

Justification Assessments (Proposal 5)

Greeting

- My name is William (Bill) Carriere. (WILLIAM CARRIERE)
- I am the president and CEO of Carriere Family Farms a diversified family farming and walnut handling operation. Carriere Family Farms, is an LLC family partnership between myself and (counting spouses) another 21 family members, made up of third, fourth, and fifth generation California farmers.
- Although we have big plans to grow, I am testifying today as a small handler.
- I serve on the California Walnut Board in the capacity of Member and sit on the Executive, Market Development, Marketing Order Revision, and Grades & Standards Committees.

Today I would like to discuss several justification points regarding the proposal to revise quality control and inspection. I will be addressing sections 984.69 and 984.347, as published in the notice of hearing.

The purpose of the proposal, recommended by the California Walnut Board (CWB) is to amend Federal marketing order 984 to change the mechanism for assessments §984.69. If implemented, the proposal would prescribe a new method of assessment and initial assessment rate necessitated by changes in the assessment rate regulations (§984.347).

The problem to be addressed is that the Order language ties the collection of assessments to the certification of inspection. The proposed changes to sections 984.50, 984.51 and 984.52 remove inspection certification requirements from the Order. The inspection certification was used by the Board to calculate assessments for all handlers. With the removal of the inspection certification requirement, a new method to allow the Board to calculate assessments for all handlers must be established.

The amendment would modify the language of § 984.69 to (a) remove kernel weight, (b) establish an initial assessment rate and (c) add authority to charge for interest and late payment charges as prescribed by the Board with approval from the Secretary. There would be a conforming change to the regulation § 984.347 to modify the measure of weight for the assessment calculation.

In regard to 984.69 (a) -The kernelweight will no longer apply, as the new assessment mechanism will be based on product received by handlers and reported in inshell pounds. All handlers already provide this information annually on an existing CWB form. This forms, the CWB Crop Acquisition Report (CWB Form #1) is required under the existing provisions of the Order. CWB Form #1 provides the information necessary for the Board to calculate the assessment. Thus, this changes is equitable, neutral and doesn't add administrative burden to handlers.

984.69(b) establishes an initial assessment rate of \$0.0125. The establishment of a rate enables the CWB to collect assessments upon publication of the final rule for the year in which they apply. The initial rate was discussed and recommended by the rulemaking committee and

the full Board. The committee had robust discussion regarding various rates that would be the most reasonable, as to not to appear as though years without assessment were to be recaptured. The rate selected is lower than the rate that was initially proposed for the 2021/2022 season and lower than rates for 4 of the last 5 years prior to 2021/2022. The rate allows the industry to sustain commitments for its mission to build demand and fund research programs that enable to industry to maintain its competitiveness from production to market. Further, the determination of the initial rate in no way supersedes the Board's normal process, during which the Board meets to establish a budget. The rulemaking process is an 18-24 month process, during such time the Board is unable to collect assessments. Having the ability to assess upon implementation is important for the industry to be able to resume its full scope of activities, as the Board is currently operating on its reserves in the interim. Given that the timeline is fluid, the Board needs the ability to implement upon publication if they choose to even if that may be during the middle of the crop year.

The committee and the Board discussed and voted in favor of a new assessment mechanism. The goal is to be equitable and not increase handler burden. Currently all handlers are required to report crop acquisitions (receipts) on CWB Form #1 by January 15 of the marketing year. This report shows total handler reported receipts by country and variety and will be the basis for the application of the rate to be paid in three payments through the remainder of the year. The group reviewed the flow of billings under the old mechanism to determine what would be feasible, equitable and not put undue burden on handlers to pay. Invoicing under the new proposed system would not begin until after the CWB Form #1 is due and would stagger the billings later in the year to allow handlers to pay in three installments vs. the prior system, in which typically occurred monthly under the inspection certification mechanism. Billings would be generated in January, April and July as prescribed by the Board, with payments due in February, May, and August.

In regard to item 984.69(c) – additional language has been added to allow for the Board to apply interest and late payment charges. These rates will be defined in the regulations, in accordance with the establishment of the budget/assessment rate. The intent of the proposal is to encourage compliance through this common business practice. The Board included this language in order to strengthen our ability to ensure handler compliance. While it is our hope that we do not have to use this remedy to ensure compliance, it is a deterrent for non-compliance. These fees would apply equally across the handler base, as incurred.

If implemented, the proposal will enable CWB to streamline the authority, thereby allowing any future changes via regulations. I support the changes therein.

Regarding the change of the definition of to handle my colleague will be testifying however; in order to implement the new method, receive must be added to the scope of the definition to enable the industry to use form #1 (crop acquisitions) as the basis for assessment.

END OF ORAL TESTIMONY

[NOTES BELOW ARE AN AID FOR QUESTIONS THAT MAY ARISE](#)

USDA has stressed that it is very important to describe and identify handler investments in technology, including storage if relevant. This is very helpful, especially if a witness takes a position that indicates outbound inspections are redundant, duplicative and unnecessary, and that there are other means by which to assure quality.

Additional USDA Questions – **Address current industry practices**

The CWB is authorized to require payment of assessments pursuant to (§984.69) under the program.

Expected impacts –

Handlers will benefit from reduced administrative burden resulting from the change in assessment mechanism, as assessment calculations will utilize an existing form.

Specific effects to small business?

USDA data indicates the majority of walnut growers and walnut handlers qualify as small business entities according to the SBA definitions. This was presented earlier on Mr. Poindexter's slide 17. Given that the majority of industry businesses qualify as small entities, the aforementioned benefits are the anticipated effects.

Proposal Implementation

If the marketing order is amended, it will be implemented via the new and existing authority parameters and requirements.

Following approval from the Secretary, the CWB would implement the authority to become effective with the final rule. Annually, the CWB will establish a budget with annual assessment to be collected. The CWB would then communicate to handlers via CWB's annual handler packet.

Compliance with the proposal

Compliance with the proposal is expected to be favorable, as the new method for assessment uses an existing form. The proposal further encouraging compliance through the common business practice of assessing interest and late payment charges and also handler audits on a regular basis.

Industry Support

The proposals have been discussed at a series of committee and full Board/Commission meetings, allowing the opportunity to share the work the Board is doing and the mechanics of the changes. Industry support has been strong for improving operating efficacies and saving costs which ultimately benefit the grower.

The amendment was presented and discussed at the August 17th, 2021, August 25, 2021, September 10, 2021, October 19, 2021, November 19, 2021 and February 24, 2022, meetings of the CWB.