

producer's fee is based on the prevailing method of classification requested by producers during the previous year. HVI classing was the prevailing method of cotton classification requested by producers in 1995. Therefore, the 1996 producer's user fee for classification service is based on the 1995 base fee for HVI classification.

The fee was calculated by applying the formula specified in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102-237. The 1995 base fee for HVI classification exclusive of adjustments, as provided by the Act, was \$2.01 per bale. A 1.4 percent, or three cents per bale increase due to the implicit price deflator of the gross domestic product added to the \$2.01 results in a 1996 base fee of \$2.04 per bale. The formula in the Act provides for the use of the percentage change in the implicit price deflator of the gross national product (as indexed for the most recent 12-month period for which statistics are available). However, this has been replaced by the gross domestic product by the Department of Commerce as a more appropriate measure for the short-term monitoring and analysis of the U.S. economy.

The number of bales to be classed by the United States Department of Agriculture from the 1996 crop is estimated at 19,024,000. The 1996 base fee was decreased 15 percent based on the estimated number of bales to be classed (one percent for every 100,000 bales or portion thereof above the base of 12,500,000, limited to a maximum adjustment of 15 percent). This percentage factor amounts to a 31 cents per bale reduction and was subtracted from the 1996 base fee of \$2.04 per bale, resulting in a fee of \$1.73 per bale.

Assuming a fee of \$1.73 per bale, the projected operating reserve would be 36.9 percent. The Act specifies that the Secretary shall not establish a fee which, when combined with other sources of revenue, will result in a projected operating reserve of more than 25 percent. Accordingly, the fee of \$1.73 must be reduced by 23 cents per bale, to \$1.50 per bale, to provide an ending accumulated operating reserve for the fiscal year of 25 percent of the projected cost of operating the program. This establishes the 1996 season fee at \$1.50 per bale.

Accordingly, § 28.909, paragraph (b) is revised to reflect the reduction in the HVI classification fees.

As provided for in the Uniform Cotton Classing Fees Act of 1987, as amended, a five cent per bale discount will continue to be applied to voluntary centralized billing and collecting agents as specified in § 28.909(c).

Growers or their designated agents will continue to incur no additional fees if only one method of receiving classification data is requested. The fee for each additional method of receiving classification data in § 28.910(a) will remain at five cents per bale, and it will be applicable even if the same method was requested. Since the Cotton Division will no longer accept returned diskettes to eliminate the possibility of computer virus infection, the cost of computer tapes or diskettes not returned will no longer be billed separately to the requestor. The fee in § 28.910(b) for an owner receiving classification data from the central database will remain at five cents per bale, but a minimum charge of \$5.00 for services provided per monthly billing period will be assessed. The provisions of § 28.910 concerning the fee for new classification memoranda issued from the central database for the business convenience of an owner without reclassification of the cotton will remain the same.

The fee for review classification in § 28.911 will be reduced from \$1.60 per bale to \$1.50 per bale.

The fee for returning samples after classification in § 28.911 will remain at 40 cents per sample.

List of Subjects in 7 CFR Part 28

Administrative practice and procedures, Cotton, Cotton samples, Grades, Market news, Reporting and recordkeeping requirements, Standards, Staples, Testing, Warehouses.

For the reasons set forth in the preamble, 7 CFR Part 28 is amended as follows:

**PART 28—[AMENDED]**

1. The authority citation for Part 28 is revised to read as follows:

Authority: 7 U.S.C. 471-476.

2. In § 28.909, paragraph (b) is revised to read as follows:

**§ 28.909 Costs.**

\* \* \* \* \*

(b) The cost of High Volume Instrument (HVI) cotton classification service to producers is \$1.50 per bale.

\* \* \* \* \*

3. Section 28.910 is amended by revising the undesignated text immediately following paragraph (a)(4) and adding a sentence at the end of paragraph (b) to read as follows:

**§ 28.910 Classification of samples and issuance of classification data.**

(a) \* \* \*

(4) \*\*\*

If the issuance of data to growers or to their agents is made by more than one

method, the fee for each bale issued by each additional method shall be five cents. If provided as additional method of data transfer, the minimum fee for each tape or diskette issued shall be \$10.00.

(b) \* \* \* The minimum charge assessed for services obtained from the central database shall be \$5.00 per monthly billing period.

\* \* \* \* \*

4. In § 28.911, the last sentence of paragraph (a) is revised to read as follows:

**§ 28.911 Review classification.**

(a) \* \* \* The fee for review classification is \$1.50 per bale.

\* \* \* \* \*

Dated: April 29, 1996.

Lon Hatamiya,  
Administrator.

[FR Doc. 96-10989 Filed 5-1-96; 8:45 am]

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**7 CFR Part 915**

[Docket No. FV96-915-1IFR]

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

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

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule establishes an assessment rate of \$0.16 per bushel of assessable avocados under Marketing Order No. 915 for the 1996-97 and subsequent fiscal periods.

Authorization to assess avocado handlers enables the Avocado Administrative Committee (committee) to incur expenses that are reasonable and necessary to administer the program.

**DATES:** Effective April 1, 1996. Comments received by June 3, 1996, will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, FAX 202-720-5698. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

**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 Alex Jonas, Marketing Specialist, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, FL 33883-2276, telephone 813 299-4896, FAX (813) 299-5169.

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

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

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order now in effect Florida avocado handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable avocados beginning April 1, 1996, and continuing until amended or terminated. This interim final 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 Administrator of 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 under the order and approximately 95 handlers. 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.

This continuing rate of assessment, beginning with the 1996-97 fiscal period, was prepared by the committee, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the committee are producers and handlers of South Florida avocados. They are familiar with the committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected shipments of South Florida Avocados. Because that rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the committee's expenses.

The committee met on December 13, 1995, and unanimously recommended an assessment rate of \$0.16 per bushel, the same as last season. This rate, when applied to anticipated shipments, should yield sufficient assessment income. This rate, along with interest income and 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 of one fiscal period's expenses.

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 Administrator of 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 interim final rule, effective April 1, 1996, will continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary. Heretofore, assessment rates issued under the marketing order were made effective for a single fiscal period. The change to issuing assessment rates which will continue in effect from fiscal period to fiscal period reflects the fact that assessment rates change infrequently from fiscal period to fiscal period and it is believed unnecessary to issue them for only a single fiscal period. In addition, this rule will result in a reduction in operational costs to the committee and the government. 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 and consider recommendations for modification of the assessment rate. The dates and times of committee meetings are available from the Department at the address listed under **ADDRESSES**. Committee meetings are open to the public and interested persons may express their views at these meetings or may file comments with the Docket Clerk at the address listed above before April 1, each year. The Department will evaluate committee recommendations and information submitted by the committee, comments filed, and other available information, and determine whether modification of the assessment rate on assessable shipments of South Florida Avocados would tend to effectuate the declared policy of the Act.

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 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 action 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 begins 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) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

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

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 915 is amended as follows:

#### **PART 915—AVOCADOS GROWN IN SOUTH FLORIDA**

1. The authority citation for 7 CFR part 915 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. A new section 915.235 is added to read as follows:

Note: This section will not appear in the annual code of Federal Regulations.

##### **§ 915.235 Assessment rate.**

On and after April 1, 1996, an assessment rate of \$0.16 per bushel of assessable avocados is established for the Avocado Administrative Committee.

Dated: April 26, 1996.

Eric M. Forman,  
Deputy Director, Fruit and Vegetable Division.  
[FR Doc. 96-10871 Filed 5-1-96; 8:45 am]

BILLING CODE 3410-02-P

#### **7 CFR Part 1280**

[No. LS-94-015]

#### **Sheep and Wool Promotion, Research, Education, and Information Order**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes a Sheep and Wool Promotion, Research,

Education, and Information Order (Order) which is authorized by the Sheep Promotion, Research, and Information Act of 1994 (Act). The program will be funded by assessments collected from sheep producers, sheep feeders and importers of sheep and sheep products. The program will be administered by a National Sheep Promotion, Research, and Information Board (Board).

Implementing regulations will be published separately in the Federal Register.

**EFFECTIVE DATE:** This final rule is effective May 3, 1996, except that § 1280.224-1280.228 become effective July 1, 1996.

**ADDRESSES:** Ralph L. Tapp, Chief; Marketing Programs Branch, Room 2606-S; Livestock and Seed Division, AMS-USDA; P.O. Box 96456; Washington, D.C. 20090-6456.

**FOR FURTHER INFORMATION CONTACT:** Ralph L. Tapp, Chief, Marketing Programs Branch, 202/720-1115.

**SUPPLEMENTARY INFORMATION:** Prior documents: Notice-Invitation to submit proposals published January 4, 1995 (60 FR 381); Proposed Rule-Sheep and Wool Promotion, Research, Education, and Information Order published June 2, 1995 (60 FR 28747); Proposed Rule-Procedures for Conduct of Referendum published August 8, 1995 (60 FR 40313); Notice-Certification of Organizations for Eligibility to Make Nominations to the Proposed Board published August 8, 1995 (60 FR 40343); Proposed Rule-Rules and Regulations published October 3, 1995 (60 FR 51737); Proposed Rule-Sheep and Wool Promotion, Research, Education, and Information Order published December 5, 1995 (60 FR 62298); and Final Rule and Referendum Order-Procedures for the Conduct of Referendum published December 15, 1995 (60 FR 64297).

#### Regulatory Impact Analysis

##### *Executive Orders 12866 and 12778 and the Regulatory Flexibility Act*

This final rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

This final rule was reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect. This rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Act provides that any person subject to the 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 the law, and requesting a modification of the Order or an exemption from certain provisions or obligations of the Order. The petitioner would have the opportunity for a hearing on the petition. Thereafter the Secretary would issue a decision on the petition. The Act provides that the district court of the United States in the district in which the petitioner resides or carries on business has jurisdiction to review the Secretary's decision, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the decision. The petitioner must exhaust his or her administrative remedies before filing such a complaint in the district court.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), AMS has considered the economic impact of this final action on small entities.

The purpose of RFA is to fit regulatory actions to the scale of the businesses that are subject to such actions so that small businesses would not be unduly or disproportionately burdened.

According to the January 27, 1995, issue of "Sheep and Goats," published by the Department's National Agricultural Statistics Service, there are approximately 87,350 sheep operations in the United States, nearly all of which would be classified as small businesses under the criteria established by the Small Business Administration (13 CFR § 121.601). Additionally, there are approximately 9,000 importers of sheep and sheep products, nearly all of which would be classified as small businesses.

This final Order will require each person who makes payment to a sheep producer, feeder, or handler of sheep or sheep products to be a collecting person, and to collect an assessment from that sheep producer, feeder, or handler of sheep or sheep products. Any person who buys domestic live sheep or greasy wool for processing must also collect the assessment and remit it to the Board. Each person who processes or causes to be processed sheep or sheep products of that person's own production and who markets the processed products will pay an assessment and remit the assessment to the Board. Any person who exports live sheep or greasy wool will be required to remit an assessment to the Board. Finally, each person who imports into the United States sheep, sheep products, wool, or wool products, other than raw