

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 300 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 1,800 producers of these fruits in California. Small agricultural service firms, which include handlers, are defined by the Small Business Administration [13 CFR 121.201] as those whose annual receipts are less than \$5,000,000. Small agricultural producers are defined by the Small Business Administration as those having annual receipts of less than \$750,000. A majority of these handlers and producers may be classified as small entities.

The committees' staff has estimated that there are less than 20 handlers in the industry who could be defined as other than small entities. For the 2002 season, the committees' staff estimated that the average handler price received was \$9.00 per container or container equivalent of nectarines or peaches. A handler would have to ship at least 556,000 containers to have annual receipts of \$5,000,000. Given data on shipments maintained by the committees' staff and the average handler price received during the 2002 season, the committees' staff estimates that small handlers represent approximately 94 percent of all the handlers within the industry.

The committees' staff has also estimated that less than 20 percent of the producers in the industry could be defined as other than small entities. For the 2002 season, the committees' staff estimated the average producer price received was \$4.00 per container or container equivalent for nectarines and peaches. A producer would have to produce at least 187,500 containers of nectarines and peaches to have annual receipts of \$750,000.

With data maintained by the committees' staff and the average producer price received during the 2002 season, the committees' staff estimates that small producers represent more than 80 percent of the producers within the industry. With an average producer price of \$4.00 per container or container

equivalent, and a combined packout of nectarines and peaches of 43,340,000 containers, the value of the 2002 packout level is estimated to be \$173,360,000. Dividing this total estimated grower revenue figure by the estimated number of producers (1,800) yields an estimate of average revenue per producer of about \$96,311 from the sales of peaches and nectarines.

This rule will increase the assessment rates established for the committees and collected from handlers for the 2003–04 and subsequent fiscal periods from \$0.19 to \$0.20 per 25-pound container or container equivalent of nectarines and peaches. The committees recommended 2003–04 expenditures of \$4,173,438 for nectarines and expenditures of \$4,086,316 for peaches and an assessment rate of \$0.20 per 25-pound container or container equivalent of nectarines and peaches. The assessment rate of \$0.20 is \$0.01 higher than the current rate.

Analysis of NAC Budget

The quantity of assessable nectarines for the 2003–04 fiscal year is estimated at 22,004,000 25-pound container or container equivalents. Thus, the \$0.20 rate should provide \$4,400,800 in assessment income. Income derived from handler assessments will be adequate to cover budgeted expenses and permit an adequate reserve.

The major expenditures recommended by the NAC for the 2003–04 year include \$226,121 for salaries and benefits, \$142,612 for general expenses and industry activities, \$1,210,220 for inspection, \$138,929 for research, and \$2,263,061 for domestic and international promotion.

Budgeted expenses for these items in 2002–03 were \$505,000 for salaries and benefits, \$309,039 for general expenses and industry activities, \$1,050,000 for inspection, \$138,018 for research, and \$2,574,160 for domestic and international promotion.

The NAC recommended an increase in the assessment rate to meet anticipated 2003–04 expenses and preserve an acceptable financial reserve. A reserve of \$400,000 is needed to fund expenses for the following year until assessments for that year are received. The NAC reviewed and recommended 2003–04 expenditures of \$4,173,438 and the increased assessment rate.

Analysis of PCC Budget

The quantity of assessable peaches for the 2003–04 fiscal year is estimated at 21,336,000 25-pound container or container equivalents. Thus, the \$0.20 rate should provide \$4,267,200 in assessment income. Income derived

from handler assessments will be adequate to cover budgeted expenses and permit a small increase in reserves.

The major expenditures recommended by the PCC for the 2003–04 year include \$226,121 for salaries and benefits, \$144,743 for general expenses and industry activities, \$1,206,414 for inspection, \$138,930 for research, and \$2,211,346 for domestic and international promotion.

Budgeted expenses for these items in 2002–03 were \$505,000 for salaries and benefits, \$206,747 for general expenses, \$1,100,000 for inspection, \$142,186 for research, and \$2,529,036 for domestic and international promotion.

The PCC recommended an increase in the assessment rate to meet anticipated 2003–04 expenses and preserve an acceptable financial reserve. A reserve of \$500,000 to \$550,000 is needed to fund expenses for the following year until assessments for that year are received. The PCC reviewed and recommended 2003–04 expenditures of \$4,086,316 and the increased assessment rate.

Considerations in Determining Expenses and Assessment Rates

Prior to arriving at these budgets, the committees considered information and recommendations from various sources, including, but not limited to: The Executive Committee, the Research Subcommittee, the International Programs Subcommittee, the Grade and Size Subcommittee, and the Domestic Promotion Subcommittee.

Each of the committees then reviewed the proposed expenses; the total estimated assessable 25-pound containers or container equivalents; and the estimated income from other sources, such as interest income, prior to recommending a final assessment rate. The NAC decided that an assessment rate of \$0.20 per 25-pound container or container equivalent will allow it to meet its 2003–04 expenses and carry over an operating reserve of about \$438,374, which is in line with the committee's financial needs. The PCC decided that an assessment rate of \$0.20 per 25-pound container or container equivalent will allow it to meet its 2003–04 expenses and carry over an operating reserve of \$530,586, which is in line with the committee's financial needs. The committees then recommended this rate to USDA with one dissenting vote from each committee.

A review of historical and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2003–04 seasons could range between \$4.00 and \$6.00 per 25-