

the last two marketing years, the Committee has had to use reserve funds to cover its budgeted expenses. To keep its reserve fund at an acceptable level, the Committee recommended the \$0.01 increase and reduced its expenses for 2003–2004.

The major expenditures recommended by the Committee for the 2003–2004 marketing year include \$138,400 for committee expenses, \$23,300 for administrative expenses, and \$12,000 for market research and promotion expenses. Budgeted expenses for these items in 2002–2003 were \$164,200, \$23,100, and \$4,000, respectively.

The Committee estimates that spearmint oil sales for the 2003–2004 marketing year will be approximately 1,697,200 pounds, which should provide \$169,720 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, should be adequate to cover budgeted expenses. The Committee estimates that its monetary reserve will be approximately \$72,394 at the beginning of the 2003–2004 marketing year. It is not anticipated that the reserve fund will exceed the maximum permitted by the order of approximately one marketing year's operational expenses (\$985.42).

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 marketing 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 2003–2004 budget and those for subsequent marketing 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 7 spearmint oil handlers subject to regulation under the marketing order, and approximately 98 producers of Class 1 (Scotch) spearmint oil and approximately 100 producers of Class 3 (Native) spearmint oil in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (SBA)(13 CFR 121.201) as those whose annual receipts are less than \$5,000,000, and small agricultural producers are defined as those having annual receipts less than \$750,000.

Based on SBA's definition of small entities, the Committee estimates that 2 of the 7 handlers regulated by the order could be considered small entities. Most of the handlers are large corporations involved in the international trading of essential oils and the products of essential oils. In addition, the Committee estimates that 11 of the 98 Scotch spearmint oil producers and 13 of the 100 Native spearmint oil producers could be classified as small entities under the SBA definition. Thus, a majority of handlers and producers of Far West spearmint oil may not be classified as small entities.

The Far West spearmint oil industry is characterized by producers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of spearmint oil. A typical spearmint oil producing operation has enough acreage for rotation such that the total acreage required to produce the crop is about one-third spearmint and two-thirds rotational crops. Thus, the typical spearmint oil producer has to have considerably more acreage than is planted to spearmint during any given season. Crop rotation is an essential cultural practice in the production of spearmint oil for weed, insect, and disease control. To remain economically viable with the added costs associated with spearmint oil production, most spearmint oil-producing farms fall into the SBA category of large businesses.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2003–2004 and subsequent marketing years from \$0.09 to \$0.10 per pound of spearmint oil handled. The Committee unanimously recommended 2003–2004 expenditures of \$173,700 and an assessment rate of \$0.10 per pound. The proposed assessment rate is \$0.01 higher than the \$0.09 per pound rate currently in effect. The quantity of assessable spearmint oil for the 2003–2004 marketing year is estimated at 1,697,200 pounds. Thus, the \$0.10 rate should provide \$169,720 in assessment income. This, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2003–2004 marketing year include \$138,400 for committee expenses, \$23,300 for administrative expenses, and \$12,000 for market research and promotion expenses. Budgeted expenses for these items in 2002–2003 were \$164,200, \$23,100, and \$4,000, respectively.

The Committee reviewed and unanimously recommended 2003–2004 expenditures of \$173,700, which included a decrease to committee expenses, and increases in administrative and market research and promotion expenses. Prior to arriving at this budget, the Committee considered information from various sources, including the Committee's Executive Committee and the current marketing year's actual and anticipated expenditures. The proposed budget includes an expenditure reduction of \$17,600 and no further alternative expenditure levels were discussed. The Committee estimates that spearmint oil sales for the 2003–2004 marketing year will be approximately 1,697,200 pounds, which should provide \$169,720 in assessment income. This, together with interest and other income, is approximately \$280 below the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming 2003–2004 marketing year indicates that the producer price for the 2003–2004 marketing year could be about \$9.13 per pound. Therefore, the estimated assessment revenue for the 2003–2004 marketing year as a percentage of total producer revenue could be about 1.1 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the