

from \$0.90 to \$0.75 per hundredweight of assessable dates handled.

The California date marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and producer-handlers of California dates. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed at a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2002–03 and subsequent crop years, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from crop year to crop year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on June 20, 2003, and unanimously recommended 2003–04 expenditures of \$225,365 and an assessment rate of \$0.75 per hundredweight of dates handled. In comparison, last year's budgeted expenditures were \$273,450. The recommended assessment rate of \$0.75 is \$0.15 lower than the rate currently in effect. The decrease in the assessment rate and budget is primarily due to a lower marketing and promotion budget.

Proceeds from the sales of cull dates are usually deposited in a surplus account for subsequent use by the Committee in covering the surplus pool share of the Committee's expenses. Handlers may also dispose of cull dates of their own production within their own livestock-feeding operation; otherwise, such cull dates must be shipped or delivered to the Committee for sale to non-human food product outlets.

Last year, the Committee applied \$5,000 of surplus account monies to cover surplus pool expenses. Based on a recent trend of declining sales of cull dates over the past few years and reduced surplus pool costs, the Committee decided not to apply any of the surplus pool funds toward the 2003–04 Committee budget. The Committee, instead, recommended assessing handlers \$0.75 per hundredweight and using \$30,365 from the administrative reserves to fund the reduced Committee budget of \$225,365.

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 program for the 2003–04 crop year. This compares to \$150,000 in budgeted marketing and promotion expenses for the 2002–03 crop year.

The assessment rate of \$0.75 per hundredweight of assessable dates was derived 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 will be adequate to cover budgeted expenses. Funds in the reserve on September 30, 2004, are expected to 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)).

The assessment rate established in this rule will 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 will be in effect for an indefinite period, the Committee will continue to meet prior to or during each crop 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 will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2003–04 budget and those for subsequent crop 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 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 decreases 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 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 should 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