

Committee would continue to meet prior to or during each fiscal period 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 2003–04 budget and those for subsequent fiscal periods 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 900 producers of potatoes in the production area and approximately 54 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 whose annual receipts are less than \$5,000,000.

Based on a three-year average fresh potato production of 35,448,000 hundredweight as calculated from Committee records, a three-year average of producer prices of \$6.10 per hundredweight reported by the National Agricultural Statistics Service, and 900 Idaho-Eastern Oregon potato producers, the average annual producer revenue is approximately \$240,259. It can be concluded, therefore, that most of these producers would be classified as small entities.

In addition, based on Committee records and 2002–03 f.o.b. shipping point prices ranging from \$5.00 to

\$35.00 per hundredweight reported by USDA's Market News Service, many of the Idaho-Eastern Oregon potato handlers may ship over \$5,000,000 worth of potatoes. In view of the foregoing, few of the handlers may be classified as small entities as defined by the SBA.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2003–04 and subsequent fiscal periods from \$0.0026 to \$0.0045 per hundredweight of potatoes handled. The Committee unanimously recommended 2003–04 expenditures of \$145,317 and an assessment rate of \$0.0045 per hundredweight. The proposed assessment rate is \$0.0019 per hundredweight higher than the rate currently in effect. The quantity of assessable potatoes for the 2003–04 fiscal period is estimated to be 36,500,000 hundredweight. Income derived from handler assessments (approximately \$164,250) would be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2003–04 fiscal period include \$95,067 for salaries and benefits, \$16,500 for transportation, \$13,500 for travel, \$6,800 for rent and utilities, and \$4,800 for office expenses. Budgeted expenses for these items in 2002–2003 were \$92,144, \$9,000, \$14,000, \$6,300, and \$6,500, respectively.

The assessment rate increase is necessary to offset increases in salaries and operating expenses, declining potato shipments, and the depletion of operating reserves. The Committee estimates the reserve to be \$33,000 at the 2002–03 fiscal period end. At the current rate of \$0.0026 per hundredweight, on the estimated potato production of 36,500,000 hundredweight for the 2003–04 fiscal period, the projected income for the 2003–04 fiscal period would be \$94,900. This amount, along with the projected reserve of \$33,000, would be approximately \$19,417 less than required to fund the proposed 2003–04 budget and \$9,194 less than the 2002–03 budgeted amount. Thus, the Committee believes that the projected assessment income at the current assessment rate and funds held in reserve would not be sufficient to fund the Committee's operations without increasing the assessment rate.

At the recommended rate of \$0.0045 per hundredweight (assessment income of \$164,250) and expenditures of \$145,317, the Committee may increase its reserve by up to \$18,933. The projected reserve would be approximately \$51,933 on July 31, 2004,

which the Committee determined to be both appropriate and acceptable.

The Committee considered alternate levels of assessment but determined that increasing the assessment rate to \$0.0045 per hundredweight would allow the Committee to adequately fund operations and replenish the reserve to an acceptable level. The Committee decided that any assessment rate between \$0.0026 per hundredweight and \$0.0045 per hundredweight would not be sufficient to accomplish the Committee's goals. Prior to arriving at the budget and assessment rate recommendations, the Committee considered information from various sources, including the Committee's Finance and Executive Committees.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the producer price for the 2003–04 fiscal period could range between \$4.50 and \$6.00 per hundredweight of potatoes. Therefore, the estimated assessment revenue as a percentage of total producer revenue could range between 0.1 and 0.075 percent.

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, this cost would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the Idaho-Eastern Oregon potato 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 16, 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 production area commodity 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