Proposed Rules

Federal Register

Vol. 88, No. 220

Thursday, November 16, 2023

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Doc. No. AMS–SC–23–0038]

Raisins Produced From Grapes Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, Department of Agriculture (USDA).

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to implement a recommendation from the Raisin Administrative Committee (Committee) to increase the assessment rate established for the 2023–2024 and subsequent crop years. The proposed assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by December 18, 2023.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rulemaking. Comments may be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237. Comments can also be submitted to the Docket Clerk electronically by Email: *MarketingOrderComment@usda.gov* or via the internet at: *https://www.regulations.gov.* Comments should reference the document number, and date and page number of this issue of the **Federal Register**. Comments submitted in response to this proposed rulemaking will be included in the record, will be made available to the public, and can be viewed at: *https://www.regulations.gov.* Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Kathie Notoro, Marketing Specialist, or Gary Olson, Chief, West Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487–5901 or Email: *Kathie.Notoro@usda.gov* or *GaryD.Olson@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–8085, or Email: *Richard.Lower@usda.gov.*

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rulemaking is issued under Marketing Agreement and Order No. 989, as amended (7 CFR part 989), regulating the handling of raisins produced from grapes grown in California. Part 989 (referred to as 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 Committee locally administers the Order and is comprised of producers and handlers of raisins operating within the area of production, and a public member.

AMS is issuing this proposed rulemaking in conformance with Executive Orders 12866, 13563, and 14094. Executive Orders 12866, 13563, and 14094 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 *directs agencies to conduct proactive outreach to engage interested and affected parties through a variety of means, such as through field offices, and alternative platforms and media.* This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This proposed rulemaking has been reviewed under Executive Order 13175—Consultation and Coordination with Indian Tribal governments, which requires agencies to consider whether their rulemaking actions would have Tribal implications. AMS has determined that this proposed rulemaking is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

This proposed rulemaking has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order now in effect, California raisin handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the proposed assessment rate would be applicable to all assessable raisins beginning on August 1, 2023, and continue until amended, suspended, or terminated.

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 the U.S. Department of Agriculture (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.

Section 989.79 provides authority for the Committee, with the approval of AMS, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2018–2019 and subsequent crop years, an assessment rate of $22 per assessable ton of raisins handled (84 FR 2049) was in place. That rate continues in effect from crop year to crop year until modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other information available to AMS.

This proposed rulemaking would increase the assessment rate from $22 per ton to $24 per ton of assessable raisins for the 2023–2024 and subsequent crop years. Prior to arriving at this proposed assessment rate, the Committee considered information from its Audit Subcommittee (Subcommittee), which met on June 21, 2023. The Subcommittee discussed alternative spending levels before making a recommendation to the full Committee. On June 28, 2023, the full Committee discussed the recommendation of the Subcommittee and voted unanimously to recommend a budget of $5,241,000 and an assessment rate of $24 per ton as reasonable and necessary to properly administer the Order.

The Committee last amended the assessment rate in 2019 to $22 per ton, which continues to remain in effect; however, California raisin acreage and volume have steadily declined since 2019. The Committee determined the level of assessment revenue under the current rate as now insufficient to meet the rising costs of program operations given a production estimate of 192,000 tons of assessable raisins for the 2023–2024 crop year.

The proposed assessment rate of $24 is $2 higher than the rate currently in effect and is expected to generate assessment income of approximately $4,608,000 ($24 per ton multiplied by 192,000 assessable tons) for the 2023–2024 crop year. This assessment revenue, combined with other Committee income and monetary reserves is sufficient to cover the balance of $633,000 ($5,241,000 minus $4,608,000).

The major expenditures recommended by the Committee for the 2023–2024 crop year include $3,303,000 for marketing promotion; $1,205,000 for salaries and employee-related costs; $658,000 for administrative expenses; $55,000 for compliance activities; and $20,000 for research and studies. Budgeted expenditures for the 2022–2023 crop year were $3,592,000; $1,232,000; $703,900; $55,000; and $45,000, respectively. The proposed assessment rate increase would help cover the expenditures for the 2023–2024 crop year, while reducing the amount of money needing to be expended from reserves.

This proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or AMS. Committee meetings are open to the public and interested persons may express their views at these meetings. AMS would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's budget for subsequent crop years would be reviewed and, as appropriate, approved by AMS.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the AMS has considered the economic impact of this proposed rulemaking on small entities. Accordingly, AMS has prepared this initial 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 1,700 producers of California raisins and approximately 17 handlers subject to regulation under the marketing order. Small agricultural producers of raisins are defined by the Small Business Administration (SBA) as those having annual receipts equal to or less than $4.0 million (NAICS code 111332, Grape Vineyards) and small agricultural service firms are defined as those whose annual receipts are equal to or less than $34.0 million (NAICS code 115114, Postharvest Crop Activities) (13 CFR 121.201).

Using USDA National Agricultural Statistics Service (NASS) data, the 2022 season average value of utilized production of California processed raisin-type grapes (most of which are dried into raisins) is $376.618 million. Dividing that figure by 1,700 producers yields an annual average revenue per producer of $221,540, well below the SBA large farm size threshold of $4.0 million. Therefore, in terms of average annual sales of processed raisin-type grapes, the majority of California raisin producers may be classified as small entities.

To make a similar computation for handlers, the first step is to estimate a representative handler price received per pound for packaged raisins. Recent USDA purchases under the Commodity Procurement Program provide such an estimate. For the most recent raisin crop year used by the RAC (August 2022–July 2023) the average price paid for packaged raisins purchased by the USDA for feeding programs was $1.56 per pound. For that time period, the RAC provided a list of quantities delivered by handlers. When multiplied by the $1.56 price per pound, the results showed that 5 handlers had annual raisin receipts greater than $34 million, the SBA threshold level for a large handler. The remaining 12 handlers out of 17 are small handlers, using the SBA criterion.

This proposed rulemaking would increase the assessment rate collected from handlers for the 2023–2024 and subsequent crop years from $22 to $24 per ton of assessable raisins acquired by handlers. The Committee reviewed its ongoing activities and determined the expenses that would be reasonable and necessary to continue program operations for the 2023–2024 crop year. Additionally, the Committee considered that California raisin acreage and volume have steadily declined. Consequently, the revenue collected from assessments also decreased, while program operating costs have continued to increase. Ultimately, the Committee recommended budget totals $5,241,000 for the 2023–2024 crop year. With the current assessment of $22 a ton, and an operating budget of $5,241,000, the Committee would face a deficit of over $1MM. At the recommended assessment rate of $24 per ton, the anticipated assessment income would be $4,608,000 and would help reduce the estimated deficit by approximately $384,000.

The major expenditures recommended by the Committee for the 2023–2024 crop year include $3,303,000 for marketing promotion; $1,205,000 for salaries and employee-related costs; $658,000 for administrative expenses;

$55,000 for compliance activities; and $20,000 for research and studies. Budgeted expenditures for the 2022–2023 crop year were $3,592,000; $1,232,000; $703,900; $55,000; and $45,000, respectively. The increased assessment rate is necessary to help cover the expenditures for the 2023–2024 crop year, while reducing the amount of money needing to be expended from reserves.

The Order provides authority for the Committee to formulate an annual budget of expenses and propose an assessment rate to cover such expenses authorized by AMS. Prior to arriving at this budget and assessment rate, the Committee considered alternative spending levels at its June 28, 2023, meeting but ultimately decided that the recommended budget and assessment rate were reasonable and necessary to properly administer the Order.

This proposed rulemaking would increase the assessment obligation imposed on handlers. While the increased assessment rate would impose some additional costs on handlers, the costs are minimal and applied uniformly on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the industry from the operation of the Order.

The Committee's meetings are widely publicized throughout the production area. The raisin industry and all interested persons are invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the June 28, 2023, meeting was public meeting and all entities, both large and small, were able to express views on this issue. In addition, interested persons are invited to submit comments on this proposed rulemaking, including the regulatory and information collection impacts of this action on small businesses.

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 OMB and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. No changes in those requirements are necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rulemaking would not impose any additional reporting or recordkeeping requirements on either small or large California raisin 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.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rulemaking.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *https://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 recommendations submitted by the Committee and other available information, USDA has determined that this proposed rulemaking is consistent with and will effectuate the purposes of the Act.

A 30-day comment period is provided to allow interested persons to respond to this proposed rulemaking. All written comments timely received will be considered before a final determination is made on this proposed rule.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR part 989 as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 989.347 is revised to read as follows:

§ 989.347 Assessment rate.

On and after August 1, 2023, an assessment rate of $24 per ton is established for assessable raisins produced from grapes in California.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2023–25247 Filed 11–15–23; 8:45 am]

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DEPARTMENT OF ENERGY

10 CFR Part 1021

[DOE–HQ–2023–0063]

RIN 1990–AA48

National Environmental Policy Act Implementing Procedures

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: The U.S. Department of Energy (DOE or the Department) proposes to amend its implementing procedures (regulations) governing compliance with the National Environmental Policy Act (NEPA). The proposed changes would add a categorical exclusion for certain energy storage systems and revise categorical exclusions for upgrading and rebuilding transmission lines and for solar photovoltaic systems, as well as make conforming changes to related sections of DOE's NEPA regulations. The proposed changes are based on the experience of DOE and other Federal agencies, current technologies, regulatory requirements, and accepted industry practice. DOE invites public comments on the proposed changes.

DATES: DOE must receive comments by January 2, 2024 to ensure consideration.

ADDRESSES: Documents relevant to this proposed rulemaking are posted at *www.regulations.gov* (*Docket: DOE–HQ–2023–0063*). Documents posted to this docket include: this notice of proposed rulemaking and DOE's Technical Support Document, which provides additional information regarding certain proposed changes and a redline/strikeout version of affected sections of the DOE NEPA regulations indicating the changes in this proposed rule.

Submit comments, labeled ''DOE NEPA Implementing Procedures, RIN 1990–AA48,'' by one of the following methods:

1. *www.regulations.gov:* Enter ''Docket ID DOE–HQ–2023–0063'' in the search box. Click on ''Comment'' to submit comments, which you may enter directly on the web page or by uploading in a file.

2. *Postal Mail:* Mail comments to NEPA Rulemaking Comments, Office of NEPA Policy and Compliance (GC–54), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. Because security screening may delay mail sent through the U.S. Postal Service, DOE encourages electronic submittal of