

# UNITED STATES DEPARTMENT OF AGRICULTURE

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UNITED STATES DEPARTMENT OF AGRICULTURE  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE  
MEXICAN HASS AVOCADOS: THIRD PUBLIC MEETING  
HOMESTEAD, FLORIDA

Pages: 1 through 65  
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## HERITAGE REPORTING CORPORATION

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UNITED STATES DEPARTMENT OF AGRICULTURE  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE  
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Tuesday  
August 21, 2001

The Panel Members met at the Redland Country Club,  
24451 Southwest 177th Avenue, Homestead, Florida at 9:00  
a.m., MERIDITH JONES, Moderator, presiding.

PRESENT:

WAYNE BURNETT  
Senior Import Specialist

DR. EDWARD PODLECKIS  
Senior Plant Pathologist

JEFFREY GRODE  
National Smuggling Interdiction and Trade  
Compliance Director

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P R O C E E D I N G S

(9:00 a.m.)

1  
2  
3 MS. JONES: Good morning and welcome to the  
4 Animal and Plant Health Inspection Service's Public  
5 Hearing on the proposed rule to amend the regulations  
6 that govern the importation of Hass avocados from Mexico  
7 to expand both the current shipping season and the  
8 number of States into which Hass avocados may be  
9 distributed.

10 This will be a brief statement, I'll have  
11 some other ones, and then we'll have comments.

12 My name is Meridith Jones. I'm a  
13 Regulatory Coordination Specialist for Plant Protection  
14 and Quarantine of APHIS, the Animal and Plant Health  
15 Inspection Service of the U.S. Department of  
16 Agriculture. I will be the moderator and presiding  
17 officer for today's public hearing.

18 Today's hearing in Homestead is the third  
19 of four public hearings that are being held to accept  
20 comments on the proposed rule. The fourth hearing will  
21 be Thursday, August 23rd in Austin, Texas. We held two  
22 hearings last week, the first one in Denver, Colorado on  
23 August 14th, and the second one in Escondido, California  
24 on August 16th.

25 Notice of the public hearings was published

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1 twice in the Federal Register, the first time on July  
2 13th with the proposed rule, which was Volume 66 of the  
3 Federal Register, Pages 36892 to 36905. The second time  
4 it was published in a separate notice on July 27th in  
5 Volume 66 on Page 39121.

6 Copies of both these documents are on the  
7 back registration table if you wish them. We also have  
8 back there a copy that looks like this, the documentary  
9 summary sheet, which is a print-out from the APHIS  
10 website. The document summary sheet lists the  
11 supporting documents on which the proposed rule is  
12 based. These documents are all available at our website  
13 and may be downloaded using a PDF file reader. It's  
14 kind of easy to tell because it's got a big avocado in  
15 the middle.

16 The purpose of today's hearing is to give  
17 interested persons an opportunity to present  
18 information, data, views or comments concerning the July  
19 13th proposed rule. Those persons that testify today  
20 will have the opportunity to ask clarifying questions  
21 about the provisions listed in the proposed rule.  
22 Agency representatives will be limited to explaining  
23 provisions of the proposed rule and the documents upon  
24 which it's based.

25 Agency representatives will refrain from

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1       answering questions of a speculative nature that address  
2       future regulatory actions that the Agency may take in  
3       the course of this rulemaking. APHIS views this hearing  
4       as an opportunity to receive public comments and to  
5       answer clarifying questions, and not as an opportunity  
6       for debate on the issues or for speculation about future  
7       actions that APHIS may take.

8                   At these hearings any interested party may  
9       appear and be heard in person or through an attorney or  
10      a representative. Those who have registered in advance  
11      of the hearing or who have registered this morning in  
12      person will be given an opportunity to speak before  
13      unregistered persons. If time permits, those who have  
14      not registered and who wish to speak will be given an  
15      opportunity.

16                   If an individual's comments do not relate  
17      to the stated purpose of this hearing, which again is to  
18      present comments or questions on aspects of the proposed  
19      rule, it may be necessary for me to ask the speaker to  
20      focus his or her comments on the issue.

21                   Today's hearing is scheduled to conclude at  
22      5:00 p.m. I don't think we'll have to worry about  
23      limiting the length of a speaker's presentation. I'll  
24      announce any other procedural rules as may be necessary.

25                   All comments made today are being recorded

1 and will be transcribed. The court reporter for today  
2 is Ms. Claudette Frost of Warren Associates Court  
3 Reporters. A copy of the transcript of this hearing  
4 will be placed on the APHIS website at  
5 www.aphis.usda.gov about two weeks from today. A copy  
6 will also be available for public inspection at the  
7 APHIS Reading Room which is located in the South  
8 Building of USDA, Room 1141, in Washington, D.C. This  
9 room is open to the public from 8:00 a.m. to 4:30 p.m.  
10 every day, work days.

11 As presiding officer I will announce each  
12 speaker who has registered to make a prepared statement.  
13 Before beginning your remarks, please state and then  
14 spell your name for the benefit of the court reporter.  
15 Following the procedures listed in the July 13th  
16 proposed rule, I ask that anyone who reads a prepared  
17 statement, please provide me with two written copies of  
18 your statement at the conclusion of your remarks. All  
19 written and oral statements submitted or presented at  
20 today's hearing will become part of the public record.

21 I'd like to remind everybody once more that  
22 the close of the comment period for submitting comments  
23 on this proposed rule is September 11, 2001. Comments  
24 made after today's hearing should be submitted to the  
25 following address -- the address is also listed in the

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1 Federal Registry document in the proposed rule on the  
2 back table -- Docket Number 00-003-2, Regulatory  
3 Analysis and Development, PPD, APHIS, Suite 3C03, 4700  
4 River Road, Unit 118, Riverdale, Maryland 20737-1238.  
5 When sending comments by mail, please send an original  
6 and three copies.

7 Now I'd like to introduce the Agency  
8 representatives seated at the panel table. The first  
9 person I will introduce is Mr. Wayne Burnett, Senior  
10 Import Specialist from the Phytosanitary Issues  
11 Management Staff of PPQ. Mr. Burnett will provide an  
12 overview of the current avocado importation program as  
13 well as a summary of the proposed expansion.

14 Beside Mr. Burnett is Dr. Edward Podleckis,  
15 Senior Plant Pathologist, from the Permits and Risk  
16 Assessment Staff of PPQ. Dr. Podleckis is co-author of  
17 a memo that analyzes the previous risk assessment and  
18 its applicability to the proposed expansion. Dr.  
19 Podleckis will summarize his findings related to the  
20 risk assessment and its appropriateness for this  
21 proposed rule.

22 Beside Dr. Podleckis is Mr. Jeffrey Grode,  
23 National Coordinator, Smuggling Interdiction and Trade  
24 Compliance. Mr. Grode will not be making formal  
25 comments and is here today to answer questions about

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1 compliance over the last four years in our present  
2 avocado import program.

3 After presentations made by APHIS personnel  
4 I will call the first registered speaker in order of  
5 registration.

6 And finally, I ask that before you leave  
7 today, please take a moment or two to complete a brief  
8 survey questionnaire about the quality of today's  
9 hearing. We would like your feedback on the format for  
10 today's hearing, the accommodations and such, and  
11 whether you're satisfied with how this hearing has been  
12 conducted. Copies of the survey form are also on the  
13 back table.

14 MR. BURNETT: Good morning. Thank you,  
15 Meridith.

16 My name is Wayne Burnett. This is my --  
17 on the screen. These are also listed in the proposed  
18 rule. Wayne Burnett, Senior Import Specialist,  
19 Phytosanitary Issues Management, USDA PPQ, 4700 River  
20 Road, Unit 140, Riverdale, Maryland, telephone 301-734-  
21 6799.

22 First, I want to go over mitigations that  
23 are within the current program and also how the proposed  
24 rule may affect each of these.

25 Field surveys, copies of field treatments,

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1 field sanitation, post-resistance, post-harvest  
2 safeguards, limited shipping, packing house inspection  
3 of fruit cutting, -- inspection and limited U.S.  
4 distribution.

5 The field surveys, there are no proposed  
6 changes in this proposed rule. The field survey,  
7 proposed surveys conducted to qualifying orchards within  
8 the Mexican export certification program, including an  
9 intensive orchard survey in the spring, coupled with  
10 joint USDA Mexican survey of each orchard beginning  
11 after July 1st.

12 Trapping of field treatments will remain  
13 the same. There are no proposed changes. The -- fruit  
14 flies trigger field treatments in individual orchards.

15 Field sanitation, there are no proposed  
16 changes. Orchards fruit from underneath the orchard  
17 trees that has dropped will continue to be cleaned up  
18 and also dead branches will continued to be pruned.

19 Post-resistance remains the same.

20 (Inaudible.)

21 Post-harvest safeguards, there are no  
22 component changes. Safeguards remain that field trucks  
23 need to be tarped, packing houses will still need to be  
24 screened and have automatic closing doors.

25 Limited shipping window, there is a

1 proposed change to the proposed rule. The current  
2 limited shipping window is four months. The proposal  
3 would increase this to six months.

4 Packing house inspection of fruit cutting,  
5 there are no proposed changes to the proposed rules.  
6 Fruit will still be randomly sampled at the packing  
7 house and inspected for target pests.

8 Port of arrival inspection, packing house,  
9 there will be no proposed changes. Fruit will still be  
10 selected upon the port of entry by PPQ officers and  
11 inspected for target pests.

12 Limited U.S. distribution, there is a  
13 proposed change within the proposed rule. Currently the  
14 distribution under this program is to nineteen approved  
15 States and the District of Columbia. The proposed rule  
16 that we're proposing is that twelve additional States be  
17 listed.

18 The U.S. history of the import program, we  
19 have four shipping seasons completed, two program  
20 reviews have been completed, total import of 3,334,600,  
21 total fruit cut inspected 5,464,173. No target pests  
22 were detected in any inspected fruit and there has been  
23 compliance to the limited distribution requirement.

24 Let's talk a little bit about the  
25 compliance record. Of the 3.3 million targets that were

1 imported, this is a high graph which illustrates over  
2 the four years, the green is the targets which were  
3 distributed within the approved States, and the red are  
4 the targets that were found outside. You can see that  
5 the compliance is 99.89 percent.

6 Further going down, the .11 percent targets  
7 that were found outside the approved area, this is a  
8 breakdown year by year. You will notice that the first  
9 two years is higher than the last two years. This could  
10 be attributed to 1999, beginning of 2000, two things;  
11 one, we had an extensive public affairs campaign  
12 targeting distributors within the U.S. to explain our  
13 program, and the second was that we promulgated an  
14 amendment to the rule which required all distributors  
15 within the U.S. to obtain compliance.

16 The proposed changes, shipping window  
17 increased by two months to include March and April.  
18 Currently it's November to February. The improved area  
19 participation has increased by twelve States.

20 It illustrates, the current northeastern  
21 section is light blue, is one approved under the current  
22 rule. The green section to the west of that are the  
23 proposed twelve States.

24 And that will conclude my portion of the  
25 program, and I'll turn it over to Dr. Podleckis.

1 DR. PODLECKIS: Good morning. My name is  
2 Ed Podleckis. I'm Senior Plant Pathologist on the  
3 Commodities Risk Analysis Team of the Permits and Risk  
4 Assessment Staff at APHIS. Our staff conducts plant  
5 test risk assessments on imported commodities, and it  
6 was our staff that wrote the 1995 plant test risk  
7 assessment for the importation of Mexican Hass avocados  
8 into the United States. So when there was a proposal to  
9 expand that import program, we were asked to review that  
10 proposal and make a recommendation as to whether the  
11 1995 risk assessment is still valid.

12 That 1995 risk assessment used this model  
13 to estimate the likelihood of the introduction of four  
14 pest groups into the United States via the importation  
15 of Mexican Hass avocados under a systems approach. The  
16 four pest groups of concern are Anastrepha fruit flies,  
17 two seed weevils, a seed moth and a stem weevil. This  
18 model lists the major steps that all must occur in order  
19 for a pest introduction to take place. For each of  
20 these steps, or nodes as we call them, we estimated the  
21 chance of them occurring using a range of probabilities.  
22 We multiplied the estimates for each node to come up  
23 with an annual chance of introducing each pest.

24 Our job with respect to this proposed  
25 expansion was to determine which if any of these nodes

1 were impacted by the proposed changes, and to decide  
2 whether the impacts were large enough to make our  
3 estimates no longer valid.

4 F1 estimates the number of boxes of Mexican  
5 Hass avocados imported annually. The 1995 risk  
6 assessment estimated that between one and two million  
7 boxes would be imported each year. The actual number of  
8 boxes imported fell short of the minimum estimate in all  
9 but one of the four shipping seasons thus far. What  
10 this means is that even with the proposed addition of  
11 twelve States, it's likely that the increase in boxes  
12 shipped would still fall within the range estimated by  
13 the 1995 risk assessment.

14 P1 is the probability that avocados in  
15 export groves in Mexico would be infested with one or  
16 more of the four target pest groups. The addition of  
17 States to the list of approved States would have no  
18 impact on whether or not avocados in Mexican groves are  
19 infested with one of the four target pests.

20 Winter shipping would have little impact on  
21 the likelihood of infestation by the weevils or the seed  
22 moth, but it does reduce the probability of fruit being  
23 infested by fruit flies. The majority of this reduction  
24 is the result of lower adult fruit fly activity in the  
25 Mexican orchards during the colder winter months. The

1 question then becomes, does extending the shipping  
2 season to include March and April mean that avocados  
3 would then be shipped from Mexican orchards with high  
4 rates of adult fruit fly activity?

5 Trapping data collected in Mexico as part  
6 of the current import program would indicate that this  
7 isn't the case. In four years of trapping, five fruit  
8 flies have been trapped during the months of March and  
9 April. All of those captures occurred in a single  
10 shipping season and in a single Mexican municipality.

11 Our inspection data also indicates that the  
12 1995 estimate for P1 was sound. No target pest finds in  
13 nearly three and a half million boxes shipped falls well  
14 within the range estimated by the 1995 risk assessment.  
15 It's actually better than what we estimated for weevils  
16 and seed moth.

17 Each of these nodes is a node that would be  
18 unaffected by the proposed changes to the import  
19 program. P2 depends on the success rate of inspections  
20 in the field and at the packing house, which in turn  
21 depends on factors such as the skill of the inspectors  
22 and the level of scrutiny. Now although this node would  
23 not be impacted by the proposed changes, it is worth  
24 noting that there have been no pest finds in over five  
25 million fruit cuts.

1                   P3 is the rate of pest mortality during  
2 shipping. This depends on the pest biology, and it too  
3 would be unaffected by the proposed changes to the  
4 program.

5                   P4, like P2, depends on things like the  
6 skill of the inspectors and the level of scrutiny. So  
7 here we're talking about inspections at the port of  
8 entry rather than inspections in the field and the  
9 packing house. Again, it's worth noting that there have  
10 been no pest finds in about 65,000 fruit cut at the port  
11 of entry.

12                  Finally, P6 is the probability that a pest  
13 in an infested fruit transported through a suitable  
14 habitat could cause an outbreak. P6 is based on  
15 historical data we have for the frequency of fruit fly  
16 outbreaks in the United States. And that data is  
17 derived, again, from the pest's biological  
18 characteristics and would not be impacted by the  
19 proposed changes to the program.

20                  P5 probably has the greatest potential for  
21 being impacted by the changes to the program. This is  
22 the estimate for the chance that fruit will be  
23 transported to a suitable habitat. A suitable habitat  
24 can be defined by two primary characteristics:  
25 available hosts and a favorable climate. Avocado is

1 essentially the only host for the weevils and is the  
2 preferred host for the seed moth, and neither avocado  
3 nor the alternate host for the seed moth, like in the  
4 currently approved States, neither of those is grown in  
5 the States that are proposed for addition to the  
6 approved list. So even in the unlikely event that these  
7 pests be transported to the States proposed for addition  
8 to the approved list, they would not find suitable host  
9 material.

10 For the fruit flies, we referred to a  
11 recently completed study by a sub-group of the North  
12 American Plant Protection Organization, or NAPPO, Pest  
13 Risk Assessment Panel headed by Dr. Ronaldo Sequeira.  
14 This study predicts areas of the United States that  
15 would be susceptible to Anastrepha fruit fly  
16 establishment. Using climate and host data and  
17 knowledge of the fruit fly biology, the study focuses on  
18 the likelihood that these fruit flies could become  
19 established in the United States, particularly with  
20 reference to using Mexican Hass avocados, imported  
21 Mexican Hass avocados, as a pathway for entering the  
22 United States. the document is part of a joint, a  
23 broader joint U.S., Canada and Mexico effort to assess  
24 the establishment likelihood of Anastrepha fruit flies  
25 in all of North America.



1                   Data in the study indicate that in the  
2 States proposed for addition to the approved list,  
3 suitable host material is not available for more than  
4 six months out of the year and that winter temperatures  
5 are too cold for fruit fly establishment. As this map  
6 from the study summarizes, all of the States that are  
7 proposed for addition to the approved list are found in  
8 areas of low likelihood of establishment for Anastrepha  
9 fruit flies. The map is based on a combination of fruit  
10 fly temperature requirements, host availability and  
11 generation potential.

12                   While the States that are proposed for  
13 addition to the approved list may not provide suitable  
14 habitat, it is possible that fruit could be transported  
15 to areas outside the approved areas. The 1995 risk  
16 assessment estimated that between one-half and five  
17 percent of the fruit imported, of Mexican Hass avocado  
18 imported, would be transported to areas of suitable  
19 habitat. According to the interception data that we  
20 have, during the first two years of the import program,  
21 the percentage of fruit found outside the approved area  
22 fell well below the minimum estimate in the 1995 risk  
23 assessment. During the second two years of the program,  
24 after a stronger compliance program was adopted, the  
25 levels of -- the percentage of fruit found outside the

1 approved area dropped to levels 100 to 1000 less than  
2 the estimate in the 1995 risk assessment.

3 Even if one assumes that not all diverted  
4 fruit is intercepted, the estimates in the 1995 risk  
5 assessment are at the very least reasonable and more  
6 likely probably over-estimates the chance of fruit being  
7 transported to a suitable habitat. I should also  
8 mention that all of the fruit seized outside the  
9 approved area and inspected was found free of quarantine  
10 pests.

11 I've tried to keep my comments brief so as  
12 not to take anything away from your opportunity to make  
13 comments. I understand risk and risk assessment are  
14 complex subjects. I hope I've at least given you some  
15 idea as to why we have concluded that the evidence, the  
16 assumptions and the conclusions of the 1995 plant pest  
17 risk assessment for the importation of Mexican Hass  
18 avocados into the United States remains valid, and that  
19 a new risk assessment is not necessary, even if the  
20 proposed changes are adopted.

21 Thank you for your attention.

22 MS. JONES: I have here a list of those who  
23 have come, who have pre-registered or registered this  
24 morning, and I'll call them in order in which they're on  
25 my list here.

1                   The first one is Mr. David Friedrichs of  
2 the Dade County Farm Bureau. It might be better if you  
3 came up and spoke from here because then the court  
4 reporter will be able to get your comments.

5                   MR. FRIEDRICHS: Good morning. My name is  
6 David Friedrichs. I'm Chief Operating Officer and  
7 Executive Director of the Dade County Farm Bureau,  
8 representing 3,064 members and 840 farms in Dade County.  
9 My name is spelled F-R-I-E-D-R-I-C-H-S.

10                   We oppose the proposed shipping --  
11 extension of shipping times and market areas of the  
12 Mexican Hass avocados as presently allowed in the United  
13 States, and further protest the continued abuses of  
14 Mexican imports of any commodity into the United States.

15                   Dating from the beginning of the  
16 discussions of the virtues of a free trade agreement in  
17 this Hemisphere, our protests, our scientific evidence,  
18 our dire prediction of things to come if this trade  
19 agreement were implemented, have in fact materialized.  
20 I am, of course, prejudiced in the point of view,  
21 because you are looking at a victim of NAFTA.

22                   Regarding the importation of Hass avocado,  
23 I submit as part of my remarks that will be included in  
24 my copies, remarks of the TED case study, Number 413, as  
25 reference and quote:

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1                   "Since 1914 the U.S. Plant Health officials  
2 identified avocado seed weevils as pests of quarantine  
3 significance. Several requests by the Mexican  
4 government were denied by successor U.S. departments of  
5 the same concern. In July of 1993, APHIS, in spite of  
6 all evidence to the contrary, approved the importation  
7 of avocados into Alaska under certain conditions. On  
8 July 5, 1994, the Mexican government formally requested  
9 that APHIS further amend its import regulations to allow  
10 importation of Hass avocado into the Northern United  
11 States. The USDA has proposed to lift the ban for their  
12 belief that, under certain conditions, the possibility  
13 of infestation could be adequately controlled through  
14 risk mitigation. We all know that these risk mitigation  
15 procedures are total failures. The field survey  
16 procedures on both sides of the border are both flawed  
17 and inadequate. The trapping and field bait treatments  
18 for the fruit fly involve only one trap for ten  
19 hectares. If a fruit fly is detected, trapping is  
20 increased to ten traps in the surrounding hectare, one  
21 trap per five hectares, but export can continue. If  
22 additional flies are found within thirty days, export  
23 can still continue only under bait treatments of the  
24 orchard involved. There are many other inadequacies in  
25 the area of field sanitation, post-harvest safeguards,

1 winter shipping, packing house inspection of fruit  
2 cutting, port of arrival inspections and distribution  
3 limitation. U.S. growers cannot export under any  
4 conditions of this type."

5 California Avocado Commission became  
6 actively involved in debating this problem. After two  
7 years of debate, two case studies and 1,751 out of 2,000  
8 comments on the rule appealing the change, the  
9 government decided to make the change despite the  
10 negative ramifications. Those who commented favorably  
11 in favor of the proposed rule change cited the need for  
12 the United States to 'lead the way in the elimination of  
13 non-traffic barriers,' which is how those outside of the  
14 United States would characterize this import standard.

15 It is a known fact on both sides of the  
16 question that restrictions on importation to certain  
17 specified areas is meaningless. Once a avocado or any  
18 other product is legally imported into this country  
19 under present rules, there are no further restrictions  
20 on the movement of that fruit afterwards. Unaware and  
21 outright unscrupulous importers are then free to trans-  
22 ship the product anywhere in the United States. They  
23 are frequently found all over Florida, complete with the  
24 pests that came in this country still riding piggy-back.

25 Since the 1990's, Florida has had these

1 infestations. Two infestations of Citrus Canker, one of  
2 which will cost well over 300 million to eradicate the  
3 U.S. entire lime industry. Oriental fruit fly found in  
4 May of 1999. Mediterranean fruit fly found in 1999, May  
5 1997 and April, 1998. Citrus Leaf Miner found in May,  
6 1993. Brown Citrus Aphid found in 1995. And there's  
7 eight or ten more that I could enumerate with you and  
8 I'm sure you're just as aware of them as I am.

9           According to the best sources I have  
10 available to me as a non-scientist, none of these pests  
11 are native to the United States and did in fact come to  
12 this country under the watchful eye of APHIS.

13           In conclusion, let us on each side of the  
14 question concede that I could probably spend the rest of  
15 these proceedings in a continued litany of scientific  
16 and factual evidence indicating no reason to justify the  
17 present risk we take every day in the imports directly  
18 allowed by inappropriate judgments already made that  
19 contribute to the continued degradation of Florida and  
20 the United States agriculture economic viability. s one  
21 who has been to Nogales and witnessed the first-hand  
22 U.S. border inspection, where the sheer weight of  
23 numbers and volume dictate that it is physically  
24 impossible for inspectors, no matter how diligent and  
25 honest their intentions are, cannot possibly protect our

1 borders from infestation.

2 I do not doubt the sincerity or the  
3 integrity of the presentations you make and the  
4 statistics you make based upon your own examination and  
5 research. I suggest, however, that somewhere between  
6 what you find and somewhere between what we have here,  
7 there's a gap. I can't explain the gap to you, but  
8 there is a gap. We have to live with these infestations  
9 and that is our primary contention.

10 Thank you for your kind attention and I  
11 appreciate the opportunity to represent the Dade County  
12 Farm Bureau to you this morning.

13 MS. JONES: Thank you very much, Mr.  
14 Friedrichs.

15 Next we have Mr. Charlie Matthews, Florida  
16 Fruit and Vegetable Association.

17 MR. MATTHEWS: My name is Charlie Matthews,  
18 M-A-T-T-H-E-W-S, and Meridith caught me a little off  
19 guard. I'm fifth or sixth on your list, but we'll go  
20 ahead.

21 My name is Charlie Matthews. I'm with the  
22 Florida Fruit and Vegetable Association. FFVA is a  
23 voluntary shipper organization that represents most of  
24 the fruit, vegetable and sugar cane production in the  
25 State.

1 I don't have a written statement today. We  
2 will be providing written comments that will be  
3 significantly more in detail than I'll be talking today,  
4 but I believe September 11th is your deadline and we are  
5 looking forward to providing that comment, and we  
6 appreciate the opportunity to comment and we appreciate  
7 you guys coming to Florida. I think it's important that  
8 you spend time in Florida. I think it's important that  
9 you spend more than a day in Florida and that you  
10 recognize some of the perils that our growers are  
11 currently going through and a lot of the things that  
12 we're currently facing can, in one way or another, be  
13 connected back to the efforts of USDA.

14 I'm going to limit my comments to three  
15 general areas. One is a general overview of where our  
16 industry is today, talk about some of the science, and  
17 then finally, enforcement that is currently occurring.

18 It's been awhile, as far as the general  
19 comments go, it's been awhile since I've seen a one-page  
20 regulation in the Federal Register that, while simply  
21 it's just less than a page, could have such a  
22 significant impact to our growers here in the State of  
23 Florida. This is more than just simply changing  
24 windows. It's more than simply changing the number of  
25 States. And I think that the USDA needs to recognize



1 this.

2                   The economic value in Florida of  
3 agriculture is estimated to be over six billion dollars.  
4 Most of that economic activity is related back to fruit  
5 production, vegetable production, and also ornamental  
6 production. Perhaps there's been a skimming over of the  
7 potential impact to our ornamental industry, and if  
8 you've been around Dade County you recognize that our  
9 ornamental industry is significant here and it's  
10 significant throughout the State.

11                   Recently there's an economic crisis that's  
12 occurring in Florida agriculture, and that's not my  
13 term, it's the term of Secretary Ann Vennerman  
14 (Phonetic) and it's also the term of President Bush.  
15 And I use the term economic crisis because of the  
16 supplemental funds that were appropriated, 5.5 billion  
17 dollars worth, at the beginning of August. That  
18 economic crisis was attributed to various things from a  
19 micro-standpoint, but I think I'd like to bring out some  
20 examples locally, how that economic crisis is occurring.

21                   In the last seven of the eight years our  
22 grapefruit growers have lost money. Another example  
23 would be, fifteen or so years ago there were about 200  
24 tomato growers. Today the number is somewhere around 60  
25 or 70. And then most recently and closer to where we

1 are today, approximately 50 percent of the lime industry  
2 has been bushed and burned. These are serious economic  
3 times for our growers and our industry in Florida.

4 Other things that roll into the economics  
5 are also flat retail prices, the prices that our growers  
6 are getting today are very similar to what they got 20,  
7 25 years ago, and we're also selling to fewer customers,  
8 which means there is the potential for a monopoly out  
9 there, a real potential for a monopoly out there.

10 So I think these things have to be  
11 considered, as well as the science, and science is the  
12 second area that I'd like to talk about.

13 Five years ago one of our key issues or the  
14 comments that we had dealt with the science. Five years  
15 ago I didn't need these glasses. But I think science is  
16 -- particularly as we get into more of a global economy.  
17 We can't be relying upon politics to govern these trade  
18 restrictions and trade agreements. I think the science  
19 issues perhaps may be more appropriately covered in a  
20 written comment, but I would like to identify three  
21 areas.

22 One is that all species need to be  
23 considered and need to be assessed in your assessment.  
24 I understand that there are three -- excuse me, six  
25 species that I don't know that were considered on the

1 first go around, and they very much need to be  
2 considered this time. And not only the impact on fruit  
3 and vegetable producers, but also the potential impact  
4 to our ornamental industry.

5 Perhaps it's time to do a third party re-  
6 evaluation of the surveillance techniques. Fruit  
7 cutting, there has been a tremendous amount of fruit  
8 cutting that occurred, but are we doing the right thing  
9 and do our fruit cutters have the appropriate tools to  
10 do the fruit cutting so that it's meaningful.

11 Trapping, I think fruit fly trapping is  
12 also another issue that needs to be addressed. And as  
13 we harmonize, we need to harmonize our techniques. And  
14 it's my understanding that there's two different  
15 protocols that are followed in regard to fruit fly  
16 trapping.

17 And then finally, moving into April  
18 shipments. On the surface, this doesn't sound like that  
19 big a deal, but shipments may occur through the end of  
20 that month, and just because something crosses the  
21 border at the end of April, first of May, doesn't mean  
22 that that product is gone at that time, it lingers on,  
23 and whether or not that product actually gets out into  
24 May or even June, I don't think that that is known. So  
25 the chain of commerce is something that needs to be

1 recognized and how long that product will stay in the  
2 chain.

3 And then finally, enforcement and  
4 compliance. The biggest problem that we identified five  
5 years ago is still one of the bigger problems that we  
6 have today. And simply stated, if we cannot manage  
7 where products are shipped within our country  
8 previously, why can we double the number of States that  
9 it can go into and manage that?

10 I like the statistics, and you can  
11 manipulate statistics all you want to, and I'd like to  
12 manipulate them a little bit, if you will.

13 The pie chart that was shown that had the  
14 number of fruit that were intercepted outside the  
15 approved States was an interesting pie chart in that it  
16 was all blue and there was very little red. But when  
17 you break that down to different levels and you average,  
18 when you look at the averages, those numbers get  
19 significantly bigger. And the way I read the numbers is  
20 that on average one out of one thousand shipments or  
21 boxes gets out of the approved States.

22 Now one in one thousand to me is a terrible  
23 number. I don't know what example would bring it home,  
24 but if your family knew that you had a chance of one and  
25 one thousand of an airplane blowing up on your trip back

1 home, you know, are those acceptable risks? And for  
2 exotic pests to become established in our State, that  
3 has the same explosive risk involved. So I think we  
4 need to re-evaluate the information and perhaps a third  
5 party can look a little bit more objectively at some of  
6 these risks.

7 I don't know how strongly I can state it.  
8 Until the U.S. can get a handle on interstate commerce,  
9 we will strongly oppose expansion of these regulations.  
10 And our Mexican friends have done a heroic job of  
11 complying with the regulations and yet I think we need  
12 to look internally, and until we can get our shop a  
13 little better in order, perhaps we need to forestall  
14 these regulations.

15 I go back to my opening statement. We  
16 appreciate your time. We hope you will earnestly  
17 consider our comments and we look forward to what will  
18 come out in a couple months.

19 Thank you.

20 MS. JONES: Thank you, Mr. Matthews.

21 I apologize for bringing you up a little  
22 sooner than you thought. We had a number of registered  
23 speakers who didn't show, so you came up number two.

24 Okay, third on the list, Mr. Richard Clark  
25 from the Florida Department of Agriculture and Consumer

1 Services.

2 MR. CLARK: Good morning. My name is  
3 Richard Clark, last name spelled C-L-A-R-K. I'll be  
4 making some comments this morning on behalf of the  
5 Florida Department of Agriculture and Consumer Services,  
6 Division of Plant Industry.

7 We have had serious concerns about the  
8 Mexican Hass avocado import program from its initial  
9 implementation and are opposed to any expansion of the  
10 current program. The program in its current form,  
11 limiting the distribution of Mexican Hass avocados to 19  
12 Northeastern States has been a failure in our opinion.

13 APHIS records indicate that over the course  
14 of this program thus far, 3,881 boxes of Mexican Hass  
15 avocados were diverted to non-approved States, including  
16 Florida. Furthermore, we feel APHIS has been too slow  
17 in applying appropriate penalties to the U.S.  
18 distributors who knowingly diverted these avocados to  
19 non-approved States.

20 We do feel, however, that the PPQ Amendment  
21 of January, 2000 requiring distributors within the  
22 approved States to maintain the compliance agreement  
23 with PPQ, was a positive measure toward achieving  
24 greater accountability. The Amendment to extend the  
25 Mexican Hass avocado import program into the months of

1 March and April is a great concern to Florida, for  
2 historically the months of March and April represent our  
3 highest risk months for exotic pest introduction.

4 Since APHIS has been unable to prevent the  
5 illegal distribution of these avocados outside the  
6 nineteen approved States, we feel that this program as  
7 currently established places Florida and other southern  
8 States at risk for new pest introduction. By expanding  
9 this program the opportunity only increases for fruit to  
10 be diverted to Florida, thereby increasing our risk of  
11 pest introduction.

12 Therefore, until such time as APHIS can  
13 demonstrate a greater degree of success in eliminating  
14 the illegal movements of this fruit to non-approved  
15 States and stronger commitment to a more timely  
16 prosecution of those distributors who move fruit in  
17 violation of the provisions established in the current  
18 rule, we cannot support these provisions.

19 Thank you very much for this opportunity to  
20 provide comment.

21 MS. JONES: Thank you, Mr. Clark.

22 Our next speaker is Jesus Menedez, Chairman  
23 of the Board of the Avocado Producers, Packers and  
24 Shippers. He will be accompanied by Benjamin Guyan  
25 (Phonetic) as interpreter.

1                   MR. MENEDEZ: Good morning ladies and  
2 gentlemen. We give thanks to present to you, the  
3 Mexican -- the comments (inaudible).

4                   THE COURT REPORTER: Excuse me, I need the  
5 interpreter to speak into that microphone.

6                   MR. MENEDEZ: On July 13, 2001, the Animal  
7 and Plant Health Inspection Service, APHIS published a  
8 proposal rule in the Federal Register, 66 Fed. Reg.00  
9 36892, proposing that market access should be expanded  
10 for Mexican avocados to twelve additional States and two  
11 additional months. Comments on this proposed rule by  
12 September 11, 2001. The Docket Number is 00-003-2.  
13 This document provides the comments of the Asociacion de  
14 Productores y Empacadores Exportadores de Aguacata de  
15 Michoacan A.C., APEAM.

16                   APEAM is an association of all the Hass  
17 avocado producers and packers in Michoacan, Mexico who  
18 export avocados to the United States. APEAM fully  
19 supports the expansion of the market access for the  
20 proposed twelve additional States of the United States  
21 and for the two additional months, and asks APHIS to  
22 complete the current group in order for exporters and  
23 importers to take advantage of this expanded market  
24 access during the upcoming shipping season. In support  
25 of the finalization of the proposed rule, APEAM offers



1 the following comments.

2 Mexico is the largest producer and exporter  
3 of Hass avocados in the world. The principal markets  
4 for exports are Japan, Central America, the United  
5 States, Canada and Europe. The Foreign Agricultural  
6 Service, FAS, of USDA has estimated that production and  
7 exports in metric tons of Mexican avocados will be as  
8 follows. The production in 1998 has been 762,336 tons  
9 with exports of 38,571. In 1999, 876,623 tons with  
10 exports of 22,415. In 2000, 600,000 tons with un-export  
11 of 35,000.

12 From 1914 to 1995, Mexican avocados were  
13 prohibited from entering the United States by the United  
14 States Department of Agriculture due to concerns about  
15 host specific avocado pest not known to occur in the  
16 United States and the view that the commercially  
17 produced Mexican Hass avocado was an Anastrepha fruit  
18 fly host. Since 1995, imports of Mexican avocados have  
19 been permitted into Alaska during twelve months of the  
20 year and into nineteen Northeastern States and the  
21 District of Columbia during four months of the winter,  
22 November to February.

23 These imports have been allowed under our  
24 systems approach that incorporates a significant number  
25 of safeguards in the orchards and packing houses in

1 Mexico. Field surveys for stem and seed weevils and  
2 fruit flies have been performed by APHIS officials in  
3 Mexico, including visual inspection, fruit cutting and  
4 branch shaking at appropriate times during the growing  
5 seasons to determine the presence or absence of pests.  
6 Orchards are pre-certified by SAGARPA, the Government of  
7 Mexico's Department of Agriculture and Sanidad Vegetal,  
8 Mexico's National Plant Protection Organization and then  
9 registered and certified by APHIS as free from  
10 quarantine pests. APHIS also performs trapping and  
11 field bait treatments for fruit flies in the Mexican  
12 avocado orchards and surrounding communities.  
13 *Anastrepha, ludens, striata, serpentina* fruit flies have  
14 been captured in very small quantities in orchards in  
15 field trapping using McPhail traps, which prove the very  
16 low incidence of fruit flies in growing areas in  
17 Michoacan. For instance, in Uruapan, the capital of the  
18 Mexican avocado industry, the trapping data indicates  
19 that in 1999/2000 only twenty-one fruit flies were  
20 captured in servicing 14,352 traps for a minuscule rate  
21 of 0.00002 flies per trap per day. No fruit flies were  
22 captured in Uruapan in 1998/1999. This very small risk  
23 of the possible transmission of fruit flies is overcome  
24 by other aspects of the systems approach undertaken in  
25 Mexico.

1 Mexico has exported 2,152 shipments to the  
2 United States, totalling 38 million kilos. Upon arrival  
3 at the border, an additional 64,560 avocados have been  
4 cut open and examined by APHIS inspectors and no  
5 targeted quarantine pests have been identified in any of  
6 these shipments. APHIS regulations require that second  
7 and third party handlers of imported Mexican avocados  
8 sign a compliance agreement in order to legally purchase  
9 and distribute the fruit.

10 Prior to allowing the importation of  
11 Mexican Hass avocados in 1997, APHIS developed a risk  
12 assessment that examined the plant pest risk associated  
13 with this action. Among other data, the overall risk  
14 analysis focused on an analysis of a proposed risk  
15 mitigation program as reported in Risk Management  
16 Analysis: A Systems Approach for Mexican Avocados  
17 (APHIS, 1995). When this risk management analysis and  
18 subsequent risk assessment were developed, there were a  
19 number of unknowns regarding the phytosanitary risk  
20 posed by the proposed imports. The importation of  
21 avocado fruit from Mexico was seen as a potential  
22 pathway for the introduction of plant pests. This  
23 unknown risk and the fear of potential negative economic  
24 impact to U.S. growers by the importation of exotic  
25 pests associated with avocado imports from Mexico

1       resulted in the development of one of the most  
2       restrictive phytosanitary regulations APHIS has ever  
3       published. Thus, the temporal and geographic  
4       restrictions were not shown to be strictly necessary by  
5       scientific evidence, but were more a reflection of the  
6       fear of the unknown.

7                 The systems approach outlined in 7 CFR  
8       319.56-2(ff) is a complicated series of risk mitigation  
9       measures that were linked together forms what APHIS  
10      views as an effective barrier against the importation of  
11      quarantine pests. In order to attain market access, the  
12      Mexican growers and packers have accepted this overly  
13      restrictive regulation. However, as more data becomes  
14      apparent and delays to expansion continue, scientists  
15      and government officials from around the world are  
16      beginning to view these import requirements as  
17      protectionist trade barriers designed to mitigate an  
18      exaggerated risk.

19                The most contentious components of the  
20      system are the limited season and distribution  
21      restrictions. The Mexican Hass avocado is considered by  
22      APHIS to be a possible non-host (Miller et al., 1995,  
23      Page 11) for the Anastrepha fruit flies that occur in  
24      the growing areas of Michoacan. However, Mexican  
25      avocados can only be shipped to the United States during

1 a time when the fruit fly population levels are almost  
2 nonexistent in the growing areas and only to an area of  
3 the United States where fruit flies cannot become  
4 established.

5 The geographic distribution and the limited  
6 season component of the system is based mainly on this  
7 perception that if fruit flies of the genus *Anastrepha*  
8 accompany shipments of Mexican Hass avocados into the  
9 United States, they will not be able to survive the  
10 colder climates of the Northeast (Miller et al., 1995,  
11 Page 13 and 15). As an additional mitigation, fruit fly  
12 trapping in the growing areas is also required to insure  
13 fruit fly population densities remain low. If two or  
14 more flies are discovered within a thirty-day time  
15 frame, Malathion bait treatments must be applied in the  
16 affected orchard in order to remain eligible to ship.  
17 Other mitigations for fruit flies include field  
18 sanitation, safeguarding fruit after harvest and most  
19 importantly, host resistance.

20 However, fruit fly infestation of the Hass  
21 avocado is not known to occur under normal growing  
22 conditions and no historical evidence exists that these  
23 pests attack Hass avocados in nature (Miller et al.,  
24 1995, Page 12). APHIS has not only accepted that the  
25 Hass avocado is a poor host for this genus, but also

1 acknowledges the possibility that this fruit is not a  
2 host to these pests (Miller et al., 1995, Page 11).  
3 There is no precise scientific evidence on the status of  
4 Anastrepha as a pest of Persea americana, cultivar  
5 "Hass" (the Hass avocado). The evidence is mainly  
6 anecdotal and the exact species and variety of Persea  
7 were not specified in many past arguments on the subject  
8 (Aluja, 1999).

9                   Moreover, the high altitudes, cooler  
10 climates and lack of suitable host material in Michoacan  
11 is not favorable for Anastrepha fruit flies. A  
12 combination of poor to inadequate host with marginal  
13 developmental conditions leads to low field densities,  
14 especially when associated with the much less preferred  
15 avocado crop (Hass cultivar) (Sequeira, et al., 2001).

16                   APHIS continues to question the fruit fly  
17 host status of the commercially produced Mexican Hass  
18 avocado to the fruit flies that occur in the growing  
19 areas of Michoacan. In 1995 APHIS justified the season  
20 and distribution limitations based on a perceived fruit  
21 fly risk. However, four years of import data show that  
22 there is no demonstrable risk of transmitting fruit  
23 flies and strongly suggest that expansion of this season  
24 and distribution area should be implemented.

25                   As part of the export program, APHIS,

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1 SAGARPA and the Comete Estatal have cut and inspected  
2 over six million fruit in the orchards and packing  
3 houses without finding any of the quarantine pests  
4 listed in the APHIS risk analysis. Prior to the  
5 exportation of avocados to the United States, SAGARPA  
6 and APHIS inspectors examined 2,152 shipments totalling  
7 almost 38 million kilos without finding any quarantine  
8 pests. Upon arrival at the border, every shipment was  
9 inspected again by APHIS and an additional thirty fruit  
10 per shipment are cut open and inspected. No quarantine  
11 pest has been identified in any of these border  
12 inspections. The evidence is overwhelming that Hass  
13 avocados imported from Mexico pose no risk of  
14 transmitting fruit flies and an extremely low risk of  
15 harboring any other quarantine pests.

16 The California Avocado Commission (CAC) has  
17 said that there should be a peer review of APHIS  
18 decisions on phytosanitary issues. In fact, APHIS has  
19 conducted end of the year program reviews with the  
20 participation of the CAC and APHIS has incorporated CAC  
21 recommendations into the phytosanitary work plan for the  
22 systems approach. Prior to the initiation of the Hass  
23 avocado program, the CAC conducted a review and  
24 concluded, "the export program is operating well, with  
25 involvement by individuals who are both professional and

1 dedicated." (D. Scott Campbell, 1997) The study  
2 concluded as follows:

3 APHIS has sufficient staff to complete the  
4 survey, to supervise activity at the packing sheds, and  
5 to conduct spot checks of orchard conditions during the  
6 harvest. They are well trained and demonstrate a good  
7 knowledge of their work area and the work plan.

8 SAGAR has provided sufficient qualified  
9 personnel to conduct surveys, to maintain trap lines,  
10 and to oversee the harvest and transportation of  
11 avocados from the field to the packing shed.

12 There is a serious enforcement effort  
13 taking place to make certain that the requirements of  
14 the regulations and the work plan are met. This  
15 includes activities by the producers, the SAGAR  
16 representatives and APHIS officials.

17 There is evidence that surveys are being  
18 conducted in both commercial approved groves as well as  
19 in surrounding areas. Evidence of fruit cutting was  
20 noted in areas which had already been completed by the  
21 survey teams, brigades. This was true of both enrolled  
22 orchards and adjacent areas.

23 While some groves will need some serious  
24 attention by the producers in terms of clean-up, for the  
25 most part they are well maintained. Any problem areas



1 noted during the review were discussion between SAGAR  
2 and producers or producers' representatives who  
3 accompanied us through the orchards. In more than one  
4 instance, SAGAR reminded the producer that branches and  
5 fallen fruit would have the same effect as an insect  
6 being found; i.e., the orchard would be rejected.

7 Field observations and the attitudes of the  
8 people involved in the program in Mexico confirmed that  
9 there is little risk of insect infestations from the  
10 groves involved in the program.

11 Experience has shown that the CAC  
12 assessment in 1997 was correct. The CAC has offered  
13 nothing to undermine the findings its expert analyst  
14 made at the beginning of the program.

15 Regarding safeguarding and distribution of  
16 the fruit after arrival, Mexican avocados are treated  
17 like no other commodity listed in APHIS fruit and  
18 vegetable regulation. There are a number of commodities  
19 listed in 7 CFR 319.56 that are enterable for  
20 distribution into only certain areas of the United  
21 States due to phytosanitary concerns. However, the  
22 Administrative Instructions governing the entry of  
23 Mexican Hass avocados is the only APHIS regulation that  
24 requires that second and third party handlers receive a  
25 compliance agreement in order to legally purchase and

1 distribute the fruit.

2                   Additionally, APHIS's smuggling  
3 interdiction and compliance unit has developed a  
4 nationwide infrastructure of Plant Protection and  
5 Quarantine Compliance officers who spend the majority of  
6 their time insuring that these compliance agreement  
7 requirements are adhered to and inspecting markets  
8 outside the approved distribution area to insure that  
9 the program fruit is not leaking into other markets  
10 within the United States. Increasing the geographic  
11 distribution area within the United States will allow  
12 these inspectors to concentrate their efforts on a much  
13 smaller portion of the country, making their inspection  
14 process more efficient.

15                   Free trade between Mexico and the United  
16 States is good for the U.S. economy. Yet, special  
17 interest groups with protectionist views continue to  
18 blame the North American Free Trade Agreement for loss  
19 of American jobs.

20                   However, the Christian Science Monitor  
21 reports that the U.S. economy has boomed since January,  
22 1994, when the NAFTA went into effect. Exports to  
23 Mexico are up 170 percent, three times the overall  
24 export increase and the U.S. unemployment rate remains  
25 down by a third even as the economy slows.

1           The Monitor goes on to explain that even  
2           though some jobs have moved south of the border,  
3           analysts estimate that at least 100,000, on net, have  
4           been created. Moreover, even when companies have moved,  
5           they have remained closely tied to U.S. suppliers, and  
6           this increase in jobs and higher wages will reduce the  
7           pressure for illegal immigration to the United States.

8           The past seven years of economic prosperity  
9           in both Mexico and the United States proves that the  
10          free market economic concept of the NAFTA has been a  
11          success.

12          California avocado growers have also  
13          benefited from the NAFTA. According to Charley Wolk,  
14          Chairman of the California Avocado Commission,  
15          "California's 1999/2000 avocado crop returned a record  
16          \$339 million to the States 5,500 growers -- the highest  
17          farm gate value ever. The ten year industry value from  
18          1991/2000 increased one billion over the 1981/1990  
19          total."

20          And Lecil E. Cole, Chairman, President and  
21          CEO of Calavo Growers of California, has said, "We are  
22          pleased to report Calavo's most profitable year in our  
23          77 year history. Our outstanding achievement is  
24          attributable to Calavo's increase in share of market of  
25          both domestic and imported avocados and a highly

1 successful year in our processed division."

2 In addition, roughly 80 percent of Mexican  
3 avocados are imported by California packets.

4 In conclusion, although we believe there is  
5 scientific justification to support a much broader  
6 expansion of market access, we commend APHIS for taking  
7 this step forward and support finalizing the regulation  
8 as it is written. The scientific principles used to  
9 support the market limitations in 1997 also support this  
10 limited expansion effort. We therefore urge APHIS to  
11 expedite this rule making process and proceed to  
12 promulgate a final rule.

13 I want to say in this finish, that Mexico  
14 is the first customer of the United States of America.

15 MS. JONES: Thank you both.

16 Next on our list of speakers is Senior  
17 Marco Martinez from the Mexican Embassy.

18 MR. MARTINEZ: Thank you, Ms. Chairman.

19 My name is Marco A. Martinez, and on behalf  
20 of the Government of Mexico, this is in support of the  
21 proposed rule of July 13th to amend the regulation of  
22 the Animal and Plant Health Inspection Service that  
23 govern the import of Hass avocados from Michoacan,  
24 Mexico to include twelve additional States and two  
25 additional months. The will insure increased market

1 access of Mexican Hass avocados by the opening of the  
2 next shipping season.

3 There is no longer a scientific reason for  
4 limiting imports of Hass avocados from Mexico. Since  
5 the beginning of the import program in 1997 the U.S. and  
6 Mexican phytosanitary authorities have cut and inspected  
7 more than five million fruits in the orchards, packing  
8 houses and inspection points without finding any of the  
9 quarantine pests. After four shipping seasons more than  
10 2,000 shipments were inspected with the same result; no  
11 pest. There is a clear evidence that Hass avocados  
12 imported from Mexico pose no risk of transmitting any  
13 quarantine pests.

14 The APHIS Plant Protection and Quarantine  
15 System is probably the finest in the world. The zones  
16 from which the Hass avocado is exported are surveyed by  
17 teams of entomologist and plant pathologists from Mexico  
18 and U.S.A. in a permanent basis. USDA/APHIS are  
19 convinced that these zones do not represent a risk and  
20 can be kept free of the quarantine pests of concern,  
21 including seed and stem weevil and stem moth.

22 The provision of the World Trade  
23 Organization's Agreement on the application of Sanitary  
24 and Phytosanitary measures and the corresponding  
25 provisions of the North American Free Trade Agreement

1 prohibit the use of phytosanitary measures to unfairly  
2 restrict imports in order to protect domestic producers.  
3 The United States cannot maintain unjustifiable  
4 phytosanitary restrictions on Mexican avocado if it is  
5 to hope to persuade other countries to remove their  
6 unfair trade barriers against U.S. agricultural exports.

7 I only want to say, congratulations to  
8 USDA/APHIS for taking this step forward.

9 Thank you very much.

10 MS. JONES: Thank you, Senior Martinez.

11 We now have Mr. James Humble of the  
12 avocado growers in Florida.

13 MR. HUMBLE: James Humble, a avocado grower  
14 in Florida.

15 The folks from Mexico here, the Ambassador,  
16 have done an excellent job in their presentation, and  
17 they've done this obviously for many years. They have  
18 the support of their government and support of their  
19 people.

20 This started a number of years ago, as  
21 everyone's aware of, when they asked for entry into  
22 Alaska. Alaska was a soft place to enter, it's cold, it  
23 was palatable. We resisted and we lost.

24 Next they went to the next step which is  
25 Northern tier States, and they did a very good job there

1 as well. That was acceptable to the USDA. They've now  
2 entered the Northern tier States.

3 Now, if you look at the line, they're  
4 moving south. They're along the border States of the  
5 U.S. getting toward a warmer climate in the south where  
6 avocados grow, meaning in Florida. And the statistics  
7 do change as you move toward Florida, because we have a  
8 crop that susceptible to what might come in.

9 But what we do know is that with the  
10 softening of import regulations and the number of  
11 imports increasing, that the amount of risk does  
12 increase. Two or three years ago, Secretary Crawford,  
13 when he was Secretary of Agriculture in Florida, we  
14 asked for him to give us from the three ports of entry,  
15 Jacksonville, Tampa and Miami, those pests that had been  
16 intercepted at those ports for a year, pests that were  
17 supposed to be regulated. That was a two inch document  
18 in one year.

19 So we can't say that the probability is  
20 zero. We can say that you can make the argument it  
21 might be low, but the risk is all to us. We have all  
22 the risk. These fruit coming in, there's no risk to the  
23 importers. They have everything to gain and absolutely  
24 zero to lose. And when it comes to Calavo's position,  
25 of course, they're a large grower in Mexico. Of course

1 they, you know, are in favor or not disagreeing with  
2 this. They are probably the largest grower in Mexico or  
3 one of the largest growers in Mexico.

4 So if they say that the amount of supply  
5 increase has not effected their price, I disagree with  
6 that. It has effected price, unless there's a demand  
7 growing faster than that supply, which I don't think so.

8 In any event, I just want to point out that  
9 the risk is not zero. I think these fellows have done a  
10 great job over the years. Unfortunately, we don't seem  
11 to have the same support because our position here seems  
12 to be open up the border and let everything come in.  
13 And when you do that, your ability to deal with the  
14 problems decreases. You only inspect one percent of  
15 what comes across anyway, and your statistics are based  
16 on that.

17 One final thing. Just recently the Thai  
18 Government, the U.S. is opening up to Thailand and at  
19 the same time Thailand imposed duties on 89 things in  
20 the U.S., and in terms of the trade deficit surplus,  
21 we've gone to a 50 billion dollar deficit in Mexico from  
22 a surplus. So you know, it does have an impact.

23 Thank you very much.

24 MS. JONES: Thank you, Mr. Humble.

25 Next we have Craig Wheeling from Brooks



1       Tropicals.

2                   MR. WHEELING: Good morning. My name is  
3       Craig Wheeling, that's W-H-E-E-L-I-N-G. I am CEO of  
4       Brooks Tropicals, which is the largest domestic producer  
5       of tropical fruits. Our company grows tropical fruits,  
6       like avocados, limes, papayas and mangoes. I'm also a  
7       Chairman of the Florida Avocado Committee for which I  
8       cannot and am not speaking today.

9                   My comments are dictated primarily at  
10       failures of APHIS policies and not at the Mexican  
11       exports who've done an excellent job bringing avocados  
12       to the U.S. and developing a very disciplined market  
13       approach, and I congratulate them on that.

14                   At present, USDA's Animal Plant Health  
15       Inspection Service, APHIS, is charged with implementing  
16       phytosanitary provisions of trade agreements; i.e.,  
17       increasing trade and protecting the U.S. from invasive  
18       pests also.

19                   The first mandate, increasing trade, is  
20       going far better than the second mandate, protecting our  
21       borders. For example, Florida is currently suffering a  
22       rash of pest infestation. In the 1990's we had -- and  
23       these are all fairly significant pests -- two  
24       infestations of citrus canker, separate geographically,  
25       one of which will cost over 300 billion dollars to

1 eradicate, and has virtually destroyed the entire U.S.  
2 lime industry. Other pest introductions include  
3 Oriental Fruit Fly found in May, 1999, Med Fly found in  
4 1990, 1997, 1998, Citrus Leaf Miner found in May, 1993,  
5 Brown Citrus Aphid found November, 1995, Citrus Psyllid  
6 found June, 1998, Citrus Long Horned Beetle found April,  
7 1999, Killer Bee found Jacksonville Port in May, 1999,  
8 Mexican Weevil which has become a serious Bromeliad pest  
9 of both native and exotic Bromeliads in the 1990's,  
10 Tomato Yellow Leaf Curl Virus found 1997, Asian Woolly  
11 Hackberry Aphis found 198, Small Hive Beetle, native of  
12 South Africa, found first time in hemisphere, May, 1998,  
13 Asian Elm Aphid found October, 1998, Contarina  
14 Maculipennis, found attacking Dendrobiums in Apopka,  
15 Florida in November, 1992, Giant Whitefly found  
16 November, 1996, Sri Lanka Beetle, which was just  
17 recently found and was described by the State of  
18 Florida's animalogist as it eats everything, found in  
19 2000, and most recently, just yesterday, I got a  
20 University of Florida packet which says "new termite in  
21 South Florida. Add an exotic new termite to the growing  
22 list of invasive pests gnawing their way across  
23 Florida," which I did get in the mail yesterday.

24 Some of these are very serious pests of  
25 economic concern, like Med Fly and canker which can

1       destroy or cripple entire industries.

2                       Producers of fruits and vegetables  
3 throughout the U.S. have also experienced severe crop  
4 losses due to undetected pests on imported produce. The  
5 cost of the States, and most importantly to growers, are  
6 enormous.

7                       The above list does not lend growers  
8 confidence that our borders are being adequately  
9 protected from pests. Again, I'll reiterate, these are  
10 pests found to be introduced in Florida in the 1990's,  
11 and there are some very bad ones in there. Yet, we have  
12 a proposal to increase imports from an area of Mexico  
13 with at least nine known insect species that attack  
14 avocados.

15                      Second, APHIS has shown itself to be  
16 ineffective in quickly eradicating invasive pests once  
17 they enter the U.S. This is a legal charge of APHIS and  
18 it's not being done very well. What if the avocado  
19 safeguard program fails? And I'll give you a first hand  
20 example of some of this industry, the lime industry's  
21 experiences with an APHIS State joint program over the  
22 last six years.

23                      We are now in the sixth year of a joint  
24 State/Federal -- and that's the way it's described on  
25 the January, 2000 action plan -- citrus canker

1 eradication program which has allowed canker to move  
2 from Miami to just south of Lake Okeechobee. Thus, the  
3 entire 850,000 acre Florida citrus industry is at risk.  
4 Over 300 million dollars has been allocated and millions  
5 of trees have been destroyed.

6 The joint Federal/State program has been  
7 plagued with problems, such as, legal problems. The  
8 1900 foot policy of cutting healthy trees was not done  
9 in accordance with the Florida Administrative Procedures  
10 Act, Florida State Statutes. That was just defined in a  
11 73 page judicial decision out of the State of Florida in  
12 Tallahassee.

13 Public relations problems. The eradication  
14 program has engendered almost 23,000 citizen complaints  
15 over the last thirteen months. According to the Miami  
16 Herald, which studied the complains, over and over  
17 again, "Dogs are being left to dart through carelessly  
18 unlocked gates, mango and cherry trees, gardenias,  
19 orchids are being cut, damaged or stolen, cable lines  
20 are being snipped, porch screens torn, gutters filled.  
21 Eradication crews have damaged an average of 130 fences  
22 and gates every month. Heavy equipment mangled 1,453  
23 sprinkler heads, 43 callers spoke of guns or shooting at  
24 canker crews when they called the complaint hot line."

25 With an eradication program like this, what

1 would happen if we got Med Fly back in here? I think it  
2 would be very difficult to pursue a program after the  
3 serial six years of failures of the current  
4 Federal/State program for citrus canker eradication.

5 Local government problems. As reported  
6 again by the Miami Herald, "Local officials across South  
7 Florida under pressure from angry residents to act,  
8 attempted to slow the march of tree fellers by going to  
9 court, sending out police or setting bureaucratic booby-  
10 traps."

11 Again according to the Herald, "The City of  
12 South Miami dispatched police to eject Federal/State  
13 eradication program crews from the City. Meanwhile, the  
14 canker project employees were using another police  
15 force, Metro-Dade, to force entry into back yards."

16 It sounds almost like the Key Stone Cops,  
17 depending on which police force you're involved with.

18 In Coral Gables the Miami Herald reports,  
19 "Mayor Raul Valdes-Fauli railed against the State's  
20 handling of the program, telling a startled agriculture  
21 department spokesman that he belonged in jail and  
22 characterizing the canker crews as arrogant thugs. We  
23 should eradicate Commissioner Bob Crawford, he said."

24 The cities of Pinecrest, Miami Beach,  
25 various Broward communities and County governments lined

1 up in opposition to the eradication program.

2 APHIS science problems. At last count our  
3 firm has lost over 150,000 healthy trees, and that's up  
4 from the number in this document here. We own or manage  
5 due to proximity of about 500 diseased trees.

6 Until forced by a court order, our firm  
7 could not even get a full study, a full copy of the  
8 scientific study upon which this program was based, even  
9 after repeated requests made to its author, Dr. Tim  
10 Gottwald. According to a Circuit Court decision in  
11 Broward County, this study was presented at an agency  
12 meeting which was neither advertised nor open to the  
13 public, which is very curious in light of the State  
14 Sunshine Laws in the State of Florida.

15 The now famous Gottwald study was the sole  
16 scientific basis for the 1900 foot rule. This is APHIS  
17 science. It has numerous deficiencies, including the  
18 fact that proper scientific methods for controlling  
19 other factors in disease spread were never employed, and  
20 it was done in an urban, non-grove environment and then  
21 applied to groves.

22 Specific problems it had. It ignored the  
23 cutting at 125 feet, which was the process before this  
24 study. It ignored movement by birds, molars, things  
25 like that, human movement. It did not select for

1 varieties or control for varieties. For instances,  
2 limes are highly resistant, sour orange are not. Sour  
3 orange is grown in primarily in the Miami urban  
4 environment is not grown commercial.

5 Communications problem. Our firm  
6 continuously notified Federal/State program officials  
7 that infected trees were being left in place in South  
8 Dade County. If you leave the infected trees you're  
9 going to have more infection. these notices were copied  
10 to numerous government officials; however, the problem  
11 continued. I think at one point we even copied  
12 President Clinton on it. Not responding to our notices  
13 and leaving infected trees in place in the heart of the  
14 Florida lime growing region for months at a time  
15 obviously increases risk to our industry.

16 Again, this is the sixth year of the Miami  
17 eradication program that has let the disease spread  
18 throughout South Florida, from Lake Okeechobee south.  
19 Confirmed finds continue. A 500 acre commercial orange  
20 grove was recently discovered to harbor canker in  
21 Clewiston, Florida. The grove is almost 100 miles by  
22 road from the initial Miami Airport find six years ago.

23 Recommendations. During the first season  
24 of Mexican avocado entry six States were believed to  
25 have received illegal avocado shipments. To help

1 protect the large California avocado industry, and  
2 they're our friends too, from infestation, we recommend  
3 eliminating States such as Kansas, Utah and California  
4 from consideration. For example, Utah is 200 miles from  
5 California, that's not a far car drive, and Kansas is  
6 very close at the Oklahoma panhandle to Texas.

7 Second, we recommend that controls continue  
8 to be tightened to keep Mexican avocados from being  
9 illegally shipped to Florida. Our biggest concern, and  
10 it doesn't take too many insects to start an infestation  
11 like citrus canker, is that they will come back into the  
12 State or Texas or some other State that can harbor  
13 because of climatic conditions, those insects grow.  
14 Even a large sophisticated grocery operation twice  
15 shipped out of the approved area, and these are very  
16 serious hard working people and they still have  
17 problems.

18 One of the shipments to Florida did have  
19 scale, which is an actionable pest in Florida.

20 Third, we recommend that the projected cost  
21 of a pest outbreak due to the proposed actions be shown  
22 in the Economic Impact Study of Expanded Importation of  
23 Hass Avocados from Mexico. There is absolutely no  
24 consideration of the risk of Med Fly or one of these  
25 other insects getting out and you can see the



1 difficulties that we have had by just looking at any  
2 reasonable summary of the citrus canker program.

3 Thank you very much.

4 MS. JONES: Thank you, Mr. Wheeling.

5 I believe that Diego Rodriguez is here. Do  
6 you wish to speak, sir?

7 MR. RODRIGUEZ: My name is Diego Rodriguez.  
8 I'm an avocado and handler grower in Florida. I'm also  
9 a handler at the Avocado and Lime Administrative  
10 Committee and I'm going to speak in their behalf. I  
11 congratulate my colleagues from Mexico and congratulate  
12 them also in the support that they receive from their  
13 government, when our government is working actually  
14 against us. It's very good to see how USDA, they take  
15 care of the minor risk that we're going to bear  
16 ourselves. I don't see the Mexican government offering  
17 a tax to pay for our grove if they're infected, because  
18 as the gentleman from Mexico said, it's a very small  
19 risk. To him, there's no risk. To me, that small risk  
20 becomes very big. By his own statistic, he said that  
21 they found 23 flies. I believe only two are needed to  
22 start an infestation.

23 And as Mr. Craig Wheeling stated on the  
24 canker thing, every day we get more and more  
25 infestations of different flies and they all coming

1 through the lax in the regulations and in the  
2 inspections.

3 The USDA is very supportive of the Mexican  
4 importation of avocados. First it was Alaska, then to  
5 the eighteen States in the Northeast, now it's twelve  
6 additional States, and eventually this is an exercise in  
7 futility because I think the position has been made and  
8 eventually Hass avocados are going to be imported into  
9 the entire United States, either by trans-shipments or  
10 by allowing all fifty States to receive the avocados,  
11 because after all, it's only a minor risk and it's only  
12 the American growers that are receiving the risk.

13 And when I say the USDA supports the  
14 Mexican avocados, relaxing the phytosanitary  
15 regulations, but on the other hand, I've tried several  
16 times to call Dr. Heath, the leader of the Agriculture  
17 -- ARS Center to try to find the research that makes  
18 green mangoes -- to prove that green mangos is not a  
19 host for Caribbean fruit fly. Well, the research that  
20 was done was lost and Dr. Heath never answered the  
21 letters. The data can't be re-evaluated. But when it  
22 comes to a foreign interest, then the USDA is very  
23 supportive because the risk is being taken by the U.S.  
24 growers.

25 At a minimum, I think that those things

1 that are in the proximity of those things, like  
2 California, should not be allowed to have Hass imported  
3 into them, and I know in no way should we extend the  
4 period of time, because now we're getting into the warm  
5 season and there's no way that nobody going to tell me  
6 that those flies are not going to mate. And again, I  
7 say it's only two flies that we need. And the canker  
8 itself has set the example for what happens when  
9 controls fail. And I don't want to lose my avocado  
10 groves.

11 Thank you very much.

12 MS. JONES: Thank you, Mr. Rodriguez.

13 Eva Webb. I think I just saw her walk out  
14 the door.

15 While we're waiting I'll call some of the  
16 names of people who pre-registered up until August 10th  
17 and see if they're here.

18 Steven Sapp? Mike Hevener? Jimmy Bailey?

19 Ms. Eva Webb from the Florida Farm Bureau  
20 Federation.

21 MS. WEBB: Thank you for this opportunity  
22 to provide public comment to the United States  
23 Department of Agriculture Animal Plant Inspection  
24 Services on this important Mexican Hass avocado issue.  
25 I appreciate USDA/APHIS allowing the community to voice

1 their concerns to you.

2 My name is Eva Webb and I'm the assistant  
3 director of field services for District Eight of the  
4 Florida Farm Bureau. The Florida Farm Bureau Federation  
5 is a general farm organization that represents Florida  
6 agriculture, everything from avocados to zucchini. We  
7 represent 137,000 Florida farm families.

8 Florida is a sentinel State. Florida has  
9 more international seaports and airports than other  
10 States. Last year the Florida Farm Bureau Federation  
11 hosted and Pest and Disease Conference. This conference  
12 brought together a group of farmers and ranchers, the  
13 Florida agricultural associations and governmental  
14 agencies to discuss their concerns regarding pests and  
15 diseases disrupting Florida.

16 In addition, this conference sought  
17 solutions for improvements to our pest and disease  
18 protection efforts. As a result of these groups coming  
19 together, a consensus document was created. This  
20 document proved to be useful when discussing the issues  
21 of invasive pests and diseases with elected officials.  
22 The group derived recommendations, with the number one  
23 recommendation being pest exclusion.

24 The Florida Farm Bureau has learned from  
25 previous experience that it is more costly to eradicate

1 an invasive pest or disease once it is established than  
2 to use preventive practices. The introduction and  
3 establishment of citrus canker in South Florida has cost  
4 the State and Federal taxpayers millions of dollars to  
5 date, and citrus canker has yet to be eradicated.

6 According to the 1999 Florida Agriculture  
7 Facts, Florida produced 920,000 bushels of avocados at a  
8 value of \$16,468,000.00. The Florida avocado industry  
9 was devastated by Hurricane Andrew and growers have  
10 invested significantly in the re-establishment of their  
11 avocado groves. They have suffered through this  
12 financial threat and now they don't need the additional  
13 fight of phytosanitary threat offered by this proposal.

14 It is our position that the USDA should not  
15 expand the season of Hass avocados or allow Hass  
16 avocados into additional States within the U.S. The  
17 Florida Farm Bureau disagrees with USDA extending the  
18 season another two months on either end of the current  
19 season which is from April through October. The  
20 extended season will promote the introduction and  
21 establishment of pests and diseases to Florida  
22 agriculture. To allow Hass avocados to pass through  
23 Florida for an extended period when the common invasive  
24 pests to the avocado are potentially more prevalent  
25 would create a hardship, not only for the already

1 depressed avocado industry, but also the Florida  
2 agricultural industry.

3 In reviewing the risk assessment and risk  
4 mitigation, it appears that there is too great a risk  
5 for the identified pests to arrive in Florida. We  
6 recognize that these pests will not become established  
7 in the States identified. However, our concern is not  
8 the establishment of avocado seed weevil or other  
9 identified pests in Virginia, Vermont or Michigan. Our  
10 concern is the establishment of these moths, weevils and  
11 fruit flies in Miami-Dade County. With a potential for  
12 trans-shipment, that is a distinct possibility.

13 The track record for the USDA/APHIS keeping  
14 foreign pests and diseases out of our production area is  
15 not good. We need more than model assurances that pests  
16 will not become established in these nineteen States.  
17 With recent Med Fly infestations it is more obvious than  
18 ever that once an infestation is here we do not have  
19 adequate tools to rapidly eradicate it in urban  
20 settings. This is the case with other pests. With the  
21 citrus canker program destroying thousands of dooryard  
22 citrus trees, the avocado has taken on a new prominence  
23 in South Florida plantings. We have a significant urban  
24 host potential.

25 Another reason Florida Farm Bureau

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1 Federation opposes USDA allowing Hass avocados into  
2 additional States, because USDA does not have a tracking  
3 system in place to monitor once the avocados have been  
4 shipped to their destination. We understand that the  
5 USDA requires labels on packed products that are shipped  
6 into the United States. Unfortunately, there's nothing  
7 in place to stop a product from being repacked and  
8 shipped to some place else. This causes a great concern  
9 to the entire Florida agricultural industry if there's  
10 no mechanism in place to protect the industry from  
11 fraudulent practices.

12 Again, thank you for this opportunity to  
13 provide public comment on this very important issue. We  
14 hope our comments gave you some insight to our concerns  
15 regarding the Hass avocado import program. Florida Farm  
16 Bureau reserves the right to provide a formal written  
17 statement before September 10, 2001.

18 MS. JONES: Thank you, Eva Webb.

19 Next on the list is Mike Hevener.

20 MR. HEVENER: Mike Hevener, H-E-V-E-N-E-R,  
21 and I represent Florida Fresh, Inc. and South Farms.

22 Very eloquent speakers here, had a lot of  
23 information for you. Unfortunately, real busy trying to  
24 run a business and take care of. We are avocado growers  
25 and shippers, but more importantly I guess for this

1 particular statement, we are ex-lime growers and packers  
2 and shippers.

3 And my point is, you know, as you have  
4 stated, the risks are low. What we have experienced  
5 with citrus canker, by the time that the USDA, Florida  
6 Department of Agriculture, APHIS, were able to put a  
7 handle on citrus canker here in Dade County, half of the  
8 lime groves were wiped out, and inoculation of that  
9 continuing to probably put us totally out of business.  
10 Our firm lost every lime grove that we had to citrus  
11 canker. It impacted us as packers. We suffered losses  
12 financially, not only in the groves, but in particular  
13 in packing. Most every packing shed represented out  
14 here were lime and avocado packers. Now most of us are  
15 avocado packers with some limes.

16 So my point is the risk might be low but if  
17 citrus canker is an indication of what we might face  
18 with an infestation, you know, what we're saying here is  
19 we're willing to risk the avocado industry of Florida  
20 for the importation and further an importation of  
21 Mexican avocados.

22 So we just come to be on the record that we  
23 totally oppose it, the expansion of that. You know, I  
24 think what they have allotted to them has been gracious  
25 by our Government, the fact that we still face



1 potentially impact from the seed weevil.

2 But you know, we can't afford to lose the  
3 avocados. We've lost our limes. We can't afford to  
4 lose the avocados. You're going to put us out of  
5 business totally. And that's the one decent crop, fruit  
6 crop, that we have remaining here. We want to keep it.

7 MS. JONES: Thank you, Mr. Hevener.

8 That's all that we have on our list who  
9 registered to speak today. This is a last opportunity  
10 of anybody would like to say anything.

11 Then I will formally thank you all for your  
12 comments and for coming here today and presenting your  
13 views. If you have any comments or if you wish to send  
14 in comments that you didn't provide me with written ones  
15 today, please send it to the address in the Federal  
16 Register Notice. There's a copy of it back on the back  
17 table.

18 There also is the survey questionnaire  
19 form, if you'd like to fill that out to give your  
20 opinion about how the hearing was conducted today. We'd  
21 like to have that in-put.

22 And thank you very much.

23 (Off the record.)

24 (The meeting was closed at 11:05 a.m.)

25 \* \* \* \* \*

**C E R T I F I C A T E**

This is to certify that the foregoing transcript in the matter of:

UNITED STATES DEPARTMENT OF  
AGRICULTURE  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE  
MEXICAN HASS AVOCADO: THIRD PUBLIC MEETING

Before:

MERIDITH JONES, Moderator

Date:

August 21, 2001

Location: Homestead, Florida

represents the full and complete proceedings of the aforementioned matter, as reported and reduced to typewriting.

Claudette Frost

CERTIFIED REPORTER

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