

insecticide that will kill or control the Red Bay Ambrosia beetle. The beetle carries the Laurel Wilt fungus which can infect and kill avocado trees. Research into the beetle and fungus had been funded by the University of Florida. However, the Committee was informed that funding ceased on August 1, 2010. Without funding, researchers will be unable to continue testing to determine which insecticides work best to kill/control the beetle and at what application rate. The Committee believes it is essential for the industry that the research continues. Therefore, they voted to increase the assessment rate to provide the additional research money.

The Committee reviewed and unanimously recommended 2010–11 expenditures of \$351,502 which included increases in research programs. Prior to arriving at this budget, alternative expenditure levels were discussed based upon the relative value of various research projects to the Florida avocado industry. The assessment rate of \$0.37 per 55-pound bushel container of assessable Florida avocados was then determined by dividing the total recommended budget by the quantity of assessable avocados, estimated at 1,000,000 55-pound bushel containers for the 2010–11 season. This is approximately \$18,400 above the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the grower price for the 2010–11 season could range between \$9.00 and \$66.00 per 55-pound bushel container of avocados. Therefore, the estimated assessment revenue for the 2010–11 season as a percentage of total grower revenue could range between .6 and 4 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 are offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the Florida avocados industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the July 22, 2010, 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 interim rule,

including the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large Florida avocado 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 the 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/MarketingOrdersSmallBusinessGuide>. Any questions about the compliance guide should be sent to Antoinette Carter 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 Committee 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 is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2010–11 fiscal period began on April 1, 2010, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable Florida avocados handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (3) handlers are aware of this action which was unanimously recommended by the Committee at an emergency, public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim rule provides a 60-day comment period, and all comments timely received will be considered prior to the finalization of this rule.

#### List of Subjects in 7 CFR Part 915

Avocados, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 915 is amended as follows:

#### PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

■ 1. The authority citation for 7 CFR part 915 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Section 915.235 is revised to read as follows:

##### § 915.235 Assessment rate.

On and after April 1, 2010, an assessment rate of

\$0.37 per 55-pound container or equivalent is established for avocados grown in South Florida.

Dated: September 10, 2010.

**David R. Shipman,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2010–22978 Filed 9–14–10; 8:45 am]

**BILLING CODE 3410–02–P**

#### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### 7 CFR Part 984

[Doc. No. AMS–FV–10–0060; FV10–984–1 IR]

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

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

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

**SUMMARY:** This rule decreases 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. Assessments upon walnut handlers are used by the Board to fund reasonable and necessary expenses of the program. The marketing year begins September 1 and ends August 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** September 16, 2010; comments received by November 15, 2010 will be considered prior to issuance of a final rule.

**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 document 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>. All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

**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 request information on complying with this regulation 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."

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 will be applicable to all assessable walnuts beginning on September 1, 2010, and continue until amended, suspended, or terminated.

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 will 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 decreases 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 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 growers and handlers of California walnuts. They are familiar with the Board's needs and with 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 in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2009-10 and subsequent marketing years, the Board recommended, and USDA approved, an assessment rate of \$0.0177 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 June 11, 2010, and unanimously recommended 2010-11 expenditures of \$6,812,100 and a modified assessment rate of \$0.0174 per kernelweight pound of assessable walnuts. In comparison, last year's budgeted expenditures were \$5,894,100. The assessment rate of \$0.0174 is \$0.0003 per pound lower than the rate currently in effect. The quantity of assessable walnuts for the 2010-11 marketing year is estimated at 435,000 tons (inshell), which is 65,000 tons more than the 370,000 tons assessed during the 2009-10 marketing year. At the recommended lower assessment rate of \$0.0174 per kernelweight pound, the Board should collect approximately \$6,812,100 in assessment income, which would be adequate to cover its 2010-11 budgeted expenses of \$6,812,000.

The following table compares major budget expenditures recommended by the Board for the 2009-10 and 2010-11 marketing years:

Budget expense categories	2009-10	2010-11
Employee expenses .....	\$535,000	\$577,500
Travel/Board Expenses/Annual Audit .....	161,000	208,000
Office Expenses .....	123,750	118,850
Program Expenses Including Research:		
Controlled Purchases .....	5,000	20,000
Crop Acreage Survey .....	0	95,000
Crop Estimate .....	120,000	105,000
Production Research Director .....	80,000	88,500
Production Research .....	725,000	1,042,000
Grades and Standards Research .....	100,000	125,000
Domestic Market Development .....	4,030,500	4,400,000
Reserve for Contingency .....	13,850	32,250

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected shipments of California walnuts certified as merchantable. The 435,000-ton (inshell) estimate for merchantable shipments is an average of the two prior years' shipments. The Board met on June 11, 2010, and unanimously approved using a two prior years' average to formulate the 2010–11 estimate. Pursuant to § 984.51(b) of the order, this figure is converted to a merchantable kernelweight basis using a factor of 0.45 (435,000 tons × 2,000 pounds per ton × 0.45), which yields 391,500,000 kernelweight pounds. At \$0.0174 per pound, the new assessment rate should generate \$6,812,100 in assessment income and allow the Board to cover its expenses.

Section 984.69 of the order authorizes the Board to maintain a financial reserve of not more than two years' budgeted expenses. Excess assessment funds may be retained in the reserve or may be used temporarily to defray expenses of the subsequent marketing year, but if so used, must be made available to the handlers from whom they were collected within five months after the end of the marketing year.

The assessment rate established in this rule 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 is effective 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 2010–11 budget and those for subsequent marketing years will be reviewed and, as appropriate, approved by USDA.

**Initial 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 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 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 California walnuts were harvested from a total of 223,000 bearing acres during 2009–10. The average yield for the 2009–10 crop was 1.96 tons per acre, which was higher than the 1.65 tons per acre average for the previous five years. NASS reported the value of the 2009–10 crop at \$1,690 per ton, which was higher than the previous five-year average of \$1,632 per ton.

At the time of the 2007 Census of Agriculture, which is the most recent information available, approximately 89

percent of California's walnut farms were smaller than 100 acres. Fifty-four percent were between 1 and 15 acres. A 100-acre farm with an average yield of 1.96 tons per acre would have been expected to produce 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. Assuming that the majority of California's walnut farms are still smaller than 100 acres, it could be concluded that the majority of the growers had receipts of less than \$331,240 in 2009–10. This is well below the SBA threshold of \$750,000; thus, the majority of California's walnut growers could be considered small growers according to SBA's definition.

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 and would therefore be considered small handlers according to the SBA definition.

This rule decreases 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 assessment rate currently in effect. The quantity of assessable walnuts for the 2010–11 marketing year is estimated to be 65,000 tons greater than the quantity assessed for the 2009–10 marketing year. Therefore, even at the reduced assessment rate, the Board should collect approximately \$6,812,100 in assessment income, which should be adequate to cover its budgeted expenses.

The following table compares major budget expenditures recommended by the Board for the 2009–10 and 2010–11 marketing years:

Budget expense categories	2009–10	2010–11
Employee expenses .....	\$535,000	\$577,500
Travel/Board Expenses/Annual Audit .....	161,000	208,000
Office Expenses .....	123,750	118,850
Program Expenses Including Research:		
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Grades and Standards Research .....	100,000	125,000
Domestic Market Development .....	4,030,500	4,400,000
Reserve for Contingency .....	13,850	32,250

The Board reviewed and unanimously recommended 2010–11 expenditures of \$6,812,100. 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 certified as merchantable. 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.

According to NASS, the season average grower prices for the years 2008 and 2009 were \$1,280 and \$1,690 per ton, respectively. Although no official NASS data is yet available regarding the 2010 average grower price, the 2008 and 2009 prices provide a range within which the 2010–11 season average price could fall. Dividing these average grower prices by 2,000 pounds per ton provides an inshell price per pound range of \$0.640 to \$0.845. Dividing these inshell prices per pound by the 0.45 conversion factor (inshell to kernelweight) established in the order yields a 2010–11 price range estimate of \$1.42 to \$1.88 per kernelweight pound of assessable walnuts.

To calculate the percentage of grower revenue represented by the assessment rate, the assessment rate of \$0.0174 per kernelweight pound is divided by the low and high estimates of the price range. The estimated assessment revenue for the 2010–11 marketing year, stated as a percentage of total grower revenue, will thus likely range between 1.22 and 0.927 percent.

This action decreases 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. 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 June 11, 2010, meeting was a public meeting, and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit comments on this interim rule, including the regulatory and informational impacts of this action on small businesses.

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.

AMS is committed to complying with the E-Government Act, to promote the use of the 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/MarketingOrdersSmallBusinessGuide>.

Any questions about the compliance guide should be sent to Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the Board's recommendation, and other information, it is 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 is also found and determined upon good cause that it is impracticable and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2010–11 marketing year begins on September 1, 2010, and the marketing order requires that the rate of assessment for each marketing 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

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

■ For the reasons set forth in the preamble, 7 CFR part 984 is 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 September 1, 2010, an assessment rate of \$0.0174 per kernelweight pound is established for California merchantable walnuts.

Dated: September 10, 2010.

**David R. Shipman,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2010–22982 Filed 9–14–10; 8:45 am]

**BILLING CODE 3410–02–P**

#### FEDERAL ELECTION COMMISSION

#### 11 CFR Part 109

[Notice 2010–17]

#### Coordinated Communications

**AGENCY:** Federal Election Commission.

**ACTION:** Final rules.

**SUMMARY:** The Federal Election Commission is revising its regulations regarding coordinated communications. The Commission is issuing these rules and offering a more complete explanation and justification for parts of the existing rules to comply with the decision of the Court of Appeals for the District of Columbia Circuit in *Shays v. FEC* and to address other issues involving the coordinated communications rules.

**DATES:** These rules are effective on December 1, 2010.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy L. Rothstein, Assistant General Counsel, Ms. Jessica Selinkoff, Attorney, Ms. Joanna S. Waldstreicher, Attorney, or Ms. Esther D. Heiden, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

**SUPPLEMENTARY INFORMATION:** The Commission is revising its regulations regarding coordinated communications at 11 CFR 109.21. The Commission is: (1) Adding a new content standard at 11 CFR 109.21(c)(5) for communications