

(1) Is held by another employee with lower retention standing in the same tenure group and subgroup; and

(2) Is not more than three grades (or appropriate grade intervals or equivalent) below the position from which the employee was released, except that for a preference eligible employee with a compensable service-connected disability of 30 percent or more the limit is five grades (or appropriate grade intervals or equivalent). (The agency uses the grade progression of only the released employee's position of record to determine the applicable grades (or appropriate grade intervals or equivalent) of the employee's retreat right. The agency does not consider the grade progression of the position to which the employee has a retreat right.); and

(3) Is the same position, or an essentially identical position, formerly held by the released employee on a permanent basis as a competing employee in a Federal agency (i.e., when held by the released employee in an executive, legislative, or judicial branch agency, the position would have been placed in tenure groups I, II, or III, or equivalent). In determining whether a position is essentially identical, the determination is based on the competitive level criteria found in § 351.403, but not necessarily in regard to the respective grade, classification series, type of work schedule, or type of service, of the two positions.

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[FR Doc. 00-26945 Filed 10-19-00; 8:45 am]

BILLING CODE 6325-01-U

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 932

[Docket No. FV00-932-3 FR]

#### Olives Grown in California; Modification to Handler Membership on the California Olive Committee

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule modifies the handler membership on the California Olive Committee (Committee). The Committee locally administers the California olive marketing order (order) which regulates the handling of olives grown in California. The Committee is composed of 16 industry members of which 8 are producers and 8 are

handlers. Current handler representation on the Committee provides that the two handlers who handled the largest and second largest total volume of olives during the crop year in which nominations were made and in the preceding crop year shall be represented by three members and alternate members each, and that the remaining handler shall be represented by two members and alternate members. Recently, one of the handlers indicated that it was exiting the business, and no longer desired to serve on the Committee. This rule reallocates handler membership and enables the Committee to operate at full strength.

**EFFECTIVE DATE:** October 23, 2000.

**FOR FURTHER INFORMATION CONTACT:** Rose Aguayo, 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, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491; Fax: (202) 720-5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698, or E-mail: Jay.Guerber@usda.gov.

**SUPPLEMENTARY INFORMATION:** This final 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 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 final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. 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 request a modification of the order or to be exempted therefrom. A 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 to review the Secretary'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 final rule modifies the order's administrative rules and regulations regarding the structure of handler membership on the Committee. The change in structure was unanimously recommended by the Committee.

Section 932.25 of the order provides for the establishment of the Committee to locally administer the terms and provisions of the order. The Committee is composed of 16 industry members, each with an alternate. Of the 16 industry members, 8 are producers and 8 are handlers. This section also specifies how the handler membership on the Committee is allocated. Authority is provided for the Committee, with the approval of the Secretary, to change the allocation of both producer and handler members as may be necessary to assure equitable representation.

Based on this authority, § 932.159 of the administrative rules and regulations currently provides that the two handlers who handled the largest and second largest total volume of olives during the crop year in which nominations were made and in the preceding crop year shall be represented by three members and alternate members each, and the remaining handler shall be represented by two members and alternate members. This reallocation was implemented in January of 1999 (64 FR 4286) with an interim final rule. Comments were invited until March 29, 1999. The interim final rule was adopted without change in a final rule in April of 1999 (64 FR 23009).

The structure of the olive industry has changed over the years and the number of handlers, both cooperative and independent (or handlers not affiliated with a cooperative marketing organization), has decreased. At one time, there were a number of cooperative marketing organizations and independent handlers and the

Committee's structure was designed so that four of the eight handler seats were held by cooperatives and four were held by independents. This representation was also weighted by the volume of olives handled so that if one group, either cooperatives or independents, handled 65 percent or more of the total industry's volume handled during the nominating crop year and the preceding crop year, that group would have five seats on the Committee and the other group would have three seats.

In 1993, handler membership on the Committee was reallocated to reflect changes within the handler segment of the industry. The number of industry handlers declined to only five handlers—one cooperative and four independents. At that time, § 932.159 of the order's rules and regulations was modified to reapportion handler membership to provide cooperative handlers with two seats on the Committee and independent handlers with six seats.

When the number of handlers declined to one cooperative and two independent handlers, and restrictions on handler affiliation resulted in two vacant handler positions on the Committee, changes on handler allocation were implemented to allow those positions to be filled and to enable the Committee to operate at full strength. Section 932.159 was revised (64 FR 4286, January 28, 1999; 64 FR 23009, April 29, 1999) to eliminate the distinction between cooperative marketing organizations and independent handlers and § 932.160 on handler affiliation was removed. The eight handler seats on the Committee were reallocated based on the total volume of olives handled during the crop year in which nominations are made and the preceding crop year, with the handlers handling the first and second largest volume being represented by three members each, and the remaining handler being represented by two members.

Recently, one handler in the industry indicated that it was exiting the business, will no longer be handling olives after it markets its old crop inventory, and, that it no longer desired to serve on the Committee. The Committee met and unanimously recommended modifying the rules and regulations to reallocate handler membership equally between the two other handlers. Each handler will be represented by four handlers and four alternates. This rule modifies the Committee's handler membership to enable the Committee to operate at full strength; *i.e.*, with the eight handler and eight producer positions filled.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this final 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 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 3 handlers of California olives who are subject to regulation under the marketing order and approximately 1,200 olive producers in the regulated area. One of these handlers informed the Committee that it plans to exit the industry, and will no longer be handling olives after it markets its old crop inventory. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000. None of the olive handlers may be classified as small entities.

A review of historical and preliminary information pertaining to the 1999–00 crop year (August 1 through July 31) indicates that total grower revenue for the 1999 crop will be approximately \$39,500,000, and the average grower revenue will be approximately \$33,000. Thus, it can be concluded that the majority of producers of California olives may be classified as small entities.

This rule modifies the rules and regulations of the olive order regarding the structure of handler membership on the Committee. Section 932.25 of the order provides for the establishment of the Committee to locally administer the terms and provisions of the order. The Committee is composed of 16 industry members, each with an alternate. Of the 16 industry members, 8 are producers and 8 are handlers. This section also specifies how the handler membership on the Committee is allocated. Authority is provided for the Committee, with the approval of the Secretary, to change the allocation of both producer and handler members as may be necessary to assure equitable representation.

Section 932.159 of the administrative rules and regulations provides that the

two handlers who handled the largest and second largest total volume of olives during the crop year in which nominations were made and in the preceding crop year shall be represented by three members and alternate members each, and the remaining handler shall be represented by two members and alternate members.

The structure of the olive industry has changed over the years and the number of handlers, both cooperative and independent, has decreased. At one time, there were a number of cooperative marketing organizations and independent handlers and the Committee's structure was designed so that four of the eight handler seats were held by cooperatives and four were held by independents. This representation was also weighted by the volume of olives handled so that if one group, either cooperatives or independents, handled 65 percent or more of the total industry's volume handled during the nominating crop year and the preceding crop year, that group would have five seats on the Committee and the other group would have three seats.

In 1993, handler membership on the Committee was reallocated to reflect changes within the industry. The number of industry handlers declined to only five handlers—one cooperative and four independents. At that time, § 932.159 of the order's rules and regulations was modified to reapportion handler membership to provide cooperative handlers with two seats on the Committee and independent handlers with six seats.

When the number of handlers declined to one cooperative and two independent handlers, and restrictions on handler affiliation resulted in two vacant handler positions on the Committee, changes on handler allocation were implemented to allow these positions to be filled and to enable the Committee to operate at full strength. Section 932.159 was revised (64 FR 4286, January 28, 1999; 64 FR 23009, April 29, 1999) to eliminate the distinction between cooperative marketing organizations and independent handlers and § 932.160 on handler affiliation was removed. The eight handler seats on the Committee were reallocated based on the total volume of olives handled during the crop year in which nominations are made and the preceding crop year, with the handlers handling the first and second largest volume being represented by three members each, and the remaining handler being represented by two members.

Recently, one of the handlers indicated that it was exiting the

business, will no longer be handling olives after it markets its old crop inventory, and that it no longer desired to serve on the Committee. The Committee unanimously recommended modifying the rules and regulations to reallocate handler membership equally between two handlers with each handler represented by four members and four alternates. This rule enables the Committee to operate at full strength; i.e., with the eight handler and eight producer positions filled.

One alternative to this rule discussed at the meeting was to leave the language in § 932.159 unchanged; however, the current language is no longer appropriate. The current language specifies that the two handlers who handled the largest and second largest volume of olives during the crop year in which nominations are made and in the preceding crop year shall be represented by three members and alternate members each, and that the remaining handler shall be represented by two members and two alternate members. Since one of the remaining handlers no longer desires to serve on the Committee, the language concerning the two seats allocated to the third handler is no longer appropriate. Therefore, the Committee recommended that handler membership be reallocated equally between two handlers and that each handler be represented by four members and four alternate members.

This final rule will not impose any additional reporting or recordkeeping requirements on either of the two 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. In addition, the Department 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 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 meeting at which the recommendation was made was a public meeting and all entities, both large and small, were able to express their views on this issue. All of the industry handlers currently represented on the Committee participated in the deliberations. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

A proposed rule concerning this action was published in the **Federal**

**Register** on September 11, 2000 (65 FR 54818). 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 the Office of the **Federal Register**. A 30-day comment period ending October 11, 2000, was provided to allow interested persons to respond to this proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following website: <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 matter 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.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C.) because the two vacant handler member seats on the Committee should be filled as soon as possible, so that the Committee can operate at full strength. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule and no 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 932.159 is revised to read as follows:

#### § 932.159 Reallocation of handler membership.

Pursuant to § 932.25, handler representation on the Committee is reallocated to provide that the two handlers who handled the largest and second largest total volume of olives during the crop year in which nominations are made and in the

preceding crop year shall each be represented by four members and four alternate members.

Dated: October 17, 2000.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 00–27082 Filed 10–17–00; 5:09 pm]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 98–NM–35–AD; Amendment 39–11933; AD 2000–21–01]

RIN 2120–AA64

#### Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to all Lockheed Model L–1011–385 series airplanes, that requires repetitive inspections to detect corrosion or fatigue cracking of certain structural elements of the airplane; corrective action, if necessary; and incorporation of certain structural modifications. This amendment is prompted by new recommendations related to incidents of fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their economic design goal. The actions specified by this AD are intended to prevent corrosion or fatigue cracking of certain structural elements, which could result in reduced structural integrity of the airplane.

**DATES:** Effective November 24, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 24, 2000.

**ADDRESSES:** The service information referenced in this AD may be obtained from Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register,