1995. Comments received by February 23, 1995 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, D.C. 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: Britthany Beadle, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523-S, Washington, D.C. 20090-6456, telephone: (202) 720-5127; or Terry Vawter, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102 B, Fresno, California 93721, telephone: (209) 487-5901.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Order No. 932 [7 CFR Part 932], as amended, regulating the handling of olives grown in California. The marketing agreement and order are 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 specified herein will be applicable to all assessable olives handled during the 1995 fiscal year, beginning January 1, 1995, through December 31, 1995. 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 requesting 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 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 the 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 approximately 5 handlers of olives regulated under the marketing order each season and approximately 1,350 olive producers in California.

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 handlers may be classified as small entities. The majority of the producers may be classified as small entities.

The marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable olives handled from the beginning of such year. Annual budgets of expenses are prepared by the Committee, the agency responsible for local administration of this marketing order, and submitted to the Department for approval. The members of the Committee are handlers and producers of California olives. 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 appropriate budgets. The Committee's budget is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee is derived by dividing the anticipated expenses by expected shipments of olives. Because that rate is applied to actual shipments, it must be established at a rate which will provide sufficient income to pay the Committee's expected expenses.

The California Olive Committee met on December 8, 1994, and unanimously recommended a total expense amount of \$2,881,650, for its 1995 budget. This is \$866,640 less in expenses than the previous year.

The Committee also unanimously recommended an assessment rate of \$30.04 per ton for the 1995 fiscal year, which is \$2.83 more in the assessment rate from the 1994 fiscal year. The assessment rate, when applied to anticipated shipments of 69,300 tons from the 1994 olive crop, would yield \$2,081,772 in assessment income. This, along with approximately \$800,000 from the Committee's authorized reserves will be adequate to cover estimated expenses.

Major expense categories for the 1995 fiscal year include \$1,479,000 for marketing expenses, \$682,000 for food service industry promotion, \$251,000 for public relations and administration, and \$178,630 for salaries. Funds in the reserve at the end of the fiscal year, estimated at \$200,000 will be 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 should be significantly 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 matter presented, including the information and recommendations 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 action 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 fiscal year for the Committee begins January 1, 1995, 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 action 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 action.

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 annual Code of Federal Regulations.

2. A new § 932.228 is added to read as follows:

§ 932.228 Expenses and assessment rate.

Expenses of \$2,881,650 by the California Olive Committee are authorized and an assessment rate of \$30.04 per ton of assessable olives is established for the fiscal year ending December 31, 1995. Unexpended funds may be carried over as a reserve.

Dated: January 18, 1995.

Sharon Bomer Lauritsen,
Deputy Director, Fruit and Vegetable Division.
[FR Doc. 95-1750 Filed 1-23-95; 8:45 am]
BILLING CODE 3410-02-P

7 CFR Part 989

[Docket No. FV94-989-5FIR]

Raisins Produced From Grapes Grown in California; Expenses and Assessment Rate

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 that authorized expenses and established an assessment rate that will generate funds to pay those expenses. Authorization of this budget enables the Raisin Administrative Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: August 1, 1994, through July 31, 1995.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918, or Richard P. Van Diest, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, suite 102B, 2202 Monterey Street, Fresno, CA 93721, telephone 209-487-5901.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), regulating the handling of raisins produced from grapes grown in California. The marketing agreement and order are 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 is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, California raisins are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable raisins handled during the 1994-95 crop year, which began August 1, 1994, and ends

July 31, 1995. This 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 requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing 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 the date of the entry of the ruling.

Pursuant to the 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 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 5,000 producers of California raisins under this marketing order, and approximately 20 handlers. 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. A majority of California raisin producers and a minority of handlers may be classified as small entities.

The budget of expenses for the 1994-95 crop year was prepared by the Committee, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Committee are producers and handlers of California raisins. They are familiar with the Committee's needs and with the costs of goods and services in their