

or other information described in this title.

(b) Agencies are responsible for correcting errors in data provided to OPM under § 850.301.

§ 850.303 Return of personal documents.

An individual who submits personal documents to OPM in support of a claim for retirement or insurance benefits may have such documents returned to the individual if he or she requests the return of the documents when submitting the documents. If OPM receives a request for return of such documents at a later time, OPM may provide the individual with a copy of the document that is derived from electronic records.

Subpart D—Submission of Law Enforcement, Firefighter, and Nuclear Materials Courier Retirement Coverage Notices

§ 850.401 Electronic notice of coverage determination.

(a) An agency or other entity that submits electronic employee records directly or through a shared service center to the electronic retirement and insurance processing system must electronically submit the notice of law enforcement officer, firefighter, or nuclear materials retirement coverage required by § 831.811(a), 831.911(a), 842.808(a), or 842.910(a) of this title through EHRI to the electronic retirement and insurance processing system.

(b) The electronic notice required by paragraph (a) must include the position description number of the position for which law enforcement officer, firefighter, or nuclear materials courier retirement coverage has been approved.

(c) An agency or other entity submitting an electronic notice required by paragraph (a) must electronically submit the coverage determination and background file required to be maintained by § 831.811(b), 831.911(b), 842.808(b), or 842.910(b) to the electronic retirement and insurance processing system for each position included in the notice.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Docket No. AMS-FV-07-0089; FV07-984-1 PR]

Walnuts Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Walnut Marketing Board (Board) for the 2007-08 and subsequent fiscal periods from \$0.0101 to \$0.0122 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 begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by September 4, 2007.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. 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 Internet: <http://www.regulations.gov>. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Shereen Marino, Marketing Specialist, California Marketing Field Office, 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: Shereen.Marino@usda.gov, or Kurt.Kimmel@usda.gov.

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.

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 proposed herein would be applicable to all assessable walnuts beginning on August 1, 2007, 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 would increase the assessment rate established for the Board for the 2007-08 and subsequent fiscal periods from \$0.0101 to \$0.0122 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 2006–07 and subsequent fiscal periods, the Board recommended, and USDA approved, an assessment rate of \$0.0101 per kernelweight pound of assessable walnuts that would continue 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 May 31, 2007, and unanimously recommended 2007–08 expenditures of \$3,777,120 and an assessment rate of \$0.0122 per kernelweight pound of assessable walnuts. In comparison, last year's budgeted expenditures were \$3,222,860. The assessment rate of \$0.0122 per kernelweight pound of assessable walnuts is \$0.0021 per pound higher than the rate currently in effect. The increased assessment rate is necessary to cover increased expenses including increased salaries, operating expenses and research for the 2007–08 marketing year. The higher assessment rate should generate sufficient income to cover anticipated 2007–08 expenses.

The following table compares major budget expenditures recommended by the Board for the 2006–07 and 2007–08 marketing years:

Budget expense categories	2006–07	2007–08
Administrative Staff/Field Salaries & Benefits	\$415,000	\$438,600
Travel/Board Expenses	75,000	86,000
Office Costs/Annual Audit	142,500	139,500
Program Expenses Including Research Controlled Purchases	5,000	5,000
Crop Acreage Survey		85,000
Crop Estimate ...	100,000	100,000
Production Research	725,000	730,000
Domestic Market Development	1,750,000	2,002,000
Reserve for Contingency ..	10,360	191,020

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 309,600,000 kernelweight pounds which should provide \$3,777,120 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 estimate for merchantable shipments is based on historical data, which is the prior year's production of 344,000 tons (inshell). Pursuant to § 984.51(b) of the order, this figure was converted to a merchantable kernelweight basis using a factor of .45 (344,000 tons × 2,000 pounds/ton × .45).

The proposed assessment rate would 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 would be in effect for an indefinite period, the Board would 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 would evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Board's 2007–08 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial 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 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 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 53 handlers of California walnuts subject to regulation under the marketing order and approximately 4,800 growers in the production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those whose annual receipts are less than \$6,500,000, and small agricultural producers are defined as those whose annual receipts are less than \$750,000.

Current industry information shows that 18 of the 53 handlers (34 percent) shipped over \$6,500,000 of merchantable walnuts and could be considered large handlers by the SBA. Thirty-five of the 53 walnut handlers (66 percent) shipped under \$6,500,000 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 two-year average yield per acre for 2005 and 2006 is approximately 1.63 tons. A grower with 290 acres with an average yield of 1.63 tons per acre would produce approximately 473 tons. The season average of grower prices for 2005 and 2006 (published by NASS) is \$1,585 per ton. At that average price, the 473 tons produced on 290 acres would yield approximately \$750,000 in annual revenue. The 2002 Agricultural Census indicated two percent of walnut farms were between 250 and 500 acres in size. The 290 acres would produce, on average, about \$750,000 in annual revenue from walnuts and is near the lower end of the 250 to 500 acreage range category of the 2002 census. Thus, it can be concluded that the number of large walnut farms in 2006 is likely to be around two 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 would increase the assessment rate established for the Board and collected from handlers for the 2007–08 and subsequent marketing years from \$0.0101 per kernelweight pound of assessable walnuts to \$0.0122 per kernelweight pound of assessable walnuts. The Board unanimously recommended 2007–08 expenditures of \$3,777,120 and an assessment rate of \$0.0122 per kernelweight pound of assessable walnuts. The proposed assessment rate of \$0.0122 is \$0.0021 higher than the rate currently in effect. The quantity of assessable walnuts for the 2007–08 marketing year is estimated

at 344,000 tons. Thus, the \$0.0122 rate should provide \$3,777,120 in assessment income and be adequate to meet this year's expenses. The increased assessment rate is primarily due to increased budget expenditures.

The following table compares major budget expenditures recommended by the Board for the 2006–07 and 2007–08 fiscal years:

Budget expense categories	2006–07	2007–08
Administrative Staff/Field Salaries & Benefits	\$415,000	\$438,600
Travel/Board Expenses	75,000	86,000
Office Costs/Annual Audit	142,500	139,500
Program Expenses Including Research Controlled Purchases	5,000	5,000
Crop Acreage Survey		85,000
Crop Estimate	100,000	100,000
Production Research	725,000	730,000
Domestic Market Development	1,750,000	2,002,000
Reserve for Contingency ..	10,360	191,020

The Board reviewed and unanimously recommended 2007–08 expenditures of \$3,777,120. 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 309,600,000 kernelweight pounds which should provide \$3,777,120 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 2005 and 2006 were \$1,570 and \$1,600 per ton respectively. These prices provide a reasonable price range within which the 2007–08 season average price is likely to fall. Dividing these average grower prices by 2,000 pounds per ton provides an inshell price per pound range of between \$0.785 and \$0.80. Dividing

these inshell prices per pound by the 0.45 conversion factor (inshell to kernelweight) established in the order yields a 2007–08 price range estimate of \$1.74 and \$1.78 per kernelweight pound of assessable walnuts.

To calculate the percentage of grower revenue represented by the assessment rate, the assessment rate of \$0.0122 (per kernelweight pound) is divided into the low and high estimates of the price range. The estimated assessment revenue for the 2007–08 marketing year as a percentage of total grower revenue would likely range between 0.701 and 0.685 percent.

This action would increase 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 May 31, 2007, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose 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.

AMS is committed to complying with the E-Government Act, to promote the use of Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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.

A 15-day comment period is provided to allow interested persons to respond to this proposed rule. Fifteen days is deemed appropriate because: (1) The 2007–08 marketing year will begin on August 1, 2007, and the marketing order requires that the rate of assessment for each year apply to all assessable walnuts handled during the year; (2) the Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis and; (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 984

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

For the reasons set forth in the preamble, 7 CFR part 984 is proposed 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, 2007, an assessment rate of \$0.0122 per kernelweight pound is established for California merchantable walnuts.

Dated: August 13, 2007.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Guam 07–005]

RIN 1625–AA87

Security Zone; Tinian, Commonwealth of the Northern Mariana Islands

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change a permanent security zone in waters adjacent to the island of Tinian, Commonwealth of the Northern Mariana Islands (CNMI). Review of this