Proposed Rules

Federal Register

Vol. 76, No. 16

Tuesday, January 25, 2011

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 945

[Doc. No. AMS–FV–10–0109; FV11–945–1]

Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Continuance Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum order.

SUMMARY: This document directs that a referendum be conducted among eligible producers of Irish potatoes in certain designated counties in Idaho, and Malheur County, Oregon, to determine whether they favor continuance of the marketing order regulating the handling of Irish potatoes grown in the production area.

DATES: The referendum will be conducted from March 5 to March 18, 2011. To vote in this referendum, producers must have produced Irish potatoes for the fresh market within the designated production area in Idaho, or Malheur County, Oregon, during the period August 1, 2009, through July 31, 2010.

ADDRESSES: Copies of the marketing order may be obtained from the office of the referendum agents at 805 SW Broadway, Suite 930, Portland, OR 97205, or the Office of the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237.

FOR FURTHER INFORMATION CONTACT: Barry Broadbent or Gary Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 805 SW Broadway, Suite 930, Portland, OR 97205; Telephone: (503) 326–2724, Fax: (503) 326–7440, or E-mail: *Barry.Broadbent@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Marketing Order No. 945 (7 CFR part 945), hereinafter referred to as the ''order,'' and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act,'' it is hereby directed that a referendum be conducted to ascertain whether continuance of the order is favored by the producers. The referendum shall be conducted from March 5 to March 18, 2011, among eligible Irish potato producers in the production area. Only producers that were engaged in the production of Irish potatoes for the fresh market in Idaho, and Malheur County, Oregon, during the period of August 1, 2009, through July 31, 2010, may participate in the continuance referendum.

USDA has determined that continuance referenda are an effective means for determining whether producers favor continuation of marketing order programs. USDA would consider termination of the order if less than two-thirds of producers voting in the referendum and producers of less than two-thirds of the volume of Irish potatoes represented in the referendum favor continuance. In evaluating the merits of continuance versus termination, USDA will not exclusively consider the results of the continuance referendum. USDA will also consider all other relevant information concerning the operation of the order and the relative benefits and disadvantages to producers, handlers, and consumers in order to determine whether continued operation of the order would tend to effectuate the declared policy of the Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the ballot materials to be used in the referendum herein ordered have been submitted to and approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0178—Vegetable and Specialty Crop Marketing Orders. It has been estimated that it will take an average of 20 minutes for each of the approximately 990 producers of Irish potatoes in Idaho and Malheur County, Oregon, to cast a ballot. Participation is voluntary. Ballots postmarked after March 18, 2011, will not be included in the vote tabulation.

Barry Broadbent and Gary Olson of the Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, are hereby designated as the referendum agents of the Secretary of Agriculture to conduct this referendum. The procedure applicable to the referendum shall be the ''Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended'' (7 CFR 900.400–900.407).

Ballots will be mailed to all producers of record and may also be obtained from the referendum agents, or from their appointees.

List of Subjects in 7 CFR Part 945

Irish potatoes, Marketing agreements, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 601–674.

Dated: January 19, 2011.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2011–1424 Filed 1–24–11; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Doc. No. AMS–FV–10–0090; FV10–989–3 PR]

Raisins Produced From Grapes Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would increase the assessment rate established for the Raisin Administrative Committee (committee) for the 2010–11 and subsequent crop years from $7.50 to $14.00 per ton of free tonnage raisins acquired by handlers and reserve tonnage raisins released or sold to handlers for use in free tonnage outlets. The committee locally administers the marketing order which regulates the handling of California raisins produced from grapes grown in California. Assessments upon raisin handlers are used by the committee to fund reasonable and necessary expenses of

the program. The 2010–11 crop year began August 1 and ends July 31. No volume regulation will be implemented for the 2010–11 crop year, and no reserve pool will be established for this crop. Some committee expenses usually covered by reserve pool revenues must therefore be covered by handler assessments, necessitating an increased assessment rate. The proposed $14.00 per ton assessment would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by February 4, 2011.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or Internet: *http://www.regulations.gov.* Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public. 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: Terry Vawter, Senior Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906; or E-mail: *Terry.Vawter@ams.usda.gov* or *Kurt.Kimmel@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Marketing Order Administration Branch, Fruit and Vegetable Programs, 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. 989, both as amended (7 CFR part 989), regulating the handling of raisins produced from grapes grown in 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 Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing 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 assessment rate as proposed herein would be applicable to all assessable raisins beginning on August 1, 2010, 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 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.

This rule would increase the assessment rate established for the committee for the 2010–11 and subsequent crop years from $7.50 to $14.00 per ton of free tonnage California raisins acquired by handlers and reserve raisins tonnage raisins released or sold to handlers for use in free tonnage outlets.

Sections 989.79 and 989.80, respectively, of the order provide authority for the committee, with the approval of the USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the committee are producers and handlers of California raisins. They are familiar with the committee's needs and with costs for 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.

Section 989.79 also provides authority for the committee to formulate an annual budget of expenses likely to be incurred during the crop year in connection with reserve raisins held for the account of the committee. A certain percentage of each year's raisin crop may be held in a reserve pool during years when volume regulation is implemented to help stabilize raisin supplies and prices. The remaining ''free'' percentage may be sold by handlers to any market. Reserve raisins are disposed of through various programs authorized under the order. Reserve pool expenses are deducted from proceeds obtained from the sale of reserve raisins, as are costs to cover the Export Replacement Offer (ERO) program, which supports handler exports in various foreign markets. Net proceeds are returned to the pool's equity holders, primarily producers.

The Committee Formulates Two Budgets Initially

Prior to each crop year, the committee formulates two distinct budgets: one which envisions volume regulation during the upcoming season, and another which does not. This is a practical contingency plan, since the crop year begins several months prior to the committee's consideration of a recommendation for volume regulation, which cannot be made before the crop's size can be estimated.

When volume regulation is recommended, the committee adopts an administrative budget funded by handler assessments, and a reserve pool budget funded by the current year's reserve pool. Thus, some committee costs, some variable and some fixed, may be shared by the two revenue sources or allocated to one or the other. Variable costs solely attributed to the reserve budget include such expenses as insurance policies for committee-owned raisin bins and on stacks of reserve raisins, and reserve raisin hauling costs. Variable costs which are attributable solely to the administrative budget include such expenses as costs for committee and staff travel, or software and programming costs, etc. Because of the nature of these variable expenses, they can be changed or redirected without significant impact on either budget, if necessary.

On the other hand, fixed costs are less flexible, and, thus, cannot be readily changed from one accounting period to another. Because these are ''sunk'' costs, like rent, salaries and other related personnel costs, utilities, etc., they may be attributable to both the reserve and the administrative budget, depending on the nature of the expense. In the short term of one crop year, these fixed costs generally remain fixed costs.

When volume regulation is not implemented, the committee funds program operations with an administrative budget funded only from handler assessments, where some expenses associated with a reserve pool are eliminated or reduced from the combined administrative and reserve program budget.

The Committee Recommended Two Budgets Initially

The committee initially met on July 22, 2010, and recommended two 2010–11 crop year budget scenarios to accommodate both situations, because it was not known at that time whether volume regulations would be implemented.

The first budget scenario recommended was premised on the assumption that volume regulation would be implemented. Under this scenario, the committee recommended an administrative budget of expenses totaling $2,245,900, and a reserve pool budget of expenses totaling $2,530,700. The assessment rate would remain unchanged at $7.50 per ton. The assessment rate applied to the estimated acquisitions of raisins by handlers of 330,640 tons would provide adequate revenue to fund the shared administrative and reserve budgets (salaries, administrative expenses, research, compliance activities, industry outreach), and those costs exclusively funded by the reserve budget, including: insurance on raisin bins and reserve raisins, hauling of reserve raisins and reserve raisin bins, as well as bin repair and maintenance. Total expenses of this budget scenario equal $4,776,600, not including $233,900 set aside as a financial reserve, bringing the total budget to $5,010,500.

The second budget scenario recommended was based on the premise that volume regulation would not be implemented for the 2010–11 season. Under this scenario, various expenses typically split between the reserve pool budget and the administrative budget would be funded by the administrative budget because the activities continue, even in the absence of a reserve program. These expenses include salaries, bin maintenance costs, export consultants hired to assist the committee in administering USDA's Market Access Program (MAP) funds, etc. However, it should be noted that even some salaries would be subject to reduction or elimination if no reserve program were in place after the 2010–2011 crop year. In the long term, even fixed costs such as these become variable costs.

In addition, some expense categories would be eliminated in the absence of a reserve program. These expenses include: insurance for bins and reserve raisins, reserve raisin hauling, and the committee's Market Incentive Program (MIP) and the Industry Marketing Promotion Fund (IMPF).

Other expenses which have been reduced include: travel for committee and staff members, software and programming costs, and generic marketing efforts in foreign countries.

The administrative budget expenses total $4,423,500 not including a smaller financial reserve of $205,460, bringing the total administrative budget to $4,628,960; necessitating a higher assessment rate of $14.00 per ton to cover the proposed expenses, as unanimously recommended by the committee.

Committee Consideration of Volume Regulation

The committee met on October 5, 2010, and determined that volume regulation is not warranted for the 2010–11 crop year because the calculated volume regulation formula resulted in 100 percent free tonnage and zero percent reserve tonnage. Without volume regulation, the committee's relevant recommendation is the July 22, 2010, proposed administrative budget of $4,628,960, along with an increased assessment rate of $14.00 per ton.

In developing this budget, the committee reviewed and identified those expenses that were considered reasonable and necessary to continue operation of the raisin marketing order program. As noted previously, several costs normally associated with administering a reserve pool would be eliminated such as insurance coverage ($98,700); raisin hauling costs ($65,000), and 2011–2012 MIP/IMPF costs (typically $4.3 million each year). These costs would be unnecessary in the absence of a reserve pool.

Some expenses traditionally split between the administrative and reserve pool budgets would be reduced and funded through the administrative budget. For example, total office and field staff travel related to reserve and administrative activities, budgeted at $66,200 ($33,100 allocated to the reserve budget and an additional $33,100 allocated to the administrative budget), would be reduced to $48,000. Other reduced expenses include: Reduction in costs for outside counsel approved by USDA for personnel issues from $8,000 to $6,000; travel for foreign committee representatives from $65,000 to $40,000; staff travel for generic foreign market relations from $70,000 to $40,000; and MAP trade activity from $440,000 to $400,000. In all, the committee has proposed eliminating or reducing expenses by a total of $353,100.

Other costs usually split between the reserve pool and administrative budgets that would be funded by the administrative budget include: Salaries and related employment costs, administration, generic marketing efforts, research, compliance activities, and industry outreach. These costs remain the same regardless of whether there is a reserve pool, as they are necessary to continue administration of the program.

The major expenditures recommended by the committee for the 2010–11 crop year include salaries and employee-related costs, administration costs, compliance activities, research and studies, and costs for operation and maintenance of the generic marketing programs.

The committee recommended $1,745,000 to cover salaries for all 18 committee employees, vacation accruals, payroll taxes, unemployment compensation, retirement contributions, employee benefits, employment costs, staff training and travel; insurance, and health insurance. Administrative expenses of $925,700 include expenses for rent, utilities, postage, office supplies, repairs and maintenance, memberships and subscriptions, committee training, consultants, audits, equipment leases and depreciation, committee and staff travel, committee mileage reimbursements, meeting expenses, bank charges, software and programming, and empty raisin bin hauling and maintenance. Costs for order compliance activities, not including compliance staff salaries, are anticipated to be $90,000; and research and studies, especially the cost for the five-year review of its marketing programs mandated by the Federal Agricultural Improvement and Reform (FAIR) Act of 1996, are anticipated to be $140,000. Costs for industry outreach are estimated to be $15,000. Costs for outside counsel approved by USDA for personnel issues are estimated to be $6,000. Generic costs for market maintenance and travel costs total $1,676,000, and include costs for foreign administration of MAP funds, travel for industry representatives in foreign countries—not including Mexico or Canada, which are considered part of the domestic market—and export consulting costs associated with MAP fund administration.

The $14.00 per ton assessment rate recommended by the committee was derived by dividing the $4,628,960 recommended budget ($4,423,500 anticipated expenses plus a financial reserve of $205,460) by an estimated 330,640 tons of assessable raisins. Sufficient income should be generated at the higher assessment rate for the committee to meet its anticipated and unanimously-recommended expenses. Due to a relatively small crop over which to spread the assessment rate, the recommended rate of $14.00 per ton is higher than recent assessment rates, and is enough to meet the anticipated expenses and maintain a small financial reserve. Pursuant to § 989.81(a) of the order, any unexpended assessment funds from the crop year must be credited or refunded to the handlers from whom collected.

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA 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 USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA 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 2010–11 budget and those for subsequent crop years would be reviewed and, as appropriate, approved by USDA, in accordance with USDA's program oversight responsibilities.

Initial 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 initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business 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 3,000 producers of California raisins and approximately 28 handlers subject to regulation under the marketing order. The Small Business Administration (13 CFR 121.201) defines small agricultural producers as those having annual receipts less than $750,000, and defines small agricultural service firms as those whose annual receipts are less than $7,000,000.

Based upon shipment data and other information provided by the committee, it may be concluded that a majority of producers and approximately 18 handlers of California raisins may be classified as small entities.

This rule would increase the assessment rate established for the committee and collected from handlers for the 2010–11 and subsequent crop years from $7.50 to $14.00 per ton of assessable raisins acquired by handlers. The committee determined that volume regulation was not warranted for the 2010–11 crop year because the trade demand calculated under the order is currently higher than the crop estimate. Thus, given the current balance between supply and demand, the committee unanimously determined that volume regulation was not warranted for the 2010–2011 crop year.

When volume regulation is in effect, the committee establishes a budget allocated between administrative expenses funded by handler assessments, and expenses incurred in connection with a reserve pool, funded from the sale of reserve pool raisins for free tonnage use. As noted earlier, costs which can be associated directly with the reserve pool, such as insurance on bins and reserve raisins, can readily be allocated to the reserve pool portion of the budget. Other costs, such as salaries or administrative expenses, represent expenditures which have been jointly allocated between the two portions of the budget, because these expenses and staff's time are shared between administrative and pool operations.

When no volume regulation is in effect during a crop year, there is no reserve pool budget for that crop year. However, as noted previously, the committee continues to incur fixed costs associated with salaries and administering the marketing order program, including expenses for their part of the MAP grant.

The committee reviewed and identified the expenses that would be reasonable and necessary to continue program operations without a reserve pool in effect during the 2010–11 crop year. As illustrated earlier, some expenses that are typically split between the administrative and reserve pool budgets have been allocated to the administrative budget, some expenses were reduced, and some expenses have been eliminated.

Each reserve pool maintains a separate identity from any other pools which may be in existence. For example, currently the 2008–09 and 2009–10 pools are still open, largely due to the lag time between the opening of the pool and the receipt of all documents applicable to that pool. Under the MIP/IMPF programs, for example, importers have two years in which to claim financial incentives from the pools. Thus, reserve pools cannot close until at least two years have elapsed.

The resulting recommended administrative budget includes expenses of $4,423,500 and a financial reserve of $205,460, for a total budget of $4,628,960 for the 2010–11 crop year. This represents an overall decrease from the 2009–10 combined administrative and reserve pool budgets, which totaled $5,463,975. The financial reserve provides a safety net to cover unexpected expenses and opportunities that present themselves during the 2010–2011 crop year.

The quantity of assessable raisins for 2010–11 crop year is estimated to be 330,640 tons. The $14.00 per ton assessment rate unanimously recommended by the committee was derived by dividing the $4,628,960 anticipated expenses, which includes a financial reserve of $205,460, by an estimated 330,640 tons of assessable raisins. Sufficient income should be generated at the higher assessment rate for the committee to meet its anticipated expenses. Pursuant to § 989.81(a) of the order, any unexpended assessment funds from the crop year must be credited or refunded to the handlers from whom collected.

Prior to arriving at this budget, the committee considered information from various sources, such as the committee's Executive, Audit, and Administrative Issues Subcommittees. Alternate spending levels were discussed by the Audit Subcommittee, which met on July 22, 2010, to review the committee's financial condition and consider preliminary budgets. The committee was aware that the current raisin supply and demand were relatively balanced, and that volume regulations might not be warranted for the 2010–11 crop. Therefore, the committee developed two alternative budget and assessment rate recommendations to accommodate a scenario with volume regulation and another scenario without volume regulation. If volume regulation were to be implemented, the assessment rate would remain at $7.50 per ton. If volume regulation were not to be implemented, some costs typically allocated to a reserve pool budget would be absorbed by the administrative budget, thus necessitating an increased assessment rate to $14.00 per ton. The committee unanimously approved these alternative budget and assessment recommendations on July 22, 2010.

The committee met again on October 5, 2010, and determined that volume regulation was not warranted for the 2010–11 season. This triggered recommendation of the committee's proposal for an administrative budget of $4,628,960 and an assessment rate of $14.00 per ton, since the current assessment rate of $7.50 would not provide enough funds to cover anticipated expenses of $4,423,500.

A review of statistical data on the California raisin industry indicates that assessment revenue has consistently been less than one percent of grower revenue in recent years. A minimum grower price of $1,500 per ton of raisins for the 2010–11 crop year has been announced by the Raisin Bargaining Association. If this price is realized, assessment revenue would continue to represent less than one percent of grower revenue in the 2010–11 crop year, even with the increased assessment rate.

Regarding the impact of this action on affected entities, this action would increase the assessment obligation imposed on handlers. While increased assessments impose additional costs on handlers regulated under the order, the rates are uniform on all handlers, and proportional to the size of their businesses. However, these costs would be offset by the benefits derived by the operation of the marketing order.

In addition, the Audit Subcommittee and the full committee's meetings were widely publicized throughout the California raisin industry and all interested persons were invited to attend the meetings and encouraged to participate in committee deliberations on all issues. Like all subcommittee and committee meetings, the July 22 and October 5, 2010, meetings were public meetings, and all entities, both large and small, were able to express views on this issue, if they chose to do so. Based upon the discussions and the unanimous vote by the committee, the increased assessment is reasonable and necessary to maintain the program. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no 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.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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/MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 10-day comment period is provided to allow interested persons to respond to this proposed rule. Ten days is deemed appropriate because: (1) The 2010–11 crop year began on August 1, 2010, and the order requires the rate of assessments for each crop year to apply to all assessable raisins handled during the crop year; (2) the committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis, and (3) handlers are aware of this action, which was unanimously recommended by the committee at a public meeting.

List of Subjects in 7 CFR Part 989

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

For the reasons set forth in the preamble, 7 CFR part 989 is proposed to be amended 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, 2010, an assessment rate of $14.00 per ton is established for assessable raisins produced from grapes grown in California.

Dated: January 19, 2011.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2011–1427 Filed 1–24–11; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

10 CFR Part 835

[Docket No. HS–RM–09–835]

RIN 1901–AA–95

Occupational Radiation Protection; Revision

AGENCY: Department of Energy.

ACTION: Proposed rule and opportunity for public comment.

SUMMARY: The Department of Energy (DOE) proposes to revise the values in an appendix to its Occupational Radiation Protection requirements. The derived air concentration values for air immersion are calculated using several parameters. One of these, exposure time, is better represented by the hours in the workday, rather than the hours in a calendar day, and is therefore used in the revised calculations.

DATES: Public comments on the proposed revisions must be received on or before February 24, 2011.

ADDRESSES: You may submit comments, identified by Docket No. HS–RM–09–835 and/or RIN 1901–AA–95, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: Judy.Foulke@hq.doe.gov.* Include Docket Number HS–RM–09–835 and/or RIN 1901–AA–95 in the subject line of the message.
- *Mail:* Dr. Judith D. Foulke, Office of Worker Safety and Health Policy (HS–11), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Judith Foulke, (301) 903–5865, *e-mail: Judy.Foulke@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Background

The requirements in title 10, Code of Federal Regulations, part 835 (10 CFR part 835), *Occupational Radiation Protection,* are designed to protect the health and safety of workers at DOE facilities. One situation that must be addressed is the exposure of workers to radioactive material dispersed in the air.