

adequate to meet this fiscal period's budgeted expenses.

The major expenditures recommended by the Committee for the 2003–2004 fiscal period include \$8,200 for salaries, \$3,000 for rent expense, and \$1,750 for office expenses. Budgeted expenses for these items in 2002–2003 were also \$8,200, \$3,000, and \$1,750, respectively.

For the 2001–2002 fiscal period, the Committee recommended suspending the continuing assessment rate to bring the monetary reserve within program limits of approximately two fiscal periods' operating expenses (§ 948.78). At that time, the reserve fund contained about \$60,000. The Committee has been operating for the last two years by drawing income from its reserve. With a suspended assessment rate and a significant decrease in the number of potato producers and acreage in Area No. 3, the reserve has rapidly decreased to the current level of about \$24,000. The Committee would like to maintain the reserve at approximately this level, thus reinstatement of the assessment rate is needed.

The Committee discussed alternatives to this rule, including alternative expenditure levels. Lower assessment rates were considered, but not recommended because they would not generate the income necessary to administer the program with adequate reserves.

The assessment rate of \$0.03 per hundredweight of assessable potatoes was determined by dividing the total recommended budget by the quantity of assessable potatoes, estimated at 632,500 hundredweight for the 2003–2004 fiscal period. This is approximately \$1,402 above the anticipated expenses when combined with interest and rent income, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the producer price for the 2003–2004 fiscal period could range between \$5.10 and \$6.70 per hundredweight of Colorado summer potatoes. Therefore, the estimated assessment revenue for the 2003–2004 fiscal period as a percentage of total producer revenue could range between 0.45 and 0.59 percent.

This action would increase 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 would be offset by

the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the Area No. 3 Colorado potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 8, 2003, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Colorado Area No. 3 potato handlers. 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.

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

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 FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposed rule. Fifteen days is deemed appropriate because: (1) The 2003–2004 fiscal period began on July 1, 2003, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable potatoes handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay for expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

#### List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 948 is proposed to be amended as follows:

#### PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR part 948 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 948.215 is reinstated and revised to read as follows:

#### § 948.215 Assessment rate.

On and after July 1, 2003, an assessment rate of \$0.03 per hundredweight is established for Colorado No. 3 potatoes.

Dated: July 23, 2003.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 03–19130 Filed 7–25–03; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 987

[Docket No. FV03–987–1 PR]

#### Domestic Dates Produced or Packed in Riverside County, CA; Decreased Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This rule would decrease the assessment rate established for the California Date Administrative Committee (Committee) for the 2003–04 and subsequent crop years from \$0.90 to \$0.75 per hundredweight of dates handled. The Committee locally administers the marketing order that regulates the handling of dates produced or packed in Riverside County, California. Authorization to assess date handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The crop year begins October 1 and ends September 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Comments must be received by August 27, 2003.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or E-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov). Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular

business hours, or can be viewed at:  
<http://www.ams.usda.gov/fv/moab.html>.

**FOR FURTHER INFORMATION CONTACT:** Toni Sasselli, Marketing Assistant, or Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey St., suite 102B, Fresno, CA 93721; telephone: (559) 487-5901, Fax: (559) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 987, both as amended (7 CFR part 987), regulating the handling of domestic dates produced or packed in Riverside County, California, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California date handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein will be applicable to all assessable dates beginning on October 1, 2003, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such

handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would decrease the assessment rate established for the Committee for the 2003-04 and subsequent crop years 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 use \$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 would be adequate to cover budgeted expenses. Funds in the reserve are expected to total about \$23,553 by September 30, 2004, and therefore would 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 proposed assessment rate would 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 would be in effect for an indefinite period, the Committee would 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 would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2003–04 budget and those for subsequent crop years would 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 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 would decrease 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 proposed 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 would 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 marketing and promotion programs. Prior to arriving at this budget, the Committee considered alternative expenditure levels, including a proposal to not have a budget. The assessment rate of \$0.75 per hundredweight of assessable dates was then determined 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 would be adequate to cover budgeted expenses. Funds in the administrative reserve are expected to total about \$23,553 by September 30, 2004, and therefore would 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)).

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the grower price for the 2003–04 season could range between \$40 and \$120 per hundredweight of dates. Therefore, the estimated assessment revenue for the 2003–04 crop year as a percentage of total grower revenue could range between .6 and 2 percent.

This action would decrease the assessment obligation imposed on handlers under the Federal marketing order. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate would reduce the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the California

date industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 20, 2003, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large California date handlers. 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.

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

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 FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2003–04 crop year begins on October 1, 2003, and the marketing order requires that the rate of assessment for each crop year apply to all assessable dates handled during such crop year; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

#### **List of Subjects in 7 CFR Part 987**

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 987 is proposed to be amended as follows:

#### **PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA**

1. The authority citation for 7 CFR part 987 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 987.339 is revised to read as follows:

**§ 987.339 Assessment rate.**

On and after October 1, 2003, an assessment rate of \$0.75 per hundredweight is established for California dates.

Dated: July 23, 2003.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 03-19128 Filed 7-25-03; 8:45 am]

BILLING CODE 3410-02-P

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 991**

[Docket No. AO-F&V-991-A3; FV03-991-01]

**Hops Produced in Washington, Oregon, Idaho and California; Hearing on Proposed Marketing Agreement and Order No. 991**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice of Public Hearing on Proposed Marketing Agreement and Order.

**SUMMARY:** Notice is hereby given of a public hearing to consider a proposed marketing agreement and order under the Agricultural Marketing Agreement Act of 1937 to cover hops grown in Washington, Oregon, Idaho and California. The proposal was submitted by the Hop Marketing Order Proponent Committee (committee), a group of industry members who support a marketing order for hops. The proposed order would authorize volume control measures in the form of producer allotments to regulate the marketing of alpha acid in hops in the production area. Alpha acid is a bittering agent used in brewing that is the primary marketable component of hops. The proposed order would also allow for reserve pooling of excess production of alpha acid and would provide for production research, marketing research and development projects to promote the marketing, distribution and consumption or efficient production of hops. The program would be financed by assessments on hop handlers and would be administered by a committee of growers nominated by the industry and appointed by the Department of Agriculture (USDA).

**DATES:** The hearing will be held on August 14 and 15 in The Dalles, Oregon, on August 16 and 18 in Hood River, Oregon and continue, if necessary, on August 19, 20, 21 and 22 in Hood River,

Oregon. The hearing will begin each day at 8:30 a.m. and end at 5 p.m.

**ADDRESSES:** The hearing locations are: August 14 and 15, 2003, Shilo Inn, 3223 Bret Clodfelter Way, The Dalles, Oregon 97058; August 16 and 18 (and August 19 through 22, if necessary) Best Western Hood River Inn, 1108 East Marina Way, Hood River, Oregon 97031.

**FOR FURTHER INFORMATION CONTACT:** Barry Broadbent, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Northwest Marketing Field Office, 1220 SW Third Avenue, Room 369, Portland, Oregon 97204; telephone (503) 326-2724 or Fax (503) 326-7440; or Kathleen M. Finn, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, fax: (202) 720-8938. Small businesses may request information on this proceeding by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, fax: (202) 720-8938.

**SUPPLEMENTARY INFORMATION:** This administrative action is instituted pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act." This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) seeks to ensure that within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. Interested persons are invited to present evidence at the hearing on the possible regulatory and informational impacts of the proposal on small businesses.

The marketing agreement and order proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. If issued, the proposed agreement and order would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file

with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The hearing is called pursuant to the provisions of the Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900).

This proposal is the result of more than two years of efforts undertaken by the committee. The committee was established as a result of renewed industry interest in a Federal marketing order. According to the committee, meetings for discussion of a hop marketing order involved all segments of the industry with varying views on establishment of an order and included growers, handlers, dealers and end users. In addition, meetings were held in each area of the production area to provide opportunities for all hop growers and other interested parties to provide input.

According to the committee, the hop industry is suffering from a chronic oversupply situation that is depressing prices to below economically viable levels. Technological advances have increased the efficiency of both the production of alpha acid from hops and the utilization of the alpha acid in brewing. Consequently, less hop acreage is needed to adequately supply the market and excess alpha inventories have resulted. Industry reductions in acreage have not kept pace with the declining demand for alpha acid. The proponent group contends that the proposed marketing order program would bring stability to the U.S. hop industry by balancing supplies with market needs, which would enhance producer returns.

There have been three previous marketing orders for hops. The most recent was for hop growers in the Northwest which was in effect from July 1966 to December 1985. The principal feature of that order was a producer allotment form of volume control. There was considerable controversy involved in the order during the 1980's, which included concerns over the grower base used in calculating the volume regulations. The base was limited to