

TABLE 2 OF SCHEDULE A—SERVICES PERFORMED AT OTHER THAN AN APPLICANT’S FACILITY IN AN FGIS LABORATORY^{1 2}—Continued

(3) All other Mycotoxins (rapid test kit method)	50.00
(4) All other Mycotoxins (rapid test kit method—applicant provides kit) ³	48.10
(5) NIR or NMR Analysis (protein, oil, starch, etc.)	18.80
(6) Sunflower oil (per test)	18.80
(7) Mycotoxin (per test-HPLC)	149.40
(8) Pesticide Residue Testing: ⁴	
(i) Routine Compounds (per sample)	228.90
(ii) Special Compounds (Subject to availability)	122.00
(9) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1 of this section.	
(C) Review of weighing (per hour per service representative)	87.70
(iii) Stowage examination (service-on-request): ⁴	
(A) Ship (per stowage space) (minimum \$271.00 per ship)	54.20
(B) Subsequent ship examinations (same as original) (minimum \$162.60 per ship)	54.20
(C) Barge (per examination)	43.50
(D) All other carriers (per examination)	17.10

¹ Fees apply to original inspection and weighing, re-inspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee’s assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72(a).

² An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72(b).

³ Applicant must provide the test kit, instrument hardware, calibration control, and all supplies required by the test kit manufacturer.

⁴ If performed outside of normal business, 1½ times the applicable unit fee will be charged.

⁵ If, at the request of the Service, a file sample is located and forwarded by the Agency, the Agency may, upon request, be reimbursed at the rate of \$3.50 per sample by the Service.

TABLE 3 OF SCHEDULE A—MISCELLANEOUS SERVICES¹

(i) Grain grading seminars (per hour per service representative) ²	\$67.80.
(ii) Certification of diverter-type mechanical samplers (per hour per service representative) ²	67.80.
(iii) Special weighing services (per hour per service representative): ²	
(A) Scale testing and certification	88.30.
(B) Scale testing and certification of railroad track scales	88.30.
(C) Evaluation of weighing and material handling systems	88.30.
(D) NTEP Prototype evaluation (other than Railroad Track Scales)	88.30.
(E) NTEP Prototype evaluation of Railroad Track Scale	88.30.
(F) Use of GIPSA railroad track scale test equipment per facility for each requested service. (Track scales tested under the Association of American Railroads agreement are exempt.)	529.40.
(G) Mass standards calibration and re-verification	88.30.
(H) Special projects	88.30.
(iv) Foreign travel (hourly fee) ³	88.30.
(v) Online customized data service:	
(A) One data file per week for 1 year	529.40.
(B) One data file per month for 1 year	317.70.
(v) Samples provided to interested parties (per sample)	3.30.
(vi) Divided-lot certificates (per certificate)	2.10.
(vii) Extra copies of certificates (per certificate)	2.10.
(viii) Faxing (per page)	2.10.
(ix) Special mailing	Actual Cost
(x) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1)	

¹ Any requested service that is not listed will be performed at \$67.80 per hour.

² Regular business hours—Monday through Friday—service provided at other than regular business hours will be charged at 1½ times the applicable hourly rate. (See the definition of “business day” in § 800.0(b))

³ Foreign travel charged hourly fee of \$88.30 plus travel, per diem, and related expenditures.

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Susan B. Keith,
Acting Administrator, Grain Inspection,
Packers and Stockyards.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 983

[Doc. No. AMS–SC–16–0076; SC16–983–2 FIR]

Pistachios Grown in California, Arizona, and New Mexico; 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 Administrative Committee for Pistachios (Committee) to decrease the assessment rate established for pistachios grown in California, Arizona, and New Mexico for the 2016–2017 and subsequent production years from

\$0.0035 to \$0.0010 per pound of assessed weight pistachios handled under the marketing order (order). The Committee locally administers the order and is comprised of producers and handlers of pistachios 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 December 31, 2016.

FOR FURTHER INFORMATION CONTACT:

Peter Sommers or Jeffrey Smutny, California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487-5901, Fax: (559) 487-5906, or Email: PeterR.Sommers@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 Web site: <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 Email: Richard.Lower@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 983, both as amended (7 CFR part 983), regulating the handling of pistachios grown in California, Arizona, and New Mexico, 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, pistachio handlers in California, Arizona, and New Mexico 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 pistachios grown in the production area for the entire production year, and continue indefinitely until amended, suspended, or terminated. The Committee's production year begins on September 1, and ends on August 31.

In an interim rule published in the **Federal Register** on September 16, 2016, and effective on September 19, 2016, (81 FR 63679, Doc. No. AMS-SC-16-0076, SC16-983-2 IR), § 983.253 was

amended by decreasing the assessment rate established for pistachios grown in the production area for the 2016-2017 and subsequent production years from \$0.0035 to \$0.0010 per pound. The decrease in the per pound assessment rate allows the Committee to maintain 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 1,152 producers of pistachios in the production area and 19 handlers subject to regulation under the marketing order. The Small Business Administration defines small agricultural producers as those having annual receipts less than \$750,000, and small agricultural service firms as those whose annual receipts are less than \$7,500,000. (13 CFR 121.201)

The National Agricultural Statistics Service (NASS) 2012 data on pistachio farm size indicates that there were 1,305 pistachio farms, of which 1,125 were less than 250 acres. That is, 87 percent were too small to have annual receipts of \$750,000. NASS 2015 annual production data indicates that the per-acre production of pistachios was 1,160 pounds. At an average value of \$2.54 per pound, each acre of pistachios could return \$2,948.40. In order for a producer to have \$750,000 in annual receipts, the producer would have to have at least 255.3 acres. Thus, the majority of handlers and producers in the production area may be classified as small entities.

Based on Committee data, it is estimated that about 53 percent of the handlers annually ship less than \$7,500,000 worth of pistachios. Nine of the 19 regulated handlers (47 percent) received enough pistachios at an average price of \$3.00 pound to be considered large handlers, leaving the percentage of small handlers at 53 percent.

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 production years from \$0.0035 to \$0.0010 per pound of pistachios handled. The Committee unanimously recommended 2016-17 expenditures of \$922,500 and an assessment rate of \$0.0010 per pound of pistachios, which is \$0.0025 lower than the 2015-16 rate. The quantity of assessable pistachios for the 2016-17 production year is estimated at 750 million pounds. Thus, the \$0.0010 rate should provide \$750,000 in assessment income. Income derived from handler's assessments, along with interest and funds from the Committee's authorized reserve, should be adequate to cover expenses for the 2016-17 production year.

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 pistachio area of production and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the July 12, 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. 0581-0278. 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 pistachio 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 15, 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/docket?D=AMS-SC-16-0076>.

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 63679, September 16, 2016) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 983

Marketing agreements, Pistachios, Reporting and recordkeeping requirements.

PART 983—PISTACHIOS GROWN IN CALIFORNIA, ARIZONA, AND NEW MEXICO

■ Accordingly, the interim rule amending 7 CFR part 983, which was published at 81 FR 63679 on September 16, 2016, is adopted as a final rule, without change.

Dated: December 23, 2016.

Elanor Starmer,

Administrator, Agricultural Marketing Service.

[FR Doc. 2016-31532 Filed 12-29-16; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 9

[NRC-2016-0171]

RIN 3150-AJ84

Update To Incorporate FOIA Improvement Act of 2016 Requirements

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to reflect changes to the Freedom of Information Act (FOIA). The FOIA Improvement Act of 2016 requires the NRC to amend its FOIA regulations to update procedures for requesting information from the NRC and procedures that the NRC must follow in responding to FOIA requests.

DATES: This final rule is effective on January 30, 2017.

ADDRESSES: Please refer to Docket ID NRC-2016-0171 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0171. Address questions about NRC dockets to Carol Gallagher, telephone: 301-415-3463, email: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Stephanie Blaney, telephone: 301-415-6975, email: Stephanie.Blaney@nrc.gov; or Nina Argent, telephone: 301-415-5295, email: Nina.Argent@nrc.gov. Both are staff of the Office of the Chief Information Officer of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

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I. Background

The FOIA was enacted to give the public a right to access records held by the executive branch that, although not classified, were not otherwise available to them. Since its enactment in 1966, the FOIA has been amended on a

number of occasions to adapt to the times and changing priorities.

On June 30, 2016, the FOIA Improvement Act of 2016, Public Law 114-185, 130 Stat. 538 (the Act) was enacted. The Act specifically requires all agencies to review and update their FOIA regulations in accordance with its provisions. The Act addresses a range of procedural issues, including requiring that agencies establish a minimum of 90 days for requesters to file an administrative appeal and that they provide dispute resolution services at various times throughout the FOIA process. The Act also amends Exemption 5, codifies the foreseeable harm standard, and adds two new elements to agency Annual FOIA Reports.

The NRC has identified the areas where the revisions are necessary in order to comply with the Act and is amending parts 2 and 9 of title 10 of the *Code of Federal Regulations* (10 CFR) accordingly.

II. Discussion of Amendments by Section

The following paragraphs describe the specific changes adopted by this rulemaking.

Section 2.390 Public Inspections, Exemptions, Requests for Withholding

This final rule revises paragraph (a)(5) to be identical to 10 CFR 9.17(a)(5), which this final rule is also revising to include new criteria for FOIA Exemption 5. The Act amended Exemption 5 of the FOIA to provide that the deliberative process privilege does not apply to records that are 25 years or older before the date on which they are requested.

Section 9.17 Agency Records Exempt From Public Disclosure

This final rule revises paragraph (a)(5) to include new criteria for FOIA Exemption 5. The Act amended Exemption 5 of the FOIA to provide that the deliberative process privilege does not apply to records that are 25 years or older before the date on which they are requested. This final rule redesignates paragraph (c) as paragraph (d) without change and adds a new paragraph (c) to incorporate the foreseeable harm standard that the Act codified and to include clarifying language derived from the Act about the FOIA's relationship to laws prohibiting disclosure of information.