

submitted by the committees or other available information.

Although these assessment rates will be in effect for an indefinite period, the committees will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rates. The dates and times of committee meetings are available from the committees' website or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate the committees' recommendations and other available information to determine whether modification of the assessment rate for each committee is needed. Further rulemaking will be undertaken as necessary. The committees' 2003–04 budgets were reviewed and approved on August 27, 2003, and those for subsequent fiscal periods 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 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 continues to 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 rate previously in effect.

Analysis of NAC Budget

The quantity of assessable nectarines for the 2003–04 fiscal year continues to be 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 continues to be 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.