

behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 7,000 producers of California almonds under this marketing order, and approximately 115 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of California almond producers and handlers may be classified as small entities.

The California almond marketing order provides authority for the Board, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Board are producers and handlers of California almonds. They are familiar with the Board's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The Board met on May 10, 1996, and unanimously recommended 1996-97 crop year expenditures of \$6,426,500 and an assessment rate of \$0.01 per pound of almonds. In comparison, last year's budgeted expenditures were \$4,952,591 with the assessment rate of \$0.75 per pound. Major expenditures recommended by the Board for the 1996-97 crop year include \$3,333,500 for information and research, \$731,534 for salaries, \$660,500 for international programs, \$558,131 for production research, \$97,470 for travel, and \$91,160 for crop estimate. Budgeted expenses for these items in 1995-96 were \$2,358,000, \$598,251, \$150,000, \$512,650, \$75,000, and \$90,736, respectively.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected receipts of California almonds. Almond shipments for the year are estimated at 504.4 million pounds which should provide \$5.044 million in assessment income. Income derived from handler assessments, interest, a production research conference, and the Market Access Program, along with funds derived from the Board's authorized reserve, will be adequate to cover budgeted expenses. Any unexpended funds from the 1996-97 crop year may be carried over to cover expenses during the first four months of the 1997-98 crop year.

An interim final rule regarding this action was published in the July 31, 1996, issue of the Federal Register (61 FR 39841). That rule provided for a 30-day comment period. No comments were received.

While this rule may impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and 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 fiscal period 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 the Department. Board meetings are open to the public and interested persons may express their views at these meetings. The Department 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 1996-97 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

After consideration of all relevant material presented, including the information and recommendations submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) The Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the crop year began on July 1, 1996, and the marketing order requires that the rate of assessment for the crop year apply to all assessable California almonds handled during the crop year; (3) handlers are aware of this action which was unanimously recommended

by the Board at a public meeting and is similar to other assessment rate actions issued in past years; and (4) an interim final rule was published on this action, providing a 30-day comment period, and no comments were received.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

PART 981—ALMONDS GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR Part 981 which was published at 61 FR 39841 on July 31, 1996, is adopted as a final rule without change.

Dated: September 16, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96-24455 Filed 9-23-96; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 987

[Docket No. FV96-987-1 IFR]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes an assessment rate for the California Date Administrative Committee (Committee) under Marketing Order No. 987 for the 1996-97 and subsequent crop years. The Committee is responsible for local administration of the marketing order which regulates the handling of domestic 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. **DATES:** Effective on October 1, 1996. Comments received by October 24, 1996 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, FAX 202-720-5698. 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.

FOR FURTHER INFORMATION CONTACT:

Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918, FAX 202-720-5698, or Maureen Pello, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, suite 102B, 2202 Monterey Street, Fresno, California 93721, telephone 209-487-5901, FAX 209-487-5906. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-2491, FAX 202-720-5698.

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. The order is 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 (Department) 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 issued herein will be applicable to all assessable dates beginning October 1, 1996, and continuing 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 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. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary 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 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.

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.

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 135 producers of California dates in the production area and approximately 25 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of California date producers and handlers may be classified as small entities.

The California date marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California dates. They are familiar with the Committee's needs and with the costs of 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 in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The Committee met on July 18, 1996, and by a vote of 8 to 1 recommended 1996-97 gross operating expenditures of \$60,000 and an assessment rate of \$0.0556 per hundredweight of dates. Included in the gross operating expenditures is a \$40,000 surplus account contribution, resulting in net operating expenditures of \$20,000. In comparison, last year's net budgeted expenditures were \$774,218, after a

\$42,000 surplus account contribution was deducted. The assessment rate of \$0.0556 is \$2.1944 lower than last year's established rate. The budgeted expenditures and assessment rate are significantly lower than last year because the Committee does not plan to conduct promotional activities under the Federal marketing order. Over the past year, the industry formed the California Date Commission (Commission), a State organization that will be conducting promotional activities for the industry. The no vote on the budget came from a grower who opposed formation of the Commission and has expressed a concern that the organization is composed of handlers only and no growers. Major expenditures recommended by the Committee for the 1996-97 crop year include \$43,586 for salaries and benefits and \$14,766 for office expenses. Budgeted expenses for these items in 1995-96 were \$121,500 and \$33,300, respectively. Included in the \$60,000 gross operating budget is a \$40,000 surplus account contribution, for a net operating budget of \$20,000, \$98,000 less than last year.

Under the Federal marketing order, the Committee's staff manages a surplus pool for low quality dates. The expenses incurred for this activity are paid for with proceeds from the sale of such dates, not assessment income.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of California dates. Date shipments for the year are estimated at 360,000 hundredweight, which should provide \$20,016 in assessment income, which will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order. Funds held by the Committee at the end of the crop year, including the reserve, which are in excess of the crop year's expenses may be used to defray expenses for four months and thereafter the Committee shall refund or credit the excess funds to the handlers.

This action will reduce the assessment rate to be imposed on handlers during the 1996-97 crop year. While this rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing order. Therefore, the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities. Interested persons are invited

to submit information on the regulatory and informational impacts of this action on small businesses.

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

Although this assessment rate is effective for an indefinite period, the Committee will 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 the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department 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 1996-97 budget and those for subsequent crop years will be reviewed and, as appropriate, approved by the Department.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996-97 crop year begins on October 1, 1996, and the marketing order requires that the rate of assessment for each crop year apply to all assessable dates handled during such crop year; (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; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

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 amended as follows:

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

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

Authority: 7 U.S.C. 601-674.

2. A new Subpart—Assessment Rates and a new § 987.339 are added to read as follows:

Note: This section will appear in the Code of Federal Regulations.

Subpart—Assessment Rates

§ 987.339 Assessment rate.

On and after October 1, 1996, an assessment of \$0.0556 per hundredweight is established for California dates.

Dated: September 16, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96-24238 Filed 9-23-96; 8:45 am]

BILLING CODE 3410-02-P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 202, 230, 239, 240, 249, 250, 259, 270, 274, and 275

[Release Nos. 33-7331; 34-37692; 35-26575; IC-22224; IA-1578; File No. S7-14-96]

RIN 3235-AG79

Changes Selected Rules In Order To Eliminate Fees Previously Adopted by the Commission Pursuant to the Independent Offices Appropriations Act of 1952

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (Commission), in order to eliminate user fees currently adopted under the Independent Offices Appropriations Act of 1952 is changing various rules pertaining to the Securities Act of 1933 (Securities Act), the Securities Exchange Act of 1934 (Exchange Act), the Public Utility Holding Company Act of 1935 (Public Utility Holding Company Act), the Investment Company Act of 1940

(Investment Company Act), and the Investment Advisers Act of 1940 (Investment Advisers Act). The fees being eliminated were first adopted in 1972 to contribute towards the cost of agency operations. Since that time, however, the amount of fees collected by the Commission has increased dramatically. In 1995, the Commission collected nearly double the amount of fees required to fund the agency's operations. The fees being eliminated represented just two percent of the Commission's total fiscal 1995 fee revenue, but more than one-half of the total number of fee payments processed.

EFFECTIVE DATE: October 7, 1996.

FOR FURTHER INFORMATION CONTACT:

Henry I. Hoffman, Office of the Comptroller, at (202) 942-0343.

SUPPLEMENTARY INFORMATION: In 1972, to offset the cost to the government of Commission operations, the Securities and Exchange Commission established through rulemaking a fee schedule for numerous types of applications, statements and reports.¹ These regulatory fees, authorized under Title V of the Independent Offices Appropriations Act of 1952 (31 U.S.C. 9701), are commonly referred to as IOAA fees.²

On May 22, 1996, a proposed rule titled Proposal To Eliminate Fees Previously Adopted by the Commission Pursuant to the Independent Offices Appropriations Act of 1952 was published in the Federal Register. (Vol. 61, No. 100, pages 25601-25604). The proposed rule invited interested parties to submit comments on or before July 8, 1996. Three comment letters were received, one each from two mutual fund complexes and one trade association.³ Each response supported

¹ Securities Act, Release No. 5229, January 25, 1972.

² The Independent Offices Appropriations Act of 1952, specifically 31 U.S.C. 9701, authorizes independent agencies of the federal government to prescribe fees and charges for activities that provide benefits to individuals and businesses. This statute states that "[i]t is the sense of Congress that each service * * * provided by an agency * * * to a person * * * is to be self-sustaining to the extent possible." The statute also authorizes the head of each agency to prescribe regulations establishing the charge for a service. Notably, a separate provision of the Exchange Act specifically authorizes the Commission to impose fees authorized by this Act. 15 U.S.C. 78n(g)(4).

³ The three respondents to the Commission's elimination of IOAA fees were T. Rowe Price Associates, Inc. in a June 7, 1996, letter signed by Henry H. Hopkins, Managing Director and Legal Counsel, Federated Investors in a June 27, 1996, letter signed by Jay S. Neuman, Corporate Counsel, and the Investment Company Institute in a June 25, 1996, letter signed by Alexander C. Gavis, Assistant Counsel. These letters are available for public