Due to unusually cool and wet weather conditions caused by the El Nino this season, the 1998–99 crop harvest is about four weeks late, of poor quality, and approximately 50 percent less than normal size. At its December 1, 1998, meeting, the Committee reduced the California Agricultural Statistical Service's dried prune crop estimate for 1998–99 from 170,000 tons (161,500 salable tons) to 103,000 tons (99,750 salable tons).

The Committee reviewed and unanimously recommended 1998–99 expenditures of $327,180. The assessment rate of $3.28 per ton of salable dried prunes was then determined by dividing the total recommended budget by the reduced estimate for salable dried prunes. The Committee is authorized to use excess assessment funds from the 1997–98 crop year (currently estimated at $58,088) for up to five months beyond the end of the crop year to fund 1998–99 crop year expenses. At the end of the five months, the Committee refunds or credits excess funds to handlers (§ 993.81(c)). Anticipated assessment income and interest income during 1998–99 would be adequate to cover authorized expenses.

Recent price information indicates that the grower price for the 1998–99 season should average about $800 per salable ton of dried prunes. Based on estimated shipments of 99,750 salable tons, assessment revenue during the 1998–99 crop year is expected to be less than 1 percent of the total expected grower revenue.

This action would increase 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 would 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 dried prune 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 1, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large California dried prune 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.

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

A 10-day comment period is provided to allow interested persons to respond to this proposed rule. Ten days is deemed appropriate because: (1) The 1998–99 crop year began on August 1, 1998, and the marketing order requires that the rate of assessment for each crop year apply to all assessable dried prunes handled during such crop year; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) the Committee's excess funds are nearly exhausted and the assessment increase must be implemented promptly so the Committee can collect assessments based on the higher rate and meet its financial obligations.

List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 993 is proposed to be amended as follows:

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

1. The authority citation for 7 CFR part 993 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 993.347 is proposed to be revised to read as follows:

§ 993.347 Assessment rate.

On and after August 1, 1998, an assessment rate of $3.28 per ton is established for California dried prunes.

Dated: December 14, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–33573 Filed 12–17–98; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL ELECTION COMMISSION

11 CFR Part 110

[Notice 1998–19]

Treatment of Limited Liability Companies Under the Federal Election Campaign Act

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is seeking comments on how to treat limited liability companies (''LLC'') for purposes of the Federal Election Campaign Act (''FECA'' or the ''Act''). LLC's are non-corporate business entities, created under State law, that have characteristics of both partnerships and corporations. While the Commission is proposing that these entities be treated as partnerships for purposes of the Act, please note that no final decision has yet been reached on any of the issues discussed in this Notice.

DATES: Comments must be received on or before February 1, 1999. The Commission will hold a hearing on these proposed rules, if sufficient requests to testify are received. If a hearing is held, its date will be announced in the **Federal Register**. Persons wishing to testify at the hearing should so indicate in their comments.

ADDRESSES: All comments should be addressed to N. Bradley Litchfield, Associate General Counsel, and must be submitted in either written or electronic form. Written comments should be sent to the Federal Election Commission, 999 E Street, NW, Washington, DC 20463. Faxed comments should be sent to (202) 219–3923, with printed copy follow-up for clarity. Electronic mail comments should be sent to LLCnprm@fec.gov and should include the full name, electronic mail address and postal service address of the commenter. The hearing will be held in the Commission's ninth floor meeting room, 999 E Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: N. Bradley Litchfield, Associate General Counsel, or Rita A. Reimer, Attorney, 999 E Street, NW, Washington, DC 20463, (202) 694–1300 or (800) 424–9530 (toll free).

SUPPLEMENTARY INFORMATION: The Federal Election Campaign Act, as amended, 2 U.S.C. 431 *et seq.*, contains various restrictions and prohibitions on the right of ''persons'' to contribute to Federal campaigns. The Act defines ''person'' to include an individual, partnership, committee, association, corporation, labor organization, or any

other organization or group of persons. 2 U.S.C. 431(11).

The Act prohibits corporations and labor organizations from making any contribution or expenditure in connection with a Federal election, 2 U.S.C. 441b(a), although these entities may establish separate segregated funds (''SSF'') and solicit contributions from their restricted class to the SSF. 2 U.S.C. 441b(b)(2)(C). The Act also prohibits contributions by Federal contractors, 2 U.S.C. 441c, and foreign nationals, 2 U.S.C. 441e. Contributions by persons whose contributions are not prohibited by the Act are subject to the limits set out in 2 U.S.C. 441a(a), generally $1,000 per candidate per election to Federal office; $20,000 aggregate in any calendar year to national party committees; and $5,000 aggregate in any calendar year to other political committees. 2 U.S.C. 441a(a)(1). Individual contributions may not aggregate more than $25,000 in any calendar year. 2 U.S.C. 441a(a)(3).

Contributions by partnerships are permitted, subject to the 2 U.S.C. 441a(a) limits. In addition, partnership contributions are attributed proportionately against each contributing partner's limit for the same candidate and election. 11 CFR 110.1(e).

In recent years the Commission has received several advisory opinion requests (''AOR'') seeking guidance on the treatment of limited liability companies for purposes of the Act, and has issued advisory opinions (''AO'') in response to these AOR's. See AO's 1998–15, 1998–11, l997–17, 1997–4, 1996–13, and 1995–11. LLC's are noncorporate business entities, established under State law, in which all members have limited liability protection and which may be taxed as a partnership rather than a corporation for Federal income tax purposes. Callison and Sullivan, *Limited Liability Companies* section 1.1 (1994). They thus combine the tax advantages of partnerships with the liability protection provided to corporate members.

Wyoming enacted the first LLC statute in 1977, but the majority of these laws have been enacted since 1990. *Id.* section 1.5. Thus these entities did not exist when the FECA was originally adopted, and were in their infancy when the FECA was last amended in 1979.

In considering the pertinent AOR's, the Commission has determined that, since LLC's are neither partnerships nor corporations, they should be considered ''any other organization or group of persons'' and therefore be treated as ''persons'' under 2 U.S.C. 431(11). As persons, but not corporations, LLC's are subject to the Act's contribution limits rather than its prohibitions. In addition, contributions from an LLC's general operating accounts or treasury are not attributed to any of its members. However, the Commission's allowance of contributions by LLC's has also been premised on the assumption that none of the individual members of the LLC are entities prohibited by the Act from contributing, i.e., corporations, labor organizations, Federal contractors, or foreign nationals. If any member of the contributing LLC falls within a category prohibited by the Act from contributing, that contribution is impermissible. AO 1997–17; *see also* AO's 1997–4, 1996–13, and 1995–11.

In each of these AO's, the Commission reviewed the law of the State in which the LLC was established regarding classification of LLC's and their attributes, as compared with the similar attributes of both partnerships and corporations in that State. For example, the Commission has noted how the statutes classify the entities in definitional terms and selection of business name. It has also considered whether the statutes for LLC's and the rules of an entity itself broadly reflect characteristics that are different from those of a corporation in some instances, or a partnership in others. In one recent opinion, the Commission stated that, even if flexibility in a particular State's law on LLC's and other business forms might allow LLC's to have more common attributes with corporations or partnerships in that State, the LLC was still a separate type of business entity with its own comprehensive statutory framework. *See* AO 1997–4.

As the number of AOR's on this topic has increased, the Commission has decided that, rather than continuing to examine the various State statutes to determine treatment of LLC's on a state-by-state basis, it would be preferable to draft a generally-applicable rule for this purpose. This approach would provide all LLC's with guidance under the Act, without their having to request an advisory opinion construing the law of their particular State.

Moreover, while the Act's legislative history directs the Commission to look to State law to determine the status of corporations, *see, e.g.*, H.R. Rept. 1438 (Conf.), 93d Cong., 2d Sess. 68–69 (1974), LLC's are by definition noncorporate entities. In *California Medical Association* v. *FEC (''CMA''),* 453 U.S. 182 (1981), the Supreme Court rejected an effort by a nonprofit unincorporated association to establish an SSF and otherwise be subject to the requirements of section 441b, rather than 441a(a)'s contribution limits.

In considering these AOR's, the Commission learned that the Internal Revenue Service (''IRS'') has scrutinized the characteristics of LLC's, to determine whether they should be taxed as corporations or as partnerships for Federal income tax purposes. In view of changes by the States allowing greater flexibility in their LLC statutes that, in effect, blurred or narrowed the traditional differences between corporations and partnerships, the IRS concluded in 1996 that it should adopt regulations reflecting those altered circumstances. ''Simplification of Entity Classification Rules,'' 61 FR 66584, 66584–85 (Dec. 18, 1996). The IRS regulations abandoned the past State-by-State LLC approach in the interest of achieving greater simplification and conserving both IRS and taxpayer resources. Known as the ''check-the-box'' rules, they permit entities that are not corporations under State law, such as LLC's, to designate themselves on an IRS form as either corporations or partnerships for Federal tax purposes. 26 CFR 302.7701–3. An LLC with two or more members is automatically treated as a partnership for tax purposes and need not file the appropriate tax form, unless it wishes to ''check-the-box'' and elect to take corporate tax treatment. 26 CFR 302.7701–3(b).

The Commission considered adopting the IRS' approach as part of its discussion of AO's 1998–11 and 1998–15, but decided that any such action should be taken as part of a notice-and-comment rulemaking procedure rather than through the AO process. After reviewing these AO's and other relevant material, the Commission is seeking comment on two alternative approaches: (A) that all LLC's be treated in the same manner as partnerships are treated for purposes of the Act; and (B) that the Commission adopt the IRS's ''check the box approach,'' that is, that LLC's be treated as either partnerships or corporations for FECA purposes based on their chosen treatment under the Internal Revenue Code. The question of whether a business entity qualified as an LLC would continue to be determined by the law of the State in which the business organization was established.

If Alternative A were adopted, contributions by an LLC would be attributed to the LLC and to each member of the LLC in direct proportion to his or her share of the LLC's profits, as reported to the recipient by the LLC, or by agreement of the members, as long as certain conditions were met. In addition, contributions by an LLC

would be subject to the contribution limitations set forth in 2 U.S.C. 441a, and no portion of any contribution could be made from the profits of a member prohibited from making contributions under 2 U.S.C. 441b, 441c, or 441e. However, unlike their current treatment, LLC's could still make contributions, even if some, but not all, of their members were prohibited from doing so.

The Commission is considering whether a uniform approach is appropriate despite the individual differences that might exist between different LLC's. In addition, this approach would probably result in the majority of LLC's being treated as partnerships for both Federal taxation and FECA purposes. As explained above, the default position under the IRS ''check-the-box'' approach is taxation as a partnership; that is, an LLC must specifically opt to be taxed as a corporation, or it will be treated as a partnership. The IRS has informed the Commission that, while the figures as to how many LLC's opt for corporate tax treatment are not readily available, the large majority of LLC's are most likely to prefer tax treatment as partnerships, rather than as corporations.

Treating all LLC's as partnerships would also address possible proliferation problems that could develop if the Commission continues the approach taken in past AO's, that is, treating LLC's as ''persons'' for purposes of the Act. Since the same persons may currently become members of an unlimited number of LLC's, if LLC contributions are not further attributed to individual members, a person might be able to circumvent the section 441a(a) contribution limits by channeling contributions through several LLC's to the same candidate or committee.

However, as noted above, the Commission also invites comment on Alternative B for the attribution of LLC contributions that would more rigorously follow the IRS approach.— Specifically, this approach would mean that an LLC, which opted for taxation as a corporation under the IRS ''check-the-box'' rules, would also be treated as a corporation under FECA. Thus, its contributions to influence Federal elections would be prohibited by 2 U.S.C. 441b, but it could establish a separate segregated fund under the same regulatory regime that generally applies to corporations and labor organizations. See 2 U.S.C. 441b(b)(2)(C) and 11 CFR 114.5. On the other hand, contributions of an LLC that did not select tax treatment as a corporation would be treated as though made by a partnership pursuant to current Commission regulations at 11 CFR 110.1(e).

In addition, because there is some general similarity between the Federal income taxation of LLC's and Subchapter S corporations (26 U.S.C. 1361–1379), the Commission invites comments regarding a possible revision to its regulations that would allow a Subchapter S corporation to make otherwise lawful contributions in Federal elections. Under such a regulatory exception, these contributions would be attributed only to the individual stockholders of the corporation as their personal (noncorporate) contributions and would be subject to their limits under the Act. Comments are invited both as to the Commission's authority to promulgate such a rule and its merit as a Commission policy position. (Proposed regulatory language for this possible exception is not published at this time.)

The Commission welcomes comments on other approaches to deal with the above FECA policy issues, or on any other aspect of this rulemaking.

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

These proposed rules would not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that limited liability companies are already covered by the Act, and the proposed revisions would clarify the extent to which they could contribute to Federal campaigns. In some instances this amount would be greater than is presently the case, while in others it would be smaller. In neither case would the amount involved qualify as ''significant'' for purposes of the Regulatory Flexibility Act.

List of Subjects in 11 CFR Part 110

Campaign funds, Political candidates, Political committees and parties.

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

PART 110—CONTRIBUTIONS AND EXPENDITURES LIMITATIONS AND PROHIBITIONS

1. The authority citation for Part 110 would continue to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d(a)(8), 441a, 441b, 441d, 441e, 441f, 441g and 441h.

2. Section 110.1 would be amended by adding new paragraph (g) to read as follows:

§ 110.1 Contributions by persons other than multicandidate political committees (2 U.S.C. 441a(a)(1)).

* * * * *

Alternative A

(g) *Contributions by limited liability companies (''LLC'').* (1) *Definition.* The question of whether a business entity qualifies as a limited liability company is determined by the law of the State in which the business organization is established.

(2) *Attribution of contributions.* A contribution by an LLC shall be attributed to the LLC and to each member—

(i) In direct proportion to his or her share of the LLC's profits, according to instructions which shall be provided by the LLC to the political committee or candidate; or

(ii) By agreement of the members, as long as—

(A) Only the profits of the members to whom the contribution is attributed are reduced (or losses increased), and

(B) These members' profits are reduced (or losses increased) in proportion to the contribution attributed to each of them.

(3) *Limitation on contributions.* A contribution by an LLC shall not exceed the limitations on contributions in 11 CFR 110.1(b), (c), and (d). No portion of such contribution may be made from the profits of a corporation that is a member, or from a member who is prohibited from contributing under 11 CFR 110.4 or 115.2.

Alternative B

(g) *Contributions by limited liability companies (''LLC'').* (1) *Definition.* A limited liability company is determined by the law of the State in which the business entity is established.

(2) A contribution by a limited liability company which elects to be treated as a partnership by the Internal Revenue Service, pursuant to 26 CFR 301.7701–3, shall be considered a contribution from a partnership pursuant to 11 CFR 110.1(e).

(3) A limited liability company which elects to be treated as a corporation by the Internal Revenue Service, pursuant to 26 CFR 301.7701–3, shall be considered a corporation pursuant to 11 CFR 114.

(4) A contribution by a limited liability company that does not make an election pursuant to 26 CFR 301.7701–3 shall be treated as a contribution from a partnership pursuant to 11 CFR 110.1(e).

* * * * *

Dated: December 15, 1998.

Scott E. Thomas,

Acting Chairman, Federal Election Commission.

[FR Doc. 98–33548 Filed 12–17–98; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–301–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A300–600 series airplanes. This proposal would require removal of the fuel level sensing amplifier (FLSA) of the trim tank system, modification of the polarization pin code in the electronics bay, and installation of a new, improved FLSA. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent continuous aft transfer of fuel due to the FLSA not supplying electrical power to the trim tank overflow sensor, which could result in potential loss of fuel during flight.

DATES: Comments must be received by January 19, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–301–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–301–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–301–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A300–600 series airplanes. The DGAC advises that, on airplanes equipped with a trim tank system and with a certain fuel level sensing amplifier (FLSA), electrical power is not being supplied to the trim tank overflow sensor during flight. This condition is caused by the existing design of the FLSA, and could result in fuel loss from the trim tank during flight. Such fuel loss could occur if all of the following conditions are present:

- Failure of the high-level sensor or associated circuits of the trim tank while the trim tank is empty; and
- Balance of the airplane such that the center of gravity with no fuel on board is 24 percent mean aerodynamic chord of the wing or further forward of that location; and
- Fuel weight of the airplane before departure is greater than 20,000 kilograms (44,000 pounds), which is the minimum amount of fuel required to fill the trim tank.
- Lack of electrical power to the trim tank overflow sensor, if not corrected, could result in continuous aft transfer of fuel, and potential loss of fuel during flight.

Explanation of Relevant Service Information

The manufacturer has issued Airbus Service Bulletin A300–28–6055, Revision 01, dated July 24, 1998, which describes procedures for removal of the FLSA of the trim tank system, modification of the polarization pin code in the electronics bay, and installation of a new, improved FLSA. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 98–249–252(B), dated July 1, 1998, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified