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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.

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OFFICE OF MANAGEMENT AND BUDGET

5 CFR Parts 1301 and 1312

Classification, Downgrading, Declassification and Safeguarding of National Security Information

AGENCY: Office of Management and Budget.

ACTION: Final rule.

SUMMARY: The Office of Management and Budget is amending the existing regulations in 5 CFR Part 1312—Classification, Downgrading, Declassification and Safeguarding of National Security Information to comply with the procedural requirements of Executive Order 12356, "National Security Information." 5 CFR Part 1301—Classification and Declassification of Information and Material is being removed.

The amendments are necessary in order to identify Executive Order 12356 and the Information Security Oversight Office's (ISOO) Directive No. 1 as the basis for these regulations and to amend part 1312 as to the mandatory review for declassification procedures and the titles of those with original classification authority. Section 1312.32 informs members of the public of the procedures to be followed in submitting requests for mandatory review for declassification and establishes internal processing procedures for such requests.

EFFECTIVE DATE: July 13, 1990.

FOR FURTHER INFORMATION CONTACT: Darrell Johnson, Assistant Director for Administration, Executive Office of the President, Room 9026, New Executive Office Building, Washington, DC 20500, (202) 395-7250

SUPPLEMENTARY INFORMATION:

Background

Executive Order 12356, "National Security Information," effective April 2, 1982, requires that agencies which handle classified information promulgate regulations identifying the information to be protected, prescribe classification, downgrading, declassification, and safeguarding procedures, and establish a monitoring system to ensure compliance. The Office of Management and Budget initially published regulations on information security in 1972 (5 CFR part 1301) and then again in 1979 (5 CFR part 1312) without deleting the earlier regulations. Part 1301 is being deleted to avoid duplication and part 1312 is being amended to conform with the requirements of Executive Order 12356 on the mandatory review for declassification of information. Additionally, several titles of those with initial classification authority have changed since part 1312 was first published, and the current titles are being listed.

Waiver of Proposed Rulemaking

Publication of this document as a proposed rule for public comment is not required under 5 U.S.C. 553(b)(A) since the regulations relate only to agency procedures.

Further, since these regulations are not substantive, they do not require a delayed effective date under 5 U.S.C. 553(d).

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria established in the Order for major regulations.

List of Subjects in 5 CFR Parts 1301 and 1312

Classified information.

For the reasons set out in the preamble, chapter III of title 5 of the Code of Federal Regulations is amended as follows:

Part 1301 is removed.

Part 1312—Classification, Downgrading, Declassification and Safeguarding of National Security Information

1. The authority citation for part 1312 is revised to read as follows:

Authority: Executive Order 12356, 47 FR 14874, 3 CFR, 1982 Comp., p. 166 as implemented by Information Security Oversight Office Directive No. 1, 47 FR 27836, June 25, 1982.

§ 1312.1 [Amended]

2. In § 1312.1, the last sentence is revised to read as follows: "It is issued under authority of Executive Order 12356 (47 FR 14874, 3 CFR 1982 Comp., p. 166) as implemented by Information Security Oversight Office Directive No. 1 (47 FR 27836, June 25, 1982) and is applicable to all OMB employees."

3. In § 1312.5, paragraphs (a), (b), and (c) are revised to read as follows:

§ 1312.5 Authority to classify.

- • • • •
- (a) Top Secret and below:
 - (1) Deputy Director.
 - (2) Executive Associate Director.
 - (3) Associate Director for National Security and International Affairs (AD/NSIA).
 - (4) Associate Director for Natural Resources, Energy and Science (AD/NRES).
 - (5) Deputy Associate Director for National Security (DAD/NS).
- (b) Secret and below:
 - (1) Deputy Associate Director for International Affairs (DAD/IA).
 - (2) Deputy Associate Director for Special Studies, National Security, and International Affairs (DAD/SS/NSIA).
 - (3) Deputy Associate Director for Energy and Science (DAD/ES).
 - (4) Deputy Associate Director for Special Studies, Natural Resources, Energy and Science (DAD/SS/NRES).
- (c) Confidential: Deputy Division Chief for National Security.
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4. Section 1312.32 is revised to read as follows:

§ 1312.32 Responsibility.

Requests for mandatory review of national security information must be in writing and addressed to the Security Officer, Office of Management and Budget, Executive Office of the President, Washington, DC 20503. The

Office of Management and Budget Security Officer will acknowledge receipt of and monitor all such requests. When a request does not reasonably describe the information sought, the requestor will be notified that unless additional information is provided or the scope of the information is narrowed, no further action will be taken.

Darrell A. Johnson,

Assistant Director for Administration, Office of Management and Budget.

[FR Doc. 90-16043 Filed 7-12-90; 8:45 am]

BILLING CODE 3110-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket No. FV-88-205]

Shelled Pistachio Nuts; Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes voluntary United States Standards for Grades of Shelled Pistachio Nuts. The California Pistachio Association, an industry group, has requested the U.S. Department of Agriculture develop these standards. One purpose of the standards would be to provide a common trading language for this product. The Agricultural Marketing Service (AMS), in cooperation with industry and other interested parties, develops and maintains current U.S. grade standards.

EFFECTIVE DATE: August 13, 1990.

FOR FURTHER INFORMATION CONTACT: Thomas G. Gambill, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-5024.

SUPPLEMENTARY INFORMATION: This rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been designated as "nonmajor" under criteria contained therein.

Pursuant to the requirements set forth in the Regulatory Flexibility Act, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities. This rule for establishment of U.S. Standards for Grades of Shelled Pistachio Nuts will not impose substantial direct economic cost,

recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses. In addition, under the Agricultural Marketing Act of 1946, the application of these standards is voluntary, so members of the pistachio nut industry need not have their product certified under these standards, thereby incurring no costs at all.

The proposed rule, United States Standards for Grades of Shelled Pistachio Nuts (7 CFR 51.2555-51.2562), was published in the Federal Register on June 14, 1989 (54 FR 25281-25283). In addition, on January 24, 1990, a modified proposed rule was published in the Federal Register 55 FR 2383-2386. The U.S. Department of Agriculture (USDA) developed the proposal at the request of the California Pistachio Association, now the Western Pistachio Association (hereinafter the Association), a trade association representing a cross section of growers, shippers, and other industry members who market pistachios in the United States.

While the Association in 1981 first asked USDA to develop U.S. Standards for Grades of Pistachio Nuts in the Shell (that standard was published in 1986), it intended to eventually request the development of standards for shelled pistachios. In 1988, the California Pistachio Association requested the USDA develop U.S. Standards for Grades of Shelled Pistachio Nuts based on a proposal developed by the Association's Grades and Standards Committee.

The Association observed that the demand for pistachio kernels is constantly increasing, both as a whole nutmeat or in a chopped form. According to the California Pistachio Commission, 1,721,755 pounds of nutmeats were imported from major countries in the crop year 1986-87. During this same period U.S. shipments (those nutmeats grown and harvested in the United States) included 3,881,074 pounds shipped domestically and 628,560 pounds being exported for a total of 4,509,634 pounds.

Five of the eight comments received in response to the notice of proposed rulemaking were completely in favor. These comments were from a grower/distributor, a trade association, and three Federal Supervisors who oversee fresh produce grading operations by federally licensed state inspectors.

Of the other three comments, one grower who favored the proposal requested a further explanation of the proposed definition of rancidity. There was a typographical error at that point in the Federal Register that was

corrected in a later issue (FR Vol. 54, No. 139 published Friday, July 21, 1989, page 30632). This correction eliminates the need for further explanation.

Two responses received from Federal Supervisors supported the proposal except for a section entitled "Qualifying Terms" which defined "salted," "roasted," and "raw." By placing these three terms in the "Qualifying Terms" section, they felt AMS would be required to actually certify whether the nuts were salted, roasted, or raw, which is beyond the normal means of the inspection service. AMS considered this and agreed. The U.S. Standards for Grades of Shelled Pistachio Nuts were developed so that they could be applied to nuts in any state, and it was never intended that the standards be used to determine and certify whether the nuts were raw or had been salted or roasted. Therefore, these qualifying terms were eliminated.

Additionally, upon review within the Agency, we discovered inconsistencies within the "Size" section of the proposal. No minimum size had been designated as a requirement for any of the grades. A receiver could order a lot of U.S. Fancy nutmeats expecting whole kernels yet be shipped small pieces. Therefore to eliminate such misunderstanding, the final rule specifies that for all grades kernels must meet the size classification of "Whole Kernels," unless otherwise specified. This requirement further standardizes and strengthens the grades, but does not limit the grades because any other size may be specified in connection with the grade.

We also determined that the size classification "Whole and Broken Kernels" had no definition for a broken kernel. In order for the size classifications to be consistent this classification was renamed "Whole and Pieces" and a definition of the word "pieces" was added to § 51.2560 Definitions.

Also, both pieces size classifications, "Large Pieces" and "Small Pieces," provided no tolerance for an occasional whole kernel being present in the lot; one whole kernel would cause an entire "pieces" lot, for example to fail to meet the size requirements. To address this, AMS added a three percent tolerance for whole kernels to each "pieces" grade.

Lastly, no provision had been made for lots which did not meet any of the four size classifications. If a lot had 30 percent whole kernels and the remainder pieces, for example, it would not fit into any size classification. Consequently, a fifth section was added

to the size classification to allow any specified combination of whole kernels and pieces. Not more than 5 percent of the total sample would be allowed to pass through a $\frac{1}{4}$ inch round opening.

On January 24, 1990, a modified proposed rule was published in the Federal Register incorporating all these changes (55 FR 2383-2386). Six timely comments were received. (Three more were received after the close of the comment period.)

All six comments were in favor of the modified proposal provided there are additional changes. Five requested that the tolerance for whole kernels allowed in the "Large Pieces" classification be increased from three percent to between percentages ranging from 20 to 40 percent, with most of the comments suggesting 25 percent or in that range. AMS agrees that based on current marketing practices, this tolerance should be increased to 25 percent.

In addition to this change, one of the five comments also requested that we do not use the "Mixed sizes" classification. They asserted that this classification has no similarity to any products currently being marketed and the ultimate outcome of having the Mixed Size category would be to keep the purchases of California Shelled Pistachio Kernels on a "as per sample" basis and would further hinder their objectives of purchasing and selling pistachios on a USDA Grade and Size classification basis.

AMS has considered this comment and disagrees. First, without this classification there would be gaps in the size classification section. That was precisely why this classification was added. Secondly, with the other revisions to the size section the standards would now require that, unless otherwise specified, all grades must meet the classification of whole kernels. This requirement in itself should help standardize the purchasing and selling of pistachios based on U.S. standards. Therefore, AMS has decided to maintain the size classification "Mixed Sizes."

Finally, one comment was in favor of the modified proposal but pointed out that several references in the supplementary information section incorrectly referred to the California Pistachio Commission initiating the proposal. It was the California Pistachio Association, now the Western Pistachio Association, which had requested the proposal. This comment has merit. Accordingly, the supplementary information section of this docket correctly reflects this name designation as appropriate. In addition, the other

changes we have noted have been added to this final rule.

AMS, in cooperation with industry and other interested parties, develops standards of quality, condition, grade, and packaging in order to encourage uniformity and consistency in commercial practices. The Agency has determined this final rule would enhance the marketing of shelled pistachio nuts in accordance with the provisions of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*). The provisions of this final rule are the same as those in the modified proposed rule except for minor changes made for clarity and those noted above. In addition, the authority citation for part 51 has been changed to reflect the citation that now appears in the Code of Federal Regulations.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, and Vegetables.

PART 51—[AMENDED]

For reasons set forth in the preamble, 7 CFR part 51 is amended as follows:

1. The authority citation for 7 CFR part 51 continues to read as follows:

Authority: Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624, unless otherwise noted.

2. By adding a new subpart, Subpart—United States Standards for Grades of Shelled Pistachio Nuts, as follows:

Sec.	
51.2555	General.
51.2556	Grades.
51.2557	Tolerances.
51.2558	Application of tolerances.
51.2559	Size classifications.
51.2560	Definitions.
51.2561	Average moisture content.

§ 51.2555 General.

(a) Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State laws.

(b) These standards are applicable to raw, roasted, or salted pistachio kernels; or any combination thereof. However, nuts of obviously dissimilar forms shall not be commingled.

§ 51.2556 Grades.

(a) "U.S. Fancy," "U.S. No. 1," and "U.S. No. 2" consist of pistachio kernels which meet the following basic requirements:

(1) Well dried, or very well dried when specified in connection with the grade.

(2) Free from:

(i) Foreign material, including in-shell nuts, shells, or shell fragments.

(3) Free from damage by:

(i) Minor mold;

(ii) Immature kernels;

(iii) Spotting; and,

(iv) Other defects.

(4) Free from serious damage by:

(i) Mold;

(ii) Minor insect or vertebrate injury;

(iii) Insect damage;

(iv) Rancidity;

(v) Decay; and,

(vi) Other defects.

(5) Unless otherwise specified, kernels shall meet the size classification of Whole Kernels (See § 51.2559).

§ 51.2557 Tolerances.

(a) In order to allow for variations incident to proper grading and handling, the tolerances, by weight, in Table I are provided.

TABLE I

Percent	Factors (Tolerances by weight)		
	U.S. fancy	U.S. No. 1	U.S. No. 2
(a) Damage.....	2.0	2.5	3.0
(b) Serious Damage.....	1.5	2.0	2.5
(1) Insect Damage (included in (b)).....	.3	.4	.5
(c) Foreign Material.....	.03	.05	.1

§ 51.2558 Application of tolerances.

The tolerances for the grades apply to the entire lot and shall be based on a composite sample representative of the lot. Any container or group of containers which have kernels obviously different in quality or size from those in the majority of containers shall be considered a separate lot and shall be sampled separately.

§ 51.2559 Size classifications.

(a) The size of pistachio kernels may be specified in connection with the grade in accordance with one of the following size classifications.

(1) Whole Kernels: 80 percent or more by weight shall be whole kernels and not more than 5 percent of the total sample shall pass through a $\frac{1}{4}$ inch round opening, including not more than 1 percent of the total sample shall pass through a $\frac{1}{8}$ inch round opening.

(2) Whole and Pieces: 40 percent or more by weight shall be whole kernels and not more than 15 percent of the total sample shall pass through a $\frac{1}{4}$ inch round opening, including not more than

2 percent of the total sample shall pass through a $\frac{3}{4}$ inch round opening.

(3) **Large Pieces:** Portions of kernels of which not more than 10 percent will remain on a $\frac{3}{4}$ inch round opening, provided that not more than 20 percent of the total sample shall pass through $\frac{1}{4}$ inch round opening, including not more than 2 percent of the total sample shall pass through a $\frac{3}{4}$ inch round opening. Not more than 25 percent of the total sample shall be whole kernels.

(4) **Small Pieces:** Portions of kernels of which not more than 10 percent will remain on a $\frac{1}{4}$ inch round opening, provided that not more than 3 percent of the total sample shall pass through $\frac{3}{4}$ inch round opening. Not more than 3 percent of the total sample shall be whole kernels.

(5) **Mixed sizes:** Means a mixture of any combination of whole kernels or pieces. The percentage of whole kernels and/or pieces may be specified. Not more than 5 percent of the total sample shall pass through a $\frac{3}{4}$ inch round opening.

§ 51.2560 Definitions.

(a) **Well dried** means the kernel is firm and crisp.

(b) **Very well dried** means the kernel is firm and crisp and the average moisture content of the lot does not exceed 7 percent of lower levels, if specified (See § 51.2561).

(c) **Foreign material** means leaves, sticks, in-shell nuts, shells or pieces of shells, dirt, or rocks, or any other substance other than pistachio kernels. No allowable tolerances for metal or glass.

(d) **Whole kernel** means $\frac{3}{4}$ of a kernel or more.

(e) **Pieces** means less than $\frac{3}{4}$ of a kernel.

(f) **Damage** means any specific defect described in paragraph (f) (1) through (3) of this section or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance or the edible or marketing quality of the individual kernel or of the lot. (For tolerances, see § 51.2557, Table I.)

(1) **Minor white or gray mold** is mold that is not readily noticeable on the kernel and which can be easily rubbed off with the fingers.

(2) **Immature kernels** are excessively thin kernels.

(3) **Kernel spotting** refers to dark brown or dark gray spots aggregating more than one-eighth of the surface of the kernel.

(g) **Serious damage** means any specific defect described in paragraph (f) (1) through (5) of this section, or an

equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance or the edible or marketing quality of the individual kernel or of the lot. (For tolerances see § 51.2557 Table I.)

(1) **Mold** which is readily visible on the kernel.

(2) **Minor insect or vertebrate injury** means the kernel shows conspicuous evidence of feeding on the kernel.

(3) **Insect damage** is an insect, insect fragment, web, or frass attached to the kernel. No live insects shall be permitted.

(4) **Rancidity** means the kernel is distinctly rancid to taste. Staleness of flavor shall not be classed as rancidity.

(5) **Decay** means any portion of the kernel is decomposed.

§ 51.2561 Average moisture content.

(a) Determining average moisture content of the lot is not a requirement of the grades, except when kernels are specified as "very well dried." It may be carried out upon request in connection with grade analysis or as a separate determination.

(b) Kernels shall be obtained from a randomly drawn composite sample. Official certification shall be based on the air-oven method or other officially approved methods or devices. Results obtained by methods or devices not officially approved may be reported and shall include a description of the method or device and owner of any equipment used.

Dated: July 9, 1990.

Kenneth C. Clayton,
Acting Administrator.

[FR Doc. 90-16432 Filed 7-12-90; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 918

[Docket No. FV-90-172 FR]

Expenses and Assessment Rate for Marketing Order Covering Fresh Peaches Grown in Georgia

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order 918 for the 1990-91 fiscal period which began March 1, 1990. This action authorizes the Georgia Peach Industry Committee (committee) to incur operating expenses during the 1990-91 fiscal period and collect funds during that period to pay those expenses. This

action facilitates program operations. Funds to administer the program are derived from assessments on handlers.

EFFECTIVE DATE: Section 918.226 is effective for the period March 1, 1990 through February 28, 1991.

FOR FURTHER INFORMATION CONTACT: George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC, 20090-6456; telephone (202) 475-3919.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 918 (7 CFR part 918) regulating the handling of fresh peaches grown in Georgia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

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 rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of Georgia peaches regulated under this marketing order each season, and approximately 150 peach producers in Georgia. Small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than \$500,000. The majority of the handlers and producers of Georgia peaches may be classified as small entities.

The Georgia peach marketing order, administered by the Department of Agriculture (Department), requires that the assessment rate for each fiscal year be applied to all assessable peaches handled from the beginning of such year. An annual budget of expenses is