recordkeeping requirements on either small or large sweet cherry producers, handlers, or importers. USDA has not identified any Federal rules that duplicate, overlap, or conflict with this rule. However, there is a marketing order program (7 CFR part 923) which regulates the handling of sweet cherries. Sweet cherries under a marketing order have to meet certain requirements set forth in the U.S. grade standards.

Alternatives were considered for this action. One alternative would be to not issue a proposed rule. However, the need for this revision has increased as a result of changing market characteristics. Since the purpose of these standards is to facilitate the marketing of agricultural commodities, not revising the sweet cherries standard could result in confusion in terms of industry marketing and the use of the U.S. standards. AMS is seeking comments regarding how, if at all, marketing would be improved by incorporating standard row sizes into the standard. Further, comments outlining any additional costs or benefits would be helpful in determining a final decision after the comments are received and reviewed. AMS will also review any other suggested revisions and would be interested in how they would improve the marketing of sweet cherries and any associated costs and/or benefits to the industry.

Background

Prior to undertaking detailed work to develop a proposed revision to the standard, AMS published a notice on January 25, 2006, in the **Federal Register** (71 FR 4100) soliciting comments on a proposal to incorporate row sizes into the standards.

In response to our request for comments, AMS received two comments from the industry. These comments are available by accessing the AMS, Fresh Products Branch Web site at: *http://www.ams.usda.gov/fv/fpbdocketlist.htm.*

The first comment was from a grower/shipper which supported incorporating a standard row size into the Standards for Grades of Sweet Cherries. The second comment was from a trade association representing wholesale receivers. The comment only stated that the association saw no reason to incorporate the standard row size into the U.S. Grade Standards at this time. However, AMS believes incorporating the size will be beneficial and reflect current marketing practices.

Accordingly, AMS is proposing to incorporate standard row sizes into the U.S. standards. The row size corresponds with current row sizes being used in the industry. The section 51.2660 Metric Conversion Table would be designated as section 51.2660 Standard Row Sizes to show the following definition for row size with corresponding sizes in inches:

Row sizes	9	9½	10	10½	11	11½	12	12½	13
Size in inches	75/64	71/64	67/64	64/64	61/64	57/64	54/64	51/64	48/64

Section 51.2661 would be the standard and the current § 51.2660 Metric Conversion Table will be re-designated as § 51.2661.

The official grade of a lot of sweet cherries covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection, Certification, and Standards of Fresh Fruits, Vegetables and Other Products (§ 51.1 to 51.61).

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Trees, Vegetables.

PART 51—[AMENDED]

For reasons set forth in the preamble, 7 CFR part 51 is proposed to be amended as follows:

1. The authority citation for part 51 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Section 51.2660 is revised and § 51.2661 is added to read as follows:

Subpart—United States Standards for Grades of Sweet Cherries

§ 51.2660 Standard Row Sizes.

Row sizes	9	9½	10	10½	11	11½	12	12½	13
Size in inches	75/64	71/64	67/64	64/64	61/64	57/64	54/64	51/64	48/64

§ 51.2661 Metric Conversion Table.

Inches	Millimeters (mm)
8/64 equals	3.2
16/64 equals	6.4
24/64 equals	9.5
32/64 equals	12.7
40/64 equals	15.9
48/64 equals	19.1
51/64 equals	20.2
52/64 equals	20.6
54/64 equals	21.4
56/64 equals	22.2
1 equals	25.4
1 8/64 equals	28.6
1 16/64 equals	31.8
1 24/64 equals	34.9

Dated: March 23, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 07–1537 Filed 3–29–07; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 915

[Docket No. AO–254–A10; AMS–FV–06–0220; FV06–915–2]

Avocados Grown in South Florida; Recommended Decision on Proposed Amendments of Marketing Order No. 915

AGENCY: Agricultural Marketing Service (AMS), USDA.

ACTION: Proposed rule and opportunity to file exceptions.

SUMMARY: This is a recommended decision regarding proposed

amendments to Marketing Order No. 915 (order), which regulates the handling of avocados grown in Florida. The amendments were proposed by the Florida Avocado Administrative Committee (Committee), which is responsible for local administration of the order. The amendments included in this recommended decision would: add authority for the Committee to borrow funds; revise voting requirements for changing the assessment rate; allow for District 1 nominations to be conducted by mail; and add authority for the Committee to accept voluntary contributions. The proposed amendments are intended to improve the operation and functioning of the marketing order program. This recommended decision invites written exceptions on the proposed amendments. This rule also announces AMS's intention to request approval by the Office of Management and Budget (OMB) of a new information collection.

DATES: Written exceptions must be filed by April 30, 2007. Pursuant to the Paperwork Reduction Act, comments on the information collection burden must be received by May 29, 2007.

ADDRESSES: Written exceptions should be filed with the Hearing Clerk, U.S. Department of Agriculture, room 1081–S, Washington, DC 20250–9200, Fax: (202) 720–9776 or via the Internet at *http://www.regulations.gov*. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. Comments will be made available for public inspection in the Office of the Hearing Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Marc McFetridge or Melissa Schmaedick, Marketing Specialists, Fruit and Vegetable Programs, Marketing Order Administration Branch (MOAB), AMS, USDA, 1400 Independence Ave. SW., Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Marc.McFetridge@usda.gov* or *Melissa.Schmaedick@usda.gov*.

Small businesses may request information on this proceeding 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, e-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued on July 18, 2006, and published in the July 24, 2006 issue of the **Federal Register** (71 FR 41740).

This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and is therefore excluded from the requirements of Executive Order 12866.

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to the proposed amendments to Marketing Order 915 regulating the handling of avocados grown in Florida, and the opportunity to file written exceptions thereto. Copies of this decision can be obtained from Marc McFetridge whose address is listed above.

This recommended decision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), hereinafter referred to as the ''Act,'' and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900).

The proposed amendments are based on the record of a public hearing held August 16, 2006, in Homestead, Florida. Notice of this hearing was published in the **Federal Register** on July 24, 2006 (71 FR 41740). The notice of hearing contained proposals submitted by the Committee.

The proposed amendments are the result of the Committee's review of the order. The Committee met several times in 2005 and drafted proposed amendments to the order and presented them at industry meetings. The proposed amendments were then unanimously approved by the Committee. The amendments are intended to streamline organization and administration of the marketing order program. The Committee's request for a public hearing was submitted to the USDA on May 1, 2006.

The Committee's proposed amendments to the order are summarized below:

1. Amend the order to provide the Committee authority to borrow funds. This proposal would amend § 915.41, Assessments.

2. Amend the order by revising the voting requirements for changing the assessment rate. This change would remove the current voting requirement for rate increases above $0.20 per bushel that provides for a quorum of eight Committee members and eight concurring votes for approval. The new voting requirement would be applicable to all assessment rate increases and would provide for a quorum of seven Committee members and a two-thirds majority vote of those in attendance for approval. This proposal would amend § 915.30, Procedure.

3. Amend the order to allow District 1 nominations to be conducted by mail. District 2 nomination procedures already provide that authority. This proposal would amend § 915.22, Nomination.

4. Add authority to the order for the Committee to accept voluntary contributions. This proposal would add a new § 915.43, Contributions.

USDA also proposes to make changes to the order as may be necessary, if any of the proposed changes are adopted, so that all of the order's provisions conform to the effectuated amendments.

Nine industry witnesses testified at the hearing. These witnesses represented fresh avocado producers and handlers in the production area. All of the witnesses testified in support of the proposed amendments to the order.

Industry witnesses addressed the need for adding authority to borrow funds. Witnesses indicated that multiple years of weather-related disasters have led to economic hardships for the Florida avocado industry and, as a result, lower assessment collections to fund the administrative costs of the Committee. The authority to borrow funds would enable the Committee access to an additional source for cash flow in addition to assessments, thereby providing the Committee with flexibility in covering their operational costs during times of economic hardship.

Industry witnesses stated their support for revising the voting requirements for changing the assessment rate. This amendment would remove the current voting requirement for rate increases above $0.20 per bushel that provides for a quorum of eight Committee members and eight concurring votes for approval. The new voting requirement would be applicable to all assessment rate increases and would provide for a quorum of seven Committee members and a two-thirds majority vote of those in attendance for approval. Revising these voting requirements would allow the Committee to become more flexible in responding to budgetary emergencies due to economic fluctuations in the avocado industry.

Witnesses also supported the proposal to allow for District 1 nominations to be conducted by mail. While the authority already exists to conduct nominations in District 2 by mail, voters in District 1 are required to travel to nomination meetings to cast their vote in District 1. Many witnesses cited grower reluctance to attend these meetings because of

travel related expenses and lost wages due to time away from the workplace. Thus, voter participation in District 1 nominations has been consistently lower compared to those held in District 2. Witnesses stated that this proposal would broaden grower participation in the Committee nominations for District 1.

Lastly, industry witnesses testified in support of adding authority to accept voluntary contributions. According to the record, the authority to accept voluntary contributions would enable the Committee access to an additional source of revenue besides assessments. Some witnesses stated that voluntary contributions could also eliminate the need to raise the assessment rate and could support Committee research and development activities.

At the conclusion of the hearing, the Administrative Law Judge stated that the final date for interested persons to file proposed findings and conclusions or written arguments and briefs based on the evidence received at the hearing would be 30 days after USDA's posting of the hearing record transcript. The transcript was posted on September 13, 2006. Therefore, the briefing period ended October 13, 2006. One brief was filed. The brief stated a need for a technical change to § 915.11. The brief noted that the name of Dade County has changed to Miami-Dade County. This correction has been incorporated as a technical change throughout this amendatory proceeding.

Material Issues

The material issues presented on the record of hearing are as follows:

(1) Whether to add authority to borrow funds;

(2) Whether to revise the voting requirements for changing the assessment rate;

(3) Whether to allow for District 1 nominations to be conducted by mail; and

(4) Whether to add authority to accept voluntary contributions.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof.

Material Issue Number 1—Authority to Borrow Funds

Section 915.41, Assessments, should be amended to provide the Committee with authority to borrow funds. Any such funds would be limited for use by the Committee to meet its administrative responsibilities under the order during times of economic hardship and would be subject to prior approval by USDA.

Under the current definition of the order, the Committee does not have the authority to borrow funds. Witnesses explained that without the authority to borrow funds or access to other non-assessment resources, the Committee is reliant on production-related revenue to fund its administrative operations.

According to the record, multiple years of weather related-disasters have resulted in lower assessment collections due to heavy losses of crops and production capacity. As a result, the Committee has relied on its financial reserves to continue its administrative operations. After more than five years of consecutive weather damage and low assessment collections, the Committee has depleted its reserves. Witnesses stated that the authority to borrow funds would be essential to the Committee's ability to continue operations during any future times of economic hardship.

As an example, witnesses cited USDA's grant of special emergency, short-term authority to borrow funds during fiscal year 2005–2006. It was indicated that without those borrowed funds, the Committee would not have been able to continue to operate. The Committee has since repaid its loan, and witnesses stated that the borrowed funds were critical to the Committee's ability to continue functioning during that time.

If implemented, the authority to borrow funds would be limited to use by the Committee to meet its administrative responsibilities under the order only during times of economic hardship. According to record evidence, the Committee's ability to borrow funds would be based on the financial history and assets of the Committee. If a loan, or a line of credit, for example, were approved, the Committee would be required to repay the loan by the end of the fiscal year in which the funds were borrowed. Loans could be renewed for the following fiscal year and would be subject to USDA oversight as part of the Committee's annual budgetary process. Witnesses explained that any interest incurred on the loan would be offset by the benefit of allowing the Committee to finance its operations.

Based on record evidence, USDA recommends modifying the language for this proposed amendment to clarify that the authority to borrow funds would only be used in emergency situations, on a short-term basis and to meet financial obligations as those obligations occur, or to allow the Committee to adjust its reserve funds to meet such obligations. In addition, the language should be clarified to specify that any borrowing activities of the Committee would be subject to prior review and approval by USDA. These clarifying changes have been incorporated in the amendatory text section of this recommended decision.

It is recommended that the order be amended to provide the Committee with authority to borrow funds. Without access to additional funds during times of economic hardship the Committee may not be able to meet their administrative responsibilities. The amount of the loan would be based on the financial history of the assessments collected by the Committee and would be repaid by the end of the fiscal year with the possibility for renewal. Any such loan would require prior approval by USDA.

For the reasons outlined above, § 915.41 should be amended to provide the Committee the authority to borrow funds, subject to USDA approval. USDA recommends modifying the amendatory text of this proposal so that the authority to borrow funds would only be used in emergency, short-term situations, and that such authority would be subject to USDA's prior approval. There was no opposition testimony on this issue.

Material Issue Number 2—Revision of the Voting Requirements for Committee Recommendations To Increase the Assessment Rate

Section 915.30, Procedures, should be amended to revise the voting requirements for Committee recommendations for assessment rate changes above $0.20 per bushel. This change would remove the current voting requirement for rate increases above $0.20 per bushel provides for a quorum of eight Committee members and eight concurring votes for approval. The new voting requirement would be applicable to all assessment rate increases and would provide for a quorum of seven Committee members and a two-thirds majority vote of those in attendance for approval.

The avocado marketing order provides authority for the Committee, with approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Board are producers and handlers of avocados. They are familiar with the Board'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. The assessment rate can be revised when it is recommended by the Committee and approved the USDA.

Authority to fix the rate of assessment to be paid by each handler and to collect such assessment appears in § 915.41 of the order. In addition, § 915.45 of the order provides that the Committee, with the approval of USDA, may establish or provide for the establishment of production research, marketing research, and market development projects designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of avocados. The expense of such projects is paid from funds collected pursuant to § 915.41 (Assessments).

Under the current definition of the order, the Committee must have a quorum of eight and at least eight concurring votes to increase assessment rates above $0.20 per bushel. The Committee consists of ten members, and the quorum requirement for all other voting purposes is seven members.

According to record evidence, the Committee has had difficulties meeting the eight-member quorum and consensus requirement specific to assessment rate increases above $0.20 per bushel. Witnesses explained that recommendations to increase the assessment rate above this level typically arise during periods of economic hardship, such as crop loss after a hurricane. During the 2004–2005 season, the last time the assessment rate was changed to a level above $0.20 per bushel, it took three separate meeting attempts to receive the required quorum votes of eight. The assessment rate change was needed to increase the reserve funds for continued operation of the committee because crop estimates were below expectations and reserve funds had become low. As a result, the Committee has not been able to be as responsive as it wanted to be in obtaining adequate funds to operate the Committee.

The Committee's proposal to relax voting requirements for increases in the assessment rate would facilitate the Committee's ability to be responsive. The amendment would require that for any change in the assessment rate a quorum of seven Committee members would be required and a two-thirds consensus vote of attending members would be needed to approve the change.

According to the record, the original intent regarding voting requirements for assessment rates above $0.20 per bushel was to provide growers with a voice in significant changes in the assessment rate. Historically there has been tension between growers and handlers, so the order was written to provide balance between growers and handlers when changes in the assessment rate above the specified threshold were proposed. According to witnesses there now exists general unity between handlers and growers, especially with regard to this specific proposal. Handlers and growers agree that especially during times of economic hardships it is beneficial to relax the voting requirements to facilitate the Committee's ability to be responsive.

The language for this proposed amendment published in the Notice of Hearing only states a ⅔ majority requirement but did not clarify that a quorum was necessary. For this reason, USDA proposes that proposed amendatory language for § 915.30, Procedure, be modified to clarify that a quorum of seven Committee members is required in addition to the two-thirds majority vote to recommend an assessment rate change. The modified language would read as follows: ''For any recommendation of the Committee for an assessment rate change, a quorum of seven Committee members and a two-thirds majority vote of approval of those in attendance is required.''

It is recommended that the order be amended to revise the voting requirements to increase the assessment rate above $0.20 per bushel. The ability to recommend any rate change with a two-thirds majority vote, given that the quorum requirement is met, would allow the Committee more flexibility in responding to the needs of the industry. Without this authority, the Committee's ability to react and modify the assessment rate to cover operational costs would be unnecessarily limited.

For the reasons above, it is recommended that § 915.30 be amended. This amendment would remove the current voting requirement for rate increases above $0.20 per bushel that stipulates a quorum of eight Committee members and eight concurring votes for approval. The new voting requirement, modified by USDA as recommended above, would be applicable to all assessment rate increases and would provide for a quorum of seven Committee members and a two-thirds majority vote of those in attendance for approval. There was no opposition testimony on this issue.

Material Issue Number 3—Allow for District 1 Nominations To Be Conducted by Mail

Section 915.22, Nomination, should be amended to provide District 1 with the authority to conduct nominations by mail.

Under the current nomination rules of the order, growers residing in District 1 must vote in person at the designated polling office, which is located at the Miami-Dade County Extension office. The proposed amendment would allow growers to vote via mail on nominations for the Committee. If implemented, this amendment would also remove the Committee's financial outlays associated with holding a nomination meeting, and would reduce the financial and other burdens currently required of growers commuting to vote.

Witnesses testified that a considerable amount of growers in District 1 do not live within an easily commutable radius of the nomination meeting location. According to the record, some growers can spend hours commuting to the meeting due to both distance and traffic congestion. Witnesses stated that time spent commuting often results in lost wages because of time spent away from the workplace. Along with lost wages, growers are also burdened with the costs of fuel for their commute.

According to witnesses, the burdens of commuting to a nomination meeting have led to poor voter turnout. Witnesses stated that during the previous District 1 nomination, voter turnout equaled less than 30 growers, which is fewer than 15% of the total 220 registered growers in that district. According to the record, growers in District 1 have stated a reluctance to participate because the burdens associated with traveling to the meeting are too great.

A witness also testified that the costs associated with conducting a nomination meeting are not justified due to low voter participation. The witness stated that both a USDA representative and a Committee staff member are required to conduct nomination meetings. Given that few growers in District 1 elect to attend the nomination meetings, two employee work days are used to accommodate a very low level of grower participation.

Witnesses also stated that growers in District 2 have the authority to vote via mail. The benefits of voting by mail in District 1 could be obtained without additional costs incurred by the Committee. The cost of mailing the ballots within District 1 would be less than the costs associated with staffing a voting location.

Also, continuance referenda, considered by witnesses to be the most important vote that growers participate in, are conducted by mail. Thus, witnesses stated that the precedence for successful voter participation by mail exists under the order and should be extended to nomination voting for District 1.

Witnesses supported the Committee's recommendation to change the date for submitting names of the nominees from February 15 to March 1. The extra time is needed to accommodate mail balloting.

According to the record, the benefits of allowing District 1 vote by mail include: increased voter grower participation in the District 1 Committee nominations, reduced costs on growers' time and money, and reduced costs associated with conducting a nomination meeting. Allowing District 1 to vote by mail would increase grower participation in the voting process without incurring additional expenses.

For the reasons above, it is recommended that § 915.22 be amended to provide the Committee with the authority to conduct nominations by mail in District 1. There was no opposition testimony on this issue.

Material Issue Number 4—Authority To Accept Voluntary Contributions

A new § 915.43, Contribution, should be added to provide the Committee with the authority to accept voluntary contributions. Such contributions should be free from any encumbrances by the donor so that the Committee would retain complete control of their use.

Under the current order, the Committee does not have the authority to accept voluntary contributions. All marketing order activities are funded through handler assessments. Adding § 915.43 to the order would provide the Committee with the authority to accept voluntary contributions. According to the record, voluntary contributions could help the Committee meet its administrative responsibilities under the order during times of economic hardships and may also provide additional funds for Committee research and development activities.

Witnesses testified that the authority to accept voluntary contributions would be beneficial, especially during times of emergency, and that such monies could potentially assist in averting the need to increase handler assessments during those times. According to witnesses, if contributions are available, then the Committee should have the authority to accept them.

Voluntary contributions could also assist the Committee in addressing complex crop growth and development issues facing the avocado industry. Witnesses stated that voluntary contributions could fund research on disease and pest issues that threaten the industry which, due to a lack of adequate funds, the Committee has not been able to address. The proposal to add authority to the order to use voluntary contributions for production research, marketing research and development activities was discussed and supported by witnesses at the hearing. For this reason, and based on supporting evidence found in the record of hearing, USDA recommends a conforming change to § 915.45, Production research, marketing research and development, of the order. This section should be modified to allow for such activities to be to be paid for by either assessment funds (provided for under § 915.41, Assessments) or any receipts received as contributions (proposed under the new § 915.43, Contributions). This proposed conforming change has been included in the regulatory text of this recommended decision.

It is recommended that the order be amended to add the authority for the Committee to accept voluntary contributions. Currently the Committee does not have the authority under the order to accept voluntary contributions from any source. Providing the Committee with the authority to accept voluntary contributions could help the Committee meet its administrative responsibilities under the order. Also, voluntary contributions could be used to conduct research. For the reasons above, it is recommended that § 915.43 be added to provide the authority for the Committee to accept voluntary contributions. Based on the record, USDA is also recommending a conforming change to § 915.45, Production research, marketing research and development, so that voluntary contributions, in addition to assessments, may be used for activities provided for under this provision. There was no opposition testimony on this issue.

Small Business Consideration

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action 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 so that small businesses will not be unduly or disproportionately burdened. Marketing orders and amendments thereto are unique in that they are normally brought about through group action of essentially small entities for their own benefit.

Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $750,000. Small agricultural service firms, which include handlers regulated under the order, are defined as those with annual receipts of less than $6,500,000.

Interested persons were invited to present evidence at the hearing on the probable regulatory and informational impact of the proposed amendments to the order on small business. The record evidence is that while minimal costs may occur upon implementation of some of the proposed amendments, those costs would be outweighed by the benefits expected to accrue to the Florida fresh market avocado industry.

Avocado Industry Background and Overview

There are approximately 300 producers of avocados in the production area and approximately 35 handlers subject to regulation under the order.

According to the National Agricultural Statistics Service (NASS) and Committee data, the average price for Florida avocados during the 2005–06 season was around $46.75 per 55-pound bushel container, and total shipments were near 470,000 55-pound bushel equivalent. Using the average price and shipment information provided by the Committee, the majority of avocado handlers could be considered small businesses under the SBA definition. In addition, based on avocado production, grower prices, and the total number of Florida avocado growers, the average annual grower revenue is less than $750,000. Thus, the majority of Florida avocado producers may also be classified as small entities.

The NASS reported that in 2005, total Florida avocado bearing acres were 5,300 and the average yield per acre was 2.26 tons. The total Florida production reported in 2005 was 12,000 tons, with growers receiving an average (farm gate) price of $940/ton. The estimated total value of 2005 Florida avocado production was $11.28 million.

Over the past 30 years the U.S. avocado industry has seen many changes. According to NASS, the total U.S. production acres for avocados have decreased by 13 percent, from 78,000 acres in 1982 to 67,600 acres in 2005. Prices have trended upward from 1959 to 2005, although there has been significant variability in prices from year to year. The average grower price for the U.S. in 1959 was $109 per ton and in 2005 the average grower price was $1,280 per ton. The total value of U.S. avocado production has increased dramatically since 1959, reaching a peak of $394 million in 2003. The per capital consumption of fresh avocados has risen significantly since 1970. Between 1970

and 2004, per capital consumption increased almost five-fold to 2.9 pounds per person in 2004. According to the record, the availability of imported avocados, in addition to domestically produced avocados, resulting in year-round availability could be contributing to this increase.

Comparatively, Florida's avocado industry has seen similar trends. According to NASS, the production acreage has decreased by 53 percent over the last three decades. According to record evidence, the rapid decrease in Florida production acreage compared to that of U.S. acreage can be directly associated with crop damage resulting from hurricanes. Florida's production trended upward to 34,700 tons in the early 1980's and has shown great variability since. Production in 2005 was at a 10 year low of 12,000 tons. After Hurricane Andrew, which affected the value of production in 1992 and 1993, the value of Florida's production has ranged from a high of $17.2 million in 2003 to a low of $11.3 million in 2005.

Proposal 1, Adding the Authority To Borrow Funds

The proposal described in Material Issue No. 1 would amend § 915.41, Assessments, to add authority for the Committee to borrow funds. If implemented, the authority to borrow funds would be limited to use by the Committee to meet its administrative responsibilities under the order during times of economic hardship.

Witnesses supported this proposal by stating that the authority to borrow funds would provide the Committee with an alternative revenue source besides assessments. The industry has experienced multiple years of economic hardship resulting in decreased production levels. Lower production levels reduce the amount of assessments collected from the handlers, which has resulted in depleting the Committee's monetary reserve over past years.

According to the record, any interest incurred by the Committee on the borrowed funds would be offset by the benefit of keeping the Committee operating. Thus, no significant impact on small business entities is anticipated.

Proposal 2, Revising the Voting Requirements for Committee Recommendations To Increase the Assessment Rate

The proposal described in Material Issue No. 2 would amend § 915.30, Procedure, to revise the current voting requirements for Committee recommendations to increase the assessment rate above $0.20 per bushel from eight concurring votes to a two-thirds majority vote of those Committee members in attendance. If implemented, this proposed amendment would allow the Committee to be more flexible in dealing with inflation and economic hardships that impact the Committee's monetary reserves.

Witnesses supported this proposal by stating that the current voting requirements have resulted in delaying the Committee's ability to quickly respond to needs for an increase in assessments. According to the record, during the 2004–2005 season, the last time the assessment rate was changed, it took three separate meeting attempts to receive the required quorum votes of eight. The assessment rate change was needed to increase the reserve funds for continued operation of the Committee because crop estimates were below expectations and reserve funds were low.

Relaxing the voting requirements would reduce the probability that multiple meetings would need to be held before quorum was met, as well as increase the Committee's ability to effectively respond to budget needs. Therefore the costs of revising the voting requirements should be out weighed by the benefits.

Proposal 3, Allowing for District 1 Nominations To Be Conducted by Mail

The proposal described in Material Issue No. 3 would amend § 915.22, Nomination, to provide the Committee with the authority to conduct nominations for District 1 by mail.

Under the current nomination rules, growers living in District 1 must vote in person at the designated polling office, which is located at the Miami-Dade County Extension office. The proposed amendment would allow growers to vote via mail on nominations for the Committee. If implemented, this amendment would reduce financial outlays associated with maintaining a physical voting location, and would reduce the financial and physical burdens currently required of growers commuting to vote.

The impact for providing the Committee with the authority to conduct nominations by mail for District 1 would result with increased mailing costs. Any increased mailing cost would be less than or equal to current staffing costs. Witnesses testified that the benefits of increased grower participation and reduced transportation costs for growers would offset any possible costs associated with this proposal.

Proposal 4, Adding Authority To Accept Voluntary Contributions

The proposal described in Material Issue No. 4 would add a new § 915.43, Contributions, and would allow the Committee to accept voluntary contributions. Contributions would be free from any encumbrances by the donor and, according to the record, the contributions could be used to cover operational costs during times of economic hardships or fund research. According to the hearing record, the Committee would retain oversight over such contributions.

Witnesses supported this proposal by stating that it would provide the Committee and the industry with an additional source of revenue to cover operational costs or to fund research. It is not expected that this proposal would result in any additional costs to growers or handlers.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces that AMS is seeking approval from OMB for a new information collection request for Avocados Grown in South Florida, Marketing Order No. 915, under OMB No. 0581-New. Upon OMB approval, the additional burden will be merged into the information collection currently approved under OMB No. 0581–0189, ''Generic OMB Fruit Crops.''

Title: Avocados Grown in South Florida, Marketing Order No. 915.

OMB No.: 0581-NEW.

Expiration Date of Approval: Three years from OMB date of approval.

Type of Request: New collection.

Abstract: The information collection requirement in this request is essential to provide growers and handlers with ballots so that nominations for the Committee can be conducted by mail.

This information collected is used only by authorized representatives of USDA, including AMS, Fruit and Vegetable Programs regional and headquarters' staff, and authorized employees and agents of the Committee. Authorized Committee employees, agents, and the industry are the primary users of the information and AMS is the secondary user.

Grower Ballot To Nominate Members and Alternate Members for District 1 or District 2

Avocado growers would use this ballot to nominate members and alternative members, either for District 1 or District 2 (whichever is applicable), to serve on the Committee. The ballot would be used when voting by mail.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.083 hour per response.

Respondents: Avocado growers.

Estimated Number of Respondents: 352.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 29 hours.

Handler Ballot To Nominate Members and Alternate Members for District 1 or District 2

Avocado handlers would use this ballot to nominate members and alternate members for either District 1 or District 2 (whichever is applicable), to serve on the Committee. This ballot would be used when voting by mail.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.083 hour per response.

Respondents: Avocado handlers.

Estimated Number of Respondents: 32.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 3 hours.

The Committee recommended amending the nomination process to allow for District 1 nominations to be conducted by mail.

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 proposed rule. These amendments are designed to enhance the administration and functioning of the marketing order to the benefit of the industry.

Committee meetings regarding these proposals as well as the hearing date were widely publicized throughout the Florida avocado industry, and all interested persons were invited to attend the meetings, the hearing and participate in Committee deliberations on all issues. All Committee meetings and the hearing were public forums and all entities, both large and small, were able to express views on these issues. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

The 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.

Civil Justice Reform

The amendments to Marketing Order 915 proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this proposal.

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. A 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 no later than 20 days after the date of the entry of the ruling.

Rulings on Briefs of Interested Persons

Briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth in this recommended decision. To the extent that the suggested findings and conclusions filed by interested persons are inconsistent with the findings and conclusions of this recommended decision, the requests to make such findings or to reach such conclusions are denied.

General Findings

The findings hereinafter set forth are supplementary to the findings and determinations which were previously made in connection with the issuance of the marketing agreement and order; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein:

(1) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of avocados grown in the production area in the same manner as, and are applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing agreement and order upon which a hearing has been held;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited to their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, prescribe, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of avocados grown in the production area; and

(5) All handling of avocados grown in the production area as defined in the marketing agreement and order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate so that the proposed amendments may be implemented as close to the beginning of the coming crop year as possible. The next crop year begins April 1. All written exceptions timely received will be considered and a grower referendum will be conducted before these proposals are implemented.

List of Subjects in 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble the Agricultural Marketing Service proposes to amend title 7 part 915 of the Code of Federal Regulations 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. In § 915.11, paragraphs (a) and (b) are revised to read as follows:

§ 915.11 District.

(a) *District 1* shall include Miami-Dade County.

(b) *District 2* shall include all of the production area except Miami-Dade County.

3. In § 915.22, paragraph (b)(1) is revised to read as follows:

§ 915.22 Nomination.

(a) * * *

(b) *Successor members.* (1) The Committee shall hold or cause to be held a meeting or meetings of growers and handlers in each district to designate nominees for successor members and alternate members of the Committee; or the Committee may conduct nominations in Districts 1 and 2 by mail in a manner recommended by the Committee and approved by the Secretary. Such nominations shall be submitted to the Secretary by the Committee not later than March 1 of each year. The Committee shall prescribe procedural rules, not inconsistent with the provisions of this section, for the conduct of nomination.

* * * * *

4. In § 915.30, paragraph (c) is revised to read as follows:

§ 915.30 Procedure.

(a) * * *

(b) * * *

(c) For any recommendation of the Committee for an assessment rate change, a quorum of seven Committee members and a two-thirds majority vote of approval of those in attendance is required.

5. In § 915.41, paragraph (b) is revised to read as follows:

§ 915.41 Assessments.

(a) * * *

(b) The Secretary shall fix the rate of assessment per 55-pounds of fruit or equivalent in any container or in bulk, to be paid by each such handler. At any time during or after a fiscal year, the Secretary may increase the rate of assessment, in order to secure sufficient funds to cover any later finding by the Secretary relative to the expense which may be incurred. Such increase shall be applied to all fruit handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the Committee may accept the payment of assessments in advance, or borrow money on an emergency short-term basis. The authority of the Committee to borrow money is subject to approval of the Secretary and may be used only to meet financial obligations as the obligations occur or to allow the Committee to adjust its reserve funds to meet such obligations.

6. Add a new § 915.43 to read as follows:

§ 915.43 Contributions.

The Committee may accept voluntary contributions. Such contributions shall be free from any encumbrances by the donor and the Committee shall retain complete control of their use.

7. Revise § 915.45 to read as follows:

§ 915.45 Production research, marketing research and development.

The committee may, with the approval of the Secretary, establish or provide for the establishment of production research, marketing research and development projects designed to assist, improve or promote the marketing, distribution, and consumption or efficient production of avocados. Such products may provide for any form of marketing promotion, including paid advertising. The expenses of such projects shall be paid from funds collected pursuant to the applicable provisions of § 915.41, or from such other funds as approved by the USDA.

Dated: March 23, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–5792 Filed 3–29–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket Number FAA–2007–27739; Directorate Identifier 2006–NM–250–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 Airplanes; and Model A340–200 and –300 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

The aim of * * * [Special Federal Aviation Regulation (SFAR) 88] is to require all holders of type certificates * * * to carry out a definition review against explosion hazards.

The unsafe condition is the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by April 30, 2007.

ADDRESSES: You may send comments by any of the following methods:

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Fax: (202) 493–2251.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register**