

(ii) \$14 for each additional lot of any of the same product.

(b) When performing inspections of palletized products unloaded directly from sea transportation or when palletized product is first offered for inspection before being transported from the dock-side facility, charges shall be determined on the following basis:

(1) For each package inspected according to the following rates:

(i) 1.1 cent per package weighing less than 15 pounds;

(ii) 2.2 cents per package weighing 15 to 29 pounds; and

(iii) 3.3 cents per package weighing 30 or more pounds.

(2) \$14 for each additional lot of any of the same product.

(3) A minimum charge of \$86 for each product inspected.

(c) When performing inspections of products from sea containers unloaded directly from sea transportation or when palletized products unloaded directly from sea transportation are not offered for inspection at dockside, the carlot fees in § 51.38(a) shall apply.

(d) When performing inspections for Government agencies, or for purposes other than those prescribed in the preceding paragraphs, including weight-only and freezing-only inspections, fees for inspection shall be based on the time consumed by the grader in connection with such inspections, computed at a rate of \$43 an hour: *Provided, That:*

(1) Charges for time shall be rounded to the nearest half hour;

(2) The minimum fee shall be two hours for weight-only inspections, and one-half hour for other inspections; and

(3) When weight certification is provided in addition to quality and/or condition inspection, a one-hour charge shall be added to the carlot fee.

(4) When inspections are performed to certify product compliance for Defense Personnel Support Centers, the daily or weekly charge shall be determined by multiplying the total hours consumed to conduct inspections by the hourly rate. The daily or weekly charge shall be prorated among applicants by multiplying the daily or weekly charge by the percentage of product passed and/or failed for each applicant during that day or week. Waiting time and overtime charges shall be charged directly to the applicant responsible for their incurrence.

(e) When performing inspections at the request of the applicant during periods which are outside the grader's regularly scheduled work week, a charge for overtime or holiday work shall be made at the rate of \$21.50 per hour or portion thereof in addition to the carlot equivalent fee, package

charge, or hourly charge specified in this subpart. Overtime or holiday charges for time shall be rounded to the nearest half hour.

(f) When an inspection is delayed because product is not available or readily accessible, a charge for waiting time shall be made at the prevailing hourly rate in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Waiting time shall be rounded to the nearest half hour.

Dated: March 25, 1998.

**Sharon Bomer Lauritsen,**

*Acting Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 98-8391 Filed 3-30-98; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Parts 911 and 915

[Docket No. FV98-911-1 FR]

#### **Limes and Avocados Grown in Florida; Establishment of a Continuing Assessment Rate for Limes and a Decrease in the Continuing Assessment Rate for Avocados**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule establishes an assessment rate for the Lime Administrative Committee (LAC) under Marketing Order No. 911 for the 1998-99 and subsequent fiscal years and decreases the assessment rate established for the Avocado Administrative Committee (AAC) under Marketing Order No. 915 for the 1998-99 and subsequent fiscal years. The Lime and Avocado Administrative Committees (Committees) are responsible for local administration of the marketing orders which regulate the handling of limes and avocados grown in Florida. Authorization to assess lime and avocado handlers enables the Committees to incur expenses that are reasonable and necessary to administer the programs. The fiscal years begin April 1 and end March 31. The assessment rates will remain in effect indefinitely unless modified, suspended, or terminated.

**EFFECTIVE DATE:** April 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Doris Jamieson, Southeast Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, PO Box 2276, Winter Haven, FL 33883-2276;

telephone: (941) 299-4770, Fax: (941) 299-5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 126 and Marketing Order No. 911, both as amended (7 CFR part 911), regulating the handling of limes grown in Florida, and Marketing Agreement No. 121 and Marketing Order No. 915, both as amended (7 CFR part 915), regulating the handling of avocados grown in Florida, hereinafter referred to as the "orders." The marketing agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing orders now in effect, Florida lime and avocado handlers are subject to assessments. Funds to administer the orders are derived from such assessments. It is intended that the assessment rates as issued herein will be applicable to all assessable limes and avocados beginning April 1, 1998, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any

district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule establishes an assessment rate for the LAC for the 1998–99 and subsequent fiscal years of \$0.16 per bushel container. This rule also decreases the assessment rate established for the AAC for the 1998–99 and subsequent fiscal years from \$0.16 per bushel container to \$0.08 per bushel container.

The Florida lime and avocado marketing orders provide authority for the Committees, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the programs. The members of the Committees are producers and handlers of Florida limes and avocados. They are familiar with the Committees' needs and with the costs for goods and services in their local area and are thus in a position to formulate appropriate budgets and assessment rates. The assessment rates are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1996–97 and subsequent fiscal years, the AAC recommended, and the Department approved, an assessment rate that would continue in effect from fiscal year to fiscal year indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary. The LAC has not assessed handlers since the 1995–96 fiscal year. It has used reserve funds to cover authorized expenses.

The Committees met on December 10, 1997, and the LAC unanimously recommended 1998–99 expenditures of \$130,785 and an assessment rate of \$0.16 per bushel container of limes. The AAC also met on December 10, 1997, and unanimously recommended 1998–99 expenditures of \$166,844 and an assessment rate of \$0.08 per bushel container of avocados.

In comparison, last year's budgeted expenditures were \$101,630 for the LAC and \$123,000 for the AAC. The assessment rate for the LAC of \$0.16 is the same as the rate established for the 1995–96 fiscal year, the last year handlers were assessed. The assessment rate for the AAC of \$0.08 is \$0.08 lower than the rate currently in effect.

In an effort to reduce industry costs and assist with the recovery from Hurricane Andrew which hit southern Florida in August of 1992, the LAC has been operating from its reserve funds for the past two years. With the lime industry beginning to recover and reserve funds reduced, the LAC voted to establish an assessment rate to cover operating expenses.

The AAC has excess reserve funds. They voted to decrease the assessment rate and use reserve funds to cover operating expenses and reduce reserve levels.

The major expenditures recommended by the LAC for the 1998–99 year include \$46,000 for salaries, \$25,000 for local and national enforcement, \$9,448 for employee benefits, \$9,000 for research, \$8,287 for insurance and bonds, and \$4,500 for travel. The LAC budgeted expenses for these items in 1997–98 were \$40,000, \$15,595, \$5,500, \$5,000, \$0, and \$3,000, respectively.

The major expenditures recommended by the AAC for the 1998–99 year include \$46,000 for salaries, \$34,000 for research, \$32,000 for local and national enforcement, \$9,778 for employee benefits, \$8,516 for insurance and bonds, and \$7,000 for travel. The AAC budgeted expenses for these items in 1997–98 were \$40,000, \$7,000, \$26,595, \$6,380, \$7,937, and \$7,000, respectively.

The assessment rates recommended by the Committees were derived by dividing anticipated expenses by expected shipments of Florida limes and avocados. Lime shipments for the year are estimated at 600,000 bushel containers which should provide \$96,000 in assessment income. Avocado shipments for the year are estimated at 900,000 bushel containers which should provide \$72,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committees' authorized reserves, should be adequate to cover budgeted expenses. Funds in the reserves will be kept within the maximum permitted by the orders (\$911.42 and 915.42—three fiscal years' operational expenses, permissible reserves of approximately \$392,000 for limes and \$501,000 for avocados). Reserves for limes are currently around \$100,000, and reserves for avocados stand at around \$250,000.

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

Committees or other available information.

Although these assessment rates will be in effect for an indefinite period, the Committees will continue to meet prior to or during each fiscal year to recommend budgets of expenses and consider recommendations for modification of the assessment rates. The dates and times of Committee meetings are available from the Committees 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 rates is needed. Further rulemaking will be undertaken as necessary. The Committees' 1998–99 budgets and those for subsequent fiscal years will be reviewed and, as appropriate, approved by the Department.

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 111 producers of limes and 141 producers of avocados in the production area and approximately 33 lime handlers and 49 avocado handlers subject to regulation under the marketing orders. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000.

Based on the Florida Agricultural Statistical Service and Committee data, the average price for fresh limes during the 1995–96 season was \$8.05 per 88 pound box equivalent and total shipments were 371,413 bushels. Approximately 20 percent of all handlers handled 86 percent of Florida lime shipments. The average price for fresh avocados during the 1996–97 season was \$13.20 per 55 pound bushel box equivalent for all domestic

shipments and the total shipments were 917,861 bushels. Approximately 10 percent of all handlers handled 90 percent of Florida avocado shipments. Many lime and avocado handlers ship other tropical fruit and vegetable products which are not included in the Committee data but would contribute further to handler receipts.

Using the average prices, about 90 percent of lime and avocado handlers could be considered small businesses under SBA's definition and about 10 percent of the handlers could be considered large businesses. The majority of Florida lime and avocado handlers and producers may be classified as small entities.

This rule establishes an assessment rate for the LAC and collected from handlers for the 1998-99 and subsequent fiscal years of \$0.16 per bushel container. The LAC unanimously recommended 1998-99 expenditures of \$130,785 and an assessment rate of \$0.16 per bushel container for 1998-99 and subsequent fiscal years. The assessment rate of \$0.16 is the same as the rate established for the 1995-96 fiscal year, the last year handlers were assessed. The quantity of assessable limes for the 1998-99 fiscal year is estimated at 600,000 containers. Thus, the \$0.16 rate for limes should provide \$96,000 in assessment income. The assessment income, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses for 1998-99.

This rule also decreases the assessment rate established for the AAC and collected from handlers for the 1998-99 and subsequent fiscal years from \$0.16 per bushel container to \$0.08 per bushel container. The AAC unanimously recommended 1998-99 expenditures of \$166,844 and an assessment rate of \$0.08 per bushel container of avocados. The assessment rate of \$0.08 is \$0.08 lower than the 1997-98 rate. The quantity of assessable avocados for the 1998-99 fiscal year is estimated at 900,000 containers. Thus, the \$0.08 rate for avocados should provide \$72,000 in assessment income. The assessment income, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses.

Due to the devastation of Hurricane Andrew in August of 1992, the LAC has been operating from its reserve funds for the past two years. The industry has now adequately recovered from the loss. In order not to deplete reserve funds further, the LAC voted to establish an assessment rate for 1998-99 and subsequent fiscal years. The assessments, along with interest income

and reserves, will cover committee operating expenses.

The AAC has a surplus in its reserve fund. The AAC voted to decrease the assessment rate and use funds from the reserves. The assessments, along with interest income and reserves, will cover committee operating expenses.

The LAC reviewed and unanimously recommended 1998-99 expenditures of \$130,785 which include increases in salaries, office space, aerial photo/tree count, and office equipment. The AAC reviewed and unanimously recommended 1998-99 expenditures of \$166,844 which include increases in salaries, office space, and aerial photo/tree count. Prior to arriving at this budget, the Committees considered information from various sources, such as the Committees' Budget Subcommittees. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the lime and avocado industries. The LAC budgeted \$9,000 and the AAC budgeted \$34,000 for research.

The assessment rate of \$0.16 per bushel container of assessable limes was then determined by dividing the total recommended budget by the quantity of assessable limes, estimated at 600,000 bushel containers for the 1998-99 fiscal year. This is approximately \$35,000 below the anticipated expenses, which the LAC determined to be acceptable. The assessment rate of \$0.08 per bushel container of assessable avocados was then determined by dividing the total recommended budget by the quantity of assessable avocados, estimated at 900,000 bushel containers for the 1998-99 fiscal year. This is approximately \$171,000 below the anticipated expenses, which the AAC determined to be acceptable.

A review of historical information indicates that the grower price for the 1998-99 season could range between \$4.16 and \$9.50 per container of limes. Therefore, the estimated assessment revenue for the 1998-99 crop year as a percentage of total grower revenue could range between 1.6 and 3.8 percent.

A review of historical information indicates that the grower price for the 1998-99 season could range between \$13.20 and \$14.90 per container of avocados. Therefore, the estimated assessment revenue for the 1998-99 crop year as a percentage of total grower revenue could range between .5 and .6 percent.

This action increases the assessment obligation imposed on lime handlers and decreases the assessment obligation imposed on avocado handlers. While

assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing orders. In addition, the Committees' meetings were widely publicized throughout the Florida lime and avocado industries and all interested persons were invited to attend the meetings and participate in deliberations on all issues. Like all LAC and AAC meetings, the December 10, 1997, meetings were public meetings and all entities, both large and small, were able to express views on this issue. In addition, interested persons were invited to submit information on the regulatory and information impacts of this action on small businesses.

This rule imposes no additional reporting or recordkeeping requirements on either small or large Florida lime and avocado handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

A proposed rule concerning this action was published in the **Federal Register** on February 10, 1998 (63 FR 6679). Copies of the proposed rule were also mailed or sent via facsimile to all Florida lime and avocado handlers. Finally, the proposal was made available through the Internet by the Office of the Federal Register.

A 30-day comment period ending March 12, 1998, was provided for interested persons to respond to the proposal. No comments were received in response to the proposal.

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

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the crop year begins on April 1, 1998, and the assessment rate applies to all limes and avocados received during the 1998-99 and subsequent seasons. Further, handlers are aware of this rule which was recommended at public meetings. Also, a 30-day comment period was

provided for in the proposed rule, and no comments were received.

### List of Subjects

#### 7 CFR Part 911

Limes, Marketing agreements, Reporting and recordkeeping requirements.

#### 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 911 and 915 are amended as follows:

1. The authority citation for both 7 CFR parts 911 and 915 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

### PART 911—LIMES GROWN IN FLORIDA

2. A new subpart titled “Assessment Rates” and a new § 911.234 are added to read as follows:

**Note:** This section will appear in the Code of Federal Regulations.

#### Subpart—Assessment Rates

##### § 911.234 Assessment rate.

On and after April 1, 1998, an assessment rate of \$0.16 per bushel container is established for Florida limes.

### PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

3. A new subpart titled “Assessment Rates” is added and § 915.235 is revised to read as follows:

**Note:** This section will appear in the Code of Federal Regulations.

#### Subpart—Assessment Rates

##### § 915.235 Assessment rate.

On and after April 1, 1998, an assessment rate of \$0.08 per bushel container is established for South Florida avocados.

Dated: March 25, 1998.

**Sharon Bomer Lauritsen,**

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–8392 Filed 3–30–98; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 51

[Docket No. 98–016–1]

### Brucellosis; Increased Indemnity for Cattle and Bison

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

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the regulations governing Federal indemnity paid under the brucellosis eradication program to increase the amount of indemnity that may be paid for certain cattle and bison destroyed because of brucellosis. This action will accelerate the eradication of brucellosis from the United States by giving owners sufficient financial incentive to destroy brucellosis-exposed cattle and bison by promptly depopulating brucellosis-affected herds. A number of owners of cattle and bison are reluctant to depopulate their affected herds, thereby increasing the risk of disease spread in the eradication program's last scheduled year.

**DATES:** Interim rule effective March 24, 1998. Consideration will be given only to comments received on or before June 1, 1998.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 98–016–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 98–016–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

**FOR FURTHER INFORMATION CONTACT:** Dr. R. T. Rollo, Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road, Unit 36, Riverdale, MD 20737–1231, (301) 734–7709.

#### SUPPLEMENTARY INFORMATION:

#### Background

Brucellosis is a contagious disease affecting animals and humans caused by bacteria of the genus *Brucella*. In humans, brucellosis initially causes flulike symptoms, but the disease may

develop into a number of chronic conditions, such as arthritis. In cattle and bison, brucellosis causes, among other things, decreased milk production, weight loss, and loss of young through abortion or birth of weak calves.

Humans can be treated for brucellosis with antibiotics; there is no feasible means of curing brucellosis in animals.

Brucellosis is commonly transmitted to susceptible animals by direct contact with infected animals. The disease is also transmitted to susceptible animals in contact with an environment that has been contaminated by discharges from infected animals. Infected pregnant cows may discharge billions of *Brucella* bacteria at calving or abortion. Although it is not common, infected bulls can spread the disease to cows during breeding. Because brucellosis is transmitted by sexually intact animals, steers and spayed heifers do not pose a risk of transmitting brucellosis.

The regulations in part 78 of title 9 of the Code of Federal Regulations (CFR) govern the interstate movement of cattle, bison, and swine to help prevent the interstate spread of brucellosis. The regulations are part of a cooperative Federal and State program, administered by the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), to eradicate brucellosis from the United States. Program officials are striving to eradicate the field strain of *Brucella abortus* from domestic cattle and bison herds by December 1998. The regulations in part 78 provide, among other things, a system for classifying States or portions of States (areas) according to the rate of *B. abortus* infection present and the general effectiveness of the brucellosis control and eradication program conducted in the State or area. The classifications are Class Free, Class A, Class B, Class C, and quarantined States or areas. Quarantined States or areas indicate States or areas with the highest rates of brucellosis infection, and Class Free States or areas are those in which there have been no findings of brucellosis infection for the 12 months preceding classification. As of March 1998, there were only 9 known affected cattle herds and 1 known affected bison herd, and APHIS had declared 41 States, Puerto Rico, and the U.S. Virgin Islands free of the disease. The nine remaining States are all Class A States.

The basic approach to brucellosis eradication in cattle and bison has been to test cattle and bison for infection and send infected and exposed animals to slaughter. Brucellosis-exposed cattle and brucellosis-exposed bison have a high probability of contracting