

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 2003–04 budget and those for subsequent crop 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 100 producers of dates in the production area and approximately 10 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$750,000, and small agricultural service firms are defined as those having annual receipts of less than \$5,000,000. Five of the 10 handlers (50 percent) shipped over \$5,000,000 of dates and could be considered large handlers by the Small Business Administration. Five of the 10 handlers (50 percent) shipped under \$5,000,000 of dates and could be considered small handlers. The majority of California date producers may be classified as small entities.

This rule would decrease the assessment rate established for the Committee and collected from handlers for the 2003–04 and subsequent crop years from \$0.90 to \$0.75 per hundredweight of assessable dates handled. The Committee unanimously recommended 2003–04 expenditures of \$225,365 and the \$0.75 per hundredweight assessment rate. The proposed assessment rate of \$0.75 is \$0.15 lower than the rate currently in effect. The quantity of assessable dates for the 2003–04 crop year is estimated at 260,000 hundredweight. Thus, the \$0.75 per hundredweight rate should provide \$195,000 in assessment income.

This along with administrative reserve funds would be adequate to meet the Committee's 2003–04 crop year expenses.

The budgeted administrative expenses for the 2003–04 crop year include \$123,710 for labor and office expenses. This compares to \$123,450 in budgeted expenses in 2002–03. In addition, \$101,655 has been budgeted for marketing and promotion under the marketing order for the 2003–04 crop year. This compares to \$150,000 in budgeted marketing and promotion expenses for the 2002–03 crop year.

The Committee reviewed and unanimously recommended 2003–04 expenditures of \$225,365 which include marketing and promotion programs. Prior to arriving at this budget, the Committee considered alternative expenditure levels, including a proposal to not have a budget. The assessment rate of \$0.75 per hundredweight of assessable dates was then determined by applying the following formula where:

A = Administrative Reserve (\$30,365 of the anticipated \$40,000 Administrative Reserve)
 B = 2003–04 expected shipments (260,000 hundredweight)
 C = 2003–04 expenses (\$225,365);
 $(C - A) \div B = \$0.75$ per hundredweight.

Estimated shipments should provide \$195,000 in assessment income. Income derived from handler assessments and the administrative reserves would be adequate to cover budgeted expenses. Funds in the administrative reserve are expected to total about \$23,553 by September 30, 2004, and therefore would be less than the maximum permitted by the order (not to exceed 50 percent of the average of expenses incurred during the most recent five preceding crop years; § 987.72(c)).

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the grower price for the 2003–04 season could range between \$40 and \$120 per hundredweight of dates. Therefore, the estimated assessment revenue for the 2003–04 crop year as a percentage of total grower revenue could range between .6 and 2 percent.

This action would decrease the assessment obligation imposed on handlers under the Federal marketing order. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate would reduce the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the California

date industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 20, 2003, 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 date 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 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.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2003–04 crop year begins on October 1, 2003, and the marketing order requires that the rate of assessment for each crop year apply to all assessable dates handled during such crop year; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (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.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 987 is proposed to be amended as follows:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 987.339 is revised to read as follows: