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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 984

[Doc. No. AMS-FV-10-0060; FV10-984-1 FIR]

#### Walnuts Grown in California; Decreased Assessment Rate

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

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that decreased the assessment rate established for the California Walnut Board (Board) for the 2010–11 and subsequent marketing years from \$0.0177 to \$0.0174 per kernelweight pound of assessable walnuts. The Board locally administers the marketing order that regulates the handling of walnuts grown in California. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** *Effective Date:* Effective February 17, 2011.

**FOR FURTHER INFORMATION CONTACT:** Jeff Smutny, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; *Telephone:* (559) 487-5901, *Fax:* (559) 487-5906, or *E-mail:* [Jeffrey.Smutny@ams.usda.gov](mailto:Jeffrey.Smutny@ams.usda.gov) or [Kurt.Kimmel@ams.usda.gov](mailto:Kurt.Kimmel@ams.usda.gov).

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following Web site: <http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide>; or by contacting Antoinette Carter, 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:* [Antoinette.Carter@ams.usda.gov](mailto:Antoinette.Carter@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 984, 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.”

USDA is issuing this rule in conformance with Executive Order 12866.

Under the order, California walnut handlers are subject to assessments, which provide funds to administer the order. Assessment rates issued under the order are intended to be applicable to all assessable walnuts for the entire marketing year, and continue until amended, suspended, or terminated. The marketing year begins on September 1 and ends on August 31.

In an interim rule published in the **Federal Register** on September 15, 2010, and effective on September 16, 2010 (75 FR 55944, Doc. No. AMS-FV-10-0060; FV 10-984-1 IR), § 984.347 was amended by decreasing the assessment rate established for the Board for the 2010–11 and subsequent marketing years from \$0.0177 to \$0.0174 per kernelweight pound of assessable walnuts. The decrease in assessment rate was possible due to an expected increase in the quantity of assessable walnuts in the 2010–2011 marketing year.

#### 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 action 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.

There are approximately 4,500 growers of California walnuts in the production area and approximately 58 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$750,000. Small agricultural service firms are defined as those whose annual receipts are less than \$7,000,000.

USDA’s National Agricultural Statistics Service (NASS) reports that the average yield for the 2009–10 crop was 1.96 tons per acre and the value of the 2009–10 crop was \$1,690 per ton. Approximately 90 percent of California’s walnut farms are smaller than 100 acres. A 100-acre farm with an average yield would have produced about 196 tons of walnuts during 2009–10. At \$1,690 per ton, that farm’s production would have had an approximate value of \$331,240. Based on these numbers, the majority of growers had receipts of less than \$750,000. According to information supplied by the industry, approximately two-thirds of California’s walnut handlers shipped merchantable walnuts valued under \$7,000,000 during the 2009–10 marketing year. Therefore, the majority of California’s walnut growers and handlers could be considered small entities according to SBA’s definition.

This rule continues in effect the action that decreased the assessment rate established for the Board and collected from handlers for the 2010–11 and subsequent marketing years from \$0.0177 to \$0.0174 per kernelweight pound of assessable walnuts. The Board unanimously recommended 2010–11 expenditures of \$6,812,100 and an assessment rate of \$0.0174 per kernelweight pound of assessable walnuts, which is \$0.0003 lower than the rate previously in effect. The quantity of assessable walnuts for the 2010–11 marketing year is estimated at 391,500,000 kernelweight pounds. Thus, the \$0.0174 rate should provide \$6,812,100 in assessment income and be adequate to cover budgeted expenses.

Major budget expenditures recommended by the Board for the 2010–11 marketing year include: \$4,400,000 for domestic market development, \$1,042,000 for production research, \$577,500 for employee

expenses, and \$118,850 for office expenses. Budgeted expenses for these items in 2009–2010 were \$4,030,500, \$725,000, \$535,000, and \$123,750, respectively.

The Board recommended decreasing the assessment rate due to an expected increase in the quantity of assessable walnuts in the 2010–11 marketing year.

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 of \$0.0174 per kernelweight pound of assessable walnuts was derived by dividing anticipated expenses of \$6,812,100 by expected 2010–11 shipments of California walnuts. Merchantable shipments for the year are estimated at 391,500,000 kernelweight pounds, which should provide \$6,812,100 in assessment income and allow the Board to cover its expenses.

Unexpended funds may be retained in a financial reserve, provided that funds in the financial reserve do not exceed approximately two years' budgeted expenses. If not retained in a financial reserve, unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom they were collected within five months after the end of the year, according to § 984.69 of the order.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the grower price for the 2010–2011 season could range between \$1.42 and \$1.88 per kernelweight pound of assessable walnuts. Therefore, the estimated assessment revenue for the 2010–2011 season as a percentage of total grower revenue could range between 0.9 and 1.2 percent.

This rule continues in effect the action that decreased the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the cost savings may be passed on to growers. 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 June 11, 2010, meeting was a public meeting, and all entities, both large and small, were able to express their 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.

Comments on the interim rule were required to be received on or before November 15, 2010. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change. To view the interim rule, go to <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480b4f686>.

This action also affirms information contained in the interim rule concerning the Executive Orders 12866 and 12988, the Paperwork Reduction Act (44 U.S.C. Chapter 35), and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (75 FR 55944, September 15, 2010) will tend to effectuate the declared policy of the Act.

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

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

#### PART 984—WALNUTS GROWN IN CALIFORNIA

Accordingly, the interim rule amending 7 CFR part 984, which was published at 75 FR 55944 on September 15, 2010, is adopted as a final rule, without change.

Dated: February 10, 2011.

**Rayne Pegg,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2011–3500 Filed 2–15–11; 8:45 am]

**BILLING CODE 3410–02–P**

#### NUCLEAR REGULATORY COMMISSION

##### 10 CFR Part 72

**RIN 3150–AI09**

**[NRC–2008–0361]**

#### License and Certificate of Compliance Terms

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC or the Commission)

is amending its regulations that govern licensing requirements for the independent storage of spent nuclear fuel. These amendments include changes that enhance the effectiveness and efficiency of the licensing process for spent nuclear fuel storage. Specifically, they extend and clarify the term limits for storage cask Certificates of Compliance (CoCs) and independent spent fuel storage installation (ISFSI) specific licenses. The amendments also provide consistency between the general and specific ISFSI license requirements, and allow general licensees subject to these regulations to implement changes authorized by an amended CoC to a cask loaded under the initial CoC or an earlier amended CoC (a “previously loaded cask”).

**DATES:** *Effective Date:* This final rule is effective on May 17, 2011.

**ADDRESSES:** You can access publicly available documents related to this document using the following methods:

*Federal rulemaking Web site:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC–2008–0361. Address questions about NRC dockets to Carol Gallagher at 301–492–3668; *e-mail:*

*Carol.Gallagher@nrc.gov.*

*NRC's Public Document Room (PDR):* The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

*NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–899–397–4209, 301–415–4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

#### FOR FURTHER INFORMATION CONTACT:

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#### SUPPLEMENTARY INFORMATION:

I. Background

II. Discussion

- A. What action is the NRC taking, and why?
- B. Whom does this action affect?