

# Proposed Rules

Federal Register

Vol. 70, No. 58

Monday, March 28, 2005

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 HOMELAND SECURITY

### Office of the Secretary

#### 6 CFR Part 5

[DHS-2005-0016]

#### Privacy Act of 1974; Implementation of Exemptions; Correction

**AGENCY:** Office of the Secretary, DHS.

**ACTION:** Proposed rule; correction.

**SUMMARY:** The Department of Homeland Security (DHS) is correcting a notice of proposed rulemaking that was published in the *Federal Register* on March 22, 2005, at 70 FR 14427 which gives notice that DHS is concurrently establishing a new system of records pursuant to the Privacy Act of 1974 for the Bureau of Immigration and Customs Enforcement, Student and Exchange Visitor Program. In that proposed rulemaking, the Department proposes to exempt portions of this system of records from one or more provisions of the Privacy Act because of criminal, civil and administrative enforcement requirements. In the Heading of the proposed rulemaking, DHS inadvertently mislabeled the DHS docket number associated with the rulemaking. DHS would like to announce that the DHS docket number for submitting comments via to this notice is DHS-2005-0016. Directions for submitting comments using this method are outlined within 70 FR 14427.

**DATES:** This correction is issued as of March 28, 2005.

**FOR FURTHER INFORMATION CONTACT:** Jeff Ament, Department of Homeland Security Regulatory Coordinator, Department of Homeland Security, Washington, DC 20528, (202) 205-8088.

#### SUPPLEMENTARY INFORMATION:

##### Need for Correction

As published in the *Federal Register* on March 22, 2005 (70 FR 14427), the document contains an error that is in need of correction.

#### Correction of Publication

Accordingly, the publication on March 22, 2005 (70 FR 14477), is corrected as follows:

1. On page 14427, in the heading, third line, the new DHS docket number should read: "DHS Docket Number DHS-2005-0016."

Mary Kate Whalen,

*Deputy Associate General Counsel for Regulations, Office of the General Counsel, U.S. Department of Homeland Security.*

[FR Doc. 05-6052 Filed 3-23-05; 4:33 pm]

BILLING CODE 4410-10-P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 983

[Docket No. FV05-983-1 PR]

#### Pistachios Grown in California; Establishment of Reporting Requirements; Notice of Request for New Information Collection

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule invites comments on the establishment of reporting requirements authorized under the California pistachio marketing order (order). The order regulates the handling of pistachios grown in California and is administered locally by the Administrative Committee for Pistachios (committee). These additional reporting requirements would enable the committee to collect information on: Pistachios failing to meet quality and aflatoxin requirements; failing pistachios that are reworked or disposed of in accordance with applicable requirements; handlers applying for exemptions; transfers of uninspected pistachios between regulated handlers; and inventories and shipments of pistachios. This document also announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget (OMB) of a new information collection.

**DATES:** Comments must be received by May 27, 2005. Pursuant to the Paperwork Reduction Act, comments on the information collection burden must be received by May 27, 2005.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. 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 E-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov), or Internet: <http://www.regulations.gov>. All comments should reference the docket number and the date and page number of this issue of the *Federal Register* and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

**FOR FURTHER INFORMATION CONTACT:** Rose Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; Telephone: (559) 487-5901, Fax: (559) 487-5906; or George Kelhart, Technical Advisor, 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.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, 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: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This proposal is issued under Marketing Order No. 983 (7 CFR part 983), regulating the handling of pistachios 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 proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal

will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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. 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 not later than 20 days after the date of the entry of the ruling.

This proposal invites comments on establishing reporting requirements authorized under the California pistachio order. The additional reporting requirements would enable the committee to collect information on: (1) Pistachios failing to meet quality and aflatoxin requirements; (2) failing pistachios that are reworked or disposed under the marketing order; (3) handlers applying for exemptions; (4) transfers of uninspected pistachios between regulated handlers; and (5) inventories and shipments of pistachios. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice also announces AMS's intention to request approval from OMB for a new information collection. The information collected would facilitate administration of the marketing order.

Sections 983.38, 983.39, and 983.40 of the pistachio order specify maximum aflatoxin requirements, minimum quality requirements, and failed lot rework and disposition procedures, respectively.

Sections 983.41 of the pistachio order provides exemptions for certain aflatoxin and quality testing requirements for handlers who handle less than 1,000,000 pounds of assessed weight pistachios per marketing year (September 1–August 31).

Section 983.47 of the pistachio order provides authority to require handlers to furnish such reports and information on such forms as are needed to enable USDA and the committee to perform their functions and enforce order provisions.

Section 983.70 of the pistachio order exempts handlers who handle 1,000 pounds or less of dried weight pistachios (dried to 5 percent moisture) from all aflatoxin and minimum quality requirements.

Under these authorities, the committee, at its November 3, 2004, meeting unanimously recommended establishing a new subpart "Rules and Regulations," and a new section entitled "§ 983.147—Reports" to delineate and define six new forms, ACP–2 through ACP–7. The committee further clarified this recommendation at its December 15, 2004, meeting.

Detailed information on the burdens created by these new forms is discussed later in this document.

The recommended forms, ACP–2 through ACP–7, would be used by the committee to track pistachios that fail to meet minimum quality and maximum aflatoxin requirements (ACP–2); track lots which have been reworked or disposed of in accordance with marketing order requirements (ACP–3); identify handlers who handle 1,000 dried pounds or less of pistachios per production year (September 1–August 31) (ACP–4) and properly apply marketing order exemptions; identify handlers who handle less than 1,000,000 pounds of assessed weight pistachios per marketing year (September 1–August 31) (ACP–5) and properly apply marketing order exemptions; track uninspected pistachios that are transferred between regulated handlers (ACP–6); and track monthly shipments and handler inventories (ACP–7).

The majority of the forms recommended by the committee (ACP–2 through ACP–6) are new reporting requirements, and do not duplicate information collected by any other Federal agency. One form, ACP–7 is similar to a report required by the California Pistachio Commission (commission), a program overseen by the State of California, under which California pistachio research and promotion activities are implemented. Because the commission is prohibited from sharing confidential handler information, the committee recommended the ACP–7 be implemented for committee use to provide information necessary to administer the order. Because shipment and inventory data is already compiled by handlers for the commission, handlers may attach the commission report to the committee form to meet this new reporting requirement. Thus, handlers would not be duplicating their efforts and both agencies would receive necessary data for respective program

purposes. Further, the information collection does not duplicate that collected by any other Federal agency.

The committee estimates that this action would impact no more than 20 handlers of pistachios, and further estimates that, on average, a handler would expend no more than an average of 11.8 minutes in completing each form. The total estimated annual burden for all six forms is estimated to be 92.4 hours.

The committee believes that these forms are easy to prepare and file, and place as small a reporting burden as possible on handlers. These forms and their respective burdens were discussed at public meetings at which all affected entities were encouraged to comment on the effect of requiring these forms to be completed and filed by pistachio handlers. The Committee vote was unanimous, with 8 in favor and none opposed or abstaining.

#### **Initial Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action 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 would 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. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of California pistachios subject to regulation under the order and approximately 741 producers in the production area. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. Eight of the 20 handlers subject to regulation have annual pistachio receipts of at least \$5,000,000. In addition, 722 producers have annual receipts less than \$750,000. Thus, the majority of handlers and producers of California pistachios may be classified as small entities. There are an estimated eight USDA approved testing laboratories that may participate in this program. At least half are handler in-house operations and already included in the estimated respondents. Other testing laboratories are

government agencies. One other existing laboratory is part of the Dried Fruit Association of California. We do not have specific information but believe that this association would be considered a small entity.

This proposal invites comments on establishing reporting requirements authorized under the California pistachio order. These additional reporting requirements would enable the committee to collect information on: (1) Pistachios failing to meet quality and aflatoxin requirements; (2) failing pistachios that are reworked or disposed of in marketing order requirements; (3) handlers applying for exemptions; (4) transfers of uninspected pistachios between regulated handlers; and (5) inventories and shipments of pistachios. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice also announces AMS's intention to request approval from OMB for this new information collection. The information collected would facilitate proper implementation of the marketing order.

Sections 983.38, 983.39, and 983.40 of the pistachio order provide maximum aflatoxin requirements, and minimum quality requirements, and failed lot rework and disposition procedures, respectively.

Sections 983.41 of the pistachio order provides exemptions for certain aflatoxin and quality testing requirements for handlers who handle less than 1,000,000 pounds of assessed weight pistachios per marketing year (September 1–August 31).

Section 983.47 of the pistachio order provides authority for the committee to require handlers to furnish such reports and information on such forms as are needed to enable the Secretary of Agriculture and the committee to perform their functions and enforce order provisions.

Section 983.70 of the pistachio order exempts handlers who handle 1,000 pounds or less of dried weight pistachios (dried to 5 percent moisture) from all aflatoxin and minimum quality requirements.

Under these authorities, the committee, at its November 3, 2004, meeting, unanimously recommended establishing a new subpart "Rules and Regulations," and a new section entitled "§ 983.147—Reports" to delineate and define six new forms, ACP-2 through ACP-7. The committee further clarified this recommendation at its December 15, 2004, meeting.

The majority of the reports recommended by the committee are new reporting requirements (ACP-2 through APC-6). One form, ACP-7 is similar to

a report required by the commission, a program overseen by the State of California, under which California pistachio research and promotion activities are implemented.

The committee debated the overall merits of the forms at its meetings, deliberating over the value of the information to be collected relative to the burden which each form would impose on the regulated handlers. In the end, the committee concluded that the information that would be collected is necessary to properly administer the marketing order. It further concluded that the burden was relatively small compared to the benefits that would be accrued by the committee and industry from the information obtained.

The committee discussed alternatives to establishing these reporting requirements including not adopting ACP-4, as it was believed that this information might be obtained by staff during compliance audits. Upon reviewing the auditing procedure, committee members determined that utilization of the ACP-4 would be a more feasible means of obtaining information on identifying exempt handlers. Thus, the committee unanimously recommended all six forms for implementation. It believes that the information to be provided on each of the recommended forms would be important to the administration of the order and would enhance committee operations.

Further, the committee's meetings were widely publicized throughout the pistachio industry and all interested persons were encouraged to attend the meetings and participate in the committee's deliberations. Like all committee meetings, the November 3 and December 15, 2004, meetings were public meetings and entities of all sizes were invited to express their views on these issues.

Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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. In addition, USDA has not identified any relevant Federal rules

that duplicate, overlap, or conflict with this rule. A detailed discussion of the six new forms follows.

### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), AMS announces its intention to request an approval of a new information collection for the marketing order regulating pistachios grown in California.

*Title:* Pistachios Grown in California; Marketing Order No. 983.

*OMB Number:* 0581–New.

*Type of Request:* New collection.

*Abstract:* These information collection requirements are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the California pistachio marketing order program which has been operating since 2004.

On November 3, 2004, the Committee unanimously recommended the establishment of a new subpart—"Rules and Regulations," and a new section, "§ 983.147—Reports." The Committee further clarified this recommendation at its December 15, 2004, meeting. Section 983.147 would require handlers and certain USDA approved testing laboratories to file up to six forms. These forms would enable the committee to obtain information on: Pistachios failing to meet quality and aflatoxin requirements; pistachios that are reworked and disposed of in marketing channels; transfers of uninspected pistachios between regulated handlers; shipments and inventories of pistachios and related information, and identify handlers eligible for marketing order exemptions. Approximately half of the handlers (8 of 20 estimated handlers and the Dried Fruit Association of California) have the capability to file reports electronically. There are an estimated eight testing laboratories. At least half are handler in-house operations which are included in the estimated respondents. Other testing laboratories are government agencies. OMB does not require government agencies to be reported as respondents for the purposes of the Paperwork Reduction Act. One other existing laboratory is part of the Dried Fruit Association of California, which is included as part of the estimate of respondents.

The information collected would be used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Program regional and headquarters staff, and authorized committee employees. Authorized committee employees are the primary

users of the information and AMS is the secondary user. Such information would be kept confidential in accordance with the Act and order.

#### **Total Annual Estimated Burden**

The total burden for the proposed information collection under the order is as follows:

*Estimate of Total Burden per Response:* Public reporting burden for this collection of information is estimated to average less than 11.8 minutes.

*Estimated Number of Respondents:* 20 (handlers and one laboratory).

*Estimated Number of Responses per Respondent:* 23.6 responses per handler per form.

*Estimated Total Annual Burden on Respondents:* 92.4 hours.

#### **Estimated Annual Burden for Each Form**

For each new form, the proposed request for approval of the new information collection under the order is as follows:

##### *ACP-2 Failed Lot Notification Form*

Handlers would use this form to notify the committee of the failure of a lot of pistachios to pass minimum size/quality requirements under the order. USDA certified aflatoxin laboratories would use this form to notify the committee of the failure of a lot of pistachios that exceeds the maximum aflatoxin requirements under the order.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 12 minutes per response.

*Respondents:* Persons who handle California pistachios and testing laboratory(s).

*Estimated Number of Respondents:* 20.

*Estimated Number of Responses per Respondent:* 5.

*Estimated Total Annual Burden on Respondents:* 20 hours.

##### *ACP-3 Failed Lot Disposition and Rework Report Form*

Handlers would use this form to notify the committee of the disposition or reworking of failed lots. This would enable the committee to verify that failed lots were disposed of in accordance with the marketing order.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 12 minutes per response.

*Respondents:* Persons who handle California pistachios.

*Estimated Number of Respondents:* 20.

*Estimated Number of Responses per Respondent:* 5.

*Estimated Total Annual Burden on Respondents:* 20 hours.

##### *ACP-4 FMO Exempt Handler Notification Report Form*

Handlers would use this form to notify the committee that they handled 1,000 pounds or less of dried pistachios during any marketing year (September 1 to August 31). Dried pistachios are those pistachios which have been dried to approximately 5 percent moisture.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 6 minutes per response.

*Respondents:* Persons who handle California pistachios.

*Estimated Number of Respondents:* 10.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 1 hour.

##### *ACP-5 Minimal Testing Report Form*

Handlers who handle less than 1,000,000 pounds of assessed weight pistachios in a production year (September 1–August 31) would use this form to apply for committee approval to operate under the order's minimal quantities provisions.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 6 minutes per response.

*Respondents:* Persons who handle less than 1,000,000 pounds of assessed weight California pistachios in the production year.

*Estimated Number of Respondents:* 10.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 1 hour.

##### *ACP-6 Inter-Handler Transfer Report*

Handlers would use this form to notify the committee that they had transferred uninspected pistachios within the production area to another handler within the production area.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 12 minutes per response.

*Respondents:* Persons who transfer or receive uninspected California pistachios within the production area.

*Estimated Number of Respondents:* 12.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 2.4 hours.

##### *ACP-7 Monthly Report of Inventory/Shipments*

Handlers would use this form to report their monthly inventory and domestic shipments of pistachios.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 12 minutes per response.

*Respondents:* Persons who handle California pistachios.

*Estimated Number of Respondents:* 20.

*Estimated Number of Responses per Respondent:* 12.

*Estimated Total Annual Burden on Respondents:* 48 hours.

*Comments:* Comments are invited on:

(1) Whether this 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 Marketing Order for Pistachios Grown in California, and be sent to the USDA in care of the Docket Clerk at the previously-mentioned address. All comments timely 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. All comments received will become a matter of public record and will be available for public inspection during regular business hours at the same address or at <http://www.ams.usda.gov/fv/moab.html>. Once the Web site page is opened, click on "pistachios" and find the docket number of this rule. Any comments received regarding this rule will be found in the "Comments" link. If no comments have been received in response to a rule, there will be no "Comments" link available.

In summary, this proposal would establish reporting requirements authorized under the California pistachio order. These additional reporting requirements would enable the committee to collect information on:

(1) Pistachios failing to meet quality and aflatoxin requirements; (2) failing pistachios that are reworked or disposed of in accordance with marketing order requirements; (3) handlers applying for exemptions; (4) transfers of uninspected pistachios between regulated handlers; and (5) inventories and shipments of pistachios. Additionally, it would allow the Committee to obtain accurate information for preparation of the annual marketing policy statement, as required under the order. Any comments received will be considered prior to finalization of this rule.

Another form, ACP 1, was not included with this approval request because that form was part of a previous request, published in the **Federal Register** on December 10, 2004 (69 FR 71749). This form would be included in the order at § 983.253, at such time that it is approved.

#### List of Subjects in 7 CFR Part 983

Pistachios, Marketing agreements and orders, Reporting and recordkeeping requirements.

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

#### PART 983—PISTACHIOS GROWN IN CALIFORNIA

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

**Authority:** 7 U.S.C. 601–674.

2. In part 983, a new subpart titled “Subpart—Rules and Regulations” consisting of § 983.147 is added to read as follows:

#### Subpart—Rules and Regulations

##### § 983.147 Reports.

(a) *ACP–2, failed lot notification.* Each handler shall notify the Administrative Committee for Pistachios (committee) of all lots which fail to meet the order’s minimum quality requirements by completing sections A and B of this form. Handlers shall furnish this report to the committee no later than 10 days after test completion. Each USDA approved aflatoxin testing laboratory shall complete section C of this report and forward this report and the failing aflatoxin test results to the committee and to the handler within 10 days of the test failure.

(b) *ACP–3, failed lot disposition and rework report.* Each handler who reworks a failing lot of pistachios shall complete this report and shall forward it to the committee no later than 10 days after the rework is completed. If rework is not selected as a remedy, the handler shall submit the form to the committee

office within 10 days of disposition of the lot.

(c) *ACP–4, Federal marketing order exempt handler notification.* Each handler who handles 1,000 pounds or less of dried weight pistachios in a production year shall complete and furnish this report to the committee no later than November 15 of each production year.

(d) *ACP–5, minimal testing form.* Each handler who handles less than 1,000,000 pounds of dried weight pistachios in a production year and who would like to request an exemption under the minimal quantities provisions (Section 983.41) of the order shall furnish this report to the committee office no later than August 1 of each production year.

(e) *ACP–6, inter-handler transfer.* Each handler who transfers uninspected pistachios to another handler within the production area shall complete the ACP–6 and sign Part A. The transferring handler shall forward the original ACP–6 and one copy to the handler who receives the uninspected pistachios. The transferring handler shall furnish one copy of ACP–6 to the committee within 30 days of the transfer. The handler receiving the uninspected pistachios (receiving handler) shall sign Part B of the original ACP–6 and shall file it with the committee within 30 days of the transfer.

(f) *ACP–7, monthly report of inventory/shipments.* Each handler of pistachios shall file this report with the committee by the 10th day of each month for the previous month’s inventory and shipment information.

(g) *Exemptions.* Handlers, who handle 1,000 pounds or less of dried pistachios during any marketing year, are exempt from filing all forms with the exception of the ACP–4.

(h) *Records.* Each handler shall maintain all records of pistachios received, held, shipped, and disposed of for at least 3 years following each crop year to show compliance with the marketing order provisions.

Dated: March 23, 2005.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 05–6082 Filed 3–23–05; 3:56 pm]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 73

[Docket No. FAA–2005–20616; Airspace Docket No. 05–ANM–04]

RIN 2120–AA66

#### Proposed Amendment to Restricted Area 2211 Blair Lakes; AK

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to raise the ceiling of Restricted Area 2211 (R–2211), Blair Lakes, AK, from the current 18,000 feet above mean sea level (MSL) to Flight Level (FL) 310. The expanded airspace is required to fulfill United States Air Force (USAF) training requirements. The current restricted airspace at Blair Lakes is too small to allow aircrew training in high altitude weapons delivery tactics. Specifically, the training requirements call for practicing the release of weapons from higher altitudes than are currently available within the existing restricted airspace.

**DATES:** Comments must be received on or before May 12, 2005.

**ADDRESSES:** Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify FAA Docket No. FAA–2005–20616 and Airspace Docket No. 05–ANM–04, at the beginning of your comments. You may also submit comments through the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ken McElroy, Airspace and Rules, Office of System Operations and Safety, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic,