



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 906

[Doc. No. AMS-FV-14-0015; FV14-906-2 FIR]

Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas; Change in Size and Grade Requirements for Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that relaxed the minimum size and grade requirements prescribed for grapefruit under the marketing order for oranges and grapefruit grown the Lower Rio Grande Valley in Texas (order). The interim rule relaxed the minimum size requirement for grapefruit from 3-5/16 inches to 3 inches in diameter and reduced the minimum grade requirement for small-sized grapefruit. This rule provides additional grapefruit to meet market demand, helping to maximize fresh shipments.

DATES: Effective [INSERT DATE 1 DAY AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and

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Small businesses may obtain information on complying with this and other marketing order and agreement regulations by viewing a guide at the following website: [http://www.ams.usda.gov/ MarketingOrdersSmallBusinessGuide](http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide); or by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: Jeffrey.Smutny@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 906, as amended (7 CFR part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

USDA is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

The handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas is regulated by 7 CFR part 906. Prior to this change, the minimum size requirement for grapefruit was 3-5/16 inches in diameter (size 56) and size 56 fruit had to meet a minimum grade of a U.S. No. 1. The Texas Valley Citrus Committee (Committee) believes there is a shortage of fruit available to supply the fresh fruit market, which the Texas citrus growers and handlers should fill. The Committee also recognized that consumers are now showing a preference for smaller-sized fruit. The Committee believes relaxing the requirements makes more fruit available to fill the market shortfall and provides smaller-sized fruit to meet consumer demand. Therefore, this rule continues in effect the rule that relaxed the minimum size requirement for grapefruit from 3-5/16 inches (size 56) to 3 inches (size 64) in diameter and relaxed the minimum grade for a size 56, establishing a minimum grade of "Texas Choice" for both size 56 and size 64 grapefruit.

In an interim rule published in the **Federal Register** on February 28, 2014, and effective March 1, 2014, (79 FR 11295, Doc. No. AMS-FV-14-0015, FV14-906-2 IR), § 906.356 was amended by changing the minimum size requirement for grapefruit from 3-5/16 inches (size 56) to 3 inches (size

64) in diameter. Section 906.340 was also revised by adding size 64 to the available pack sizes for grapefruit listed under Table II, and by adding language concerning pack and sizing requirements as appropriate. In addition, this rule changed the minimum grade requirement for size 56 fruit from a U.S. No. 1 to a "Texas Choice" and established the minimum grade for a size 64 as a "Texas Choice."

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action 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.

There are 13 registered handlers of Texas citrus who are subject to regulation under the marketing order and approximately 150 producers of grapefruit in the regulated

area. Small agricultural service firms, which include handlers, are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$7,000,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000 (13 CFR 121.201).

According to National Agricultural Statistics Service data, the average f.o.b. price for Texas grapefruit during the 2012-13 season was \$24.10 per box, and total fresh shipments were approximately 3 million boxes. Using the average f.o.b. price and shipment data, and considering a normal distribution, the majority of Texas grapefruit handlers could be considered small businesses under SBA's definition. In addition, based on production data, grower prices, and the total number of Texas citrus growers, the average annual grower revenue is below \$750,000. Thus, the majority of handlers and producers of grapefruit may be classified as small entities.

This rule continues in effect the action that relaxed the size and grade requirements for grapefruit prescribed under the order. This rule relaxes the minimum size requirement for grapefruit from 3-5/16 inches (size 56) to 3 inches (size 64). This action also relaxes the minimum

grade requirement for size 56 fruit from a U.S. No. 1 to a "Texas Choice" and establishes the minimum grade for size 64 as a "Texas Choice." These changes make additional fruit available for shipment to the fresh market, maximize shipments, provide additional returns to handlers and growers, and respond to consumer demand for small-sized fruit. This rule amends the provisions in §§ 906.340 and 906.356. Authority for these changes is provided in § 906.40.

This action is not expected to increase costs associated with the order's requirements. Rather, it is anticipated that this action will have a beneficial impact. Reducing size and grade requirements makes additional fruit available for shipment to the fresh market. The Committee believes that this provides additional fruit to fill a shortage in the fresh market and provides the opportunity to fulfill a growing consumer demand for smaller sized fruit. This action also provides an outlet for fruit that may otherwise go unharvested, maximizing fresh shipments and increasing returns to handlers and growers. The benefits of this rule are expected to be equally available to all fresh grapefruit growers and handlers, regardless of their size.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581-0189, Generic Fruit Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large Texas citrus 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. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Texas citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the December 11, 2013, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

Comments on the interim rule were required to be received on or before April 29, 2014. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to:

<http://www.regulations.gov/#!documentDetail;D=AMS-FV-14-0015-0001>.

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; the Paperwork Reduction Act (44 U.S.C. Chapter 35); and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (79 FR 11295, February 28, 2014) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 906

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements.

Accordingly, the interim rule that amended 7 CFR part 906 and was published at 79 FR 11295 on February 28, 2014, is adopted as a final rule, without change.

Dated: June 27, 2014.

Rex A. Barnes,
Associate Administrator,
Agricultural Marketing Service.

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