

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 915

[Docket No. AO-254-A10; FV06-915-2]

Avocados Grown in South Florida; Hearing on Proposed Amendments to Marketing Agreement and Order No. 915

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of hearing on proposed rulemaking.

SUMMARY: Notice is hereby given of a public hearing to receive evidence on proposed amendments to Marketing Order No. 915 (order), which regulates the handling of avocados grown in south Florida. The amendments are proposed by the Florida Avocado Administrative Committee (Committee), which is responsible for local administration of the order. The proposed amendments would: Provide the Committee authority to borrow funds, revise the voting requirements for changing the assessment rate, allow District I nominations to be conducted by mail, and provide the Committee authority to accept voluntary contributions. The proposed amendments are intended to improve the operation and functioning of marketing order program.

DATES: The hearing will be held on August 16, 2006, in Homestead, Florida, beginning at 8:30 a.m. until completed.

ADDRESSES: The hearing location is: University of Florida, IFAS Conference Room, 18905 SW. 280 Street, Homestead, Florida 33031-3314; telephone: (305) 246-7001.

FOR FURTHER INFORMATION CONTACT: Melissa Schmaedick, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 1035, Moab, Utah; telephone: (435) 259-7988, Fax: (435) 259-4945; or Kathleen M. Finn, Marketing Order Administration Branch, Fruit and

Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on 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.

SUPPLEMENTARY INFORMATION: This administrative action is instituted pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act." This action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) seeks to ensure that within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. Interested persons are invited to present evidence at the hearing on the possible regulatory and informational impacts of the proposals on small businesses.

The amendments 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 the proposals.

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 U.S. Department of Agriculture (Department) 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. 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 Department's ruling on the

petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The public hearing is called pursuant to the provisions of 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 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 Committee's request for a public hearing was submitted to the Department 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 Committee recommendations for assessment rate changes from eight concurring votes to a two-thirds majority vote of those Committee members or alternate Committee members in attendance at meetings. This proposal would amend § 915.30, Procedure.

3. Amend the order to allow District 1 nominations, in addition to District 2 nominations, to be conducted by mail. 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.

The Committee works with the Department in administering the order. The Committee's proposed amendments have not received the approval of the Department. The Committee believes that the proposed changes would improve the functioning of the order.

The Department proposes to make any changes to the order as may be necessary to conform with any amendments thereto that may result from the hearing.

The public hearing is being held for the purpose of:

(i) Receiving evidence about the economic and marketing conditions which relate to the proposed amendments of the order;

(ii) Determining whether there is a need for the proposed amendments to the order; and

(iii) Determining whether the proposed amendments or appropriate modifications thereof will tend to effectuate the declared policy of the Act.

Testimony is invited at the hearing on all the proposals and recommendations contained in this notice, as well as any appropriate modifications or alternatives.

All persons wishing to submit written material as evidence at the hearing should be prepared to submit four copies of such material at the hearing and should have prepared testimony available for presentation at the hearing.

From the time the notice of hearing is issued and until the issuance of a final decision in this proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an *ex parte* basis with any person having an interest in the proceeding. The prohibition applies to employees in the following organizational units: Office of the Secretary of Agriculture; Office of the Administrator, AMS; Office of the General Counsel, except any designated employee of the General Counsel assigned to represent the Committee in this proceeding; and the Fruit and Vegetable Programs, AMS.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

List of Subjects in 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

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. Testimony is invited on the following proposals or appropriate alternatives or modifications to such proposals.

Proposals Submitted by Florida Avocado Administrative Committee

Proposal Number 1

3. Amend § 915.41 by revising paragraph (b) to read as follows:

§ 915.41 Assessments.

* * * * *

(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 a short-term basis. The authority of the committee to borrow money may be used only to meet financial obligations as they occur and to allow the committee to adjust its reserve funds to meet any additional obligations.

Proposal Number 2

4. Amend § 915.30 by revising paragraph (c) to read as follows:

§ 915.30 Procedure.

* * * * *

(c) For any recommendation of the committee for an assessment rate change, a two-thirds majority of those in attendance is required.

Proposal Number 3

5. Amend § 915.22 by revising paragraph (b)(1) to read as follows:

§ 915.22 Nomination.

* * * * *

(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 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.

* * * * *

Proposal Number 4

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.

Proposal by Fruit and Vegetable Programs, Agricultural Marketing Service

Proposal Number 5

Make such changes as may be necessary to make the marketing agreement and the order conform with any amendments thereto that may result from the hearing.

Dated: July 18, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–11739 Filed 7–21–06; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1220

[No. LS–06–01]

Soybean Promotion and Research: Amend the Order to Adjust Representation on the United Soybean Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would adjust the number of members for certain States on the United Soybean Board (Board) to reflect changes in production levels that have occurred since the Board was reapportioned in 2003, which became effective with 2004 nominations. These adjustments are required by the Soybean Promotion and Research Order (Order) and would result in an increase in Board membership from 64 to 68 effective with the Secretary's 2007 nominations and appointments.

DATES: Written comments must be received by August 23, 2006.

ADDRESSES: Send any written comments to Kenneth R. Payne, Chief; Marketing Programs Branch; Livestock and Seed Program; Agricultural Marketing Service (AMS), USDA, Room 2638–S; STOP 0251; Washington, DC 20090–0251. Comments may be sent by facsimile to 202/720–1125 or via e-mail at soybeancomments@usda.gov or <http://www.regulations.gov>. State that your comments refer to Docket No. LS–06–01. Comments will be available for public inspection during regular business hours between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays or on the Internet at <http://www.ams.usda.gov/lsg/mpb/rp-soybean.htm>.