

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 915**

[Docket No. FV06-915-1 C]

**Marketing Order Regulating the Handling of Avocados Grown in South Florida; Florida Avocado Maturity Requirements; Correction****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Correcting amendment.

**SUMMARY:** The Agricultural Marketing Service (AMS) is making a correction to the section of the Code of Federal Regulations which specifies maturity requirements for avocados grown in South Florida. The D date for the Meya variety of avocados is listed incorrectly.

**DATES:** *Effective Date:* March 8, 2006.**FOR FURTHER INFORMATION CONTACT:**

William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; 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.

**SUPPLEMENTARY INFORMATION:****Background**

AMS discovered an error in a maturity date in § 915.332 of the codified regulations. A final rule published in the **Federal Register** on June 16, 1994 (59 FR 30869), inserted specific calendar dates into Table 1 of § 915.332(a)(2), regulating the maturity for avocados grown in South Florida. The D date of the Meya variety was inadvertently published as "1-89" when it should have been "1-09".

**Need for Correction**

A maturity date for Meya variety avocados in Marketing Order 915, Avocados Grown in South Florida, is incorrect and needs to be changed. In Table 1 of § 915.332(a)(2), the date should be "1-09", but the date appears as "1-89". This correction document corrects that mistake.

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

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

■ Accordingly, 7 CFR part 915 is corrected by making the following amendment:

**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.

**§ 915.332 [Corrected]**

■ 2. In § 915.332, Table 1, the entry for Meya (P) is corrected by revising the date appearing in the "D date" column to read "1-09".

Dated: February 28, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 06-2118 Filed 3-6-06; 8:45 am]

**BILLING CODE 3410-02-P**

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 1207**

[Doc. No. FV-05-702 IFR]

**Amendments to the Potato Research and Promotion Plan****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Interim final rule with request for comments.

**SUMMARY:** The purpose of this rule is to increase the assessment rate on handlers and importers of potatoes from 2 cents to 2.5 cents per hundredweight. The increase is authorized under the Potato Research and Promotion (Plan). The Plan is authorized by the Potato Research and Promotion Act (Act). In order to sustain the three major programs currently conducted by the National Potato Promotion Board (Board), International Marketing, Domestic Marketing (which includes retail marketing), and a nutrition campaign at their present levels beyond June 2006, additional revenue is required.

**DATES:** This rule is effective March 8, 2006. Comments received by May 8, 2006 will be considered prior to finalization of this rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0244, Washington, DC 20250-0244; fax: (202) 205-2800, e-mail:

*Jeanette.Palmer@usda.gov*; or Internet: *http://www.regulations.gov*. All comments should reference the docket number, the date and the page number of this issue of the **Federal Register** and will be made 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/rpb.html*.

**FOR FURTHER INFORMATION CONTACT:**

Jeanette Palmer, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0244, Washington, DC 20250-0244; telephone (202) 720-5976 or fax (202) 205-2800.

**SUPPLEMENTARY INFORMATION:** This rule is issued under the Potato Research and Promotion (Plan) [7 CFR part 1207], which became effective March 9, 1972. The Plan is authorized by the Potato Research and Promotion Act (Act) [7 U.S.C. 2611-2627].

**Executive Order 12988**

This rule has been reviewed under the Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. 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 the Act, a person subject to the plan may file a petition with the Secretary of Agriculture (Secretary) stating that such plan, any provision of such plan, or any obligation imposed in connection with such plan is not in accordance with law; and requesting a modification of the plan or an exemption from the plan. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary will rule on the petition. The Act provides that the district court of the United States in any district in which such person is an inhabitant, or has principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided that a complaint is filed within 20 days after the date of entry of the ruling.

**Executive Order 12866**

The Office of Management and Budget (OMB) has waived the review process required by Executive Order 12866 for this action.

**Regulatory Flexibility Act and Paperwork Reduction Act**

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agricultural Marketing Service

has examined the impact of this rule on small entities. The purpose of the RFA is to fit regulatory actions to scale of businesses subject to such action so that small businesses will not be disproportionately burdened.

There are approximately 1,353 handlers, 5,223 producers, and 300 importers of potatoes and potato products who are subject to the provisions of the Plan. The Small Business Administration (SBA) defines small agricultural businesses, which includes handlers and importers, as those whose annual receipts are less than \$6 million, and small agricultural producers are defined as those having annual receipts of no more than \$750,000 annually. Most of the producers and handlers, and some of the importers would be classified as small businesses under the criteria established by the SBA [13 CFR 121.201].

Currently, potato handlers and importers pay a mandatory assessment of 2 cents per hundredweight. Assessments under the program are used to fund promotional campaigns and to conduct research in the areas of U.S. marketing, and international marketing and to enable the Board to exercise its duties in accordance with the Plan. The 2 cent assessment generates about \$8.5 million in annual revenues. The current assessment became effective when the Plan was amended in May 1984, to increase the maximum assessment rate from 1 cent per hundredweight to 0.5 percent of the previous 10-year average price received by growers. The Plan is administered by the National Potato Promotion Board (Board) under USDA supervision.

In order to sustain the three major programs currently conducted by the Board, International Marketing, Domestic Marketing (which includes retail marketing), and a nutrition campaign at their present levels beyond June 2006, additional revenue is required. The Board approved this increase in the assessment rate at its March 19, 2005, annual meeting. This increase is consistent with section 1207.342(a) of the Plan, which provides such assessments shall be levied at a rate fixed by the Secretary which shall not exceed one-half of one per centum of the immediate past ten calendar years United States average price received for potatoes by growers as reported by the Department of Agriculture. Further, not more than one such assessment may be collected on any potatoes.

The  $\frac{1}{2}$  cent assessment rate increase will bring in an estimated \$1.5 to \$2 million in new revenue, depending upon production levels. For 2005,

domestic production was 420,879,000 hundredweight and imports represented 59,683,000 hundredweight. The new rate would allow the Board to maintain its investment in the nutrition campaign and marketing programs. It is estimated that the Board would collect approximately \$10 million in assessments with a 2.5 cent per hundredweight assessment rate. Any additional costs should be offset by the benefits to be derived from the research and promotion programs. The Board has determined that the  $\frac{1}{2}$  cent increase in assessments would cost potato growers less than one-half of one percent (0.005%) of total production costs or approximately \$1.75 per acre based on average yields.

Alternatives were also considered by the Board, which included cutting back funding of marketing programs and the nutrition campaign, and eliminating the nutrition campaign. All of the alternatives were rejected by the Board because it was determined that by the continued funding of the marketing programs and the nutrition campaign would help increase the demand of potatoes. In order to continue to fund these programs, the Board needs to increase the assessment rate by  $\frac{1}{2}$  cent per hundredweight.

There are no relevant Federal rules that duplicate, overlap, or conflict with this rule.

In accordance with the OMB regulation [5 CFR part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection and recordkeeping requirements that are imposed by the Plan have been approved previously under OMB control number 0581-0093. This rule does not result in a change to the information collection and recordkeeping requirements previously approved.

We have performed this initial Regulatory Flexibility Analysis regarding the impact of this amendment to the Plan on small entities, and we invite comments concerning potential effects of the proposed amendment.

#### Background

The Plan became effective on March 9, 1972, after a national referendum among producers. Under the Plan, handlers and importers are assessed 2 cents per hundredweight. No assessment shall be levied on potatoes grown in the 50 States of the United States by producers of less than 5 acres of potatoes. Importers pay assessments on all tablestock potatoes imported for ultimate human consumption and on all imported seed potatoes. The program

currently generates about \$8.5 million in annual revenues, which is administered by the Board under USDA supervision. The Board administers a national program of research development, advertising, and promotion designed to strengthen potatoes' competitive position and to maintain and expand domestic and foreign markets for potatoes and potato products.

Currently, the assessment rate is 2 cents per hundredweight levied on all potatoes produced within the 50 States of the United States and on imports of potatoes. In order to sustain the three major programs being conducted by the Board, International Marketing, Domestic Marketing (which includes retail marketing), and a nutrition campaign at their present levels beyond June 2006, additional revenue to the Board is required. The  $\frac{1}{2}$  cent assessment rate increase will bring in an estimated \$1.5 to \$2 million in new revenue, depending upon production levels. For 2005, domestic production was 420,879,000 hundredweight and imports represented 59,683,000 hundredweight. The new rate would allow the Board to maintain its investment in the nutrition campaign and marketing programs. It is estimated that the Board would collect approximately \$10 million in assessments with a 2.5 cent per hundredweight assessment rate. Any additional cost should be offset by the benefits to be derived from research and promotion programs.

In addition, the Board, whose members represent all potato producing states as well as importers, voted to increase the assessment rate at its March 19, 2005, annual meeting. Eighty-eight percent of the Board voted to increase the assessment rate. The majority of those that opposed the increase in assessment rate had a number of reasons, including a view that a State program is preferable over a national program and concern about the impact on growers.

This action will amend the rules and regulations issued under the Plan. This action will increase the assessment rate by  $\frac{1}{2}$  cent. The rate would increase from 2 cents to 2.5 cents per hundredweight. The 2.5 cents is within the formula allowed by section 1207.342 (a) of the Plan which states the funds to cover the Board's expenses shall be acquired by the levying of assessments upon handler and importers as designated in regulations recommended by the Board and issued by the Secretary. Such assessments shall be levied at a rate fixed by the Secretary which shall not exceed one-half of one per centum of

the immediate past ten calendar years United States average price received for potatoes by growers as reported by the Department of Agriculture. Further, not more than one such assessment may be collected on any potatoes. The average price was determined to be \$5.88 using the years 1994–2003 and one-half of one per centum is 2.94 cents. Accordingly, the Board's recommendation of 2.5 cents is within the formula allowed by section 1207.342(a).

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The increase in the assessment rate should correspond as closely as practicable with the new 2006 crop; (2) the Board currently needs additional funding to maintain its marketing programs and nutrition campaign; and (3) a sixty-day period is provided for interested persons to comment.

#### List of Subjects in 7 CFR Part 1207

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Potatoes, Promotion, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 1207 is amended as follows:

#### PART 1207—POTATO RESEARCH AND PROMOTION PLAN

■ 1. The authority citation for part 1207 continues to read as follows:

**Authority:** 7 U.S.C. 2611–2627.

■ 2. In § 1207.510, paragraphs (a)(1), (b)(1) and the table immediately following paragraph (b)(3) are revised to read as follows:

##### § 1207.510 Levy of assessments.

(a) \* \* \* (1) An assessment rate of 2.5 cents per hundredweight shall be levied on all potatoes produced within the 50 States of the United States.

(b) \* \* \* (1) An assessment rate of 2.5 cents per hundredweight shall be levied on all tablestock potatoes imported into the United States for ultimate consumption by humans and all seed potatoes imported into the United States. An assessment rate of 2.5 cents per hundredweight shall be levied on the fresh weight equivalents of imported frozen or processed potatoes for

ultimate consumption by humans. The importer of imported tablestock potatoes, potato products, or seed potatoes shall pay the assessment to the Board through the U.S. Customs Service and Border Protection at the time of entry or withdrawal for consumption of such potatoes and potato products into the United States.

\* \* \* \* \*  
(3) \* \* \*

Tablestock potatoes, frozen or processed potatoes, and seed potatoes	Assessment	
	cents/cwt	cents/kg
0701.10.0020 .....	2.50	0.0551
0701.10.0040 .....	2.50	0.0551
0701.90.1000 .....	2.50	0.0551
0701.90.5010 .....	2.50	0.0551
0701.90.5020 .....	2.50	0.0551
0701.90.5030 .....	2.50	0.0551
0701.90.5040 .....	2.50	0.0551
0710.10.0000 .....	5.00	0.1103
2004.10.4000 .....	5.00	0.1103
2004.10.8020 .....	5.00	0.1103
2004.10.8040 .....	5.00	0.1103
0712.90.3000 .....	3.93	0.0866
2005.20.0070 .....	17.86	0.3936
1105.10.0000 .....	17.86	0.3936
1105.20.0000 .....	17.86	0.3936
2005.20.0040 .....	17.86	0.3936
2005.20.0020 .....	10.20	0.2250
1108.13.0010 .....	22.50	0.4961

Dated: February 28, 2006.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 06–2117 Filed 3–6–06; 8:45 am]

**BILLING CODE 3410–02–P**

#### FEDERAL RESERVE SYSTEM

##### 12 CFR Part 202

[Regulation B; Docket No. R–1251]

##### Equal Credit Opportunity

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final Rule; Technical amendments.

**SUMMARY:** The Board is publishing technical amendments to Regulation B (Equal Credit Opportunity Act) to update the addresses of certain federal enforcement agencies.

**DATES:** *Effective Date:* March 7, 2006.

**FOR FURTHER INFORMATION CONTACT:** Minh-Duc T. Le, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667. For the users of Telecommunications Device for the Deaf (“TDD”) only, contact (202) 263–4869.

**SUPPLEMENTARY INFORMATION:** The Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691–1691f, makes it unlawful for a creditor to discriminate against an applicant in any aspect of a credit transaction on the basis of the applicant's national origin, marital status, religion, sex, color, race, age (provided the applicant has the capacity to contract), receipt of public assistance benefits, or the good faith exercise of a right under the Consumer Credit Protection Act, 15 U.S.C. 1601 *et seq.* The ECOA is implemented by the Board's Regulation B.

In addition to the general prohibition against discrimination, Regulation B contains specific rules concerning the taking and evaluation of credit applications, including procedures and notices for credit denials and other adverse action. Under section 202.9 of Regulation B, notification given to an applicant when adverse action is taken must contain the name and address of the federal agency that administers compliance with respect to the creditor. The federal agencies' names and addresses are listed in Appendix A of Regulation B. This technical amendment updates the addresses of the Office of the Comptroller of the Currency and the United States Small Business Administration.

#### 12 CFR Chapter II

##### List of Subjects in 12 CFR Part 202

Aged, Banks, banking, Civil rights, Consumer protections, Credit, Discrimination, Federal Reserve System, Marital status discrimination, Penalties, Religious discrimination, Sex discrimination.

##### Authority and Issuance

■ For the reasons set forth in the preamble, the Board amends 12 CFR part 202 to read as follows:

#### PART 202—EQUAL CREDIT OPPORTUNITY ACT (REGULATION B)

■ 1. The authority citation for part 202 continues to read as follows:

**Authority:** 15 U.S.C. 1691–1691f.

■ 2. Appendix A is amended by revising the following Federal Enforcement Agencies addresses to read as follows:

#### APPENDIX A TO PART 202—FEDERAL ENFORCEMENT AGENCIES

\* \* \* \* \*

*National Banks, and Federal Branches and Federal Agencies of Foreign Banks:* Office of the Comptroller of the Currency, Customer Assistance