

PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

Accordingly, the interim final rule amending 7 CFR part 982 which was published at 62 FR 53225 on October 14, 1997, is adopted as a final rule without change.

Dated: February 17, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98-4593 Filed 2-23-98; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 984**

[Docket No. FV97-984-1 FIR]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule which decreased the assessment rate established for the Walnut Marketing Board (Board) under Marketing Order No. 984 for the 1997-98 and subsequent marketing years. The Board is responsible for local administration of the marketing 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.

EFFECTIVE DATE: March 26, 1998.

FOR FURTHER INFORMATION CONTACT:

Diane Purvis, Marketing Assistant, or Mary Kate Nelson, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487-5901, Fax: (209) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration

Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632.

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 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 August 1, 1997, 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 the Secretary 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 the Secretary 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 the Secretary'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 continues in effect the assessment rate of \$0.0116 per kernelweight pound of certified merchantable walnuts established for the Board for the 1997-98 and subsequent marketing years.

The California walnut marketing order provides authority for the Board, with the approval of the Department, 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 1997-98 and subsequent marketing years, the Board recommended, and the Department approved, an assessment rate that would continue in effect from marketing year to marketing year unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Board or other information available to the Secretary.

The Board met on September 12, 1997, and unanimously recommended 1997-98 expenditures of \$2,391,289 and an assessment rate of \$0.0116 per kernelweight pound of certified merchantable walnuts. In comparison, last year's budgeted expenditures were \$2,301,869. The assessment rate of \$0.0116 is \$0.0001 lower than the rate formerly in effect. The lower assessment rate is needed to bring expected assessment income closer to the amount necessary to administer the program for the 1997-98 marketing year. The quantity of assessable walnuts for 1997-98 is estimated at 207,000,000 kernelweight pounds, or 9,000,000 kernelweight pounds higher than estimated for 1996-97. With more assessable walnuts, the former rate of assessment would have generated substantially more funds than needed to meet the Board's financial obligations. Assessment income would have exceeded anticipated expenses by about \$31,000. The decrease in the assessment rate in conjunction with the anticipated increase in assessable walnuts should provide adequate assessment income to meet this year's expenses.

The major expenditures recommended by the Board for the 1997-98 year include \$240,326 for general expenses, \$147,126 for office expenses, \$1,928,837 for research expenses, \$50,000 for a production research director, and \$25,000 for the reserve. Budgeted expenses for these items in 1996-97 were \$232,684, \$150,508, \$1,840,677, \$48,000, and \$30,000, respectively.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected merchantable certifications of California

walnuts for the 1997–98 marketing year. As mentioned earlier, merchantable certifications for the year are estimated at 207,000,000 kernelweight pounds, which should provide \$2,401,200 in assessment income (about \$10,000 more than estimated 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 five months after the end of the year.

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary 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 the Department. Board meetings are open to the public and interested persons may express their views at these meetings. The Department 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 1997–98 budget and those for subsequent marketing years will be reviewed and, as appropriate, approved by the Department.

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 5,000 producers of California walnuts in the production area and approximately 50 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than \$500,000, and small agricultural service firms are defined as

those whose annual receipts are less than \$5,000,000. The majority of California walnut producers and handlers may be classified as small entities.

This rule continues in effect the decreased assessment rate of \$0.0116 per kernelweight pound of certified merchantable walnuts established for the Board and collected from handlers for the 1997–98 and subsequent marketing years. The Board unanimously recommended 1997–98 expenditures of \$2,391,289 and that assessment rate. The assessment rate of \$0.0116 is \$0.0001 lower than the 1996–97 rate. The quantity of assessable walnuts for 1997–98 is estimated at 207,000,000 kernelweight pounds. Thus, the \$0.0116 rate should provide \$2,401,200 in assessment income and be adequate to meet this year's 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 five months after the end of the year.

The lower assessment rate is needed to bring expected assessment income closer to the amount necessary to administer the program for the 1997–98 marketing year. The quantity of assessable walnuts for 1997–98 is estimated at 207,000,000 kernelweight pounds, or 9,000,000 kernelweight pounds higher than estimated for 1996–97. With more assessable walnuts, the former rate of assessment would have generated substantially more funds than needed to meet the Board's financial obligations. Assessment income would have exceeded anticipated expenses by about \$31,000. The decrease in the assessment rate in conjunction with the anticipated increase in assessable walnuts should provide adequate assessment income to meet this year's expenses.

The Board's increase in budgeted expenses from \$2,301,869 to \$2,391,289 is due primarily to increases in the following line item categories—administrative and office salaries, research programs, and the production research director. Expenses for these items for 1997–98, with last year's budgeted expenses in parentheses, are: administrative and office salaries—\$148,080 (\$142,000), research programs—\$1,928,837 (\$1,840,677), and production research director—\$50,000 (\$48,000). Prior to arriving at this budget, the Board considered information from various sources, such as the Board's Budget and Personnel Committee, the Research Committee, and the Market Development Committee. Alternative expenditure

levels were discussed by these groups, based upon the relative value of various research projects to the walnut industry. The assessment rate of \$0.0116 per kernelweight pound of certified merchantable walnuts was then determined by dividing the total recommended budget by the quantity of assessable walnuts, estimated at 207,000,000 kernelweight pounds for the 1997–98 marketing year. This would produce assessment income of about \$2,401,900. This is approximately \$10,000 above the anticipated expenses, which the Board determined to be acceptable.

Data for recent seasons and projections for the upcoming season indicate that anticipated 1997–98 assessment revenue as a percentage of total grower revenue could range between 2 and 2.5 percent.

This action continues in effect 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 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 12, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

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.

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

An interim final rule concerning this action was published in the **Federal Register** on October 30, 1997, (62 FR 58641). Copies of that rule were also mailed to all walnut handlers. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on December 29, 1997, and no comments were received.

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.

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

Accordingly, the interim final rule amending 7 CFR part 984 which was published at 62 FR 58641 on October 30, 1997, is adopted as a final rule without change.

Dated: February 17, 1998.

Robert C. Keeney,
Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98-4594 Filed 2-23-98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97-AWA-7]

RIN 2120-AA66

Revocation and Establishment of Class C Airspace Areas; Cedar Rapids, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Class C airspace area designated as "Cedar Rapids Municipal Airport, IA," and establishes a Class C airspace area in its place designated as "The Eastern Iowa Airport, IA." The name of the Cedar Rapids Municipal Airport has been changed to The Eastern Iowa Airport. In order to rename the Class C airspace area, it is necessary to revoke the existing airspace designation, and to reestablish the airspace under the new designation. This action also makes a minor change to the airport reference point for The Eastern Iowa Airport.

EFFECTIVE DATE: 0901 UTC, May 21, 1998.

FOR FURTHER INFORMATION CONTACT: Steve Brown, Airspace and Rules

Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

The Rule

This action amends 14 CFR part 71 by revoking the Class C airspace area designated as "Cedar Rapids Municipal Airport, IA," and establishing a Class C airspace area in its place designated as "The Eastern Iowa Airport, IA." The name of the airport changed from "Cedar Rapids Municipal Airport" to "The Eastern Iowa Airport." Additionally, the airport reference point will change in longitude by one second, from "91°42'40" W." to "91°42'39" W."

Since this action merely involves a name change to the title and the airport of the Class C airspace area and does not involve a change in the dimensions or operating requirements of that airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Class C airspace areas are published in paragraph 4000 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class C airspace area listed in this document will be published subsequently in the Order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 4000—Subpart C—Class C Airspace

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ACE IA C Cedar Rapids Municipal Airport, IA [Removed]

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ACE IA C The Eastern Iowa Airport, IA [New]

The Eastern Iowa Airport, IA
(Lat. 41°53'05" N, long. 91°42'39" W.)

That airspace extending upward from the surface to and including 4,900 feet MSL within a 5-mile radius of The Eastern Iowa Airport and that airspace extending upward from 2,100 feet MSL to and including 4,900 feet MSL within a 10-mile radius of The Eastern Iowa Airport. This Class C airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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Issued in Washington, DC, on February 13, 1998.

Nancy B. Kalinowski,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 98-4703 Filed 2-23-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210 and 211

[Release No. 33-7507; 34-39676; IC-23029; FR-50]

Commission Statement of Policy on the Establishment and Improvement of Standards Related to Auditor Independence

AGENCY: Securities and Exchange Commission.

ACTION: Policy Statement.