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

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 E-mail: Terry.Vawter@ams.usda.gov or Jeffrey.Smutny@ams.usda.gov.

Small businesses may obtain information on complying with this regulation by viewing a guide at the following website: <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 E-mail: 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

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