

Country/locality	Common name	Botanical name	Plant part(s)
	Pear .....	<i>Pyrus communis</i> .....	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).
	Plum .....	<i>Prunus domestica</i> spp. <i>domestica</i> .	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).
	Pomegranate .....	<i>Punica granatum</i> .....	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).
	Quince .....	<i>Cydonia oblonga</i> .....	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).
	*	*	*
Chile .....	Apple .....	<i>Malus domestica</i> .....	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly-free area (see § 319.56–2(j)).
	Avocado .....	<i>Persea americana</i> .....	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly-free area (see § 319.56–2(j)).
	Cherry .....	<i>Prunus avium</i> , <i>P. cerasus</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly-free area (see § 319.56–2(j)).
	*	*	*
	Pear .....	<i>Pyrus communis</i> .....	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly-free area (see § 319.56–2(j)).
	*	*	*
Colombia .....	Blueberry .....	<i>Vaccinium</i> spp. ....	Fruit.
	*	*	*
Israel			
	*	*	*
	Tuna .....	<i>Opuntia</i> spp. ....	Fruit.
	*	*	*

\* \* \* \* \*

**§ 319.56–2gg [Amended]**

■ 19. In § 319.56–2gg, paragraph (d) is amended by removing the word “Deputy”.

Done in Washington, DC, this 2nd day of December 2005.

**Kevin Shea,**  
Acting Administrator, Animal and Plant Health Inspection Service.  
[FR Doc. 05–23790 Filed 12–7–05; 8:45 am]  
BILLING CODE 3410–34–P

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 984**

[Docket No. FV05–984–2 FR]

**Walnuts Grown in California; Increased Assessment Rate**

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

**ACTION:** Final rule.

**SUMMARY:** This rule increases the assessment rate established for the Walnut Marketing Board (Board) for the 2005–06 and subsequent marketing years from \$0.0094 to \$0.0096 per kernelweight pound of assessable walnuts. The Board locally administers the marketing order which regulates the handling of walnuts grown in California. Assessments upon walnut handlers are used by the Board to fund reasonable and necessary expenses of the program. The marketing year began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Effective Date: December 9, 2005.

**FOR FURTHER INFORMATION CONTACT:** Shereen Marino, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA; 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 rule is issued under Marketing Agreement and Order No. 984, both as amended (7 CFR part 984), regulating the handling of walnuts 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 rule has been reviewed under Executive Order 12988, Civil Justice

Reform. Under the marketing order now in effect, California walnut handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable walnuts beginning on August 1, 2005, and continue until amended, suspended, or terminated. This rule 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. Such 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 rule increases the assessment rate established for the Board for the 2005–06 and subsequent marketing years from \$0.0094 to \$0.0096 per kernelweight pound of assessable walnuts.

The California walnut marketing order provides authority for the Board, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Board are producers and handlers of California walnuts. They are familiar with the Board's needs and the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed at a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2004–05 and subsequent marketing years, the Board recommended, and USDA approved, an assessment rate of \$0.0094 per kernelweight of assessable walnuts that continued in effect from year to year unless modified, suspended, or

terminated by USDA upon recommendation and information submitted by the Board or other information available to USDA.

The Board met on September 9, 2005, and unanimously recommended 2005–06 expenditures of \$2,937,600 and an assessment rate of \$0.0096 per kernelweight pound of assessable walnuts. In comparison, last year's budgeted expenditures were \$2,749,500. The assessment rate of \$0.0096 per kernelweight pound of assessable walnuts is \$0.0002 per pound higher than the rate currently in effect. The increased assessment rate is necessary because this year's crop is estimated by the California Agricultural Statistics Service (CASS) to be 340,000 tons (306,000,000 kernelweight pounds merchantable), and the budget is about 6.4 percent more than last year's budget. The crop is smaller than expected due to sunburn caused by warmer than normal temperatures during the growing season. The higher assessment rate should generate sufficient income to cover anticipated 2005–06 expenses.

The following table compares major budget expenditures recommended by the Board for the 2004–05 and 2005–06 marketing years:

Budget expense categories	2004–05	2005–06
Administrative Staff/Field Salaries & Benefits .....	\$332,000	\$360,000
Travel/Board Expenses .....	69,000	80,000
Office Costs/Annual Audit .....	124,000	132,500
Program Expenses Including Research:		
Controlled Purchases .....	5,000	5,000
Crop Acreage Survey .....		85,000
Crop Estimate .....	94,000	95,000
Production Research Director .....	76,500	75,000
Production Research .....	548,500	500,000
Domestic Market Development .....	1,393,500	1,550,000
Reserve for Contingency .....	107,000	55,100

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected shipments of California walnuts certified as merchantable. Merchantable shipments for the year are estimated at 306,000,000 kernelweight pounds which should provide \$2,937,600 in assessment income and allow the Board to cover its expenses. Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within 5 months after the end of the year, according to § 984.69.

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information

submitted by the Board or other available information.

Although this assessment rate will be in effect for an indefinite period, the Board will continue to meet prior to or during each marketing year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or USDA. Board meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Board's 2005–06 budget

and those for subsequent marketing years would be reviewed and, as appropriate, approved by USDA.

**Final Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), 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 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 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 50 handlers of California walnuts subject to regulation under the marketing order and approximately 5,500 growers in the production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those whose annual receipts are less than \$6,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$750,000.

Current industry information shows that 15 of the 50 handlers (30 percent) shipped over \$6,000,000 of merchantable walnuts and could be considered large handlers by the Small Business Administration. Thirty-five of the 50 walnut handlers (70 percent) shipped under \$6,000,000 of merchantable walnuts and could be considered small handlers.

The number of large walnut growers (annual walnut revenue greater than

\$750,000) can be estimated as follows. According to the National Agricultural Statistics Service (NASS), the average yield per acre for 2002–04 is 1.457 tons. A grower with 420 acres would produce approximately 612 tons. The average of grower prices for 2002–04 (published by NASS) is \$1,227 per ton. At that average price, the 612 tons produced on 420 acres would yield approximately \$750,000 in annual revenue. The 2002 Agricultural Census indicated 56 percent of walnut farms were 500 acres or larger, which is close to the 420 acres required to produce \$750,000 in revenue. Thus, it can be concluded that the number of large walnut farms in 2005 is still likely to be under one percent. Based on the foregoing, it can be concluded that the majority of California walnut handlers and producers may be classified as small entities.

This rule increases the assessment rate established for the Board and collected from handlers for the 2005–06 and subsequent marketing years from

\$0.0094 per kernelweight pound of assessable walnuts to \$0.0096 per kernelweight pound of assessable walnuts. The Board unanimously recommended 2005–06 expenditures of \$2,937,600 and an assessment rate of \$0.0096 per kernelweight pound of assessable walnuts. The assessment rate of \$0.0096 is \$0.0002 higher than the rate currently in effect. The quantity of assessable walnuts for the 2005–06 marketing year is estimated at 340,000 tons (306,000,000 merchantable kernelweight pounds). Thus, the \$0.0096 rate should provide \$2,937,600 in assessment income and be adequate to meet this year's expenses. The increased assessment rate is primarily due to increased budget expenditures and based on an estimated crop of 340,000 tons for the year (306,000,000 kernelweight pounds estimated merchantable).

The following table compares major budget expenditures recommended by the Board for the 2004–05 and 2005–06 fiscal years:

Budget expense categories	2004–05	2005–06
Administrative Staff/Field Salaries & Benefits .....	\$332,000	\$360,000
Travel/Board Expenses .....	69,000	80,000
Office Costs/Annual Audit .....	124,000	132,500
Program Expenses Including Research:		
Controlled Purchases .....	5,000	5,000
Crop Acreage Survey .....		85,000
Crop Estimate .....	94,000	95,000
Production Research Director .....	76,500	75,000
Production Research .....	548,500	500,000
Domestic Market Development .....	1,393,500	1,550,000
Reserve for Contingency .....	107,000	55,100

The Board reviewed and unanimously recommended 2005–06 expenditures of \$2,937,600, which included increases in several expense categories. Prior to arriving at this budget, the Board considered alternative expenditure levels, but ultimately decided that the recommended levels were reasonable to properly administer the order. The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected shipments of California walnuts certified as merchantable. Merchantable shipments for the year are estimated at 306,000,000 kernelweight pounds which should provide \$2,937,600 in assessment income and allow the Board to cover its expenses. Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within 5 months after the end of the year, according to § 984.69.

According to NASS, the season average grower prices for years 2003 and 2004 were \$1,160 and \$1,350 per ton respectively. Dividing these average grower prices by 2,000 pounds per ton provides an inshell price per pound range of between \$.58 and \$.68. Adjusting by a few cents above and below those prices (\$0.55 to \$0.70 per inshell pound) provides a reasonable price range within which the 2005–06 season average price is likely to fall. Dividing these inshell prices per pound by the 0.45 conversion factor designated in the order yields a 2005–06 price range estimate of \$1.22 and \$1.56 per kernelweight pound of assessable walnuts.

To calculate the percentage of grower revenue represented by the assessment rate, the assessment rate of \$0.0096 (per kernelweight pound) is divided into the low and high estimates of the price range. The estimated assessment revenue for the 2005–06 marketing year as a percentage of total grower revenue

would likely range between .8 and .6 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Board's meeting was widely publicized throughout the California walnut industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the September 9, 2005, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on either small or large California walnut 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.

A proposed rule concerning this action was published in the **Federal Register** on November 4, 2005 (70 FR 67096). Copies of the proposed rule were also mailed or sent via facsimile to all walnut handlers. Finally, the proposal was made available through the Internet by USDA and the Office of the Federal Register. A 10-day comment period ending on November 14, 2005, was provided for interested persons to respond to the proposal. No comments were received.

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.

After consideration of all relevant material presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because handlers are already receiving the 2005 walnut crop from growers. The marketing year began on August 1, 2005, and the assessment rate applies to all walnuts received during the 2005–06 and subsequent seasons. The Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. Further, handlers are aware of this rule which was recommended at a public meeting. Also a 10-day comment period was provided in the proposed rule and no comments were received.

#### List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

■ For the reasons set forth in the preamble, 7 CFR part 984 is to be amended as follows:

#### PART 984—WALNUTS GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 984 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Section 984.347 is revised to read as follows:

##### § 984.347 Assessment rate.

On and after August 1, 2005, an assessment rate of \$0.0096 per kernelweight pound is established for California merchantable walnuts.

Dated: December 5, 2005.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 05–23818 Filed 12–5–05; 4:29 pm]

**BILLING CODE 3410–02–P**

#### NATIONAL CREDIT UNION ADMINISTRATION

##### 12 CFR Part 707

**RIN 3133–AC57**

##### Truth in Savings

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** As required by the Truth in Savings Act, the NCUA is amending its rule and official staff interpretation to address the uniformity and adequacy of information provided to members when they overdraw their share accounts. The amendments address services referred to as “bounced-check protection” or “courtesy overdraft protection” that pay members’ checks and allow other overdrafts when there are insufficient funds in the account. The interim final rule creates a new section in the regulation and requires credit unions that promote the payment of overdrafts in advertisements to disclose fees and other information in advertisements of overdraft services.

**DATES:** This rule is effective December 8, 2005. To allow time for any necessary operational changes, however, the mandatory compliance date for the interim final rule is July 1, 2006. Comments must be received on or before February 6, 2006.

**ADDRESSES:** You may submit comments by any of the following methods (Please send comments by one method only):

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- NCUA Web site: <http://www.ncua.gov/>

*RegulationsOpinionsLaws/proposed\_regs/proposed\_regs.html*. Follow the instructions for submitting comments.

- E-mail: Address to [regcomments@ncua.gov](mailto:regcomments@ncua.gov). Include “[Your name] Comments on Part 707 Truth in Savings” in the e-mail subject line.

- Fax: (703) 518–6319. Use the subject line described above for e-mail.

- Mail: Address to Mary Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

- Hand Delivery/Courier: Same as mail address.

**Public Inspection:** All public comments are available on the agency’s Web site at <http://www.ncua.gov/RegulationsOpinionsLaws/comments> as submitted, except as may not be possible for technical reasons. Public comments will not be edited to remove any identifying or contact information. Paper copies of comments may be inspected in NCUA’s law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6540 or send an e-mail to [OGCMail@ncua.gov](mailto:OGCMail@ncua.gov).

**FOR FURTHER INFORMATION CONTACT:** Moissette I. Green or Frank S. Kressman, Staff Attorneys, at the address above or telephone: (703) 518–6540.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In November 2002, the Board of Governors of the Federal Reserve System (Federal Reserve) solicited comment about financial institutions’ current overdraft services to determine the need for guidance to depository institutions under 12 CFR part 226 (Regulation Z) and other laws. 67 FR 72618 (December 6, 2002). Based on comments it received, the Federal Reserve amended 12 CFR part 230 (Regulation DD), and its staff commentary in May 2005. 70 FR 29582 (May 24, 2005). Regulation DD, the Federal Reserve’s implementation of the Truth in Savings Act (TISA), now requires banks to disclose rates and fees charged as a part of “bounced-check protection” or “courtesy overdraft protection” programs offered as an alternative to traditional overdraft lines of credit. The Federal Reserve’s final rule also requires financial institutions that promote the payment of overdrafts in an advertisement to: (1) Disclose the total fees imposed for paying overdrafts and returning unpaid items on periodic statements for both the statement period and the calendar year to date and (2)