

\$160,000 for compliance activities. Budgeted expenses for these items in 2001–02 were \$662,500, \$500,000, \$303,500, and \$220,000, respectively.

The recommended \$8.00 per ton assessment rate was derived by dividing the \$1,912,000 in anticipated expenses by an estimated 239,000 tons of assessable raisins. The Committee recommended increasing its assessment rate because the projected 2002–03 assessable tonnage of 239,000 tons is 81,000 tons lower than last year's assessable tonnage. Sufficient income should be generated at the higher assessment rate for the Committee to meet its anticipated expenses. Pursuant to § 989.81(a) of the order, any unexpended assessment funds from the crop year must be credited or refunded to the handlers from whom collected.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and other information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each crop 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 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 2002–03 budget and those for subsequent crop years would be reviewed and, as appropriate, approved by USDA.

Final 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 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 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 20 handlers of California raisins who are subject to regulation under the order and approximately 4,500 raisin producers in the regulated area. Small agricultural firms are 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 \$750,000. Thirteen of the 20 handlers subject to regulation have annual sales estimated to be at least \$5,000,000, and the remaining seven handlers have sales less than \$5,000,000. No more than seven handlers, and a majority of producers, of California raisins may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2002–03 and subsequent crop years from \$6.50 to \$8.00 per ton of assessable raisins acquired by handlers. The Committee recommended 2002–03 expenditures of \$1,912,000. Major expenditures include \$663,000 for export program administration and related activities, \$500,000 for salaries, \$164,800 for contingencies, and \$160,000 for compliance activities. Budgeted expenses for these items in 2001–02 were \$662,500, \$500,000, \$303,500, and \$220,000, respectively. With anticipated assessable tonnage at 239,000 tons, about 81,000 tons lower than last year's assessable tonnage, sufficient income should be generated at the \$8.00 per ton assessment rate to meet expenses. Pursuant to § 989.81(a) of the order, any unexpended assessment funds from the crop year must be credited or refunded to the handlers from whom collected.

The industry considered various alternative assessment rates prior to arriving at the \$8.00 per ton recommendation. The Committee's Audit Subcommittee met on July 24, 2002, to review preliminary budget information. The subcommittee was aware that the full Committee would be meeting later that day to consider actions that would impact the 2002 free tonnage percentage and, thus, the quantity of 2002 assessable tonnage. The Audit Subcommittee considered assessment rates of \$7.50 and \$8.00 per ton based on varying levels of assessable tonnage. Ultimately, the full Committee adopted the subcommittee's recommendation of \$8.00 per ton based on 239,000 tons of assessable tonnage.

A review of statistical data on the California raisin industry indicates that assessment revenue has consistently

been less than one percent of grower revenue in recent years. Although no official estimates or data are available for the upcoming season, it is anticipated that assessment revenue will likely continue to be less than one percent of grower revenue in the 2002–03 crop year, even with the increased assessment rate.

Regarding the impact of this action on affected entities, 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.

Additionally, the Audit Subcommittee and full Committee meetings held on July 24, 2002, where this action was deliberated were public meetings widely publicized throughout the California raisin industry. All interested persons were invited to attend the meetings and participate in the industry's deliberations. Finally, all interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

This rule imposes no additional reporting or recordkeeping requirements on either small or large raisin 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.

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

A proposed rule concerning this action was published in the **Federal Register** on November 21, 2002 (67 FR 70182). Copies of the proposed rule were mailed by the Committee staff to all Committee members and alternates, the Raisin Bargaining Association, handlers, and dehydrators. In addition the rule was made available through the Internet by the Office of the Federal Register and USDA. A 10-day comment period ending December 2, 2002, was provided for interested persons to respond to the proposal.

One comment was received opposing the proposed increase in the assessment rate. The commenter stated that the estimate of assessable tonnage used by the Committee was artificially low, improperly justifying a higher assessment rate. The commenter argued that issuance of the proposed assessment rate at this time would be arbitrary, capricious, and not in