

Justification Revising Quality Control/Inspections (Proposal 1)

Witnesses: Eric Heidman, Chuck Crain

Greeting

- My name is Eric Heidman (ERIC HEIDMAN)
- I am a (small/large) walnut grower and ADD Title with Diamond Foods, a large handler
- I am testifying today as a small grower and a large handler.
- I am a California Walnut Board member and serve on several committees for the Board (Marketing Order Revision and Grades & Standards).

Today I would like to discuss several justification points regarding the proposal to revise quality control and inspection. I will be addressing sections 984.50, 984.51 and 984.52 as published in the notice of hearing.

The purpose of the proposed amendment is to revise Marketing Order sections 984.50 (Grade, quality and size regulations), 984.51 (Inspection and certification of inshell and shelled walnuts), and 984.52 (Processing of shelled walnuts). The revised authority will remain in place, subject to regulations the CWB can implement in future, as necessary.

The amendment requires conforming changes to include a new mechanism for assessment collection (§984.69), revisions to the definitions of § 984.12 substandard walnuts and §984.32 to certify, and also adds a provision for the application of fees for late payments. Additional conforming changes include the removal of sections §984.450, §984.451 and §984.452. If implemented, the proposal will better align the Order to market driven practices and eliminate redundancies in inspection, while reducing costs and administrative burden for handlers and the CWB.

I am the Chair of the Grades & Standards Committee and we undertook discussions regarding modernizing inspection in the fall of 2020. The CWB has continued to exhaustively evaluate processes under Marketing Order 984 to make the Order work harder for industry. In today's environment, what was efficient in 1948 does not reflect the current and evolving needs of industry. The recent addition of credit-back authority (published in March of 2021) for market promotion is a testament to industry's desire to use every means possible to improve the effectiveness of the Order.

The industry has a broad and diverse base of handlers whose businesses vary in size, scale, customer base and walnut product(s) they process. The original grades and standards enacted in 1948 were put forth with varieties that no longer exist and are not viable in the domestic and international markets. The industry has grown exponentially over the past 73 plus years, further making the USDA grades and standards outdated and obsolete. The quality control programs of handlers across the industry have also advanced and innovated significantly over time. Customer specifications are also at higher standards and industry handlers already go above and beyond USDA grades and standards to meet customer expectations and promote quality.

In the past decade, the industry has made significant infrastructure investments to manage over 300,000 tons of growth, from processing throughput, to storage, investment in technology and equipment that ensures food safety and quality standards that not only meet, but exceed USDA standards, securing California's position as the global leader in walnut trade.

The market demand for California walnuts has continued to grow because of our quality reputation. However, the quality that drives the market today is driven by customer needs that well exceed USDA grade standards. Our handlers have spent millions of dollars to make capital equipment investments, ensuring compliance with FDA food safety, quality and traceability requirements, while also investing in human capital to oversee rigorous programs to meet market driven quality standards. This investment is above and beyond that of USDA requirements, resulting in redundancies in processes (dual inspection) and duplicative costs to do so.

At USDA's guidance the Grades & Standards Committee, inspection agency and staff developed a proposal that would allow the industry to use an audit based method for inspection. The proposal was subsequently denied, because it was deemed by USDA that the two-tiered system proposed would not be feasible as an infrequent verification program could not ensure the minimum quality standards were being met as required under the marketing order (USDA letter dated 6.4.2021 and digitally signed by Sonia Jimenez, Deputy Administrator). Additional alternatives were explored however, every solution required a long-term process of resolution, which limited industry's ability to act swiftly to address ongoing needs. The complexities of the Order left the industry with few viable solutions that would enable inspection to be streamlined, improve efficiency and enable assessment collection outside of certification of outbound walnuts, thus necessitating the industry pursue a formal solution to change inspection authority and make the conforming changes to the Order. Currently, a moratorium of inspection enforcement is in place, during the formal rulemaking process. This moratorium was effective September 1, 2021, the start of the Board's 2021/22 marketing year. Business has continued as prior to the moratorium, with handlers meeting customer needs, which far exceed USDA grade standards.

The proposal eliminates burden for all handlers by reducing the aforementioned redundancies, associated costs and easing regulations. It modifies the quality control authority to maintain it, should the industry choose to reinstate quality control regulations in the future.

I support the proposed changes in § 984.51, 984.52, 984.450 (c), 984.451 (a) and (b), 984.452, 984.464 (b) that eliminate the requirements for outgoing mandatory inspection and current grade, quality, and size regulations while preserving the Board's authority to propose and implement future inspection and certification requirements, and/or grade, quality, and size regulations § 984.12, 984.32, 984.50, 984.64, 984.69, 984.77, 984.459, 984.472, and 984.476.

Diamond Foods has discussed the inspection process with our grower board in person and our general grower base in print, citing the background work and reasoning that has gone into identifying redundancies, inefficiencies and critical concerns of the current process relative to

the Order and marketing environment. We have communicated the process undertaken between the Board Grades and Standards Committee and USDA, as well as the Secretary's ruling leading up to the decision to suspend inspection. We have laid out the implications of suspension relative to assessment collection and provided a general timelines for the rulemaking/referendum process.