organization, practice and procedure. Furthermore, it is in the public interest that this amendment become effective immediately, in order to preserve the orderly administration of the confidential financial disclosure system. The amendment's sole purpose is to clarify the original intent of the financial disclosure regulation on a discrete matter which has been the subject of recent question.

Executive Order 12866

In promulgating this minor amendment to its regulation, OGE has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This amendment has not been reviewed by the Office of Management and Budget under that Executive order, as it is not deemed ''significant'' thereunder.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this rulemaking will not have a significant economic impact on a substantial number of small entities because it primarily affects Federal executive branch agencies and their employees.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply, because this rulemaking does not create any additional information collection requirements, but simply clarifies the finality of a procedure for determining which positions require employees to file confidential financial disclosure reports (OGE Form 450), involving an information collection procedure previously approved in February 1996 by the Office of Management and Budget (OMB Control No. 3209–0006).

List of Subjects in 5 CFR Part 2634

Administrative practice and procedure, Certificates of divestiture, Conflict of interests, Financial disclosure, Government employees, Penalties, Privacy, Reporting and recordkeeping requirements, Trusts and trustees.

Approved: March 17, 1998.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Office of Government Ethics is amending part 2634 of chapter XVI of 5 CFR as follows:

PART 2634—[AMENDED]

1. The authority citation for part 2634 continues to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); 26 U.S.C. 1043; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

2. Section 2634.906 is amended by revising the second sentence and adding a new final sentence and a note at the end to read as follows:

§ 2634.906 Review of confidential filer status.

* * * A decision by the agency head or designee regarding the complaint shall be final and conclusive for all purposes, notwithstanding any other provision of law or regulation. This procedure is the sole and exclusive means of seeking review of an agency's decision to designate positions and the employees therein for filing confidential financial disclosure reports.

Note: The provision in this section for a final decision by the agency head or designee is intended to preclude administrative or negotiated grievances, arbitration procedures, and any other review or appeal, either within or outside the agency. This finality of the agency head's (or designee's) decision is necessary in order to maintain the prompt and orderly administration of the executive branch confidential financial disclosure system.

[FR Doc. 98–8312 Filed 3–30–98; 8:45 am]

BILLING CODE 6345–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket Number FV–97–302]

RIN 0581–AB51

Fees for Destination Market Inspections of Fresh Fruits, Vegetables and Other Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the regulations governing the inspection and certification for fresh fruits, vegetables and other products by increasing by approximately 10 percent the fees charged for the inspection of these products at destination markets. These revisions are necessary in order to recover, as nearly as practicable, the costs of performing inspection services at destination markets under the Agricultural Marketing Act of 1946. The fees charged to persons required to have inspections on imported commodities in accordance with the Agricultural Marketing Agreement Act of 1937 and for imported peanuts under the Agricultural Act of 1949 are also affected. This rule also revises the regulations with regard to the disposition of inspection certificates to require that one copy of the certificate be delivered or mailed to the shipper of the inspected product.

EFFECTIVE DATE: April 6, 1998.

FOR FURTHER INFORMATION CONTACT: Rob Huttenlocker, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, PO Box 96456, Room 2049 South Building, Washington, DC 20090–6456, (202) 720–0297.

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Regulatory Flexibility Act

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

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

AMS regularly reviews its user-fee financed programs to determine if the fees are adequate. The Fresh Products Branch (FPB) of the Fruit and Vegetable Programs, AMS, has and will continue to seek out cost saving opportunities and implement appropriate changes to reduce its costs. Such actions can provide alternatives to fee increases. However, even with these efforts, the existing fee schedule will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance (four months of costs) as called for by Agency policy (AMS Directive 408.1). Current revenue projections for destination market inspection work during FY 97 are $12.0 million with costs projected at $11.9 million and an end-of-year reserve of $3.0 million. However, FPB's trust fund balance for this program will be approximately $1.0 million under the four-month level of approximately $4.0 million. Further, FPB's costs of operating the destination market program are expected to increase to approximately $12.9 million during FY 98 and to approximately $13.2 million in FY 99. These cost increases will result from both inflationary increases with regard to current FPB operations

and services and the need to improve or expand current services.

Employee salaries and benefits are major program costs that account for approximately 80 percent of FPB's total operating budget. A general and locality salary increase for Federal employees, ranging from 2.30 to 4.66 percent depending on locality, effective January 1997, significantly increased program costs. Another general and locality salary increase ranging from 2.44 to 6.52 percent became effective in January 1998. In addition, inflation also impacts upon FPB's non-salary costs. These increases will increase FPB's costs of operating this program by approximately $300,000 per year.

Additional revenues are also needed to enable FPB to cover the costs of improving program integrity by mailing copies of all destination market certificates to the shippers of the products inspected. FPB estimates that it will cost $200,000 per year for the postage, envelopes and additional staff time to send the approximately 275,000 inspection certificates it issues annually. Additional revenues are also necessary in order that FPB may cover the costs of securing the additional staff ($200,000) needed to increase the timeliness of service delivery in several destination markets which are currently in need of additional staffing (e.g., Dallas, Texas). Finally, FPB needs an additional $200,000 per year for three to four years to cover the costs of securing the equipment (e.g., digital imaging cameras and computers, inspector notebook computers and Agency-mandated information systems upgrades) needed to expand FPB's services and to make existing services more efficient in the future.

This fee increase should result in an estimated $1.2 million in additional revenues per year (only $600,000 during FY 98 since the fee increase will be effective on April 6, 1998) and should enable FPB to cover its costs while maintaining current program reserves (at a level below that provided for by Agency policy).

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The action described herein is being taken for several reasons, including that additional user fee revenues are needed to cover the costs of: (1) Providing current program operations and services; (2) improving program integrity by mailing copies of all destination market certificates to the shippers of the products inspected (the basis for the change in regulation with regard to the disposition of inspection certificates to include that one copy be delivered or mailed to the shipper of the inspected product); (3) improving the timeliness with which inspection services are provided; and (4) acquiring technological advancements (e.g., digital imaging cameras and computers, inspector notebook computers and Agency-mandated information systems upgrades) aimed at expanding FPB's services and making them more efficient in the future. This rule should increase user fee revenue generated under the destination market program by approximately $1.2 million or approximately 10 percent per year. This action is authorized under the Agricultural Marketing Act (AMA) of 1946 (see 7 U.S.C. 1622(h)) which states that the Secretary of Agriculture may assess and collect ''such fees as will be reasonable and as nearly as may be to cover the costs of services rendered * * *''

There are more than 2,000 users of FPB's destination market grading services (including applicants who must meet import requirements [1]—inspections which amount to under 2.5 percent of all lot inspections performed). A small portion of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.601). There will be no additional reporting, recordkeeping, or other compliance requirements imposed upon small entities as a result of this rule. In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements in part 51 have been approved previously by OMB and assigned OMB No. 0581–0125. FPB has not identified any other Federal rules which may duplicate, overlap or conflict with this rule.

Inasmuch as the destination market grading services are voluntary (except when required for imported commodities), and since the fees charged to users of these services vary with usage, the impact on all businesses, including small entities, is very similar. Further, even though fees will be raised, the increase is small (approximately ten percent) and should not significantly affect these entities. Finally, except for those persons who are required to obtain inspections, most of these businesses are typically under no obligation to use these inspection services, and, therefore, any decision on their part to discontinue the use of the services should not prevent them from marketing their products.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Action

The AMA authorizes official inspection, grading and certification, on a user-fee basis, of fresh fruits, vegetables and other products such as raw nuts, Christmas trees and flowers. The AMA provides that reasonable fees be collected from the users of the services to cover, as nearly as practicable, the costs of the services rendered. This rule will amend the schedule for fees and charges for inspection services rendered to the fresh fruit and vegetable industry to reflect the costs necessary to operate the program.

AMS regularly reviews its user-fee programs to determine if the fees are adequate. While FPB continues to search for opportunities to reduce its costs, the existing fee schedule will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance (four months of costs) as called for by Agency policy (AMS Directive 408.1). Current revenue projections for destination market inspection work during FY 97 are $12.0 million with costs projected at $11.9 million and an end-of-year reserve of $3.0 million.

[1] Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), requires that whenever the Secretary of Agriculture issues grade, size, quality or maturity regulations under domestic marketing orders for certain commodities, the same or comparable regulations on imports of those commodities must be issued. Import regulations apply during those periods when domestic marketing order regulations are in effect.

Currently, there are 15 commodities subject to 8e import regulations: avocados, dates (other than dates for processing), filberts, grapefruit, kiwifruit, limes, olives (other than Spanish-style green olives), onions, oranges, Irish potatoes, prunes, raisins, table grapes, tomatoes and walnuts. A current listing of the regulated commodities can be found under 7 CFR Parts 944, 980 and 999. Section 999.600 establishes minimum quality, identification, certification and safeguard requirements for foreign produced farmers stock, shelled and cleaned in-shell peanuts presented for importation into the United States. Import requirements applicable to peanuts may be found under subparagraph (f)(2) of section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3), as amended November 28, 1990, and August 10, 1993, and section 155 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271).

However, FPB's trust fund balance for this program will be approximately $1.0 million under the four-month level of approximately $4.0 million. Further, FPB's costs of operating the destination market program are expected to increase to approximately $12.9 million during FY 98 and to approximately $13.2 million in FY 99. These cost increases (which are outlined below) will result from both inflationary increases with regard to current FPB operations and services and the need to improve or expand current services.

Employee salaries and benefits are major program costs that account for approximately 80 percent of FPB's total operating budget. A general and locality salary increase for Federal employees, ranging from 2.30 to 4.66 percent depending on locality, effective January 1997, significantly increased program costs. Another general and locality salary increase ranging from 2.44 to 6.52 percent became effective in January 1998. In addition, inflation also impacts upon FPB's non-salary costs. These increases will increase FPB's costs of operating this program by approximately $300,000 per year.

Additional revenues are also needed to enable FPB to cover the costs of improving program integrity by mailing copies of all destination market certificates to the shippers of the products inspected. This is an essential step in FPB's ongoing effort to improve the integrity of the inspection process. This action will assist in preventing industry participants from using falsified inspection certificates to alter the terms of sales between shippers and receivers. In accordance with this effort, the regulations with regard to the disposition of inspection certificates in 7 CFR 51.21 are to be revised to require that one copy of the certificate be provided to the shipper of the inspected product. FPB estimates that it will cost $200,000 per year for the postage, envelopes and additional staff time to send the approximately 275,000 inspection certificates it issues annually.

Additional revenues are also necessary in order that FPB may cover the costs of securing the additional staff ($200,000) needed to increase the timeliness of service delivery in several destination markets which are currently in need of additional staffing (e.g., Dallas, Texas). This action responds to industry feedback to FPB's FY 1996 Customer Service Survey which emphasized the importance of timeliness far more than cost containment.

Finally, FPB needs an additional $200,000 per year for three to four years to cover the costs of securing the equipment (e.g., digital imaging cameras and computers, inspector notebook computers and Agency-mandated information systems upgrades) needed to expand FPB's services and to make existing services more efficient in the future.

This fee increase should result in an estimated $1.2 million in additional revenues per year (only $600,000 during FY 98 since the fee increase will be effective on April 6, 1998) and should enable FPB to cover its costs while maintaining current program reserves. In order to reach a four month reserve, further increases in fees will be likely in future years.

Based on the aforementioned analysis of this program's increasing costs, AMS is hereby increasing the fees for destination market inspection services. The following table compares current fees and charges with the revised fees and charges for fresh fruit and vegetable inspection as found in 7 CFR 51.38. Unless otherwise provided for by regulation or written agreement between the applicant and the Administrator, the charges in the schedule of fees as found in § 51.38 are:

Service	Current	Revised
Quality and condition inspections of one to four products each in quantities of 51 or more packages and unloaded from the same land or air conveyance:		
—Over a half carlot equivalent of each product	$78	$86.
—Half carlot equivalent or less of each product	$65	$72.
—For each additional lot of the same product	$13	$14.
Condition only inspections of one to four products each in quantities of 51 or more packages and unloaded from the same land or air conveyance:		
—Over a half carlot equivalent of each product	S65	$72.
—Half carlot equivalent or less of each product	$60	$66.
—For each additional lot of the same product	$13	$14.
Quality and condition and condition only inspections of five or more products each in quantities of 51 or more packages and unloaded from the same land or air conveyance:		
—For the first five products	$277	$305.
—For each additional product	$39	$43.
—For each additional lot of any of the same product	$13	$14.
Quality and condition and condition only inspections of products each in quantities of 50 or less packages unloaded from the same land or air conveyance:		
—For each product	$39	$43.
—For each additional lot of any of the same product	$13	$14.
Dock-side inspections of an individual product unloaded directly from the same ship:		
—For each package weighing less than 15 pounds	1 cent	1.1 cents.
—For each package weighing 15 to 29 pounds	2 cents	2.2 cents.
—For each package weighing 30 or more pounds	3 cents	3.3 cents.
—For each additional lot of any of the same product	$13	$14.
—Minimum charge per individual product	$78	$86.
Inspections performed for other purposes during the grader's regularly scheduled work week	$39 per hour	$43 per hour.
Overtime or holiday premium rate (per hour additional) for all inspections performed outside the grader's regularly scheduled work week.	$19.50 per hour	21.50 per hour.

A notice of proposed rulemaking was published in the **Federal Register** (62 FR 66033) on December 17, 1997, with a 60-day comment period. The comment period closed on February 17, 1998. Interested persons were invited to participate in this rulemaking by submitting written comments on the proposal to AMS. One comment in opposition to the fee increase was received.

The comment was received from a law firm representing an association (of producers) which exports products into the U.S. The comment opposed the increase in fees for inspections of fresh fruits and vegetables at destination markets. The commentor went on to reiterate its long-standing opposition to mandatory marketing orders based upon general economic principles such as their promotion of anti-competitive practices in restraint of trade and because different inspection criteria are applied to foreign product than are applied to domestic product at comparable points in the distribution chain, thereby violating principles of free trade. Lastly, the commentor went on to conclude that the mandatory inspections and their costs would further enhance unfair trade practices. The comment argued that the increased fees would have a disproportionate impact on commodities such as table grapes and kiwifruit subject to section 8e requirements because foreign shippers cannot elect to discontinue the use of inspections, unlike domestic shippers.

The Agency disagrees with the positions taken in the comment and the conclusions reached therein. Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), requires that whenever the Secretary of Agriculture issues grade, size, quality or maturity regulations under domestic marketing orders for certain commodities, the same or comparable regulations on imports of those commodities must be issued. Import regulations apply during those periods when domestic marketing order regulations are in effect. The regulations governing the section 8e program, including requirements for inspections and the fees charged in connection therewith, are consistent with the provisions of its authorizing statute and other applicable law.

Further, the tremendous growth in demand for fruits and vegetables in the U.S. market strongly supports the need to provide consumers with consistent, quality products. Quality standards are in the best interest of both U.S. producers and those who export products to the U.S. market.

Under the marketing order program, fruit and vegetable producers agree in a referendum vote to authorize minimum quality requirements on their products. Domestic shippers subject to marketing order minimum quality requirements must, in fact, have their product inspected and certified, under the supervision of the Agency, meeting the applicable requirements. Under section 8e, comparable quality requirements are simply extended to imported fruits and vegetables.

For most imported commodities subject to minimum quality requirements, U.S. total and per capita consumption has increased significantly. The association's exporter members generally ship products into the U.S. which are produced during a growing season that is different from that of the U.S. Thus, in large measure, such production is complimentary to U.S. production and not subject to mandatory requirements. By making quality product available to U.S. consumers on a consistent basis, the agricultural sectors in both countries benefit.

Accordingly, in light of the continuing need to maintain the AMS grading program on a financially sound basis, the Agency has decided to proceed with the fee increase as set forth in the proposal.

Pursuant to 5 U.S.C. 553, it is found and determined 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 fiscal year 1998 reserve balance of the program's trust fund is projected to be approximately $1 million under the desired level necessary to ensure the program's fiscal viability; (2) the fee changed adopted herein should be implemented as soon as possible to begin replenishing the operating reserve and bring revenue in line with costs; and (3) the first available billing cycle begins April 6, 1998. Accordingly, the effective date is April 6, 1998.

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 7 CFR part 51 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Section 51.21 is revised to read as follows:

§ 51.21 Disposition of inspection certificates.

(a) The original certificate, and not to exceed four copies (if requested by applicant prior to issuance), shall be delivered or mailed promptly to the applicant or to a person designated by him. One copy shall be delivered or mailed to the shipper of the inspected product. One copy shall be filed in the office of the inspector when the inspection is made by a Federal Government employee, otherwise, it shall be filed in the appropriate office of the cooperating Federal-State Inspection Agency. Unless otherwise directed by the Administrator, two copies of each official certificate issued on products received in destination markets shall be forwarded to the Administrator to be kept on file in Washington and no copies of official certificates issued at shipping point need be so forwarded. In the case of any product covered by a marketing agreement and/or order effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), at least one copy of each certificate covering the inspection of such product shall, on request, be delivered to the administrative agency established thereunder, subject to such terms and conditions as the Administrator may prescribe. Copies may be furnished to other interested parties as outlined in § 51.41.

3. Section 51.38 is revised to read as follows:

§ 51.38 Basis for fees and rates.

(a) When performing inspections of product unloaded directly from land or air transportation, the charges shall be determined on the following basis:

(1) For products in quantities of 51 or more packages:

(i) Quality and condition inspection of 1 to 4 products unloaded from the same conveyance:

(A) $86 for over a half carlot equivalent of an individual product.

(B) $72 for a half carlot equivalent or less of an individual product.

(C) $14 for each additional lot of the same product.

(ii) Condition only inspection of 1 to 4 products unloaded from the same conveyance:

(A) $72 for over a half carlot equivalent of an individual product.

(B) $66 for a half carlot equivalent or less of an individual product.

(C) $14 for each additional lot of the same product.

(iii) Quality and condition inspection and/or condition only inspection of 5 or more products unloaded from the same conveyance:

(A) $305 for the first 5 products.

(B) $43 for each additional product.

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

(2) For quality and condition inspection and/or condition only inspection of products in quantities of 50 or less packages unloaded from the same conveyance:

(i) $43 for each individual product.

(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