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**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Parts 906 and 944**

**[Doc. No. AMS-FV-14-0009; FV14-906-1 FIR]**

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

**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 prescribed for oranges under the marketing order for oranges and grapefruit grown in Lower Rio Grande Valley in Texas (order) and the orange import regulation. The interim rule relaxed the minimum size requirement for domestic and import shipments from 2-6/16 inches to 2-3/16 inches in diameter. This rule provides additional oranges to meet market demand, helping to maximize fresh shipments.

**DATES:** Effective July 17, 2014.

**FOR FURTHER INFORMATION CONTACT:** Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA;

Telephone: (863) 324-3375, Fax: (863) 325-8793, or E-mail:  
Doris.Jamieson@ams.usda.gov or  
Christian.Nissen@ams.usda.gov.

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>; 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."

This rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including oranges, are regulated under a Federal marketing

order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

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 domestic shipments of oranges was 2-6/16 inches. 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 domestic shipments from 2-6/16 inches to 2-3/16 inches in diameter.

Imported oranges are subject to regulations specified in 7 CFR part 944. Under those regulations, imported

oranges must meet the same minimum size requirements as specified for domestic oranges under the order. Therefore, the minimum size requirement was also relaxed from 2-6/16 inches to 2-3/16 inches in diameter for oranges imported into the United States.

In an interim rule published in the **Federal Register** on February 28, 2014, and effective on March 1, 2014, (79 FR 11297, Doc. No. AMS-FV-14-0009, FV14-906-1 IR), §§ 906.365 and 944.312 were amended by changing the minimum diameter for oranges from 2-6/16 inches (size 138) to 2-3/16 inches (size 163) in diameter. Section 906.340 was also revised by adding size 163 to the available pack sizes for oranges listed under Table I, and by adding language concerning pack and sizing requirements as appropriate.

#### **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. Import regulations issued under the Act are based on those established under Federal marketing orders.

There are 13 registered handlers of Texas citrus who are subject to regulation under the marketing order and approximately 150 producers of oranges in the regulated area. There are approximately 220 importers of oranges. Small agricultural service firms, which include handlers and importers, 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 data from the National Agricultural Statistics Service and the industry and Committee, the average f.o.b. price for Texas oranges during the 2012-13 season was \$25.30 per box, and total fresh orange shipments were approximately 1.5 million boxes. Using the average f.o.b. price and shipment data, the majority of Texas orange 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. Information from the Foreign Agricultural Service, USDA, indicates that the dollar value of imported fresh oranges ranged from approximately \$71.2 million in 2008 to \$107.4 million in 2012. Using these values, most importers would have annual receipts of less than \$7,000,000 for oranges. Thus, the majority of handlers, producers, and importers of oranges may be classified as small entities.

Chile, South Africa, Mexico, and Australia are the major orange-producing countries exporting oranges to the United States. In 2012, shipments of oranges imported into the United States totaled around 119,000 metric tons. Of that amount, 51,510 metric tons were imported from Chile, 35,960 metric tons were imported from South Africa, 17,421 metric tons were imported from Mexico, and 11,100 metric tons arrived from Australia.

This rule continues in effect the action that relaxed the minimum size requirement for oranges grown in the Lower Rio Grande Valley in Texas and imported oranges. This rule relaxes the minimum size requirement for domestic and

import shipments from 2-6/16 inches (size 138) to 2-3/16 inches (size 163). This change makes additional fruit available for shipment to the fresh market, maximizes shipments, provides additional returns to handlers and growers, and responds to consumer demand for small-sized fruit. This rule amends the provisions of §§ 906.340, 906.365, and 944.312. Authority for the change in the order's rules and regulations is provided in § 906.40. The change in the import regulation is required under section 8e of the Act.

This action is not expected to increase the costs associated with the order requirements or the orange import regulation. Rather, it is anticipated that this action will have a beneficial impact. Reducing the size requirement 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 orange growers, handlers, and importers, 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 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-14-0009-0001>.

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).

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this final rule.

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 11297, February 28, 2014) will tend to effectuate the declared policy of the Act.

**List of Subjects**

7 CFR Part 906

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

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges  
PARTS 906 and 944 - [AMENDED]

Accordingly, the interim rule that amended 7 CFR parts 906 and 944 and that was published at 79 FR 11297 on February 28, 2014, is adopted as final without change.

Dated: July 10, 2014.

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

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