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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Doc. No. FV–00–303 C]

Peaches, Plums, and Nectarines; Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects final regulations published by the Agricultural Marketing Service (AMS) on February 27, 2004 [69 FR 9189] revising the United States Standards for Grades of Peaches. The rule incorrectly established a tolerance of 2 percent for soft, or overripe peaches en route or destination. This document corrects that error.

DATES: *Effctive Date:* May 21, 2004.

FOR FURTHER INFORMATION CONTACT: David Priester, Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1661 South Building, STOP 0240, Washington, DC 20250–0240, Fax (202) 720–8871 or call (202) 720–2185; *e-mail David.Priester@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction revised § 51.1214, Tolerances.

Need for Correction

As published, the regulatory text in paragraphs (a)(2)(ii) and (b)(2)(ii) of § 51.1214 inadvertently included soft and overripe peaches with the tolerance for decayed peaches. This document removes soft and overripe from the decay tolerance.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Trees, Vegetables.

PART 51—UNITED STATES STANDARDS FOR PEACHES

■ Accordingly, 7 CFR part 51 is amended by making the following corrections:

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624.

■ 2. In § 51.1214, paragraphs (a)(2)(ii) and (b)(2)(ii) are revised to read as follows:

§ 51.1214 Tolerances.

* * * * *

(a) * * *

(2) * * *

(ii) 7 percent for defects causing serious damage, included therein not more than 5 percent for serious damage by permanent defects and not more than 2 percent for decayed peaches.

* * * * *

(b) * * *

(2) * * *

(ii) 2 percent for peaches which are affected by decay.

Dated: May 17, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–11515 Filed 5–20–04; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV04–932–1 FIR]

Olives Grown in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule that decreased the assessment rate established for the California Olive Committee (committee) for the 2004 and subsequent fiscal years from $13.89 to $12.18 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 will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: *Effective Date:* June 21, 2004.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, 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.''

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 established herein will be applicable to all assessable olives beginning on January 1, 2004, 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 continues in effect the decreased assessment rate established for the committee for the 2004 and subsequent fiscal years from $13.89 per ton of assessable olives to $12.18 per ton of assessable 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 under §§ 932.38 and 932.39. 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 deliberated and formulated in a public meeting, and the expenditures are deliberated in various public subcommittee meetings prior to the committee meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2003 and subsequent fiscal years, the committee recommended, and USDA approved, an assessment rate that would continue in effect from one fiscal year to another 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, 2003, and unanimously recommended fiscal year 2004 expenditures of $1,269,063 and an assessment rate of $12.18 per ton of olives. In comparison, last year's budgeted expenditures were $1,230,590. The assessment rate of $12.18 is $1.71 lower than the $13.89 rate previously in effect.

Expenditures recommended by the committee for the 2004 fiscal year include $633,500 for marketing development, $360,563 for administration, and $225,000 for research. The committee also recommended a fiscal year 2004 expenditure of $50,000 for the development of an enhanced flavor standards program.

Budgeted expenses for these items in 2003 were $633,500 for marketing development, $347,090 for administration, $250,000 for research. There were no budgeted expenditures for the development of flavor standards and flavor-standards inspection training for the 2003 fiscal year.

The California Agricultural Statistics Service (CASS) reported olive receipts for the 2003–04 crop year at 102,703 tons, which compares to 89,006 for the 2002–03 crop year. The increase in size of the 2003–04 crop, due in large part to the alternate-bearing characteristics of olives, has made it possible for the committee to recommend a decrease of $1.71 per ton in the assessment rate from the previous $13.89 per assessable ton to $12.18 per assessable ton. The assessment rate recommended by the committee was derived by considering anticipated expenses, actual olive tonnage received by handlers, and additional pertinent factors.

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 of approximately one fiscal period's expenses as required by § 932.40 of the marketing order.

The assessable tonnage for the 2004 fiscal year is expected to be less than the receipts of 102,703 tons reported by CASS, because some olives may be diverted by handlers for uses that are exempt from marketing order requirements. The quantity of olives 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 confidentially of this handler information must be maintained to protect the proprietary business positions of each of the handlers.

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 and subcommittee 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 2004 budget and those for subsequent fiscal years would 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 to ensure 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. The Small Business Administration (13 CFR 121.201) defines small agricultural producers as those with annual receipts less than $750,000, and small agricultural service firms as those with annual receipts less than $5,000,000. Based upon information from the committee, the majority of olive producers may be classified as small entities, but only one of the three handlers may be classified as a small entity.

This rule continues in effect the decreased assessment rate established for the committee and collected from handlers for the 2004 and subsequent fiscal years. The assessment rate was decreased from $13.89 per ton to $12.18 per ton of assessable olives. The committee unanimously recommended 2004 fiscal year expenditures of $1,269,063 at the assessment rate of $12.18 per ton. That assessment rate is

$1.71 per ton lower than the previous rate.

The quantity of olive receipts for the 2003–04 crop year was reported by CASS to be 102,703 tons, but the actual assessable tonnage for the 2004 fiscal year is expected to be lower. This is because handlers are expected to divert some olives to exempt outlets on which assessments are not paid. The amount of assessable tonnage cannot be reported in this document because such information must be kept confidential to protect the business position of each of the three olive handlers.

The $12.18 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 of approximately one fiscal period's expenses as required by § 932.40 of the marketing order.

Expenditures recommended by the committee for the 2004 fiscal year include $633,500 for marketing development, $360,563 for administration, and $225,000 for research. The committee also recommended a fiscal year 2004 expenditure of $50,000 for the development of an enhanced flavor standards program.

Budgeted expenses for these items in 2003 were $633,500 for marketing development, $347,090 for administration, and $250,000 for research. There were no expenditures for the development of flavor standards and flavor-standards training for inspection personnel in the 2003 fiscal year.

Olive receipts totaled 102,703 tons for the 2003–04 crop year compared to the previous crop year's tonnage of 89,006. The committee has increased fiscal year 2004 expenses, but the increase in olive production makes the lower assessment rate possible.

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 the same because the committee's marketing program for fiscal year 2004 is similar.

The committee reviewed the budget and assessment rate, and unanimously recommended fiscal year 2004 expenditures of $1,269,063, which reflect decreased research expenditures and increased administrative and inspection expenditures.

While deliberating this budget, the committee considered information from various sources, such as the committee's Executive, Research, and Marketing Subcommittees. Alternate spending levels were discussed by these groups, based upon the relative costs and benefits to the olive industry of various research and marketing projects, the total quantity of assessable olives received by handlers, and other pertinent factors. Such deliberations resulted in the recommended assessment rate of $12.18 per ton of assessable olives.

A review of historical industry information and preliminary information pertaining to the upcoming fiscal year indicates that the grower price for the 2003–04 crop year will be a weighted average of $478 per ton for canning-size fruit and $254 per ton for limited-use size fruit. The weighted average is calculated by the committee staff and takes into account the prices per ton offered by each handler for various sizes of the major olive varieties produced.

Approximately 85 percent of a ton of olives are canning sizes and 10 percent are limited-use sizes, leaving the balance as cull fruit. Thus, given the current anticipated grower prices, the average grower price per ton would be $431.70. The estimated assessment revenue is expected to be approximately 2.8 percent of the average grower price. Total grower revenue on 102.703 tons would be $44,336,885.

This action will continue in effect the decreased 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, 2003, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. The subcommittee meetings, as well, were public and all interested parties were encouraged to attend and provide comments. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

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.

The interim final rule was published in the **Federal Register** on February 9, 2004 (69 FR 5905). Copies of the rule were provided to all handlers. Finally, USDA and the Office of the Federal Register made the interim final rule available through the Internet. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period closed on April 9, 2004, and no comments were received.

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.

After consideration of all relevant material presented, including the information and recommendation 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.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

PART 932—OLIVES GROWN IN CALIFORNIA

■ Accordingly, the interim final rule amending 7 CFR part 932, which was published at 69 FR 5905 on February 9, 2004, is adopted as a final rule without change.

Dated: May 17, 2004.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 04–11512 Filed 5–20–04; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1415

RIN 0578–AA38

Grassland Reserve Program

AGENCY: Commodity Credit Corporation (CCC), United States Department of Agriculture (USDA).