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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

[Docket No. AMS-FV-15-0034; FV15-987-1 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 2015-16 and subsequent crop years from \$0.20 to \$0.10 per hundredweight of dates handled under the marketing order (order). The committee locally administers the marketing order and is comprised of producers and handlers of dates grown or packed in Riverside County, California. The interim rule to decrease the assessment rate was necessary to allow the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

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

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Senior Marketing Specialist, or Jeff 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 E-mail: Terry.Vawter@ams.usda.gov or Jeffrey.Smutny@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/rules-regulations/moa/small-businesses>; or by contacting Antoinette Carter, 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 E-mail: Antoinette.Carter@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 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, Riverside County, 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 crop year and continue indefinitely until amended, suspended, or terminated. The Committee's crop year begins on October 1, and ends on September 30.

In an interim rule published in the **Federal Register** on October 28, 2015, and effective on October 29, 2015 (80 FR 65886, Doc. No. AMS-FV-15-0034, FV15-987-1 IR), § 987.339 was amended by decreasing the assessment rate established for California dates for the 2015-16 and subsequent crop years from \$0.20 to \$0.10 per hundredweight of dates. 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 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 \$7,500,000. (13 CFR 121.201)

According to the National Agricultural Statistics Service (NASS), data for the most-recently completed crop year (2014) shows that about 3.54 tons, or 7,080 pounds, of dates were produced per acre. The 2014 producer price published by NASS was \$1,190 per ton. Thus, the value of date production per acre in 2014-15 averaged about \$4,213 (3.54 tons times \$1,190 per ton). At that average price, a producer would have to farm over 178 acres to receive an

annual income from dates of \$750,000 (\$750,000 divided by \$4,213 per acre equals 178.02 acres). According to committee staff, the majority of California date producers farm less than 178 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 \$7,500,000 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 2015-16 and subsequent crop years from \$0.20 to \$0.10 per hundredweight of dates. The committee unanimously recommended 2015-16 expenditures of \$59,250 and an assessment rate of \$0.10 per hundredweight of dates, which is \$0.10 lower than the rate previously in effect. Applying the \$0.10 per hundredweight assessment rate to the estimated crop at 29,000,000 pounds (290,000 hundredweight) should provide \$29,000 in assessment income. Thus, income derived from handler's assessments, along with other income and funds from the committee's authorized reserve, should be 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; however, decreasing the assessment rate reduces the burden on handlers.

In addition, the committee's meeting was widely publicized throughout the California date industry, and all interested persons were invited to attend the meetings and encouraged to participate in committee deliberations on all issues. Like all committee meetings, the June 25, 2015, 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 Crop 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 Riverside County, 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 December 28, 2015. 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-15-0034-0001>.

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** (80 FR 65886, October 28, 2015) 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 [AMENDED]**

Accordingly, the interim rule amending 7 CFR part 987, which was published at 80 FR 65886 on October 28, 2015, is adopted as a final rule, without change.

Dated: February 22, 2016.

Elanor Starmer
Acting Administrator
Agricultural Marketing Service
[FR Doc. 2016-04044 Filed: 2/25/2016 8:45 am; Publication Date: 2/26/2016]