



Agricultural Marketing Service

7 CFR Part 999

[Doc. No. AMS-SC-24-0053]

Imported Walnuts; Suspension of Handling Regulations

AGENCY: Agricultural Marketing Service, Department of Agriculture (USDA).

ACTION: Direct final rule.

SUMMARY: This direct final rule stays the regulation governing imports of walnuts in order to align it with regulations prescribed under the Federal marketing order regulating the handling of walnuts grown in California. This action is required under the Agricultural Marketing Agreement Act of 1937, as amended.

DATES: This direct final rule is effective [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], without further action or notice, unless significant adverse comments are received by [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. If significant adverse comments are received, the Agricultural Marketing Service will publish a timely withdrawal of the amendment in the *Federal Register*.

ADDRESSES: Interested persons are invited to submit written comments concerning this direct final rule. Comments can be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237. Comments can also be sent to the Docket Clerk electronically by Email: MarketingOrderComment@usda.gov or via the internet at: <https://www.regulations.gov>. Comments should reference the document number and the date and page number of this issue of the *Federal Register*. Comments submitted in response to this direct final rule will be included in the record, will be made available to the public, and can be viewed at: <https://www.regulations.gov>. 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: Joshua R. Wilde, Marketing Specialist, or Barry Broadbent, Chief, Northwest Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; telephone: (503) 326-2724; or email: Joshua.R.Wilde@usda.gov or Barry.Broadbent@usda.gov.

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; telephone: (202) 690-3919; or email: Antoinette.Carter@usda.gov.

SUPPLEMENTARY INFORMATION: This direct final rule is issued under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the “Act”. Section 8e provides that whenever certain specified commodities, including walnuts, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for domestically produced commodities. Marketing Order No. 984 (referred to as the “Order”) regulates the handling of walnuts grown in California (7 CFR part 984). The California Walnut Board (Board) locally administers the Order and is comprised of growers and handlers of California walnuts operating within the area of production and a public member.

The Agricultural Marketing Service (AMS) is issuing this direct final rule in conformance with Executive Order 12866, as amended by Executive Order 13563. Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental,

public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This direct final rule has been reviewed under Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” which requires Federal agencies to consider whether their rulemaking actions would have Tribal implications. AMS has determined that this rule is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes.

This direct final rule has been reviewed under Executive Order 12988, “Civil Justice Reform.” This rule is not intended to have retroactive effect.

This direct final rule stays the regulation governing imports of walnuts in order to align the walnut import regulation with handling regulations prescribed under the Order. On October 28, 2021, the Board recommended formal rulemaking to amend the Order and submitted five proposed amendments to AMS. Among the Board’s proposals were the removal of grade, quality, size, and inspection requirements for walnuts handled under the Order. AMS held a public hearing on these proposals on April 19 and 20, 2022. In preparation for this hearing, AMS published a notification of hearing on proposed rulemaking on April 1, 2022 (87 FR 19020), providing information for how to submit testimony and attend the proceedings. Nine industry witnesses testified at the hearing. All witnesses expressed their support for the proposed amendments. The witnesses, Board, and the walnut industry were aware that a corresponding change would need to be made with respect to the walnut import regulation, as required by section 8e of the Act, when

they made the recommendation to remove handling regulation requirements from the Order.

Based upon the record of hearing, AMS published a recommended decision, with an opportunity to file exceptions, on October 25, 2022 (87 FR 64385). AMS subsequently published a proposed rule and referendum order on March 7, 2023 (88 FR 14083). AMS then conducted a grower referendum with a voting period of April 3 through April 21, 2023. The proposed amendments to remove grade, quality, size, and inspection requirements from the Order were supported by approximately 81 percent of growers voting in the referendum, accounting for 88 percent of the volume represented by participating growers. Finally, AMS published a final rule on August 21, 2023, to amend the Order as proposed (88 FR 56745). A corresponding change to the walnut import regulation was required pursuant to section 8e of the Act but was not incorporated into the final rule referenced above. This direct final rule addresses the import walnut import regulations.

This direct final rule indefinitely stays regulations governing the importation of walnuts into the United States. Pursuant to section 8e of the Act, whenever a marketing order contains any terms or conditions regulating the grade, size, quality, or maturity of certain commodities produced in the United States (including walnuts), the importation of any such commodity “shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of such order or comparable restrictions”. Because the Order no longer contains any such terms or conditions, it is necessary that a corresponding change be made to 7 CFR 999.100 with respect to the grade, quality, size, and inspection requirements imposed on walnuts imported into the United States. Under § 984.50 of the amended Order, the Board retains authority to recommend regulations to establish new grade, quality, size, and maturity requirements, subject to approval of the Secretary. Therefore, walnut import regulations under 7 CFR 999.100 will be stayed and not

eliminated. Should the Board recommend reestablishment of handling regulations under the Order, which would require a corresponding lifting of the suspension on the walnut import regulation, AMS would review any such recommendation and proceed with rulemaking as appropriate. In accordance with section 8e of the Act, AMS would submit any subsequent proposal to the United States Trade Representative for concurrence prior to making a corresponding change to the import requirements. In addition, AMS has notified the United States Trade Representative of this current action.

Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this 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. At the time this analysis was prepared, the Small Business Administration (SBA) defined small agricultural service firms, which would include walnut importers, as those having annual receipts of less than \$34,000,000 (North American Industry Classification System (NAICS) code 115114, Postharvest Crop Activities) (13 CFR 121.201).

USDA's Economic Research Service reported that approximately 1,210,000 pounds of fresh or dried walnuts were imported during the 2023-2024 season with a reported total value of \$4,693,000. According to AMS' Compliance Enforcement Management System, approximately 23 firms imported fresh or dried walnuts into the United States over this same period. Using that data, the average revenue for each of the 23 walnut importers would have been approximately \$204,043 (\$4,693,000 divided by 23), which is below the \$34,000,000 SBA threshold for small agricultural service firms. As such, all walnut importers may be considered small business entities according to

current SBA definitions.

This direct final rule indefinitely stays regulations governing the importation of walnuts into the United States. This action will not impose any additional costs or regulatory burden on the industry, including either large or small walnut importers. Should the Board recommend reestablishment of handling regulations under the Order, which would require a corresponding lifting of the suspension on the walnut import regulation, AMS would review any such recommendation and proceed with rulemaking, as appropriate. In accordance with section 8e of the Act, AMS would submit any such proposal to the United States Trade Representative for concurrence prior to making a corresponding change to the import requirements.

This rule would not impose any additional reporting or recordkeeping requirements on walnut importers. 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. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

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.

AMS is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA) generally requires notice and comment rulemaking, section 553 of the APA provides an exception when the agency, for good cause, finds that notice and public procedure are “impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(B). AMS concludes that general notice and comment is unnecessary here because this is a noncontroversial action, and AMS anticipates no adverse comment. The purpose of this direct final rule is merely to align the walnut import regulations with those under the Order, as amended, and as required under the Act. This is a regulatory

relaxation, and these changes should have been incorporated into the final rule published on August 21, 2023 (88 FR 56745).

A 30-day comment period is provided to allow comment on the changes to the walnut import regulations herein. This period is deemed appropriate for the reasons stated above and because an amendment is required to stay the grade, quality, size, and inspection requirements on imported walnuts to align with the requirements in effect for domestic walnuts produced under the Order, as amended. If no significant adverse comments are received, this direct final rule will become effective on the effective date, without further action or notice. If significant adverse comments are received, AMS will publish a timely withdrawal of the amendment in the *Federal Register*.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this direct final rule.

List of Subjects in 7 CFR Part 999

Dates, Food grades and standards, Imports, Nuts, Prunes, Raisins, Reporting and record keeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR part 999 as follows:

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 999 continues to read as follows:

Authority: 7 U.S.C. 601-674.

§ 999.100 [Stayed]

2. Stay § 999.100 indefinitely.

Erin Morris,
Administrator,
Agricultural Marketing Service.

[FR Doc. 2025-18267 Filed: 9/19/2025 8:45 am; Publication Date: 9/22/2025]