

modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The committee's 2003 budget and those for subsequent fiscal years will 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 rule 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 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 increases 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 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 year'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. An assessment rate of \$13.89 will generate

estimated assessment revenue of approximately 2.3 percent of total grower revenue.

This action increases 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 olive 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 11, 2002, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on California olive 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 March 10, 2003 (68 FR 11340). Copies of the proposed rule were also mailed or sent via facsimile to all olive handlers. Finally, the proposal was made available through the Internet by the Office of the Federal Register and USDA. A 30-day comment period ending April 9, 2003, was provided for interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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 the marketing order requires