

# Rules and Regulations

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## COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

### 5 CFR Chapter LXX

[CSOSA-0009-P]

RIN 3209-AA15 and 3225-AA07

### Supplemental Standards of Ethical Conduct for Employees of the Court Services and Offender Supervision Agency for the District of Columbia

**AGENCY:** Court Services and Offender Supervision Agency for the District of Columbia.

**ACTION:** Final rule.

**SUMMARY:** The Court Services and Offender Supervision Agency for the District of Columbia (CSOSA or Agency), with the concurrence of the Office of Government Ethics (OGE), is adopting as final, without change, the interim CSOSA rule that supplements the executive-branch-wide Standards of Ethical Conduct (Standards) issued by OGE, and requires employees of CSOSA and employees of the District of Columbia Pretrial Services Agency (PSA), an independent entity within CSOSA, to obtain approval before engaging in outside employment.

**DATES:** This final rule is effective June 21, 2011.

**FOR FURTHER INFORMATION CONTACT:** Theresa A. Rowell, Assistant General Counsel, Office of General Counsel, telephone: (202) 220-5364; e-mail: [theresa.rowell@csosa.gov](mailto:theresa.rowell@csosa.gov).

**SUPPLEMENTARY INFORMATION:** CSOSA published, with OGE concurrence, an interim rule in 76 FR 22293, on April 21, 2011, requiring employees of CSOSA and PSA to obtain prior written approval before engaging in outside employment. No comments were received. CSOSA has determined, with OGE concurrence, to adopt the interim rule as final without any change. The

interim rule being adopted as final provides that employees of CSOSA and PSA must obtain prior written approval before engaging in outside employment. The rule defines outside employment and sets out the procedure for seeking approval.

For a detailed section analysis of this final rule, see the preamble of the interim rule as published in 76 FR 22293.

### Regulatory Flexibility Act

CSOSA, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule and by approving it certifies that this rule will not have a significant economic impact upon a substantial number of small entities. This rule pertains to agency management, and its economic impact is limited to the agency's appropriated funds.

### Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. chapter 35, does not apply because this rulemaking does not contain information collection requirements subject to the approval of the Office of Management and Budget.

### Congressional Review Act

CSOSA has determined that this rule is not a rule as defined in 5 U.S.C. 804, and thus, does not require review by Congress.

### List of Subjects in 5 CFR Part 8001

Conflict of interests, Government employees.

**Authority and Issuance:** 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.801, 2635.802, 2635.803.

Accordingly, the Court Services and Offender Supervision Agency for the District of Columbia, with the concurrence of the Office of Government Ethics, is adopting the interim rule adding 5 CFR chapter LXX, consisting of part 8001, which was published in 76 FR 22293 on April 21, 2011, as a final rule without change.

Dated: May 24, 2011.

**Adrienne Poteat,**

*Deputy Director, Court Services and Offender Supervision Agency.*

Approved: May 24, 2011.

**Robert I. Cusick,**

*Director, Office of Government Ethics.*

[FR Doc. 2011-15362 Filed 6-20-11; 8:45 am]

**BILLING CODE 3129-01-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 932

[Doc. No. AMS-FV-10-0115; FV11-932-1 FIR]

### Olives Grown in California; Decreased Assessment Rate

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

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that decreases the assessment rate established for the California Olive Committee (Committee) for 2011 and subsequent fiscal years from \$44.72 to \$16.61 per ton of olives handled. The Committee locally administers the marketing order which regulates the handling of olives grown in California. Assessments upon olive handlers are used by the Committee to fund reasonable and necessary expenses of 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 June 22, 2011.

**FOR FURTHER INFORMATION CONTACT:** Jerry L. Simmons, 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: [Jerry.Simmons@ams.usda.gov](mailto:Jerry.Simmons@ams.usda.gov) or [Kurt.Kimmel@ams.usda.gov](mailto:Kurt.Kimmel@ams.usda.gov).

Small businesses may request information on complying with this and other marketing order and/or agreement regulations by viewing a guide at the following Web site: <http://>

[www.ams.usda.gov/MarketingOrdersSmallBusinessGuide](http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide); or by contacting Laurel May, 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: [Laurel.May@ams.usda.gov](mailto:Laurel.May@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 by 7 CFR part 932. California olive handlers are subject to assessments. Prior to this change handlers were assessed \$44.72 per ton of olives handled.

The Committee met on December 15, 2010, and unanimously recommended an assessment rate of \$16.61 per ton of olives. The assessment rate of \$16.61 is \$28.11 per ton lower than the rate currently in effect. The Committee recommended the lower assessment rate because of a substantial increase in assessable olives for the 2011 fiscal year.

The assessment rate established in this rule will be applicable to all assessable olives beginning on January 1, 2011, and 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 is effective 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.

In an interim rule published in the **Federal Register** on March 4, 2011, and effective on March 5, 2011 (76 FR 11937, Doc. No. AMS-FV-10-0115, FV11-932-1 IR), § 932.230 was amended by decreasing the assessment rate from \$44.72 to \$16.61 per ton of olives handled.

### 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 action 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 California 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 (SBA) (13 CFR 121.201) as those having annual receipts of 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 industry and the California Agricultural Statistics Service (CASS), the average grower price for 2010 was approximately \$811 per ton and total grower production was around 165,000 tons. Based on production, producer prices, and the total number of California olive producers, the average annual producer revenue is less than \$750,000. Thus, the majority of olive producers may be classified as small entities. Both of the handlers may be classified as large entities.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 2011 and subsequent fiscal years from \$44.72 to \$16.61 per ton of olives. The Committee unanimously recommended 2011 expenditures of \$2,203,909 and an assessment rate of \$16.61 per ton. The recommended assessment rate of \$16.61 is \$28.11 lower than the 2010 rate. Income generated from the \$16.61 per ton assessment rate should be adequate to meet this year's expenses when combined with funds from the authorized reserve and interest income.

The major expenditures recommended by the Committee for the 2011 fiscal year include \$1,093,009 for Research Programs, \$700,000 for Marketing Programs, \$335,900 for General Administration, and \$75,000 for Inspection Equipment Development. Budgeted expenses for these items in 2010 were \$300,000, \$255,000, \$324,923, and \$50,000, respectively.

The Committee recommended the lower assessment rate because of a substantial increase in assessable olives

for the 2011 fiscal year. The fiscal year 2011 olives as reported by CASS total 164,984 tons, as compared to 23,033 tons reported for the 2010 fiscal year.

The Committee reviewed and unanimously recommended 2011 expenditures of \$2,203,909, which included increases in administrative expenses, marketing programs, equipment development and research programs. Prior to arriving at this budget, the Committee considered information from various sources, such as the Executive Subcommittee, Marketing Subcommittee, Inspection Subcommittee, and the Research Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various projects to the olive industry. The assessment rate of \$16.61 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 and preliminary information indicates that grower price could range between approximately \$811 per ton and \$1,105 per ton. Therefore, the estimated assessment revenue for the 2011 fiscal year as a percentage of total grower revenue could range between 1.5 and 2 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers.

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.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

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

Comments on the interim rule were required to be received on or before May 3, 2011. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to: <http://www.regulations.gov/#!documentDetail;D=AMS-FV-10-0115-0001>.

This action also affirms information contained in the interim 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 rule, without change, as published in the **Federal Register** (76 FR 11937, March 4, 2011) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 932

Olives, Marketing agreements, Reporting and recordkeeping requirements.

#### PART 932—[AMENDED]

■ Accordingly, the interim rule that amended 7 CFR part 932 and that was published at 76 FR 11937 on March 4, 2011, is adopted as a final rule, without change.

Dated: June 15, 2011.

Ellen King,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2011-15446 Filed 6-20-11; 8:45 am]

BILLING CODE 3410-02-P

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 225

[Regulation Y; Docket No. R-1356]

#### Capital Adequacy Guidelines; Small Bank Holding Company Policy Statement: Treatment of Subordinated Securities Issued to the United States Treasury Under the Emergency Economic Stabilization Act of 2008 and the Small Business Jobs Act of 2010

**AGENCY:** Board of Governors of the Federal Reserve System (Board).

**ACTION:** Final rule.

**SUMMARY:** The Board is adopting a final rule that allows bank holding companies that have made a valid election to be taxed under Subchapter S of Chapter 1 of the U.S. Internal Revenue Code (S-Corp BHCs) and bank holding companies organized in mutual form (Mutual BHCs) to include the full amount of any subordinated debt securities issued to the U.S. Department of the Treasury (Treasury) under the capital purchase program (CPP), in tier 1 capital for purposes of the Board's risk-based and leverage capital

guidelines for bank holding companies, provided that the Subordinated Securities will count toward the limit on the amount of other restricted core capital elements includable in tier 1 capital; and allows bank holding companies that are subject to the Board's Small Bank Holding Company Policy Statement (small bank holding companies) and that are S-Corp BHCs or Mutual BHCs to exclude the CPP Subordinated Securities from treatment as debt for purposes of the debt-to-equity standard under the Small Bank Holding Company Policy Statement (Policy Statement). The Board is also adopting, and requesting comment on, an interim final rule that allows small bank holding companies that are S-Corps or Mutual BHCs to exclude from treatment as debt for purposes of the debt-to-equity standard under the Policy Statement subordinated debt securities issued to the Treasury through the Small Business Lending Fund established under the Small Business Jobs Act of 2010.

**DATES:** The final rule will become effective on June 21, 2011. Comments on allowing S-Corp BHCs and Mutual BHCs that issue SBLF Subordinated Securities to the Treasury to exclude the securities from the definition of debt under the Policy Statement are due by July 30, 2011.

#### FOR FURTHER INFORMATION CONTACT:

Anna Lee Hewko, (202) 530-6260, Assistant Director, Capital and Regulatory Policy, or Brendan G. Burke, (202) Senior Supervisory Financial Analyst, Division of Banking Supervision and Regulation; April C. Snyder, Counsel, (202) 452-3099, or Benjamin W. McDonough, Counsel, (202) 452-2036, Legal Division; Board of Governors of the Federal Reserve System, 20th Street and Constitution Ave., NW., Washington, DC 20551. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), (202) 263-4869.

#### SUPPLEMENTARY INFORMATION:

##### Background

On June 1, 2009, the Board issued an interim final rule (CPP interim rule) (74 FR 26077) to allow bank holding companies that have made a valid election to be taxed under Subchapter S of Chapter 1 of the U.S. Internal Revenue Code (S-Corp BHCs) and bank holding companies organized in mutual form (Mutual BHCs) to include the full amount of any subordinated debt securities issued to the Treasury under the capital purchase program (CPP Subordinated Securities) established by Treasury under the Economic

Stabilization Act of 2008 (EESA)<sup>1</sup> in tier 1 capital for purposes of the Board's risk-based and leverage capital guidelines for bank holding companies (Capital Guidelines),<sup>2</sup> provided that the Subordinated Securities would count toward the limit on the amount of other restricted core capital elements includable in tier 1 capital. The CPP interim rule also permitted bank holding companies that are subject to the Board's Small Bank Holding Company Policy Statement (Policy Statement)<sup>3</sup> and that are S-Corps or Mutual BHCs, to exclude the CPP Subordinated Securities from treatment as debt for purposes of the debt-to-equity standard under the Policy Statement.

The Board is now adopting the CPP interim final rule as a final rule in substantially the same form, as discussed below. In addition, for the reasons explained below, the Board is adopting as an interim final rule a provision that would allow bank holding companies that are subject to the Board's Policy Statement and that are S-Corp BHCs or Mutual BHCs to exclude subordinated debt securities issued to the Treasury through the Small Business Lending Fund established under the Small Business Jobs Act of 2010 (SBLF Subordinated Securities) from debt for purposes of the debt-to-equity standard under the Policy Statement.

#### Capital Guidelines

Under the Troubled Asset Relief Program (TARP) established in the Emergency Economic Stabilization Act of 2008 (EESA), Division A of Pub. L. No. 110-343, 122 Stat. 3765 (2008), Treasury provided capital to eligible banks, bank holding companies and savings associations (collectively, banking organizations), as well as certain other financial institutions (CPP).<sup>4</sup> S-Corp BHCs generally could not participate in the CPP through the issuance of Senior Perpetual Preferred Stock because, under the Internal Revenue Code, S-Corp BHCs may not issue more than one class of equity security. Bank holding companies organized in mutual form also cannot issue Senior Perpetual Preferred Stock

<sup>1</sup> Public Law 110-343, 122 Stat. 3765 (2008).

<sup>2</sup> 12 CFR part 225, Appendices A and D.

<sup>3</sup> 12 CFR part 225, Appendix C.

<sup>4</sup> Through the CPP, Treasury invested in newly issued senior perpetual preferred stock of banking organizations (Senior Perpetual Preferred Stock) that are not S-Corps or organized in mutual form. On June 1, 2009, the Board published a final rule on the capital treatment of the Senior Perpetual Preferred Stock. See 74 FR 26081 (June 1, 2009).