

appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 0.5714 hours per response.

*Respondents:* Plant protection authorities (foreign) and growers.

*Estimated annual number of respondents:* 20.

*Estimated annual number of responses per respondent:* 10.5.

*Estimated annual number of responses:* 210.

*Estimated total annual burden on respondents:* 120 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

### Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

### List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Honey, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR part 319 would be amended as follows:

### PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue to read as follows:

**Authority:** 7 U.S.C. 450 and 7701-7772; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

#### § 319.37-8 [Amended]

2. In § 319.37-8, in the introductory text of paragraph (e), the list of plants would be amended by removing the period after the word "*Saintpaulia*" and by adding, in alphabetical order, entries for "*Rhipsalidopsis* spp. from the

Netherlands and Denmark" and "*Schlumbergera* spp. from the Netherlands and Denmark".

Done in Washington, DC, this 21st day of April 2005.

**Elizabeth E. Gaston,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 05-8372 Filed 4-26-05; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 915

[Docket No. FV05-915-1 PR]

#### Avocados Grown in South Florida; Increased Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This rule would increase the assessment rate established for the Avocado Administrative Committee (Committee) for the 2005-06 and subsequent fiscal years from \$0.20 to \$0.27 per 55-pound bushel container or equivalent of avocados handled. The Committee locally administers the marketing order which regulates the handling of avocados grown in South Florida. Authorization to assess avocado handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal year began April 1 and ends March 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Comments must be received by May 27, 2005.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938; E-mail:

[moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov); or Internet: <http://www.regulations.gov>. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

**FOR FURTHER INFORMATION CONTACT:** William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Fruit and Vegetable Programs,

AMS, USDA, 799 Overlook Drive, Suite A, Winter Haven, Florida 33884; Telephone: (863) 324-3375, Fax: (863) 325-8793; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 121 and Order No. 915, both as amended (7 CFR part 915), regulating the handling of avocados grown in South Florida, hereinafter referred to as the "order." The order is 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 of Agriculture (USDA) 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, Florida avocado handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable avocados beginning on April 1, 2005, 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 USDA 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 USDA 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 USDA'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 would increase the assessment rate established for the Committee for the 2005–06 and subsequent fiscal years from \$0.20 to \$0.27 per 55-pound bushel container or equivalent of avocados.

The Florida avocado marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Florida avocados. They are familiar with the Committee'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 2002–03 and subsequent fiscal years, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal year to fiscal year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on February 17, 2005, and recommended with a vote of nine in favor and one abstention, 2005–06 expenditures of \$211,038 and an assessment rate of \$0.27 per 55-pound bushel container or equivalent of avocados. In comparison, last year's budgeted expenditures were \$241,568. The recommended assessment rate is \$0.07 higher than the rate currently in effect. The Committee recommended the increase to rebuild its reserves which have been reduced in recent years. In 2003–04, the Committee estimated assessable production at one million containers but only harvested 660,000, causing the Committee to use its reserves to cover necessary expenses. In 2004–05, it appears there will be another shortfall of approximately 100,000 containers. Thus, 2004–05 assessments will be reduced by approximately \$20,000 and the Committee will again have to use reserves to cover its expenses. The Committee reserves are estimated to be approximately \$110,000 at the start of the new fiscal year that began April 1, 2005. The Committee expects 900,000

55-pound bushel containers to be harvested during the 2005–06 fiscal year. This is expected to result in approximately \$32,000 in excess assessment income, which would increase the Committee's reserves to around \$142,000.

The major expenditures recommended by the Committee for the 2005–06 year include \$90,235 for salaries, \$24,203 for insurance and bonds, \$22,730 for employee benefits, \$15,000 for research, and \$10,000 for local and national enforcement. Budgeted expenses for these items in 2004–05 were \$79,800, \$26,093, \$23,643, \$21,000, and \$43,135, respectively. The budget item local and national enforcement was reduced for 2005–06 because the compliance officer was hired as Committee manager and this person will perform both compliance and managerial functions. The budget item salaries, reflects these function changes.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses and increase in reserves by expected shipments of Florida avocados. Avocado shipments for the year are estimated at 900,000 bushels which should provide \$243,000 in assessment income. Income derived from handler assessments, along with interest income would be adequate to cover budgeted expenses. Funds in the reserve (estimated to be about \$110,000 on April 1, 2005) would be kept within the maximum permitted by the order (approximately three fiscal years' expenses).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2005–06 budget and those for subsequent fiscal years would be

reviewed and, as appropriate, approved by USDA.

#### Initial Regulatory Flexibility Analysis

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 initial 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 150 producers of avocados in the production area and approximately 33 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$6,000,000.

According to the National Agricultural Statistics Service (NASS) and data provided by the Committee, the average Florida grower price for fresh avocados during the 2003–04 season was equivalent to \$22.22 per 55-pound bushel container and total shipments were around 660,000 55-pound bushels. Approximately 11 percent of all handlers handled 76 percent of Florida avocado shipments. Using the average price and information provided by the Committee, nearly all avocado handlers could be considered small businesses under the SBA definition. In addition, based on production and grower prices, and the total number of Florida avocado growers, the average annual grower revenue is approximately \$98,000. Thus, the majority of Florida avocado producers may also be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2005–06 and subsequent fiscal years from \$0.20 to \$0.27 per 55-pound bushel of avocados. The Committee recommended 2005–06 expenditures of \$211,038 and an assessment rate of \$0.27 per 55-pound bushel of avocados. The proposed assessment rate of \$0.27 is \$0.07 higher than the 2004–05 rate.

The quantity of assessable avocados for the 2005–06 fiscal year is estimated at 900,000 55-pound bushels. Thus, the \$0.27 rate should provide \$243,000 in assessment income and be adequate to meet expenses.

The major expenditures recommended by the Committee for the 2005–06 year include \$90,235 for salaries, \$24,203 for insurance and bonds, \$22,730 for employee benefits, \$15,000 for research, and \$10,000 for local and national enforcement. Budgeted expenses for these items in 2004–05 were \$79,800, \$26,093, \$23,643, \$21,000, and \$43,135, respectively. The budget item local and national enforcement was reduced for 2005–06 because the compliance officer was hired as Committee manager and this person will perform both compliance and managerial functions. The budget item salaries, reflects these function changes.

The Committee recommended the increase in the assessment rate to rebuild its reserves which have been reduced in recent years. In 2003–04, the Committee estimated assessable production at one million containers, but only harvested 660,000, causing the Committee to use its reserves to cover necessary expenses. For the 2004–05 season, it appears there will be another production shortfall of approximately 100,000 containers below the Committee's estimate. Thus, 2004–2005 assessments will be about \$20,000 less than expected and the Committee will again have to use its reserves to cover expenses.

The Committee reserves are estimated to be approximately \$110,000 at the start of the new fiscal year that began April 1, 2005. The Committee estimates 900,000 55-pound bushel containers will be harvested during the 2005–06 fiscal year. This is expected to result in \$32,000 in excess assessment income, which would increase the Committee's reserves to around \$142,000.

The Committee reviewed and recommended 2005–06 expenditures of \$211,038 which included increases in administrative and office salaries, and insurance and bond programs. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Budget Subcommittee. Several alternative assessment and expenditure levels were discussed by these groups based on at what level to fund a research project and on how much they wanted to add to reserves. The assessment rate of \$0.27 per 55-pound bushel container of assessable avocados was then determined by dividing the total recommended budget, including the

increase in reserves, by the quantity of assessable avocados, estimated at 900,000 55-pound bushel containers or equivalents for the 2005–06 fiscal year. This is approximately \$32,000 above the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming fiscal year indicates that the average Florida grower price for the 2005–06 marketing season could range between around \$15.00 and \$22.00 per 55-pound bushel container or equivalent of avocados. Therefore, the estimated assessment revenue for the 2005–06 fiscal year as a percentage of total grower revenue could range between 1.2 and 1.8 percent.

This action would increase 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 would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the Florida avocado industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the February 17, 2005, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Florida avocado 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.

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

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2005–06 fiscal year began on April 1,

2005, and the marketing order requires that the rate of assessment for each fiscal year apply to all assessable avocados handled during such fiscal year; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

#### List of Subjects in 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 915 is proposed to be amended as follows:

#### PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

1. The authority citation for 7 CFR part 915 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 915.235 is revised to read as follows:

##### § 915.235 Assessment rate.

On and after April 1, 2005, an assessment rate of \$0.27 per 55-pound container or equivalent is established for avocados grown in South Florida.

Dated: April 21, 2005.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 05–8359 Filed 4–26–05; 8:45 am]

BILLING CODE 3410–02–P

#### NUCLEAR REGULATORY COMMISSION

##### 10 CFR Part 71

#### Regulations for the Safe Transport of Radioactive Material; Solicitation of Comments on Proposed Changes

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Solicitation of comments on proposed changes.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) and the U.S. Department of Transportation (DOT) are jointly seeking comments on proposed changes to the International Atomic Energy Agency (IAEA) Regulations for the Safe Transport of Radioactive Material (referred to as TS–R–1). The proposed changes were submitted by the U.S. and other IAEA member states and International Organizations, and might necessitate subsequent domestic