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. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department 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 1997 budget and those for subsequent fiscal years will be reviewed and, as appropriate, approved by the Department.

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.

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 Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1997 fiscal year began on January 1, 1997, and the marketing order requires that the rate of assessment for each fiscal year apply to all assessable olives handled during the appropriate crop year; (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) an interim final rule was published on this action and provided a 30-day comment period, 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

Accordingly, the interim final rule amending 7 CFR part 932 which was published at 62 FR 2549 on January 17, 1997, is adopted as a final rule without change.

Dated: March 4, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97-6203 Filed 3-11-97; 8:45 am]

BILLING CODE 3410-02-P

FEDERAL ELECTION COMMISSION

11 CFR Part 111

[Notice 1997-3]

Adjustments to Civil Monetary Penalty Amounts

AGENCY: Federal Election Commission.

ACTION: Final rule.

SUMMARY: This rule implements the Debt Collection Improvement Act of 1996 ("DCIA"), which requires the Commission to adopt a regulation adjusting for inflation the maximum amount of civil monetary penalties ("CMP") under the Federal Election Campaign Act of 1971 ("FECA" or "Act"), as amended. Any increase in CMP shall apply only to violations that occur after the effective date of this regulation.

EFFECTIVE DATE: March 12, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Rita A. Reimer, Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 219-3690 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Commission is publishing final rules implementing the Debt Collection Improvement Act of 1996, Pub. L. 104-134, section 31001(s), 110 Stat. 1321-358, 1321-373 (April 26, 1996). The DCIA amended the Federal Civil Penalties Inflation Adjustment Act "Inflation Adjustment Act"), 28 U.S.C. 2461 nt., to require that the Commission adopt regulations no later than 180 days after enactment of the statute and at least once every four years thereafter, adjusting for inflation that maximum amount of the CMP's contained in the status administered by the Commission.

Explanation and Justification

A CMP is defined at section 3(2) of the Interest Adjustment Act as any penalty, fine, or other sanction that (1) is for a specific amount, or has a maximum amount, as provided by federal law; and (2) is assessed or enforced by an agency in an administrative proceedings or by federal law. This definition covers the monetary penalty provisions administered by the Commission.

The DCIA requires that these penalties be adjusted by the cost of living adjustment set forth in section 5 of the Interest Adjustment Act. The cost of living adjustment is defined as the percentage by which the U.S. Department of Labor's Consumer Price Index ("CPI") for the month of June of the year preceding the adjustment exceeds the CPI for the month of June for the year in which the amount of the penalty was last set or adjusted pursuant to law. The adjusted amounts are then rounded in accordance with a specified rounding formula. However, the DCIA imposes a 10% maximum increase for each penalty for the first adjustment following its enactment.

Part 111—Compliance Procedure (2 U.S.C. 437g, 437d(a))

Section 11.24 Civil Penalties (2 U.S.C. 437g(a)(5), (6), (12), 28 U.S.C. 2461 nt.

The Commission's general CMP provisions for violations of the FECA are found at 2 U.S.C. 437g(a) (5) and (6). They provide for a civil penalty not to exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in the violation.

These amounts are doubled in the case of a knowing and willful violation, to $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in the violation.

In addition, the Act imposes CMP's on those who violate certain of its confidentiality provisions. 2 U.S.C. 437g(a)(12). The penalty for violating this section is a fine of not more than $2,000 or $5,000 in the case of a knowing and willful violation.

Sections 437g(a) (5) and (6) were enacted in 1976. Pub. L. 94-283, sec. 109, 90 Stat. 475, 483 (May 11, 1976). Section 437g(a)(12) was added in 1980. Pub. L. 96-187, sec. 108.93 Stat. 1339, 1361 (Jan. 8, 1980).

The civil penalties established in those sections have not subsequently been revised. The Commission is therefore increasing the amount of each maximum CMP by 10%. As explained above, neither the CPI formula nor the rounding off formula applies to this situation, since the Interest Adjustment Act limits the first post-enactment adjustment to 10%.

Accordingly, as of March 12, 1997, the maximum civil penalties set forth in 2 U.S.C. 437g(a) (5) and (6) are increased to the greater of the amount of any contribution or expenditure involved in the violation or $5,500. The maximum penalty for a knowing and willful violation is increased to the greater of twice the amount of any contribution or expenditure involved in the violation or $11,000. The maximum penalty for a violation of 2 U.S.C. 437g(a)(12) is

increased to $2,200, or $5,500 for a knowing and willful violation. These increased CMP's shall apply only to violations that occur after March 12, 1997.

These CMP provisions do not currently appear in the Commission's rules. However, section 4(1) of the Interest Adjustment Act directs the Commission to "*by regulation* adjust each civil monetary penalty" by the specified percentage (emphasis added). The Commission is accordingly adopting new 11 CFR 111.24, "Civil Penalties," for this purpose. This section lists each penalty established at 2 U.S.C. 437g(a)(5), (6) and (12), adjusted upwards by 10% as required by the Interest Adjustment Act.

The Commission has no discretion in taking this action, but is doing so pursuant to a statutory mandate. These are thus technical amendments that are exempt from the notice and comment requirements of the Administrative Procedure Act at 5 U.S.C. 553(b)(B) and the legislative review requirements of 2 U.S.C. 438(d). These exemptions allow the rule to become effective immediately upon publication in the Federal Register. Accordingly, these amendments are effective on March 12, 1997.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act are not applicable to this final rule because the agency was not required to publish a notice of proposed rulemaking under 5 U.S.C. 553 or any other laws. Therefore, no regulatory flexibility analysis is required.

List of Subjects in 11 CFR Part 111

Administrative practice and procedure, Elections, Law enforcement.

For the reasons set out in the preamble, Subchapter A, Chapter I of Title 11 of the Code of Federal Regulations is amended to read as follows:

PART 111—COMPLIANCE PROCEDURE (2 U.S.C. 437g, 437d(a))

1. The authority citation for Part 111 is revised to read as follows:

Authority: 2 U.S.C. 437g, 437d(a), 438(a)(8); 28 U.S.C. 2461 nt.

2. Part 111 is amended by adding new section 111.24, to read as follows:

§ 111.24 Civil Penalties (2 U.S.C. 437g(a)(5), (6), (12), 28 U.S.C. 2461 nt.).

(a) Except as provided in paragraph (b) of this section, a civil penalty negotiated by the Commission or imposed by a court for a violation of the Act or chapter 95 or 96 of title 26 shall not exceed the greater of $5,500 or an amount equal to any contribution or expenditure involved in the violation. In the case of a knowing and willful violation, the civil penalty shall not exceed the greater of $11,000 or an amount equal to 200% of any contribution or expenditure involved in the violation.

(b) Any Commission member or employee, or any other person, who in violation of 2 U.S.C. 437g(a)912)(A) makes public any notification or investigation under 2 U.S.C. 437g without receiving the written consent of the person receiving such notification, or the person with respect to whom such investigation is made, shall be fined not more than $2,200. Any such member employee, or other person who knowingly and willfully violates this provision shall be fined not more than $5,500.

Dated: March 6, 1997.

John Warren McGarry,

Chairman, Federal Election Commission.

[FR Doc. 97-6098 Filed 3-11-97; 8:45 am]

BILLING CODE 6715-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Regulations; Affiliation With Investment Companies

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is amending part 121 section103(b)(5) of its size regulations to make clear that, for purposes of the Small Business Investment Act of 1958 (SBIAct), certain venture capital firms and pension plans that make investments in small firms are not considered affiliated with those firms in which they invest. As a result, for any assistance under the SBIAct, an applicant concern is not affiliated with these investors. This final rule is in accordance with section 208 of the Small Business Programs Improvement Act of 1996.

EFFECTIVE DATE: March 12, 1997.

FOR FURTHER INFORMATION CONTACT: Gary M. Jackson, Assistant Administrator for Size Standards, 409 3rd Street, SW, Washington, DC 20416, (202) 205-6618.

SUPPLEMENTARY INFORMATION: Division D of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997 (Public Law 104-208) is the Small Business Programs Improvement Act of 1996 (SBPIAct), which amended the Small Business Investment Act of 1958 (SBIAct). Title II, Section 208 of the SBPIAct amends the definition of "small business concern" to clarify that, for purposes of the SBIAct, a business which receives an investment from certain types of venture capital firms and pension plans shall not be considered affiliates of one another. Specifically, section 208 of the amendment provides that such investments shall not cause a business concern to be deemed not independently owned and operated; and further, the investments shall be disregarded in determining whether or not a business is a small concern under the SBA's size standards. The types of venture capital and pension plans covered by this amendment are listed in § 121.103(b)(5), and include venture capital firms, investment companies, small business investment companies, employee welfare benefit plans or pension plans, and trusts, foundations, or endowments exempt from Federal income taxation.

The SBA had recently revised its Small Business Size Regulation (Federal Register, Wednesday, January 31, 1996, Vol. 61. No. 21 FR 3280) to extend its exclusion from affiliation for SBICs that invests in small businesses to include venture capital firms, pension funds, and certain charitable entities exempt from Federal taxation, as long as the investors do not control the concern. For purposes of that provision, control was defined in § 107.865 of this part. This rule eliminates the condition that affiliation between certain investors and small business would be found present if control by an investor existed over the small business. However, SBICs continue to be restricted in the exercise of control over a small business they invest in as stated in § 107.865 of this part.

Also, under that regulation and prior to this legislation, the exclusion from affiliation had been limited to applicants for assistance under the Small Business Investment Company (SBIC) Program, and only, as stated above, where the investor(s) did not control the concern. In addition to the SBIC Program, the SBIAct has established a number of other SBA financial and management assistance programs, namely: the Surety Bond Guarantee Program, the Certified State and Local Development Company Program the Lease Guarantees and the Pollution Control Guarantee Program. While the SBIAct may authorize all of these programs, assistance under the Lease Guarantee and the Pollution Control Guarantee Programs has not been available for several years. Nor