

estimated number of prospective applicants eligible for the assessment exemption may only represent approximately 9.9 percent of the total handler population.

Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those whose annual receipts are less than \$5,000,000. Although the exact size of the potential applicants is not known, USDA believes that the majority of persons who might qualify for an exemption may be classified as small entities.

Section 501 of the Federal Agriculture Improvement and Reform Act of 1996 (FAIR Act) was amended on May 13, 2002 (7 U.S.C 7401). The amendment provides that notwithstanding any provision of a commodity promotion law, a person that produces and markets solely 100 percent organic products, and that does not produce any conventional or non-organic products, shall be exempt from paying assessments under a commodity promotion law with respect to any agricultural commodity that is produced on a certified organic farm as defined in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502). The amendment further requires the Secretary of Agriculture to amend any research and promotion regulations to reflect this exemption.

USDA is proposing amendments to the general regulations affecting 28 marketing order programs established under the Act for which it has oversight. These amendments would establish provisions for organic producers and marketers meeting the specified criteria to be exempt from paying assessments for market promotion, including paid advertising.

The 28 marketing order programs allow for promotion activities designed to assist, improve, promote, the marketing, distribution, or consumption of the commodity covered under the marketing order. Some of the orders also include authority for paid advertising activities. Market promotion, including paid advertising, activities are paid for by assessments levied on handlers regulated under the various marketing orders.

Under this proposal, a new subpart would be added in 7 CFR Part 900 General Regulations to specify criteria for identifying persons eligible to obtain an assessment exemption for marketing promotion, including paid advertising; procedures for applying for an exemption; procedures for calculating the assessment exemption; and other procedural details for the applicable marketing orders.

Regarding the impact of this proposed rule on affected entities, this rule would impose minimal additional costs incurred in filing the exemption application and in maintaining records needed to verify the applicant's exemption status during applicable assessment period. Such applicants will be required to submit an application and receive approval from the applicable committee or board to obtain the assessment exemption. USDA estimates that each applicant will submit one application annually. The annual burden for all of the marketing order industries is estimated to total about 42 hours.

The cost burden associated with the information collection would be \$420 for all applicants, or \$5.00 per applicant. The total cost has been estimated by multiplying the burden hours associated with the exemption application by \$10.00 per hour, a sum deemed reasonable should the applicants be compensated for their time.

Since this action potentially exempts from assessments agricultural producers and marketers, AMS believes that this rule would have a beneficial economic effect on exempted entities by reducing their assessment payments. During the 2001–2002 marketing season, assessments for the 28 marketing orders totaled \$44,400,000. Of that amount, about \$29,900,000 (or 65 percent) was made available for marketing promotion, including paid advertising, activities. USDA does not have precise information, but believes that about 1 percent on average of the total assessments are for certified organic commodities. Thus, assessments on organic commodities could total about \$440,000. Of that amount, about \$299,000 for marketing promotion, including paid advertising, might be exempt under this proposed rule if all of the approximate 84 handlers of the regulated commodities were eligible for the assessment exemption as specified in the proposed rule.

Based on our estimate that there might be a total of 84 handlers exempt from assessments for marketing promotion activities conducted under the various marketing orders, the assessments for eligible persons would be reduced by an average of almost \$3,600 (\$299,000 divided by 84) on an annual basis.

There is some variation among the 28 marketing orders on the percent of assessments used for marketing promotion, including paid advertising. Thus, the actual reduction in assessments would vary among the various orders. In fact, the amounts

allocated for marketing promotion as a percentage of the total marketing order budgets range from less than 5 percent to almost 60 percent.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the reporting and recordkeeping provisions that would be generated by this proposed rule will be submitted to the Office of Management and Budget (OMB) under OMB No. 0581–NEW. As explained later, USDA plans to request emergency approval.

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. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

There are no viable alternatives to proposing these organic assessment exemption procedures. The FAIR Act requires USDA to take this action to lessen the assessment costs for persons who produce and market solely 100 percent organic products. In drafting the exemption procedures, every effort has been made to minimize the burden on the persons impacted, and to simplify the process. The anticipated assessment reductions for eligible persons are expected to greatly outweigh the additional costs related to the reporting required.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR OTHER INFORMATION CONTACT** section.

A 30-day comment period is provided for interested persons to submit written comments on the criteria for identifying persons eligible to obtain an assessment exemption, and the procedural details for obtaining an assessment exemption under the various marketing orders. Thirty days is deemed appropriate because this action was mandated by Congress under the 2002 Farm Bill and is intended to provide relief to producers and marketers of solely 100 percent organic products. Pursuant to the Paperwork Reduction Act, comments on the information collection burden must be received within 60 days after the date of publication of this proposal in the **Federal Register**.

#### **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice also announces