requirements and duplication by industry and public sectors.

In addition, as noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. However, red seedless grapefruit must meet the requirements as specified in the U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.760 through 51.784) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

The Committee's meeting was widely publicized throughout the citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the July 1, 2003, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

An interim final rule concerning this action was published in the **Federal Register** on September 9, 2003. Copies of the rule were mailed by the Committee's staff to all Committee members and grapefruit handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register and USDA. That rule provided for a 30-day comment period, which ended October 9, 2003. No comments were received.

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.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (68 FR 53015) on September 9, 2003 will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

■ Accordingly, the interim final rule amending 7 CFR part 905 which was published at 68 FR 53015, September 9, 2003, is adopted as a final rule without change.

Dated: November 7, 2003.

A. J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–28520 Filed 11–13–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV03–916–4 FIR]

Nectarines and Peaches Grown in California; Increased Assessment Rates

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule which increased the assessment rate established for the Nectarine Administrative Committee and the Peach Commodity Committee (committees) for the 2003–04 and subsequent fiscal periods from $0.19 to $0.20 per 25-pound container or container equivalent of nectarines and peaches handled. The committees locally administer the marketing orders which regulate the handling of nectarines and peaches grown in California. Authorization to assess nectarine and peach handlers enables the committees to incur expenses that are reasonable and necessary to administer the programs. The fiscal periods run from March 1 through the last day of February. The assessment rates will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: December 15, 2003.

FOR FURTHER INFORMATION CONTACT: Toni Sasselli, Marketing Assistant, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721, (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 complying 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.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement Nos. 85 and 124 and Order Nos. 916 and 917, both as amended (7 CFR parts 916 and 917), regulating the handling of nectarines and peaches grown in California, respectively, hereinafter referred to as the ''orders.'' The marketing agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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 orders now in effect, California nectarine and peach handlers are subject to assessments. Funds to administer the orders are derived from such assessments. It is intended that the assessment rates as issued herein will be applicable to all assessable nectarines and peaches beginning on March 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 continues to increase the assessment rates established for the committees for the 2003–04 and subsequent fiscal periods from $0.19 to $0.20 per 25-pound container or container equivalent of nectarines and peaches.

The nectarine and peach marketing orders provide authority for the committees, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the programs. The members of the Nectarine Administrative Committee (NAC) and Peach Commodity Committee (PCC) are producers of California nectarines and peaches, respectively. They are familiar with the committees' needs and with the costs for goods and services in their local area, and are, thus, in a position to formulate appropriate budgets and assessment rates. The assessment rates are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

NAC Assessment and Expenses

The NAC recommended, for the 2002–03 fiscal period, and USDA approved, an assessment rate of $0.19 that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the committee or other information available to USDA.

The NAC met on May 1, 2003, and recommended 2003–04 expenditures of $4,173,438 and an assessment rate of $0.20 per 25-pound container or container equivalent of nectarines on a 7 to 1 vote. In comparison, last year's budgeted expenditures were $4,671,342. The assessment rate of $0.20 is $0.01 higher than the rate previously in effect.

The dissenting voter stated that the growers he represented did not support increasing the assessment rate. However, later in the meeting, following a discussion about the development of a nectarine fruit beverage, the dissenter indicated he no longer opposed the assessment increase because the CTFA intended to fund beverage development. He further stated that funds used to create more outlets for nectarines will provide a service to the industry.

The rate increase was recommended to ensure that the NAC could meet its 2003–04 anticipated expenses and carry over a financial reserve that will provide adequate funds at the beginning of the 2004 season before assessment collections begin. A financial reserve carryover of about $400,000 is desirable because major expense outlays for seasonal promotions and other activities occur before assessments are received. Increasing the assessment rate from $0.19 to $0.20 per 25-pound container is expected to provide about $220,400 in additional assessment revenue, and will allow the NAC to start the 2004 season with about $438,374.

The major expenditures recommended by the NAC for the 2003–04 fiscal period include $226,121 for salaries and benefits, $142,612 for general expenses and industry activities, $1,210,220 for inspection, $138,929 for research, and $2,263,061 for domestic and international promotion. Budgeted expenses for these items in 2002–03 were $505,000 for salaries and benefits, $309,039 for general expenses and industry activities, $1,050,000 for inspection, $138,018 for research, and $2,574,160 for domestic and international promotion.

The 2002–03 and 2003–04 budgeted expenses differ somewhat because the NAC reorganized some expense categories for 2003–2004. NAC's total expenses are significantly lower this fiscal year compared to last fiscal year.

The 2003–04 NAC assessment rate was derived after considering the total NAC expenses of $4,173,438; the estimated assessable nectarines of 22,004,000 25-pound containers or container equivalents; the estimated income from other sources, such as interest; and the need for an adequate financial reserve to carry the NAC into the 2004 season. The committee decided that a financial reserve of $400,000 is necessary to meet its obligations in the early part of each season, before handler assessments are billed and received. To meet these goals, the NAC recommended an assessment rate of $0.20 per 25-pound containers or container equivalent. According to the committee, that assessment rate will result in an adequate financial reserve, yet one well within the maximum permitted by the order (one year's expenses; § 916.42).

PCC Assessment and Expenses

The PCC recommended, for the 1996–97 fiscal period, and USDA approved, an assessment rate of $0.19 that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the committee or other information available to USDA.

The PCC also met on May 1, 2003, and recommended 2003–04 expenditures of $4,086,316 and an assessment rate of $0.20 per 25-pound container or container equivalent of peaches on a vote of 12 to 1. In comparison, last year's budgeted expenditures were $4,678,883. The assessment rate of $0.20 is $0.01 higher than the rate previously in effect.

The dissenting voter stated that the growers he represented did not support increasing the assessment rate, and he, therefore, could not support the increase.

The rate increase was recommended to ensure that the PCC could meet its 2003–04 anticipated expenses and carry over a financial reserve for the PCC which will provide adequate funds at the beginning of the 2004 season before assessment collections begin. A financial reserve carryover of $500,000 is desirable because major expense outlays for seasonal promotions and other activities occur before assessments are received. Increasing the assessment rate from $0.19 to $0.20 per 25-pound container is expected to provide about $213,360 in additional assessment revenue, and will allow the PCC to start the 2004 season with about $530,586.

The major expenditures recommended by the PCC for the 2003–04 fiscal period include $226,121 for salaries and benefits, $144,743 for general expenses and industry activities, $1,206,414 for inspection, $138,930 for research, and $2,211,346 for domestic and international promotion. Budgeted expenses for these items in 2002–03 were $505,000 for salaries and benefits, $206,747 for general expenses, $1,100,000 for inspection, $142,186 for research, and $2,529,036 for domestic and international promotion.

The 2002–03 and 2003–04 budgeted expenses differ somewhat because the PCC reorganized some expense categories for 2003–2004. PCC's total expenses are significantly lower this fiscal year compared to last fiscal year.

The 2003–04 PCC assessment rate was derived after considering the total PCC expenses of $4,086,316; the estimated assessable peaches of 21,336,000 25-pound containers or container equivalents; the estimated income from other sources, such as interest; and the need for an adequate reserve to carry the PCC into the 2004 season. The committee decided that a financial reserve of $500,000 is necessary to meet its obligations in the early part of each season, before handler assessments are billed and received. To meet these goals, the PCC recommended an assessment rate of $0.20 per 25-pound container or container equivalent. According to the committee, that assessment rate will result in an adequate financial reserve, yet one well within the maximum permitted by the order (one year's expenses; § 917.38).

Continuance of Assessment Rates

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

Although these assessment rates will be in effect for an indefinite period, the committees 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 rates. The dates and times of committee meetings are available from the committees' website or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate the committees' recommendations and other available information to determine whether modification of the assessment rate for each committee is needed. Further rulemaking will be undertaken as necessary. The committees' 2003–04 budgets were reviewed and approved on August 27, 2003, and those for subsequent fiscal periods will 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 300 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 1,800 producers of these fruits in California. Small agricultural service firms, which include handlers, are defined by the Small Business Administration [13 CFR 121.201] as those whose annual receipts are less than $5,000,000. Small agricultural producers are defined by the Small Business Administration as those having annual receipts of less than $750,000. A majority of these handlers and producers may be classified as small entities.

The committees' staff has estimated that there are less than 20 handlers in the industry who could be defined as other than small entities. For the 2002 season, the committees' staff estimated that the average handler price received was $9.00 per container or container equivalent of nectarines or peaches. A handler would have to ship at least 556,000 containers to have annual receipts of $5,000,000. Given data on shipments maintained by the committees' staff and the average handler price received during the 2002 season, the committees' staff estimates that small handlers represent approximately 94 percent of all the handlers within the industry.

The committees' staff has also estimated that less than 20 percent of the producers in the industry could be defined as other than small entities. For the 2002 season, the committees' estimated the average producer price received was $4.00 per container or container equivalent for nectarines and peaches. A producer would have to produce at least 187,500 containers of nectarines and peaches to have annual receipts of $750,000.

With data maintained by the committees' staff and the average producer price received during the 2002 season, the committees' staff estimates that small producers represent more than 80 percent of the producers within the industry. With an average producer price of $4.00 per container or container equivalent, and a combined packout of nectarines and peaches of 43,340,000 containers, the value of the 2002 packout level is estimated to be $173,360,000. Dividing this total estimated grower revenue figure by the estimated number of producers (1,800) yields an estimate of average revenue per producer of about $96,311 from the sales of peaches and nectarines.

This rule continues to increase the assessment rates established for the committees and collected from handlers for the 2003–04 and subsequent fiscal periods from $0.19 to $0.20 per 25-pound container or container equivalent of nectarines and peaches. The committees recommended 2003–04 expenditures of $4,173,438 for nectarines and expenditures of $4,086,316 for peaches and an assessment rate of $0.20 per 25-pound container or container equivalent of nectarines and peaches. The assessment rate of $0.20 is $0.01 higher than the rate previously in effect.

Analysis of NAC Budget

The quantity of assessable nectarines for the 2003–04 fiscal year continues to be estimated at 22,004,000 25-pound container or container equivalents. Thus, the $0.20 rate should provide $4,400,800 in assessment income. Income derived from handler assessments will be adequate to cover budgeted expenses and permit an adequate reserve.

The major expenditures recommended by the NAC for the 2003–04 year include $226,121 for salaries and benefits, $142,612 for general expenses and industry activities, $1,210,220 for inspection, $138,929 for research, and $2,263,061 for domestic and international promotion.

Budgeted expenses for these items in 2002–03 were $505,000 for salaries and benefits, $309,039 for general expenses and industry activities, $1,050,000 for inspection, $138,018 for research, and $2,574,160 for domestic and international promotion.

The NAC recommended an increase in the assessment rate to meet anticipated 2003–04 expenses and preserve an acceptable financial reserve. A reserve of $400,000 is needed to fund expenses for the following year until assessments for that year are received. The NAC reviewed and recommended 2003–04 expenditures of $4,173,438 and the increased assessment rate.

Analysis of PCC Budget

The quantity of assessable peaches for the 2003–04 fiscal year continues to be estimated at 21,336,000 25-pound container or container equivalents. Thus, the $0.20 rate should provide $4,267,200 in assessment income. Income derived from handler assessments will be adequate to cover budgeted expenses and permit a small increase in reserves.

The major expenditures recommended by the PCC for the 2003–04 year include $226,121 for salaries and benefits, $144,743 for general expenses and industry activities, $1,206,414 for inspection, $138,930 for research, and $2,211,346 for domestic and international promotion.

Budgeted expenses for these items in 2002–03 were $505,000 for salaries and benefits, $206,747 for general expenses, $1,100,000 for inspection, $142,186 for research, and $2,529,036 for domestic and international promotion.

The PCC recommended an increase in the assessment rate to meet anticipated 2003–04 expenses and preserve an acceptable financial reserve. A reserve of $500,000 to $550,000 is needed to fund expenses for the following year until assessments for that year are received. The PCC reviewed and recommended 2003–04 expenditures of $4,086,316 and the increased assessment rate.

Considerations in Determining Expenses and Assessment Rates

Prior to arriving at these budgets, the committees considered information and recommendations from various sources, including, but not limited to: The Executive Committee, the Research Subcommittee, the International Programs Subcommittee, the Grade and Size Subcommittee, and the Domestic Promotion Subcommittee.

Each of the committees then reviewed the proposed expenses; the total estimated assessable 25-pound containers or container equivalents; and the estimated income from other sources, such as interest income, prior to recommending a final assessment rate. The NAC decided that an assessment rate of $0.20 per 25-pound container or container equivalent will allow it to meet its 2003–04 expenses and carry over an operating reserve of about $438,374, which is in line with the committee's financial needs. The PCC decided that an assessment rate of $0.20 per 25-pound container or container equivalent will allow it to meet its 2003–04 expenses and carry over an operating reserve of $530,586, which is in line with the committee's financial needs. The committees then recommended this rate to USDA with one dissenting vote from each committee.

A review of historical and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2003–04 seasons could range between $4.00 and $6.00 per 25-pound container or container equivalent. Therefore, the estimated assessment revenue for the 2003–04 fiscal period as a percentage of total grower revenue could range between 3.33 and 5.0 percent.

This action continues to 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 are offset by the benefits derived from the operation of the marketing orders. In addition, the committees' meetings were widely publicized throughout the California nectarine and peach industries and all interested persons were invited to attend the meetings and participate in the committees' deliberations on all issues. Like all committee meetings, the May 1, 2003, meetings were public meetings and all entities of all sizes were able to express views on this issue. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large 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.

An interim final rule concerning this action was published in the **Federal Register** on August 15, 2003 (68 FR 48767). Copies of that rule were also mailed to committee members and made available as a link on the committees' Web site. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register and USDA. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on October 14, 2003, and no comments were received.

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.

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

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

PART 916—NECTARINES GROWN IN CALIFORNIA

§ 916.234 Assessment rate.

■ Accordingly, the interim final rule amending 7 CFR part 916 which was published at 68 FR 48767 on August 15, 2003, is adopted as a final rule without change.

PART 917—PEACHES GROWN IN CALIFORNIA

■ Accordingly, the interim final rule amending 7 CFR part 917 which was published at 68 FR 48767 on August 15, 2003, is adopted as a final rule without change.

Dated: November 7, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–28521 Filed 11–13–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV03–989–7 FIR]

Raisins Produced From Grapes Grown in California; Reduction in Additional Storage Payments Regarding Reserve Raisins Intended for Use as Cattle Feed

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule that reduced the additional holding and storage payments regarding 2002 Natural (sun-dried) Seedless (NS) reserve raisins that were carried into the 2003 crop year and used as cattle feed. The crop year runs from August 1 through July 31. Such payments are authorized under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (RAC). This action continues to reduce expenses incurred by the 2002 reserve pool and thereby helps improve returns to 2002 equity holders, primarily raisin producers.

EFFECTIVE DATE: Effective December 15, 2003.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Senior Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 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