

an assessment rate of \$0.0101 per kernelweight pound of assessable walnuts. In comparison, last year's budgeted expenditures were \$2,970,000. The assessment rate of \$0.0101 is \$0.0019 lower than the \$0.0120 rate currently in effect. The lower assessment rate is necessary because this year's crop is estimated by the California Agricultural Statistics Service (CASS) to be 315,000 tons (283,500,000 kernelweight pounds merchantable), and the budget is about 4 percent less than last year's budget. Sufficient income should be generated at the lower rate for the Board to meet its anticipated expenses.

Major categories in the budget recommended by the Board for 2003–04 include \$2,348,000 for program expenses, which includes marketing and production research projects, the salary for the production research director, the cost of the Board's crop acreage survey and production estimate, and compliance purchases, \$334,625 for employee expenses such as administrative and office salaries, payroll taxes and workers compensation, and other employee benefits, \$83,000 for office expenses, such as rent, office supplies, telephone, fax, postage, printing, equipment maintenance, and furniture, \$82,000 for other operating expenses, such as management travel, field travel, Board expenses, general insurance, and financial audits, and \$15,725 as a reserve for contingencies. Budgeted expenses for these items in 2002–03 were \$2,438,403, \$333,100, \$80,500, \$79,500, and \$38,497, respectively.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected shipments of California walnuts certified as merchantable. Merchantable shipments for the year are estimated at 283,500,000 kernelweight pounds which should provide \$2,863,350 in assessment income and allow the Board to cover its expenses. Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within 5 months after the end of the year, according to § 984.69.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and other information submitted by the Board or other available information.

Although this assessment rate is effective for an indefinite period, the Board will continue to meet prior to or during each marketing year to

recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or USDA. Board meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Board's 2003–04 budget and those for subsequent marketing years will 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 5,800 producers of walnuts in the production area and about 43 handlers subject to regulation under the 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.

Current industry information shows that 14 of the 43 handlers (32.5 percent) shipped over \$5,000,000 of merchantable walnuts and could be considered large handlers by the Small Business Administration. Twenty-nine of the 43 walnut handlers (67.5 percent) shipped under \$5,000,000 of merchantable walnuts and could be considered small handlers. An estimated 58 walnut producers, or about 1 percent of the 5,800 total producers, would be considered large producers with annual incomes over \$750,000. Based on the foregoing, it can be concluded that the majority of California walnut handlers and producers may be classified as small entities.

This rule decreases the assessment rate established for the Board and collected from handlers for the 2003–04 and subsequent marketing years from \$0.0120 to \$0.0101 per kernelweight pound of assessable walnuts. The Board unanimously recommended 2003–04 expenditures of \$2,863,350. The decreased assessment rate should generate sufficient income to meet the Board's 2003–04 anticipated expenses. The lower assessment rate is primarily due to a lower budget and a larger crop.

Major categories in the budget recommended by the Board for 2003–04 include \$2,348,000 for program expenses, which includes marketing and production research projects, the salary for the production research director, the cost of the Board's crop acreage survey and production estimate, and compliance purchases, \$334,625 for employee expenses such as administrative and office salaries, payroll taxes and workers compensation, and other employee benefits, \$83,000 for office expenses, such as rent, office supplies, telephone, fax, postage, printing, equipment maintenance, and furniture, \$82,000 for other operating expenses, such as management travel, field travel, Board expenses, general insurance, and financial audits, and \$15,725 as a reserve for contingencies. Budgeted expenses for these items in 2002–03 were \$2,438,403, \$333,100, \$80,500, \$79,500, and \$38,497, respectively.

Prior to arriving at this budget, the Board considered information from various sources, such as the Board's Budget and Personnel Committee, Research Committee, and Marketing Development Committee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the walnut industry. The recommended \$0.0101 per kernelweight pound assessment rate was then determined by dividing the total recommended budget by the 283,500,000 kernelweight pound estimate of assessable walnuts for the year. Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within 5 months after the end of the year according to § 984.69.

A review of historical information and preliminary information pertaining to the current marketing year indicates that the grower price for 2003–04 could range between \$0.50 and \$0.70 per kernelweight pound of assessable walnuts. Therefore, the estimated assessment revenue for the 2003–04 marketing year as a percentage of total