

election by contract price. However, until such evaluation is complete, no changes will be made to the Peanut Crop Provisions.

#### List of Subjects in 7 CFR Part 457

Crop insurance, Peanut, reporting and recordkeeping requirements.

#### Final Rule

■ Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 457, Common Crop Insurance Regulations, for the 2005 and succeeding crop years as follows:

#### PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR part 457 continues to read as follows:

**Authority:** 7 U.S.C. 1506(l) and 1506(p).

■ 2. Amend § 457.134 as follows:

■ a. Remove and reserve section 2 under the heading “Peanut Crop Insurance Provisions.”

■ b. Revise the introductory text to read as follows:

#### § 457.134 Peanut crop insurance provisions.

\* \* \* \* \*

The peanut crop insurance provisions for the 2005 and succeeding crop years are as follows:

\* \* \* \* \*

Signed in Washington, DC, on October 25, 2004.

**Ross J. Davidson, Jr.,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. 04–24177 Filed 10–28–04; 8:45 am]

BILLING CODE 3410–08–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 984

[Docket No. FV04–984–2 IFR]

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

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

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

**SUMMARY:** This rule decreases the assessment rate established for the Walnut Marketing Board (Board) for the 2004–05 and subsequent marketing years from \$0.0101 to \$0.0094 per kernelweight pound of assessable walnuts. The Board locally administers

the marketing order (order) which regulates the handling of walnuts grown in California. Authorization to assess walnut handlers enables the Board to incur expenses that are reasonable and necessary to administer 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 October 30, 2004.

Comments received by December 28, 2004, 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 E-mail:

*moab.docketclerk@usda.gov*; 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.ams.usda.gov/fv/moab.html*.

**FOR FURTHER INFORMATION CONTACT:** Toni Sasselli, Program Analyst, or Kurt J. Kimmel, Regional Manager, 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*.

**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 marketing agreement and order are 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, 2004, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, 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 decreases the assessment rate established for the Board for the 2004–05 and subsequent marketing years from \$0.0101 to \$0.0094 per kernelweight pound of assessable walnuts.

The order provides authority for the Board, with the approval of the 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 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 2003–04 and subsequent marketing years, 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 September 10, 2004, and unanimously recommended 2004–05 expenditures of \$2,749,500 and an assessment rate of \$0.0094 per kernelweight pound of assessable walnuts. In comparison, last year's budgeted expenditures were \$2,863,350. The assessment rate of \$0.0094 is \$0.0007 lower than the \$0.0101 rate currently in effect. The lower assessment rate is necessary because this year's crop is estimated by the California Agricultural Statistics Service (CASS) to be 325,000 tons (292,500,000 kernelweight pounds merchantable), and the budget is about 4 percent less than last year's budget. Sufficient income should be generated at the lower rate for the Board to meet its anticipated expenses.

Major categories in the budget recommended by the Board for 2004–05 include \$2,037,500 for research and marketing programs (\$1,393,500 for market research and development, \$550,000 for production research, and \$94,000 to the California Agricultural Statistics Service for a crop estimate), \$332,000 for employee expenses (administrative and office salaries, payroll taxes, workers compensation, and other employee benefits), \$97,000 for office expenses (rent, office supplies, telephone, fax, postage, printing, equipment maintenance, and furniture), \$96,000 for other operating expenses (management travel, field travel, insurance, and financial audits), \$5,000 for controlled (compliance check) purchases, \$75,000 for a production research director, and \$107,000 as a reserve for contingency. Budgeted expenses for these items in 2003–04 were \$2,438,000, \$334,625, \$83,000, \$82,000, \$5,000, \$73,000, and \$15,725, respectively.

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 292,500,000 kernelweight pounds which should provide \$2,749,500 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 established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and other 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 and 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 2004–05 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), 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. Thus, both statutes have small entity orientation and compatibility.

There are approximately 5,800 producers of walnuts in the production area and about 43 handlers subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$750,000, and small agricultural service firms are defined as those having annual receipts of less than \$5,000,000.

Current industry information shows that 14 of the 43 handlers (32.5 percent) shipped over \$5,000,000 of merchantable walnuts and could be considered large handlers by the Small Business Administration. Twenty-nine of the 43 walnut handlers (67.5 percent) shipped under \$5,000,000 of merchantable walnuts and could be

considered small handlers. An estimated 58 walnut producers, or about 1 percent of the 5,800 total producers, would be considered large producers with annual incomes over \$750,000. 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 decreases the assessment rate established for the Board and collected from handlers for the 2004–05 and subsequent marketing years from \$0.0101 to \$0.0094 per kernelweight pound of assessable walnuts. The Board unanimously recommended 2004–05 expenditures of \$2,749,500. The decreased assessment rate should generate sufficient income to meet the Board's 2004–05 anticipated expenses. The lower assessment rate is primarily due to a lower budget and based on an estimated crop of 325,000 tons for the year (292,500,000 kernelweight pounds estimated merchantable).

Major categories in the budget recommended by the Board for 2004–05 include \$2,037,500 for research and marketing programs (\$1,393,500 for market research and development, \$550,000 for production research, and \$94,000 to the California Agricultural Statistics Service for a crop estimate), \$332,000 for employee expenses (administrative and office salaries, payroll taxes, workers compensation, and other employees benefits), \$97,000 for office expenses (rent, office supplies, telephone, fax, postage, printing, equipment maintenance, and furniture), \$96,000 for other operating expenses (management travel, field travel, Board expenses, insurance, and financial audits), \$5,000 for controlled (compliance check) purchases, \$75,000 for a production research director, and \$107,000 as a reserve for contingency. Budgeted expenses for these items in 2003–04 were \$2,438,000, \$334,625, \$83,000, \$82,000, \$5,000, \$73,000, and \$15,725, respectively.

Prior to arriving at this budget, the Board considered information from various sources, such as the Board's Budget and Personnel Committee, Research Committee, and Marketing Development Committee. Alternative expenditure levels were discussed by these groups based upon the relative value of various research projects to the walnut industry. The recommended \$0.0094 per kernelweight pound assessment rate was then determined by dividing the total recommended budget by the 292,500,000 kernelweight pound estimate of assessable walnuts for the year. 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.

A review of historical information and preliminary information pertaining to the current marketing year indicates that the grower price for 2004–05 could range between \$0.50 and \$0.70 per kernelweight pound of assessable walnuts. Therefore, the estimated assessment revenue for the 2004–05 marketing year as a percentage of total grower revenue could range between 1.3 and 1.9 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Board's meeting was widely publicized throughout the 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 10, 2004, 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 information on 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 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 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 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 2004–05 marketing year began on August 1, 2004, and the order requires that the rate of assessment for each marketing year apply to all merchantable walnuts handled during the year; (2) this action decreases the assessment rate for merchantable California walnuts; (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; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

#### 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 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, 2004, an assessment rate of \$0.0094 per kernelweight pound is established for California merchantable walnuts.

Dated: October 22, 2004.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 04–24160 Filed 10–28–04; 8:45 am]

**BILLING CODE 3410–02–P**

## **DEPARTMENT OF AGRICULTURE**

### **Rural Utilities Service**

#### **7 CFR Part 1720**

**RIN 0572–AB83**

#### **Guarantees for Bonds and Notes Issued for Electrification or Telephone Purposes**

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule establishes procedures for a guarantee program for cooperatives and other not-for-profit lenders that make loans eligible for assistance under the Rural Electrification Act of 1936 (the RE Act). Criteria for eligibility of lenders and transactions are set forth in the rule together with application procedures. Program participants are required to pay an annual fee for the guarantee. The fee will be credited to the Rural Development Subaccount to provide funds for zero-interest loans and grants pursuant to section 313 of the RE Act. The Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171), amended the RE Act, by adding section 313A which establishes this program. In addition to providing funds to enhance rural development, this program will contribute to improving the technology and reliability of our rural electric transmission and distribution system.

**DATES:** This rule will become effective November 29, 2004.

**FOR FURTHER INFORMATION CONTACT:** Doris Nolte, Chief, Policy Analysis and Loan Management Staff, Electric Program, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1560, Room 5155, Washington, DC 20250–1560. Telephone: (202) 720–0424. Fax: (202) 690–0717. E-mail: [Doris.Nolte@usda.gov](mailto:Doris.Nolte@usda.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Executive Order 12866**

This rule has been determined to be significant for purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget (OMB).

##### **Executive Order 12988**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of that Executive Order. In addition, all State and local laws and regulations that are in conflict with this rule will be preempted. No retroactive effect will be given to the rule and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)), administrative appeal procedures must be exhausted before an action against the Department or its agencies may be initiated.

##### **Regulatory Flexibility Act Certification**

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Administrator of RUS certifies that this