

# Rules and Regulations

Federal Register

Vol. 86, No. 42

Friday, March 5, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 532

RIN 3206-AO10

#### Prevailing Rate Systems; Abolishment of the Special Wage Schedules for Ship Surveyors in Puerto Rico

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing a final rule to abolish the special wage schedule pay plan practice previously established for nonsupervisory and supervisory ship surveyor positions in Puerto Rico. The Department of the Navy no longer has such positions in Puerto Rico. This change is based on a consensus recommendation of the Federal Prevailing Rate Advisory Committee (FPRAC).

**DATES:**

*Effective date:* This regulation is effective on March 5, 2021.

*Applicability date:* This change applies on the first day of the first applicable pay period beginning on or after April 5, 2021.

**FOR FURTHER INFORMATION CONTACT:** Mark Allen, by telephone at (202) 606-2838 or by email at [pay-leave-policy@opm.gov](mailto:pay-leave-policy@opm.gov).

**SUPPLEMENTARY INFORMATION:** On October 19, 2020, OPM issued a proposed rule (85 FR 66282) to abolish the special wage schedule pay plan practice previously used for nonsupervisory and supervisory ship surveyor positions in Puerto Rico because the schedule is no longer being used by the Department of the Navy. FPRAC, the national labor-management committee that advises OPM on Federal Wage System pay matters, reviewed and concurred by consensus with this change.

The 30-day comment period ended on November 18, 2020. OPM received one comment in support of the abolishment of the special wage schedule for ship surveyor positions and one comment that is beyond the scope of this rule.

Since there are no FWS employees remaining in the special wage schedule for ship surveyor positions, this final rule removes § 532.275 from title 5, Code of Federal Regulations.

#### Regulatory Impact Analysis

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which 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). This rule has not been designated as a “significant regulatory action,” under Executive Order 12866.

#### Regulatory Flexibility Act

OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities.

#### Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

#### Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

#### Unfunded Mandates Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### Congressional Review Act

This action pertains to agency management, personnel, and organization and does not substantially

affect the rights or obligations of nonagency parties and, accordingly, is not a “rule” as that term is used by the Congressional Review Act (Subtitle E of the Small Business “Regulatory Enforcement Fairness Act of 1996” (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

#### Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act.

#### List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

**Alexys Stanley,**

*Regulatory Affairs Analyst.*

Accordingly, OPM is amending 5 CFR part 532 as follows:

#### PART 532—PREVAILING RATE SYSTEMS

- 1. The authority citation for part 532 continues to read as follows:

**Authority:** 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

#### § 532.275 [Removed]

- 2. Remove § 532.275.

[FR Doc. 2021-04627 Filed 3-4-21; 8:45 am]

**BILLING CODE 6325-39-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 983

[Doc. No. AMS-SC-20-0069; SC20-983-2 FR]

#### Pistachios Grown in California, Arizona, and New Mexico; Increased Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule implements a recommendation from the Administrative Committee for Pistachios (Committee) to increase the assessment rate established for the

2020–21 and subsequent production years. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Effective April 5, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Peter Sommers, Marketing Specialist, California Marketing Field Office, or Andrew Hatch, Deputy Director, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 538–1670 or Email: [PeterR.Sommers@usda.gov](mailto:PeterR.Sommers@usda.gov) or [Andrew.Hatch@usda.gov](mailto:Andrew.Hatch@usda.gov).

Small businesses may request information on complying with this regulation 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, or Email: [Richard.Lower@usda.gov](mailto:Richard.Lower@usda.gov).

**SUPPLEMENTARY INFORMATION:** This action, pursuant to 5 U.S.C. 553, implements an amendment to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Agreement and Order No. 983, as amended (7 CFR part 983), regulating the handling of pistachios grown in California, Arizona, and New Mexico. Part 983 (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 pistachios operating within the production area, and a public member.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 13563 and 13175. This rule falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the Order now in effect, pistachio handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate be applicable to all assessable pistachios for the 2020–21 production year 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 a 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 no later than 20 days after the date of the entry of the ruling.

This final rule increases the assessment rate from \$0.00010 per pound of assessed weight pistachios, the rate that was established for the 2017–18 and subsequent production years, to \$0.00015 per pound of assessed weight pistachios for the 2020–21 and subsequent production years.

The Order authorizes the Committee, with the approval of USDA, 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 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 2017–18 and subsequent production years, the Committee recommended, and USDA approved, an assessment rate of \$0.00010 per pound of assessed weight pistachios. That assessment rate continued until modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on July 14, 2020, and unanimously recommended expenditures of \$679,800 and an assessment rate of \$0.00015 per pound of assessed weight pistachios handled for the 2020–21 and subsequent production years. In comparison, last year’s budgeted expenditures were \$677,100. The assessment rate of \$0.00015 is \$0.00005 higher than the rate currently in effect. The Committee recommended increasing the assessment rate to provide adequate income, along with California Pistachio Research Board (CPRB) management income and reserve funds, to cover the Committee’s budgeted expenses for the 2020–21 production year. Funds in the reserve

are expected to be approximately \$197,585 at the end of the 2020–21 production year, which is within the Order’s requirement of carryover funds no more than approximately two production years’ budgeted expenses.

The major expenditures recommended by the Committee for the 2020–21 production year include \$74,800 for various administrative expenses, \$10,000 for compliance expenses, \$346,500 for salaries and related employee expenses, \$125,000 for research, and \$80,000 for a contingency fund. Budgeted expenses for these items for the 2019–20 production year were \$48,900, \$10,000, \$336,500, \$125,000, and \$80,000, respectively.

The Committee derived the recommended assessment rate by considering anticipated expenses, an estimated crop of 950 million pounds of assessed weight pistachios, and the amount of funds available in the authorized reserve. Income derived from handler assessments, calculated at \$142,500 (950,000,000 pounds assessed weight pistachios multiplied by \$0.00015 assessment rate), along with CPRB management income (\$175,200), and funds from the Committee’s authorized reserve (\$559,685), will be adequate to cover budgeted expenses of \$679,800. Funds in the reserve are estimated to be \$197,585 at the end of the 2020–21 production year (\$142,500 in assessment income plus \$175,200 from CPRB management income plus \$559,685 from the Committee’s reserves minus \$679,800 in Committee estimated expenses equals \$197,585 remaining in the reserve fund).

The assessment rate established in this rule will 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 will be in effect for an indefinite period, the Committee will continue to meet prior to or during each production 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 will 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 2020–21 production year budget, and those for subsequent

production years, will be reviewed and, as appropriate, approved by USDA.

### 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 21 handlers subject to the regulation under the Order, and approximately 1,501 producers of pistachios in the production area. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$1,000,000, and small agricultural service firms have been defined as those whose annual receipts are less than \$30,000,000 (13 CFR 121.201).

According to the National Agricultural Statistics Service (NASS), the national average producer price for pistachios for the 2018 production year was \$2.65 per pound. Committee data indicates 2018–19 pistachio total production was 746,858,150 pounds. The total 2018 value of the pistachio crop was \$1,979,174,098 (746,858,150 pounds times \$2.65 per pound). Dividing the crop value by the estimated number of producers (1,501) yields an estimated average receipt per producer of \$1,318,570 which is above the SBA threshold for small producers.

According to USDA Market News data, the reported terminal price for 2018 for pistachios ranged between \$155.00 to \$165.00 per 25-pound carton. The average of this range is \$160.00 (\$155.00 plus \$165.00 divided by 2). Dividing the average value by the 25-pound carton yields an estimated average price per pound of \$6.40 (\$160.00 average value for 25-pound carton divided by 25). Multiplying the 2018–19 pistachio total production of 746,858,150 pounds by the estimated average price per pound of \$6.40 equals \$4,779,892,160.

Dividing this figure by 21 regulated handlers yields estimated average annual handler receipts of \$227,613,912, which is also above the

SBA threshold for small agricultural service firms. Therefore, using the above data, and assuming a normal distribution, the majority of producers and handlers of pistachios may be classified as large entities.

The assessment rate of \$0.00015 that the committee recommended complies with section 983.71(b) of the Order which states that any assessment rate must not exceed one-half of one percent of the average price received by producers in the preceding production year. The average price received by producers in the preceding production year was \$2.65 per pound of pistachios. Thus, \$2.65 times 0.5 percent equals \$0.01325, which is greater than the assessment rate increase of \$0.00015.

This rule increases the assessment rate collected from handlers for the 2020–21 and subsequent production years from \$0.00010 to \$0.00015 per pound assessed weight pistachios. The Committee unanimously recommended 2020–21 expenditures of \$679,800 and an assessment rate of \$0.00015 per pound assessed weight pistachios. The assessment rate of \$0.00015 per pound assessed weight pistachios is \$0.00005 higher than the rate currently in effect. The volume of assessable pistachios for the 2020–21 production year is estimated at 950 million pounds. Thus, the \$0.00015 per pound assessed weight pistachios should provide \$142,500 in assessment income (950,000,000 pounds assessed weight pistachios multiplied by \$0.00015 assessment rate). Income derived from handler assessments, along with CPRB management income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses for the 2020–21 production year.

The major expenditures recommended by the Committee for the 2020–21 production year include \$74,800 for various administrative expenses, \$10,000 for compliance expenses, \$346,500 for salaries and related employee expenses, \$125,000 for research, and \$80,000 for a contingency fund. Budgeted expenses for these items in the 2019–20 production year were \$48,900, \$10,000, \$336,500, \$125,000, and \$80,000 respectively.

In recent years, the Committee has utilized reserve funds to partially fund its budgeted expenditures. The Committee recommended increasing the assessment rate to provide income to partially cover the Committee's budgeted expenses for the 2020–21 production year while maintaining its financial reserve within the limit required by the Order.

Prior to arriving at this budget and assessment rate, the Committee

discussed various alternatives, including maintaining the current assessment rate of \$0.00010 per pound assessed weight pistachios, and increasing the assessment rate by a different amount. However, the Committee determined that the recommended assessment rate will fund budgeted expenses and avoid drawing down reserves at an unsustainable rate.

This rule increases 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, these costs are expected to be offset by the benefits derived by the operation of the Order.

The Committee's meeting was widely publicized throughout the pistachio industry. All interested persons were invited to attend the meeting and encouraged to participate in Committee deliberations on all issues. Like all Committee meetings, the July 14, 2020, meeting was a public meeting, and all entities, both large and small, were able to express views on this issue. Finally, interested persons were invited to submit comments on this rule, 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 the OMB and assigned OMB No. 0581–0215, Pistachios Grown in California, Arizona, and New Mexico. No changes in those requirements will be necessary as a result of this rule. Should any changes become necessary, they would be submitted to OMB for approval.

This rule will not impose any 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 final rule.

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.

A proposed rule concerning this action was published in the **Federal Register** on October 5, 2020 (85 FR 62615). The Committee notified all pistachio handlers of the proposed

assessment rate increase. The proposed rule was made available through the internet by USDA and the Office of the Federal Register. A 45-day comment period ending November 19, 2020, was provided for interested persons to respond to the proposal. Two comments were received. One favored the increased assessment rate, and the other was not pertinent to the rule.

The commenter supportive of the assessment rate increase felt that this action was within the agency's rulemaking power. The comment stated that the Committee determined that the assessment rate would help with some of the financial necessities, but would not significantly decrease the amount in the reserve fund. The second comment received was not pertinent to the proposal and did not address the merits of this action.

Accordingly, no changes will be made to the rule as proposed.

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 recommendation submitted by the Committee and other available information, it is hereby found that this rule 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.

For the reasons set forth in the preamble, 7 CFR part 983 is amended as follows:

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

■ 1. The authority citation for 7 CFR part 983 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Section 983.253 is revised to read as follows:

#### **§ 983.253 Assessment rate.**

On and after September 1, 2020, an assessment rate of \$0.00015 per pound

is established for California, Arizona, and New Mexico pistachios.

**Bruce Summers,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2021–04599 Filed 3–4–21; 8:45 am]

**BILLING CODE P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

**[Docket No. FAA–2020–1111; Product Identifier MCAI–2020–01374–T; Amendment 39–21442; AD 2021–04–20]**

**RIN 2120–AA64**

#### **Airworthiness Directives; Dassault Aviation Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** The FAA is superseding Airworthiness Directive (AD) 2018–24–03, which applied to all Dassault Aviation Model Falcon 10 airplanes. AD 2018–24–03 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance requirements and airworthiness limitations. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations; as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective April 9, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 9, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of January 4, 2019 (83 FR 61523, November 30, 2018).

**ADDRESSES:** For EASA material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. For Dassault Aviation service information identified in this final rule, contact Dassault

Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet <https://www.dassaultfalcon.com>. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2020–1111.

#### **Examining the AD Docket**

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2020–1111; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226; email [tom.rodriguez@faa.gov](mailto:tom.rodriguez@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0215, dated October 6, 2020 (EASA AD 2020–0215) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Dassault Aviation Model Falcon 10 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2018–24–03, Amendment 39–19507 (83 FR 61523, November 30, 2018) (AD 2018–24–03). AD 2018–24–03 applied to all Dassault Aviation Model Falcon 10 airplanes. The NPRM published in the **Federal Register** on December 7, 2020 (85 FR 78808). The NPRM was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to require revising the existing maintenance or inspection program, as