

Heather Donoho – functional application of proposal 5, 984.67/clean-up of any loose ends

Greeting

- My name is Heather Donoho (HEATHER DONOHO)
- I am the Operations Director for the California Walnut Board
- I will be testifying today on several points this afternoon.

In regard to proposal 5, Assessments, the amendment would modify the language of § 984.69 and § 984.347 to (a) remove kernelweight, (b) establish an initial assessment rate, and (c) add interest and late payment charges to late assessment payments as prescribed by the Board with approval from the Secretary. A conforming change to the regulation § 984.347 would modify the measure of weight for the assessment calculation (from kernelweight to inshell). If implemented, the proposal will enable the CWB to further encourage compliance through the common business practice of assessing interest and late payment charges. The rule will take effect at the time of publication to enable the CWB to collect assessments for the marketing year in which it is in effect.

The CWB consists of 10 members and 10 alternates. The makeup of the board is one public member, four handler members and five grower members. The Board discussed and voted unanimously (8-0 vote with two members absent) in favor of a new mechanism. The goal of this new mechanism is to be equitable and not increase handler burden. By using an existing required report as a basis for assessments, there is no additional reporting burden on handlers.

All handlers are required to report crop acquisitions (receipts) on CWB Form #1 by January 15 of the marketing year. These reported receipts will be the basis for the application of the rate to be paid in three payments through the remainder of the year: February, May and August. The group reviewed the flow of billings under the old mechanism to determine what would be equitable and not put increase burden on handlers. The payment method reduces the amount due on the first billing vs. the timing of the old mechanism, and it staggers the billings later in the year to allow handlers to pay in three installments vs. monthly as it was under the certification of inspection mechanism. Billings would be generated in January, April and July as prescribed by the Board, with payments due in February, May and August.

The enclosed exhibit provides a timeline of cumulative assessment revenue as invoiced under the old system (an average of the prior three years) vs. the new proposed mechanism. The new proposed timing of invoicing begins later in the marketing year so that undue burden is not placed on handlers. Under the old system, handlers were invoiced monthly, and approximately 48% of the total revenue for the year was invoiced by January. This is in contrast to the new system, which would bill 33.33% of total annual revenue in January. In addition, under the old system, approximately 76% of the total revenue for the year was invoiced by April. The new system would cumulatively invoice 66.67% of total annual revenue by that time period.

The next enclosed exhibit is a sample calculation of how the assessment would be applied. The first page of the exhibit includes “Handler A’s” CWB Form 1, which shows a total of

1,000,000 pounds of walnuts received for the marketing year. The second page of the exhibit shows the calculation for Handler A's total annual assessment. Assuming a first year assessment rate of \$.0125 per pound of walnuts received, the 1,000,000 reported pounds is multiplied by .0125, for a total assessment for the marketing year of \$12,500. Handler A's assessment billings would be calculated and invoiced as follows:

1. Handler A would be invoiced one third of the total assessment of \$12,500 (\$12,500 multiplied by 33.33% or \$4,166.66) in January.
2. Handler A would be invoiced one third of the total assessment of \$12,500 (\$12,500 multiplied by 33.33% or \$4,166.67) in April.
3. Handler A would be invoiced one third of the total assessment of \$12,500 (\$12,500 multiplied by 33.33% or \$4,166.67) in July.

The final enclosed exhibit provides a sample calculation of how the exemption from assessments would be applied by using "Handler A" from the previous calculation sample as follows:

10,000 pounds multiplied by current rate of \$.0125 equals \$125.

Therefore, Handler A's April invoice will be reduced by \$125 to apply the exemption amount against current year assessments. If the exemption occurred after the last invoice of the marketing year was issued (July invoice), the CWB would issue a refund check to Handler A in the amount of \$125. The refund would ensure that Handler A receives a timely refund against current year assessments.

The requirements of the new assessment mechanism and application of interest and late payment charges recommended by the Board and approved by the Secretary will be provided to all handlers via their annual handler packets, which are sent via signature required mail at the beginning of each marketing year. The handler packets include a personalized cover letter for each handler, copy of the annual CWB Handler Regulations, a full set of CWB required and optional/as needed forms, and a copy of the Walnut Marketing Order. The walnut industry has minimal issues with collections, but the standard business practice of interest and late payment charges will be a tool to help the CWB execute the Order fairly.