

grower support for the order. Furthermore, annual budget and assessment rate recommendations are among the many duties the Board, which is comprised of grower and handler members, is required to perform as authorized under the order.

One commenter raised concern that the additional funding will be used to increase the size and salaries of the organization, which will lead to the continuation of increasing the assessment rate year after year. Also, the commenter expressed concerns about transparency and availability of financial information. The majority of the funds generated by the increased assessment are allotted to research programs and marketing and promotion activities. For the past several years, operating expenses have fluctuated between 12 percent and 15 percent of the total budget. In the recommended budget for the 2016–17 crop year, operating expenses are approximately 12 percent of the total budget. In addition, in its unanimous recommendation, the Board stipulated that the increased assessment rate continue only through the 2018–19 crop year. The assessment rate will revert to the current \$0.03 rate beginning August 1, 2019. All Board and Committee meetings are open to the public. On a quarterly basis, the Board reviews and approves financial statements at its public meetings. Those documents are made available to the public, and interested persons are encouraged to participate in all meetings.

One commenter expressed concern about the order's credit-back program and that it is not advantageous to non-branded handlers. While credit-back is associated with the assessment rate, the Board did not discuss the program as part of this proposal. This rule does not modify the percentage rate available for handler credit-back.

One commenter raised concern that the Nut of Choice and Crop of Choice programs appear to be an effort to improve the image of almonds at the expense of other California commodities. USDA has a strict policy against any marketing order boards, committees, or councils disparaging other commodities. USDA reviews all marketing and communication materials prior to publication to ensure that policy is being followed.

Accordingly, no changes will be made to the rule as proposed, based on the comments 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/rules-regulations/moa/small-businesses>.

Any questions about the compliance guide should be sent to Richard Lower at the previously-mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation 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.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the 2016–17 crop year began August 1, 2016, and the marketing order requires that the rate of assessment for each crop year apply to all assessable almonds handled during such crop year. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 15-day comment period was provided for in the proposed rule, followed by an additional 30-day comment period.

#### **List of Subjects in 7 CFR Part 981**

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

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

#### **PART 981—ALMONDS GROWN IN CALIFORNIA**

■ 1. The authority citation for 7 CFR part 981 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Section 981.343 is revised to read as follows:

##### **§ 981.343 Assessment rate.**

For the period August 1, 2016, through July 31, 2019, the assessment rate shall be \$0.04 per pound for California almonds. Of the \$0.04 assessment rate, 60 percent per assessable pound is available for handler credit-back. On and after August 1, 2019, an assessment rate of \$0.03 per pound is established for California almonds. Of the \$0.03 assessment rate, 60 percent per assessable pound is available for handler credit-back.

Dated: November 12, 2016.

**Elanor Starmer,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2016–30264 Filed 12–19–16; 8:45 am]

**BILLING CODE P**

## **DEPARTMENT OF AGRICULTURE**

### **Agricultural Marketing Service**

#### **7 CFR Part 987**

[Doc. No. AMS–SC–16–0084; SC16–987–1 FIR]

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

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

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that implemented a recommendation from the California Date Administrative Committee (committee) to decrease the assessment rate established for the committee for the 2016–17 and subsequent crop years from \$0.10 to \$0.05 per hundredweight of dates handled under the marketing order (order). The committee locally administers the order and is comprised of producers and handlers of dates operating within the area of production. The interim rule was necessary to allow the committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

**DATES:** Effective December 21, 2016.

#### **FOR FURTHER INFORMATION CONTACT:**

Terry Vawter, Senior Marketing Specialist Jeffrey Smutny, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: [Terry.Vawter@ams.usda.gov](mailto:Terry.Vawter@ams.usda.gov) or [Jeffrey.Smutny@ams.usda.gov](mailto:Jeffrey.Smutny@ams.usda.gov).

Small businesses may obtain information on complying with this regulation by viewing a guide at the following Web site: <http://www.ams.usda.gov/rules-regulations/moa/small-businesses>; or by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: [Richard.Lower@ams.usda.gov](mailto:Richard.Lower@ams.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 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 (USDA) is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

Under the order, California date handlers are subject to assessments, which provide funds to administer the order. Assessment rates issued under the order are intended to be applicable to all assessable domestic dates produced or packed in Riverside County, California, for the entire crop year and continue indefinitely until amended, suspended, or terminated. The committee's crop year began October 1, 2016, and ends on September 30, 2017.

In an interim rule published in the **Federal Register** on September 21, 2016, and effective on September 22, 2016, (81 FR 64759, Doc. No. AMS–SC–16–0084, SC16–987–1 IR), § 997.339 was amended by decreasing the assessment rate established for California dates for the 2016–17 and subsequent crop years from \$0.10 to \$0.05 per hundredweight. The decrease in the per hundredweight assessment rate allows the committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

#### Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), 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 businesses 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.

There are approximately 70 date producers in the production area, and 11 date handlers subject to regulation under the order. The Small Business Administration (SBA) defines small agricultural producers as those having annual receipts of less than \$750,000 and small agricultural service firms as those whose annual receipts are less than \$7,500,000 (13 CFR 121.201).

According to the National Agricultural Statistics Service (NASS), data for the most recently completed

crop year (2015) shows that about 4.36 tons, or 8,720 pounds, of dates were produced per acre. The 2015 producer price published by NASS was \$1,560 per ton. Thus, the value of date production per acre in 2014–15 averaged about \$6,802 (4.36 tons times \$1,560 per ton, rounded to the nearest dollar). At that average price, a producer would have to farm over 110 acres to receive an annual income from dates of \$750,000 (\$750,000 divided by \$6,802 per acre equals 110.26 acres). According to committee staff, the majority of California date producers farm less than 110 acres. Thus, it can be concluded that the majority of date producers could be considered small entities.

In addition, according to data from the committee staff, the majority of California date handlers have receipts of less than \$7,500,000 and may also be considered small entities under SBA's definition.

This rule continues in effect the action that decreased the assessment rate established for the committee and collected from handlers for the 2016–17 and subsequent crop years from \$0.10 to \$0.05 per hundredweight of dates. The committee unanimously recommended 2016–17 expenditures of \$52,500 and an assessment rate of \$0.05 per hundredweight of dates. The assessment rate of \$0.05 is \$0.05 lower than the rate previously in effect. Applying the \$0.05 per hundredweight assessment rate to the committee's 29,000,000 pounds (290,000 hundredweight) crop estimate should provide \$14,500 in assessment income. Thus, income derived from handler assessments, along with interest income and funds from the committee's monetary reserve, will be adequate to cover the budgeted expenses. This action will allow the committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

This rule continues in effect the action that decreased the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces 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 encouraged to participate in committee deliberations on all issues. Like all committee meetings, the June 22, 2016, meeting was a public meeting, and all entities, both large and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178, “Vegetable and Specialty Crops Marketing Orders.” No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This action imposes 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.

Comments on the interim rule were required to be received on or before November 21, 2016. No comments were received. Therefore, for reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to: <https://www.regulations.gov/document?D=AMS-SC-16-0084-0001>.

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; the Paperwork Reduction Act (44 U.S.C. Chapter 35); and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (81 FR 64759, September 21, 2016) will tend to effectuate the declared policy of the Act.

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

Dates, Marketing agreements, Reporting and recordkeeping requirements.

#### PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA [AMENDED]

■ Accordingly, the interim rule amending 7 CFR part 987, which was published at 81 FR 64759 on September 21, 2016, is adopted as a final rule, without change.

Dated: December 12, 2016.

**Bruce Summers,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2016-30303 Filed 12-19-16; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF AGRICULTURE

### Grain Inspection, Packers and Stockyards Administration

#### 9 CFR Part 201

RIN 0580-AB25

#### Scope of Sections 202(a) and (b) of the Packers and Stockyards Act

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** The Department of Agriculture's (USDA) Grain Inspection, Packers and Stockyards Administration (GIPSA), Packers and Stockyards Program (P&SP) is amending the regulations issued under the Packers and Stockyards Act, 1921, as amended and supplemented (P&S Act). GIPSA is adding a paragraph addressing the scope of sections 202(a) and (b) of the P&S Act. This interim final rule clarifies that conduct or action may violate sections 202(a) and (b) of the P&S Act without adversely affecting, or having a likelihood of adversely affecting, competition. This interim final rule reiterates USDA's longstanding interpretation that not all violations of the P&S Act require a showing of harm or likely harm to competition. The regulations would specifically provide that the scope of section 202(a) and (b) encompasses conduct or action that, depending on their nature and the circumstances, can be found to violate the P&S Act without a finding of harm or likely harm to competition. This interim final rule finalizes a proposed amendment that GIPSA published on June 22, 2010. GIPSA is now publishing as an interim final rule what was proposed on June 22, 2010, with slight modifications, in order to allow additional comment on these provisions.

**DATES:** This interim final rule is February 21, 2017. Interested persons are invited to submit written comments on this interim final rule on or before February 21, 2017.

**ADDRESSES:** We invite you to submit comments on this interim final rule. You may submit comments by any of the following methods:

- **Mail:** M. Irene Omade, GIPSA, USDA, 1400 Independence Avenue SW., Room 2542A-S, Washington, DC 20250-3613.

- **Hand Delivery or Courier:** M. Irene Omade, GIPSA, USDA, 1400 Independence Avenue SW., Room 2530-S, Washington, DC 20250-3613.

- **Internet:** <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

**Instructions:** All comments should make reference to the date and page number of this issue of the **Federal Register**. All comments received will be included in the public docket without change, including any personal information provided. Regulatory analyses and other documents relating to this rulemaking will be available for public inspection in Room 2542A-S, 1400 Independence Avenue SW., Washington, DC 20250-3613 during regular business hours. All comments will be available for public inspection in the above office during regular business hours (7 CFR 1.27(b)). Please call the Management and Budget Services staff of GIPSA at (202) 720-8479 to arrange a public inspection of comments or other documents related to this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** S. Brett Offutt, Director, Litigation and Economic Analysis Division, P&SP, GIPSA, 1400 Independence Ave, SW., Washington, DC 20250, (202) 720-7051, [s.brett.offutt@usda.gov](mailto:s.brett.offutt@usda.gov).

**SUPPLEMENTARY INFORMATION:** The first section that follows provides background and a summary of the regulatory text for § 201.3(a) and (b) in this interim final rule as compared to the regulatory wording for § 201.3(c) and (d) in the 2010 proposed rule. The second section provides background information about this rule. The third section provides a summary of the public comments received on the proposed rule and at the relevant USDA/Department of Justice Joint Competition Workshops that occurred during the comment period. The fourth section discusses the proposal of new §§ 201.210, 201.211, and 201.214, in this issue of the **Federal Register**. The last section provides the required impact analyses including the Regulatory Flexibility Act, the Paperwork Reduction Act, Civil Rights Analysis, and the relevant Executive Orders.

#### I. Summary of Changes From the 2010 Proposed Rule

##### *Section 201.3 as Proposed in June 2010*

In the proposed rule published in the **Federal Register** on June 22, 2010 [75

FR 35338], GIPSA proposed a new § 201.3, "Applicability of regulations in this part," providing four (4) subsections to describe, in certain respects, the application of the regulations in 9 CFR part 201. These subsections were designated § 201.3(a) through § 201.3(d). Subsection 201.3(c) described the appropriate application of sections 202(a) and (b) of the P&S Act (7 U.S.C. 192(a) and (b)).

In this current rule, GIPSA is re-designating the existing undesignated paragraph in § 201.3 as § 201.3(b), and is adding back the subject heading, "Effective dates" to this paragraph.

GIPSA is amending § 201.3 with the addition of proposed § 201.3(c), with slight modifications. Because this provision is of primary importance, GIPSA is designating it as the first of two paragraphs in § 201.3 and changing its designation from (c) to (a). GIPSA has made slight modifications including a grammatical edit and also modified a few words to make the language internally consistent and also consistent with the language in new proposed §§ 201.210, 201.211, and 201.214, published concurrently in this issue of the **Federal Register** as separate proposed rules.

## II. Background

### *A. Development of the Rule*

Prior to issuing the initial proposed regulations in 2010, GIPSA held three public meetings in October 2008, in Arkansas, Iowa, and Georgia to gather comments, information, and recommendations from interested parties. Attendees at these meetings were asked to give input on the elements of the 2008 Farm Bill and other issues of concern under the P&S Act. In 2010, USDA and the Department of Justice held five joint public workshops to explore competition issues affecting agricultural industries in the 21st century and the appropriate role for antitrust and regulatory enforcement in those industries. These workshops were held in Ankeny, Iowa (Issues of Concern to Farmers, March 12, 2010); Normal, Alabama (Poultry Industry, May 21, 2010); Madison, Wisconsin (Dairy Industry, June 25, 2010); Fort Collins, Colorado (Livestock Industry, August 27, 2010); and Washington, District of Columbia (Margins, December 8, 2010). The Secretary informed attendees of the workshop in Fort Collins, Colorado that their comments provided that day would be considered in the development of this rulemaking. The Fort Collins workshop addressed issues in the cattle, hog, and other animal