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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

[Doc. No. AMS-FV-13-0053; FV13-987-1 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 decreased the assessment rate established for the California Date Administrative Committee (committee) for the 2013-2014 and subsequent fiscal periods from \$0.90 to \$0.40 per hundredweight of dates handled. The committee locally administers the marketing order for dates grown or packed in Riverside County, California. The interim rule was necessary to allow the committee to reduce its operating expenses while still providing adequate funding to meet program expenses.

DATES: Effective [INSERT DATE 1 DAY AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Senior Marketing Specialist, or Martin Engeler, Regional Director,

California Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (559) 487-5901, Fax: (559) 487-5906, or E-mail: Terry.Vawter@ams.usda.gov or Martin.Engeler@ams.usda.gov.

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following website: <http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide>; or by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: Jeffrey.Smutny@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 987, as amended (7 CFR part 987), regulating the handling of dates grown 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 and 13563.

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 dates for the entire fiscal period, and continue indefinitely until amended, suspended, or terminated. The committee's fiscal period begins on October 1 and ends on September 30.

In an interim rule published in the **Federal Register** on September 3, 2013, and effective on October 1, 2013, (78 FR 54147, Doc. No. AMS-FV-13-0053; FV13-987-1 IR), § 987.339, was amended by decreasing the assessment rate established for California dates for the 2013-2014 and subsequent fiscal periods from \$0.90 to \$0.40 per hundredweight. The reduction in operating expenses allows the committee to decrease the per hundredweight assessment rate, 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 producers of dates in the production area and 11 handlers subject to regulation under the marketing order. The Small Business Administration 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 \$7,000,000. (13 CFR 121.201)

According to the National Agricultural Statistics Service (NASS), data for the most-recently completed and reported crop year (2011) shows that about 4.04 tons, or 8,080 pounds, of dates were produced per acre. The 2012 grower price published by NASS was \$1,340 per ton, or \$0.67 per pound. Thus, the value of date production per acre in 2011-12 averaged about \$5,414 (8,080 pounds times \$0.67 per pound). At that average price, a producer would have to farm over 138 acres to receive an annual income from dates

of \$750,000 (\$750,000 divided by \$5,414 per acre equals 138.53 acres). According to committee staff, the majority of California date producers farm less than 138 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 handlers of California dates have receipts of less than \$7,000,000, and may also be considered small entities.

This rule continues in effect the action that decreased the assessment rate established for the committee and collected from handlers for the 2013-14 and subsequent crop years from \$0.90 to \$0.40 per hundredweight of dates handled. The committee unanimously recommended 2013-14 expenditures of \$97,700 and an assessment rate of \$0.40 per hundredweight of dates, which is \$0.50 lower than the 2012-13 rate. The quantity of assessable dates for the 2013-14 crop year is estimated at 26,500,000 pounds (265,000 hundredweight). Thus, the \$0.40 rate should provide \$106,000 in assessment income. Income derived from handler's assessments should be adequate to meet 2013-14 crop year 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 20, 2013, 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. No changes in those requirements as a result of this action are anticipated. 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 4, 2013. 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:

<http://www.regulations.gov/#!documentDetail;D=AMS-FV-13-0053-0001>

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 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** (78 FR 54147, September 3, 2013) 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 - DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY,
CALIFORNIA**

Accordingly, the interim rule amending 7 CFR part 987, which was published at 78 FR 54147 on September 3, 2013, is adopted as a final rule, without change.

Dated: January 24, 2014

**Rex A. Barnes
Associate Administrator
Agricultural Marketing Service**

Billing Code: 3410-02 P

**[FR Doc. 2014-01747 Filed 01/29/2014 at 8:45 am;
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