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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 915

[Docket No. FV00-915-2 FR]

Avocados Grown in South Florida; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the Avocado Administrative Committee (Committee) for the 2000-2001 and subsequent fiscal periods from \$0.16 per 55-pound bushel container or equivalent to \$0.19 per 55-pound bushel container or equivalent of avocados handled. The Committee is responsible for local administration of 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 period began on April 1 and ends March 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: June 6, 2000.

FOR FURTHER INFORMATION CONTACT:

Doris Jamieson, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 2276, Winter Haven, Florida 33883; telephone: (863) 299-4770, Fax: (863) 299-5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698, or E-mail: 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 marketing agreement and order are 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 (Department) 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 issued herein will be applicable to all assessable avocados beginning April 1, 2000, 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 the Secretary 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 the Secretary 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 the Secretary'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 increases the assessment rate established for the Committee for the 2000-2001 and subsequent fiscal periods from \$0.16 per 55-pound bushel container or equivalent to \$0.19 per 55-pound bushel container or equivalent of avocados.

The Florida avocado marketing order provides authority for the Committee, with the approval of the Department, 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 1999-2000 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on March 8, 2000, and unanimously recommended 2000-2001 expenditures of \$186,333 and an assessment rate of \$0.19 per 55-pound bushel container or equivalent of avocados. In comparison, last year's budgeted expenditures were \$164,335. The assessment rate of \$0.19 is \$0.03 higher than the rate currently in effect.

The Florida Lime and the Florida Avocado Administrative Committees share certain costs (staff, office space, and equipment) for economy and efficiency (7 CFR parts 911 and 915). Each Committee's share of these costs is based upon the amount of work performed and time devoted to administration. To reflect its increased share of the workload and resources, and Avocado Administrative Committee needs to fund a greater share of the costs. An increased budget for avocados is needed to accomplish this.

The major expenditures recommended by the Committee for the

2000–2001 year include \$69,000 for salaries, \$35,000 for national enforcement, \$20,000 for research, \$14,898 for employee benefits, and \$13,782 for insurance and bonds. Budgeted expenses for these items in 1999–2000 were \$46,000, \$27,000, \$39,500, \$10,040, and \$8,955, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Florida avocados. Commodity shipments for the year are estimated at 900,000 55-pound bushel containers, which should provide \$171,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, should be adequate to cover budgeted expenses. Funds in the reserve (currently \$174,431) will be kept within the maximum permitted by the order (approximately three fiscal periods' expenses, § 915.41(a)(2)).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period 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 the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2000–2001 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

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 final 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 141 avocado producers in the production area and approximately 49 avocado 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 \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000.

The average grower price for fresh avocados during the 1998–99 season was \$17.90 per 55-pound bushel box or equivalent for all domestic shipments and the total shipments were 890,859 bushels. Approximately 10 percent of all handlers handled 90 percent of the Florida avocado shipments. Many avocado handlers ship other tropical fruit and vegetable products, which are not included in the Committee's data but would contribute further to handler receipts.

Using these prices, about 90 percent of avocado handlers could be considered small businesses under the SBA definition. The majority of Florida avocado producers also may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2000–2001 and subsequent fiscal periods from \$0.16 per 55-pound bushel container or equivalent to \$0.19 per 55-pound bushel container or equivalent of avocados. The Committee unanimously recommended 2000–2001 expenditures of \$186,333 and an assessment rate of \$0.19 per 55-pound bushel container or equivalent. The assessment rate of \$0.19 is \$0.03 higher than the 1999–2000 rate. The quantity of assessable avocados for the 2000–2001 season is estimated at 900,000 55-pound bushel containers. Thus, the \$0.19 rate should provide \$171,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, should be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2000–2001 fiscal year include \$69,000 for salaries, \$35,000 for national enforcement, \$20,000 for research, \$14,898 for employee benefits, and \$13,782 for insurance and bonds. Budgeted expenses for these items in 1999–2000 were \$46,000, \$27,000

\$39,500, \$10,040, and \$8,955, respectively.

The Florida Lime and the Florida Avocado Administrative Committees share certain costs (staff, office space, and equipment) for economy and efficiency (7 CFR parts 911 and 915). Each Committee's share of these costs is based upon the amount of work performed and time devoted to administration. To reflect its increased share of the workload and resources, the Avocado Administrative Committee needs to fund a greater share of the costs. An increased budget for avocados is needed to accomplish this.

The Committee reviewed and unanimously recommended 2000–2001 expenditures of \$186,333 which included increases in administrative and office salaries, and national enforcement. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Budget Subcommittee. Alternative expenditure levels were discussed. However, the Committee ultimately determined that the recommended expenditures were appropriate to reflect its increased share of the workload and resource demands. The assessment rate of \$0.19 per 55-pound bushel container or equivalent of assessable avocados was then determined by dividing the total recommended budget by the quantity of assessable avocados, estimated at 900,000 55-pound bushel containers or equivalents for the 2000–2001 fiscal year. This is approximately \$11,000 below 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 grower price for the 2000–2001 season could be close to \$17.90 per 55-pound bushel container or equivalent of avocados. Therefore, the estimated assessment revenue for the 2000–2001 fiscal year as a percentage of total grower revenue could be one percent.

This action increases 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 are 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 March 8, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes 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.

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

A proposed rule concerning this action was published in the Federal Register on April 17, 2000 (65 FR 20382). Copies of the proposed rule were also mailed or sent via facsimile to all Florida avocado handlers. Finally, the proposal was made available through the Internet by the Office of the Federal Register. A 30-day comment period ending May 17, 2000, was provided for interested persons to respond to the proposal. No comments were received.

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.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) Handlers are already receiving 2000–2001 crop avocados from growers; (2) the fiscal period began April 1, 2000, and the marketing order requires that the assessment rate apply for each fiscal period to all avocados handled during such fiscal period; (3) the Committee needs sufficient funds to pay its expenses which are incurred on a continuous basis; (4) handlers are aware of this rule which was unanimously recommended by the Committee at a public meeting, and is similar to other assessment rate actions issued in past years; and (5) a 30-day comment period was provided for in the proposed rule and no comments were received.

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 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, 2000, an assessment rate of \$0.19 per 55-pound bushel container or equivalent is established for avocados grown in South Florida.

Dated: May 30, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–13980 Filed 6–2–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–307–AD; Amendment 39–11759; AD 2000–11–11]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 777–200 series airplanes, that requires one-time inspections to detect cracking of the aft wheel well bulkhead, corrective actions, if necessary, and modification of the aft wheel well bulkhead. For certain airplanes, this AD also requires a one-time visual inspection to detect excess sealant covering the outer flange of the side fitting and lower chord and splice area of the aft wheel well bulkhead, and corrective actions, if necessary. This amendment is prompted by a report indicating that numerous fatigue cracks were found in the aft wheel well bulkhead. The actions specified by this AD are intended to prevent fatigue cracking of the aft wheel

well bulkhead, which could result in rapid in-flight decompression of the airplane.

DATES: Effective July 10, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 10, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stan Wood, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2772; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 777–200 series airplanes was published in the **Federal Register** on November 26, 1999 (64 FR 66426). That action proposed to require one-time inspections to detect cracking of the aft wheel well bulkhead, and corrective actions, if necessary. That action also proposed to require modification of the aft wheel well bulkhead. For certain airplanes, that action also proposed to require a one-time visual inspection to detect excess sealant covering the outer flange of the side fitting and lower chord and splice area of the aft wheel well bulkhead, and corrective actions, if necessary.

Explanation of Relevant Service Information

Since the issuance of the notice of proposed rulemaking (NPRM), the FAA has reviewed and approved Boeing Service Bulletin 777–53A0015, Revision 1, dated March 2, 2000. (The original issue of the service bulletin, dated June 17, 1999, is referenced in the NPRM as the appropriate source of service information for accomplishment of the proposed actions.) The procedures described in Revision 1 of the service bulletin are similar to those in the original issue, and Revision 1 adds no new airplanes to the effectivity listing. Therefore, paragraphs (a), (b), and (d) of