

inspectors for the 1996/1997 citrus season.

Therefore, this rule will change Sections 51.760, 51.1151, and 51.1820 "Tolerances," to set a minimum sample size of twenty-five fruit; which will read as follows: "In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified:" The Sections 51.761, 51.1152, and 51.1821 "Application of Tolerances," will also change from individual package limitations to limitations on individual samples and will read as follows: "Individual samples are subject to the following limitations, unless otherwise specified in §§ 51.760, 51.1151, 51.1820, respectively. Individual samples shall have not more than one and one-half times a specified tolerance of 10 percent or more, and not more than double a specified tolerance of less than 10 percent: *Provided*, that at least one decayed or wormy fruit may be permitted in any sample: And provided further, that the averages for the entire lot are within the tolerances specified for the grade."

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule 30 days after publication in the Federal Register because: (1) The standards were published in the Federal Register on May 8, 1996, and will become effective August 1, 1996; (2) harvesting for the 1996/1997 Florida citrus season will begin in early Fall and USDA in cooperation with the FDACS needs ample time to train inspectors and inform the industry of these changes; and (3) this interim final rule provides a 60 day comment period, and all comments timely received will be considered prior to finalization of this rule.

#### List of Subjects in 7 CFR Part 51

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

For reasons set forth in the preamble, 7 CFR Part 51 is amended as follows:

#### PART 51—[AMENDED]

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

Authority: 7 U.S.C. 1621–1627.

2. Section 51.760 is amended by revising the introductory text to read as follows:

#### § 51.760 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified:

\* \* \* \* \*

3. Section 51.761 is revised to read as follows:

#### § 51.761 Application of Tolerances.

Individual samples are subject to the following limitations, unless otherwise specified in § 51.760. Individual samples shall have not more than one and one-half times a specified tolerance of 10 percent or more, and not more than double a specified tolerance of less than 10 percent: *Provided*, that at least one decayed or wormy fruit may be permitted in any sample: And *provided further*, that the averages for the entire lot are within the tolerances specified for the grade.

4. Section 51.1151 is amended by revising the introductory text to read as follows:

#### § 51.1151 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified:

\* \* \* \* \*

5. Section 51.1152 is revised to read as follows:

#### § 51.1152 Application of Tolerances.

Individual samples are subject to the following limitations, unless otherwise specified in § 51.1151. Individual samples shall have not more than one and one-half times a specified tolerance of 10 percent or more, and not more than double a specified tolerance of less than 10 percent: *Provided*, that at least one decayed or wormy fruit may be permitted in any sample: And provided further, that the averages for the entire lot are within the tolerances specified for the grade.

6. Section 51.1820 is amended by revising the introductory text to read as follows:

#### § 51.1820 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on

a minimum 25 count sample, are provided as specified:

\* \* \* \* \*

7. Section 51.1821 is revised to read as follows:

#### § 51.1821 Application of Tolerances.

Individual samples are subject to the following limitations, unless otherwise specified in § 51.1820. Individual samples shall have not more than one and one-half times a specified tolerance of 10 percent or more, and not more than double a specified tolerance of less than 10 percent: *Provided*, that at least one decayed or wormy fruit may be permitted in any sample: And provided further, that the averages for the entire lot are within the tolerances specified for the grade.

Dated: July 29, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–19637 Filed 8–01–96; 8:45 am]

BILLING CODE 3410–02–P

#### 7 CFR Part 915

[Docket No. FV96–915–1 FIR]

#### Avocados Grown in South Florida; Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that established an assessment rate for the Avocado Administrative Committee (Committee) under Marketing Order No. 915 for the 1996–97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of avocados grown in South Florida. Authorization to assess avocado handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. **EFFECTIVE DATE:** Effective on April 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone (202) 720–5127, FAX (202) 720–5698, or Tershirra Yeager, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2522–S, Washington, DC 20090–6456, telephone (202) 720–5127, FAX (202) 720–5698. Small

businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523-S, Washington, D.C. 20090-6456; telephone: (202) 720-2491, FAX# (202) 720-5698.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 121 and Order No. 915, both as amended (7 CFR part 915), regulating the handling of avocados grown in South Florida, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, South Florida avocado handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable avocados beginning April 1, 1996, and continuing until amended or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order

that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 65 producers of avocados in the production area and approximately 95 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of avocado producers and handlers may be classified as small entities.

The avocado marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of South Florida avocados. They are familiar with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The Committee met on December 13, 1995, and unanimously recommended 1996-97 expenditures of \$122,200 and an assessment rate of \$0.16 per bushel of avocados. In comparison, last year's budgeted expenditures were \$107,570. The assessment rate of \$0.16 is the same as last year's established rate. Major expenditures recommended by the Committee for the 1996-97 year include \$24,500 for local and national enforcement, and \$24,830 for research. In comparison, last year's budgeted expenditures were \$15,600 and \$10,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of South Florida avocados. Avocado shipments for the year are estimated at 750,000 bushels which should provide \$120,000 in assessment income. Income derived from handler assessments, along with interest income funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

An interim final rule regarding this action was published in the May 2, 1996, issue of the Federal Register (61 FR 19512). That rule provided for a 30-day comment period. No comments were received.

While this rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

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

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. The Committee's 1996-97 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

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

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996-97 fiscal period began on April 1, 1996, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable avocados handled during such fiscal period; (3) handlers are aware of this action which was

unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) an interim final rule was published on this action and provided for a 30-day comment period, no comments were received.

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

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

### PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Accordingly, the interim final rule amending 7 CFR part 900 which was published at 61 FR 19512 on May 2, 1996, is adopted as a final rule without change.

Dated: July 29, 1996.

Robert C. Keeney,

*Director, Fruit and Vegetable Division.*

[FR Doc. 96-19636 Filed 8-01-96; 8:45 am]

BILLING CODE 3410-02-P

### Animal and Plant Health Inspection Service

#### 9 CFR Part 94

[Docket No. 96-014-2]

### Change in Disease Status of The Netherlands Because of Hog Cholera and Swine Vesicular Disease

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are declaring The Netherlands free of hog cholera and swine vesicular disease. As part of this action, we are adding The Netherlands to the list of countries that, although declared free of swine vesicular disease, are subject to restrictions on pork and pork products offered for importation into the United States. Declaring The Netherlands free of hog cholera and swine vesicular disease is appropriate because there have been no confirmed outbreaks of hog cholera or swine vesicular disease in The Netherlands since 1992 and 1994, respectively. This rule relieves certain restrictions on the importation of pork and pork products into the United States from The Netherlands. However, because The Netherlands shares common land borders with countries affected by swine vesicular disease, the importation into the United States of pork and pork products from The Netherlands will continue to be restricted.

**EFFECTIVE DATE:** August 19, 1996.

**FOR FURTHER INFORMATION CONTACT:** Dr. John Cougill, Staff Veterinarian, Products Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737-1231, (301) 734-8688; or e-mail: jcougill@aphis.usda.gov.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation into the United States of specified animals and animal products in order to prevent the introduction of various animal diseases, including rinderpest, foot-and-mouth disease, African swine fever, hog cholera, and swine vesicular disease (SVD). These are dangerous and destructive communicable diseases of ruminants and swine.

Sections 94.9(a) and 94.10(a) of the regulations provide that hog cholera exists in all countries of the world except those listed in §§ 94.9(a) and 94.10(a), which are declared to be free of hog cholera. Section 94.12(a) of the regulations provides that SVD is considered to exist in all countries of the world except those listed in § 94.12(a), which are declared to be free of SVD.

On April 4, 1996, we published in the Federal Register (61 FR 14999-15000, Docket No. 96-014-1) a proposal to amend the regulations by adding The Netherlands to the lists of countries in §§ 94.9(a), 94.10(a), and 94.12(a) of the regulations that have been declared free of hog cholera and SVD. We further proposed to add The Netherlands to the list of countries in § 94.13 that, although declared free of swine vesicular disease, are subject to restrictions on pork and pork products offered for importation into the United States. These actions would relieve certain restrictions on the importation of pork and pork products into the United States from The Netherlands.

We solicited comments concerning our proposal for 60 days ending June 3, 1996. We did not receive any comments. The facts presented in the proposed rule still provide the basis for this final rule.

Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule without change.

##### Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the Federal Register. This rule relieves certain restrictions on

the importation of pork and pork products into the United States from The Netherlands. We have determined that approximately 2 weeks are needed to ensure that the Animal and Plant Health Inspection Service personnel at ports of entry receive official notice of this change in the regulations.

Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective 15 days after publication in the Federal Register.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This rule amends the regulations in part 94 by adding The Netherlands to the lists of countries that have been declared free of hog cholera and SVD. This action relieves certain restrictions on the importation of pork and pork products into the United States from The Netherlands. However, the importation of pork and pork products into the United States from The Netherlands will continue to be restricted because The Netherlands shares a common land border with Belgium, where SVD is considered to exist. While there are inspection and certification procedures for ensuring that commingling of pork and pork products from the two countries does not take place, these procedures are not without cost. Therefore, recognition of The Netherlands as free of hog cholera and SVD is not expected to significantly affect pork exports to the United States. The total value of pork exported to the United States from The Netherlands in 1994 was \$13.2 million (less than two percent of the value of all U.S. pork imports). There were no live swine exported from The Netherlands to the United States in 1994.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.