regulation have annual grape sales of less than $7,000,000. Based on data from the National Agricultural Statistics Service and the committee, the average crop value for 2008 is about $53,040,000. Dividing this figure by the number of producers (50) yields an average annual producer revenue estimate of about $1,060,800, which is above the SBA threshold of $750,000. Based on the foregoing, it may be concluded that a majority of grape handlers and none of the producers may be classified as small entities. The average importer receives $2.8 million in revenue from the sale of grapes. Therefore, it may be concluded that the majority of importers may be classified as small entities.

This rule continues in effect the action that revised § 925.304(a) of the rules and regulations of the California desert grape order and § 944.503(a)(1) of the table grape import regulation. This rule continues in effect the action that relaxed the one-quarter pound minimum bunch size requirement for the 2009 season for U.S. No. 1 Table grade grapes packed in small consumer packages containing 2 pounds net weight or less. Under the relaxation, up to 20 percent of the weight of each clamshell container may consist of single clusters weighing less than one-quarter pound, but with at least five berries each. Authority for the change to the California desert grape order is provided in §§ 925.52(a)(1) and 925.53. Authority for the change to the table grape import regulation is provided in section 8e the Act.

There is general agreement in the industry for the need to relax the minimum bunch size requirement for grapes packed in clamshells to allow for more packaging options, as noted in the interim final rule. An alternative discussed by the committee was to relax the minimum bunch size requirement for U.S. No. 1 Table grade grapes packed in clamshells containing net weights of 2, 3, and 4 pounds. The committee decided that there is not a problem with clamshells containing net weights of 3 and 4 pounds meeting the minimum requirements at this time. Ultimately, the committee unanimously agreed that the relaxation for grapes packed in clamshells containing 2 pounds net weight or less was appropriate as a test for one season.

Regarding the impact of this rule on affected entities, this rule provides both California desert grape handlers and importers the flexibility to respond to a marketing opportunity on a test basis for one season to meet customer demands and consumer needs. Handlers and importers will be able to provide buyers in the retail sector more packaging choices. The relaxation may result in increased shipments of consumer-sized grape packs, which would have a positive impact on producers, handlers, and importers.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large grape handlers or importers. 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.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the committee's meeting was widely publicized throughout the grape industry and all interested persons were invited to attend the meeting and participate in committee deliberations. Like all committee meetings, the November 14, 2008, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Also, the World Trade Organization, the Chilean Technical Barriers to Trade inquiry point for notifications under the U.S.-Chile Free Trade Agreement, the embassies of Argentina, Brazil, Canada, Chile, Italy, Mexico, Peru, and South Africa, and known grape importers were notified of this action.

Comments on the interim final rule were required to be received on or before May 18, 2009. No comments were received. Therefore, for the reasons given in the interim final rule, we are adopting the interim final rule as a final rule, without change.

To view the interim final rule, go to: *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=AMS-FV-08-0106*.

This action also affirms information contained in the interim final rule concerning Executive Orders 12866 and 12988, the Paperwork Reduction Act (44 U.S.C. Chapter 35), and the E-Gov Act (44 U.S.C. 101).

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this rule.

After consideration of all relevant material presented, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (74 FR 11275, March 17, 2009) will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 925

Grapes, Marketing agreements and orders, Reporting and recordkeeping requirements.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

PARTS 925 AND 944—[AMENDED]

■ Accordingly, the interim final rule that amended 7 CFR parts 925 and 944 and that was published at 74 FR 11275 on March 17, 2009, is adopted as a final rule, without change.

Dated: July 28, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9–18414 Filed 7–31–09; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Doc. No. AMS–FV–08–0105; FV09–932–1 FIR]

Olives Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim final rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule that changed the assessment rate established under the marketing order (order) for olives grown in California for the 2009 and subsequent fiscal years. The interim final rule increased the assessment rate from $15.60 to $28.63 per assessable ton of olives handled. The interim final rule was necessary to provide adequate operating funds for the California Olive Committee (committee), which administers the order locally.

DATES: *Effective Date:* Effective August 4, 2009.

FOR FURTHER INFORMATION CONTACT: Jennifer Robinson, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906; or e-mail:

Jen. Robinson@ams.usda.gov or *Kurt.Kimmel@ams.usda.gov.*

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following Web site: *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide*; or 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@ams.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.

The handling of olives grown in California is regulated under 7 CFR part 932. Under the order, California olive handlers are subject to assessments, which provide funds to administer the order. Assessment rates issued under the order are intended to be applicable to all assessable olives for the entire fiscal year, and continue indefinitely until amended, suspended, or terminated. The committee's fiscal year begins on January 1, and ends on December 31.

In an interim final rule published in the **Federal Register** on February 20, 2009, and effective on February 21, 2009 (74 FR 7782, Doc. No. AMS–FV–08–0105; FV09–932–1 IFR), § 932.230 was amended by increasing the assessment rate established for the committee for the 2009 and subsequent fiscal years from $15.60 to $28.63 per ton of assessable olives from the applicable crop years. The increase in the per ton assessment rate was deemed necessary because the 2008–2009 olive crop was significantly smaller than the previous year's crop and would not have generated adequate assessment revenues to meet the committee's budgeted program needs.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), 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.

There are approximately 1,000 producers of olives in the production area and 2 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 $7,000,000.

Based upon information from the committee, the majority of olive producers may be classified as small entities. Both of the handlers may be classified as large entities.

This rule continues in effect the action that increased the assessment rate established for the committee and collected from handlers for the 2009 and subsequent fiscal years from $15.60 to $28.63 per ton of assessable olives. The committee unanimously recommended 2009 expenditures of $1,482,349 and an assessment rate of $28.63 per ton. The assessment rate of $28.63 is $13.03 higher than the 2008 rate. The higher assessment rate is necessary because assessable olive receipts for the 2008–09 crop year were reported by the CASS to be 49,067 tons, compared to 108,059 tons for the 2007–08 crop year. Actual assessable tonnage for the 2009 fiscal year is expected to be lower because some of the receipts may be diverted by handlers to exempt outlets on which assessments are not paid.

Income generated from the $28.63 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 would be kept within the maximum permitted by the order of about one fiscal year's expenses (§ 932.40).

Expenditures recommended by the committee for the 2009 fiscal year include $495,000 for research, $627,800 for marketing activities, and $359,549 for administration. Budgeted expenditures for these items in 2008 were $500,000, $750,000, and $288,552, respectively. The 2009 marketing and research programs will be scaled back.

Prior to arriving at this budget, the committee considered information from various sources, such as the committee's Executive, Market Development, and Research Subcommittees. 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 reduced olive production. The assessment rate of $28.63 per ton of assessable olives was derived by considering anticipated expenses, the volume of assessable olives and additional pertinent factors.

A review of historical information indicates that the grower price for the 2008–09 crop year was approximately $1,109.47 per ton for canning fruit and $380.71 per ton for limited-use sizes, leaving the balance as unusable cull fruit. Approximately 84 percent of the total tonnage of olives received is canning fruit sizes and 11 percent is limited use sizes, leaving the balance as unusable cull fruit. Grower revenue on 49,067 total tons of canning and limited-use sizes would be $49,283,177 given the current grower prices for those sizes. Therefore, with an assessment rate increased from $15.60 to $28.63, the estimated assessment revenue is expected to be almost 3 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 will be 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 10, 2008, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large 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.

Comments on the interim final rule were required to be received on or

before April 21, 2009. No comments were received. Therefore, for the reasons given in the interim final rule, we are adopting the interim final rule as a final rule, without change.

To view the interim final rule, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=AMS-FV-08-0105.*

This action also affirms information contained in the interim final rule concerning Executive Orders 12866 and 12988, the Paperwork Reduction Act (44 U.S.C. Chapter 35), and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (74 FR 7782, February 20, 2009) 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—[AMENDED]

■ Accordingly, the interim final rule that amended 7 CFR part 932 and that was published at 74 FR 7782 on February 20, 2009, is adopted as final rule, without change.

Dated: July 28, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9–18415 Filed 7–31–09; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 145

[Docket No. APHIS–2007–0042]

RIN 0579–AC78

National Poultry Improvement Plan and Auxiliary Provisions; Technical Amendment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: In a final rule that was published in the **Federal Register** on April 1, 2009 (74 FR 14710–14719, Docket No. APHIS–2007–0042), and effective on May 1, 2009, we amended the National Poultry Improvement Plan (the Plan) and its auxiliary provisions by providing new or modified sampling and testing procedures for Plan participants and participating flocks. In that final rule, we amended the U.S. Avian Influenza Clean program for multiplier meat-type chicken breeding flocks to require that 15 birds be tested to retain the classification, rather than 30. However, our amendatory instruction accomplishing this change also amended the program to require multiplier spent fowl to be tested within 15 days prior to movement to slaughter, rather than 30 days. We had intended to retain the 30-day requirement. This document corrects that error.

DATES: *Effective Date:* August 3, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew R. Rhorer, Senior Coordinator, Poultry Improvement Staff, National Poultry Improvement Plan, Veterinary Services, APHIS, USDA, 1498 Klondike Road, Suite 101, Conyers, GA 30094–5104; (770) 922–3496.

SUPPLEMENTARY INFORMATION:

Background

In a final rule that was published in the **Federal Register** on April 1, 2009 (74 FR 14710–14719, Docket No. APHIS–2007–0042), and effective on May 1, 2009, we amended the National Poultry Improvement Plan (the Plan) and its auxiliary provisions by providing new or modified sampling and testing procedures for Plan participants and participating flocks. The regulations in 9 CFR parts 145, 146, and 147 contain the provisions of the Plan.

We amended the U.S. Avian Influenza Clean program for multiplier meat-type chicken breeding flocks in § 145.33(l) by reducing the sample of birds required to be tested from 30 to 15 and reducing the interval at which the sample must be tested from 180 to 90 days. As the 30-bird sample is referred to 4 times in paragraph (l), the amendatory instruction to accomplish this change indicated that the numeral ''30'' should be replaced each time it occurred in paragraph (l) with the numeral ''15.'' However, paragraph (l)(2)(i) of § 145.33 also contained a requirement that multiplier spent fowl be tested within 30 days prior to movement to slaughter. Thus, our amendatory instruction inadvertently changed that requirement to require testing of multiplier spent fowl 15 days prior to slaughter. We had intended to retain the 30-day requirement. This document corrects that error.

List of Subjects in 9 CFR Part 145

Animal diseases, Poultry and poultry products, Reporting and recordkeeping requirements.

■ Accordingly, we are amending 9 CFR part 145 as follows:

PART 145—NATIONAL POULTRY IMPROVEMENT PLAN FOR BREEDING POULTRY

■ 1. The authority citation for part 145 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

§ 145.33 [Amended]

■ 2. In § 145.33, paragraph (l)(2)(i) is amended by removing the words ''15 days'' and adding the words ''30 days'' in their place.

Done in Washington, DC, this 27th day of July 2009.

William H. Clay,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–18485 Filed 7–31–09; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 26

[NRC–2002–0002]

RIN 3150–AF12

Fitness for Duty Programs

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects a final rule appearing in the **Federal Register** on March 31, 2008 (73 FR 16965), that amended the Nuclear Regulatory Commission's (NRC's) regulations that govern fitness for duty programs. This document is necessary to correct erroneous language in the preamble and codified language of the final rule. These corrections include fixing typographical errors and cross-references, revising language in the preamble to clarify unintended discrepancies with the codified rule text, and making non-substantive changes to the rule text that do not modify any requirements in the final rule.

DATES: The correction is effective August 3, 2009, and is retroactively applicable to March 31, 2008.

FOR FURTHER INFORMATION CONTACT: Lynn Hall, Office of Nuclear Reactor