

or dispositions of substandard pistachios) which would be needed to administer the order. All such forms would be subject to USDA and OMB review and approval.

*Comments:* Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information would have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581-NEW and the California pistachio marketing order, and be sent to USDA in care of the Docket Clerk at the previously mentioned address. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval of the above-described forms. All comments will become a matter of public record.

### Rulings on Proposed Findings and Conclusions

Briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth in this recommended decision. To the extent that the suggested findings and conclusions filed by interested persons are inconsistent with the findings and conclusions of this recommended decision, the requests to make such findings or to reach such conclusions are denied.

### General Findings

(1) The proposed marketing agreement and order and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

(2) The proposed marketing agreement and order regulate the handling of pistachios in California in the same manner as, and are applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing agreement and order upon which a hearing has been held;

(3) The proposed marketing agreement and order are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivision of the production area would not effectively carry out the declared policy of the Act;

(4) The proposed marketing agreement and order prescribe, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of pistachios grown in the production area; and

(5) All handling of pistachios grown in California as defined in the proposed marketing agreement and order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Provisions of the proposed marketing agreement and order follow. Those sections identified with an asterisk (\*) apply only to the proposed marketing agreement.

### List of Subjects in 7 CFR Part 983

Marketing agreements, Pistachios, Reporting and recordkeeping requirements.

Title 7, chapter IX is proposed to be amended by adding part 983 to read as follows:

### PART 983—PISTACHIOS GROWN IN CALIFORNIA

#### Subpart—Order Regulating Handling

##### Definitions

- Sec.
- 983.1 Accredited laboratory.
- 983.2 Act.
- 983.3 Affiliation.
- 983.4 Aflatoxin.
- 983.5 Aflatoxin inspection certificate.
- 983.6 Assessed weight.
- 983.7 Certified pistachios.
- 983.8 Committee.
- 983.9 Confidential data or information.
- 983.10 Department or USDA.
- 983.11 Districts.
- 983.12 Domestic shipments.
- 983.13 Edible pistachios.
- 983.14 Handle.
- 983.15 Handler.
- 983.16 Inshell pistachios.
- 983.17 Inspector.
- 983.18 Lot.
- 983.19 Minimum quality requirements.
- 983.20 Minimum quality certificate.
- 983.21 Part and subpart.
- 983.22 Person.
- 983.23 Pistachios.
- 983.24 Processing.
- 983.25 Producer.
- 983.26 Production area.
- 983.27 Production year.

- 983.28 Proprietary capacity.
- 983.29 Secretary.
- 983.30 Shelled pistachios.
- 983.31 Substandard pistachios.

#### Administrative Committee

- 983.32 Establishment and membership.
- 983.33 Initial members and nomination of successor members.
- 983.34 Procedure.
- 983.35 Powers.
- 983.36 Duties.

#### Marketing Policy

- 983.37 Marketing policy.

#### Regulation

- 983.38 Aflatoxin levels.
- 983.39 Minimum quality levels.
- 983.40 Failed lots/rework procedure.
- 983.41 Testing of minimal quantities.
- 983.42 Commingling.
- 983.43 Reinspection.
- 983.44 Inspection, certification and identification.
- 983.45 Substandard pistachios.
- 983.46 Modification or suspension of regulations.

#### Reports, Books and Records

- 983.47 Reports.
- 983.48 Confidential information.
- 983.49 Records.
- 983.50 Random verification audits.
- 983.51 Verification of reports.

#### Expenses and Assessments

- 983.52 Expenses.
- 983.53 Assessments.
- 983.54 Contributions.
- 983.55 Delinquent assessments.
- 983.56 Accounting.
- 983.57 Implementation and amendments.

#### Miscellaneous Provisions

- 983.58 Compliance.
- 983.59 Rights of the Secretary.
- 983.60 Personal liability.
- 983.61 Separability.
- 983.62 Derogation.
- 983.63 Duration of immunities.
- 983.64 Agents.
- 983.65 Effective time.
- 983.66 Suspension or termination.
- 983.67 Termination.
- 983.68 Procedure upon termination.
- 983.69 Effect of termination or amendment.
- 983.70 Exemption.
- 983.71 Relationship with the California Pistachio Commission.

- \* 983.90 Counterparts.
- \* 983.91 Additional parties.
- \* 983.92 Order with marketing agreement.

\*Sections identified with an asterisk (\*) apply only to the proposed marketing agreement.

**Authority:** 7 U.S.C. 601-674.

#### Subpart—Order Regulating Handling

##### Definitions

#### § 983.1 Accredited laboratory.

An *accredited laboratory* is a laboratory that has been approved or accredited by the U.S. Department of Agriculture for testing aflatoxin.