PART II—PAYMENT ON BASIS OF HOURS IN PAY STATUS

Differential rate (percent)	Category for which payable	Effective date
*	* * * * *	*
8	16. *Asbestos.* Working in an area where airborne concentrations of asbestos fibers may expose employees to potential illness or injury and protective devices or safety measures have not practically eliminated the potential for such personal illness or injury. This differential will be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970 as published in title 29, Code of Federal Regulations, §§ 1910.1001 or 1926.1101. Regulatory changes in §§ 1910.1001 or 1926.1101 are hereby incorporated in and made a part of this category, effective on the first day of the first pay period beginning on or after the effective date of the changes.	Nov. 24, 2003.

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[FR Doc. 05–8331 Filed 4–26–05; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV05–932–1 FR]

Olives Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the California Olive Committee (committee) for the 2005 and subsequent fiscal years from $12.18 to $15.68 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 current fiscal year began January 1 and ends December 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective April 28, 2005.

FOR FURTHER INFORMATION CONTACT: Laurel May, Marketing Specialist, 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*.

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. The assessment rate issued herein will be effective beginning on January 1, 2005, apply to all first handled assessable olives from the current crop year, and will 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 increases the assessment rate established for the committee for the 2005 and subsequent fiscal years from $12.18 per ton to $15.68 per ton of olives first handled from the applicable crop years.

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 fiscal year, which is the 12-month period between January 1 and December 31, begins after the corresponding crop year, which is the 12-month period beginning August 1 and ending July 31 of the subsequent year. Fiscal year budget and assessment recommendations are made after the corresponding crop year olive tonnage is reported. 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 discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2004 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 13, 2004, and unanimously recommended fiscal year 2005 expenditures of $1,217,014 and an assessment rate of $15.68 per ton of olives first handled during the 2004–05 crop year. In comparison, the expenditures for fiscal year 2004 were originally budgeted at $1,269,063. In July of 2004, the committee voted unanimously to increase the budget by $117,535 to fund a research project. The committee's reserves were used to fund the revised budget. The revised budget for 2004 totaled $1,386,598.

The assessment rate of $15.68 is $3.50 higher than the $12.18 rate currently in effect. Expenditures recommended by the committee for the 2005 fiscal year include $680,000 for marketing activities, $337,014 for administration, and $200,000 for research. Budgeted expenses for these items in 2004 were originally $633,500 for marketing activities, $360,563 for administration, and $225,000 for research. The revised 2004 budget provided $342,535 for research.

The assessment rate recommended by the committee was derived by considering anticipated fiscal year expenses (including restoration of the reserve funds allocated to the 2004 emergency research project), actual olive tonnage received by handlers during the 2004–05 crop year, and additional pertinent factors. The California Agricultural Statistics Service (CASS) reported olive receipts for the 2004–05 crop year at 85,862 tons, which compares to 102,703 for the 2003–04 crop year. The reduction in the crop size for the 2004–05 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 $12.18 per assessable ton to $15.68 per assessable ton, an increase of $3.50 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 2005 fiscal year is expected to be less than the 2004–05 crop year receipts of 85,862 tons reported by CASS, because some olives may be diverted by handlers to uses that are exempt from marketing order requirements.

The assessment rate will 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 will be in effect for an indefinite period, the committee will 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 will evaluate committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The committee's 2005 budget and those for subsequent fiscal years will be reviewed and, as appropriate, approved by USDA.

Final 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 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. Thus, both statutes have small entity orientation and compatibility.

There are approximately 910 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 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $6,000,000.

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 increases the assessment rate established for the committee and collected from handlers for the 2005 and subsequent fiscal years from $12.18 per ton to $15.68 per ton of first handled olives from the applicable crop years. The committee unanimously recommended 2005 expenditures of $1,217,014 and an assessment rate of $15.68 per ton. The assessment rate of $15.68 per ton is $3.50 per ton higher than the 2004 rate.

The quantity of olive receipts for the 2004–05 crop year was reported by CASS to be 85,862 tons, but the actual assessable tonnage for the 2005 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 $15.68 per ton assessment rate should be adequate to meet this year's expenses. 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 2005 fiscal year include $680,000 for marketing development, $337,014 for administration, and $200,000 for research. Budgeted expenses for these items in 2004 were originally $633,500 for marketing development, $360,563 for administration, and $225,000 for research. The research budget was increased to $342,535 in July 2004 to fund an additional project unanimously recommended by the committee.

In 2003–04, olive receipts totaled 102,703 tons compared to the 2004–05 crop year's tonnage of 85,862. Although the committee decreased 2005 budgeted expenses, the significant decrease in olive production makes the higher assessment rate necessary.

The research expenditures will fund studies to develop chemical, biological, and cultural controls of the olive fruit fly in the California production area. The budget for market development expenditures has been increased because the committee's marketing program for 2005 has been expanded to include nutrition and education outreach activities for wider audiences. Some of the outreach activities include cookbook contributions, school activities, and website development. The committee reviewed and unanimously recommended 2005 expenditures of $1,217,014, which reflect an increase in the market development budget and decreases in the research 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

$15.68 per ton of assessable olives was derived by considering anticipated expenses, the volume of assessable olives first handled from the 2004–05 crop year, and additional pertinent factors.

A review of historical and preliminary information pertaining to the upcoming fiscal year indicates that the grower price for the 2004–05 crop year is estimated to be approximately $720 per ton for canning fruit and $276 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 85,862 tons would then be $54,917,335 given the percentage of canning and limited-use sizes and current grower prices for those sizes. Therefore, with a $15.68 per ton assessment rate, the estimated assessment revenue is expected to be approximately 2.33 percent of grower revenue.

This action increases 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 13, 2004, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes 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 proposed rule concerning this action was published in the **Federal Register** on February 22, 2005 (70 FR 8545). Copies of the rule were mailed or sent via facsimile to all committee members and olive handlers. Finally, the rule was made available through the Internet by USDA and the Office of the **Federal Register**. A 30-day comment period was provided to allow interested persons to respond to the proposal. One comment was received, but that comment was not relevant to this rulemaking action.

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.

Pursuant to 5 U.S.C. 553, it is also found and determined 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 2005 fiscal year began on January 1, 2005, and the marketing order requires that the rate of assessment for each fiscal year apply to all assessable olives handled; (2) the committee needs sufficient funds to pay its expenses which are incurred on a continuous basis; (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; and (4) a 30-day comment period was provided for in the proposed rule and no relevant comments were received.

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.

■ 2. Section 932.230 is revised to read as follows:

§ 932.230 Assessment rate.

On and after January 1, 2005, an assessment rate of $15.68 per ton is established for California olives.

Dated: April 21, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–8360 Filed 4–26–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20251; Directorate Identifier 2004–NM–164–AD; Amendment 39–14071; AD 2005–09–03]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model Hawker 800XP Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Raytheon Model Hawker 800XP airplanes. This AD requires inspecting to detect damage of certain wiring in the flight compartment, performing corrective actions if necessary, modifying certain wiring connections, and revising the airplane flight manual. This AD is prompted by reports of miswiring in the power distribution system. We are issuing this AD to ensure that the flightcrew is aware of the source of battery power for certain equipment, and to prevent damage to wiring and surrounding equipment that could result in smoke or fire on the airplane.

DATES: This AD becomes effective June 1, 2005.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of June 1, 2005.

ADDRESSES: For service information identified in this AD, contact Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085.

Docket: The AD docket contains the proposed AD, comments, and any final disposition. You can examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, Washington, DC. This docket number is FAA–2005–20251; the directorate identifier for this docket is 2004–NM–164–AD.

FOR FURTHER INFORMATION CONTACT: Philip Petty, Aerospace Engineer, Electrical Systems and Avionics, ACE–119W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road,