

The assessment rate recommended by the Committee was derived by examining anticipated expenses and expected shipments of Florida tomatoes and considering available reserves. As mentioned earlier, tomato shipments for the year are estimated at 50 million 25-pound containers or equivalents which should provide \$1,250,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, should be adequate to cover budgeted expenses. Funds in the reserve currently total \$1,767,427 and are within the maximum permitted by the order of not to exceed one fiscal period's expenses as stated in § 966.44.

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 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 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 fiscal periods would 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 tomatoes in the production area and approximately 80 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 less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000.

Based on industry and Committee data, the average annual price for fresh Florida tomatoes during the 2002–03 season was approximately \$9.59 per 25-pound container or equivalent, and total fresh shipments for the 2002–03 season were 50,974,342 25-pound equivalent cartons of tomatoes. Committee data indicates that approximately 25 percent of the handlers handle 94 percent of the total volume shipped outside the regulated area. Based on the average annual price of \$9.59 per 25-pound container, about 75 percent of handlers could be considered small businesses under SBA's definition. Therefore, the majority of handlers of Florida tomato handlers may be classified as small entities. It also is believed that the majority of Florida tomato producers may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2003–04 and subsequent fiscal periods from \$0.02 to \$0.025 per 25-pound container of tomatoes. The Committee unanimously recommended 2003–04 expenditures of \$1,773,100 and an assessment rate of \$0.025 per 25-pound container or equivalent. The assessment rate of \$0.025 is \$0.005 higher than the 2002–03 rate. The quantity of assessable tomatoes for the 2003–04 season is estimated at 50 million 25-pound cartons or equivalents. Thus, the \$0.025 rate should provide \$1,250,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, should be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2003–04 fiscal period include \$700,000 for education and promotion, \$405,000 for salaries, \$320,000 for research, \$49,000 for employee health insurance, and \$61,000 for employee retirement. Budgeted expenses for these items in 2002–03 were \$900,000 for education and promotion, \$370,730 for salaries, \$320,000 for research, \$38,250 for employee health insurance, and \$54,860 for employee retirement, respectively.

As previously mentioned, the number of assessable containers during 2003–04

is estimated to be 50 million and the recommended assessment rate would generate \$1,250,000 in income. The Committee's financial reserve is now estimated to be \$1,767,427 and is available to cover the deficit in assessment income. The increased assessment rate will allow the Committee to maintain its financial reserve at a level it deems appropriate.

The Committee reviewed and unanimously recommended 2003–04 expenditures of \$1,773,100 which included increases in administrative and office salaries, research, and education and promotion programs. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Executive Subcommittee, Finance Subcommittee, Research Subcommittee, and Education and Promotion Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the tomato industry. The assessment rate of \$0.025 per 25-pound container or equivalent of tomatoes was then determined by examining the anticipated expenses and expected shipments and considering available reserves. The recommended assessment rate should generate \$1,250,000 in income. This is approximately \$523,100 below the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming season indicates that the grower price for the 2003–04 season could range between \$6.45 and \$10.37 per 25-pound container of tomatoes. Therefore, the estimated assessment revenue for the 2003–04 season as a percentage of total grower revenue could range between .4 and .2 percent, respectively.

This action increases 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, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the Florida tomato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the September 4, 2003, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.