

characteristics of olives, has made it necessary for the committee to recommend an increase in the assessment rate from the current \$10.09 per assessable ton to \$13.89 per assessable ton, an increase of \$3.80 per ton. Income derived from handler assessments, interest, and utilization of reserve funds will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order of approximately one fiscal period's expenses (§ 932.40).

The assessable tonnage for the 2003 fiscal year is expected to be less than the receipts of 89,006 tons reported by CASS, because some olives may be diverted by handlers to uses that are exempt from marketing order requirements. The quantity of olives that is expected to be diverted cannot be published in this document. The olive industry consists of only three handlers, two of which are much larger than the third, and the confidentiality of this handler information must be maintained to protect the proprietary business positions of each of the handlers.

The proposed assessment rate would 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 would be in effect for an indefinite period, the committee would 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 USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The committee's 2003 budget and those for subsequent fiscal years would be reviewed and, as appropriate, approved by USDA.

#### Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial 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. Thus, both statutes have small entity orientation and compatibility.

There are approximately 1,200 producers of olives in the production area and 3 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000.

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

This rule would increase the assessment rate established for the committee and collected from handlers for the 2003 and subsequent fiscal years from \$10.09 per ton to \$13.89 per ton of olives. The committee unanimously recommended 2003 expenditures of \$1,230,590 and an assessment rate of \$13.89 per ton. The proposed assessment rate of \$13.89 per ton is \$3.80 per ton higher than the 2002 rate. The quantity of olive receipts for the 2002–03 crop year was reported by CASS to be 89,006 tons, but the actual assessable tonnage for the 2003 fiscal year is expected to be lower. This is because some of the receipts are expected to be diverted by handlers to exempt outlets on which assessments are not paid. The amount of assessable tonnage cannot be reported in this document. The amount of the exempt tonnage must be kept confidential so the business position of each of the three olive handlers is not revealed. The \$13.89 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 will be kept within the maximum permitted by the order of about one fiscal period's expenses (§ 932.40).

Expenditures recommended by the committee for the 2003 fiscal year include \$633,500 for marketing development, \$347,090 for administration, and \$250,000 for research. Budgeted expenses for these items in 2002 were \$811,935 for marketing development, \$339,650 for

administration, and \$250,000 for research.

Last year's olive receipts totaled 123,439 tons compared to this year's tonnage of 89,006. Although the committee decreased 2003 expenses, the significant decrease in olive production makes the higher assessment rate necessary.

The research expenditures will fund studies to develop chemical and scientific defenses to counteract a threat from the olive fruit fly in the California production area. Market development expenditures are lower because the committee's marketing program for 2003 is limited to consumer and nutritionist activities. The committee reviewed and unanimously recommended 2003 expenditures of \$1,230,590, which reflects decreases in the research, market development, and administrative budgets.

Prior to arriving at this budget, the committee considered information from various sources, such as the committee's Executive Subcommittee and the Market Development Subcommittee. 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 anticipated olive production. The assessment rate of \$13.89 per ton of assessable olives was derived by considering anticipated expenses, the volume of assessable olives, and additional pertinent factors.

A review of historical and preliminary information pertaining to the upcoming fiscal year indicates that the grower price for the 2002–03 crop year is estimated to be approximately \$672 per ton for canning fruit and \$306 per ton for limited-use size fruit. Approximately 85 percent of a ton of olives are canning fruit sizes and 10 percent are limited-use sizes, leaving the balance as unusable cull fruit. Total grower revenue on 89,006 tons would then be \$53,563,811 given the percentage of canning and limited-use sizes and current grower prices for those sizes. Therefore, if the assessment rate is increased from \$10.09 to \$13.89, the estimated assessment revenue is expected to be approximately 2.3 percent of 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 are offset by the benefits derived by the operation of the marketing order. In addition, the committee's meeting was widely publicized throughout the California