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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Doc. No. AMS-FV-14-0041; FV14-905-2 FIR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Relaxing Grade Requirements on Valencia and Other Late Type 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 changed the minimum grade requirements prescribed under the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida (order). The interim rule reduced the minimum grade requirement for Valencia and other late type oranges shipped to interstate markets from a U.S. No. 1 to a U.S. No. 1 Golden from May 15 through June 14 each season and to a U.S. No.2 external/U.S. No. 1 internal from June 15 through August 31 each season. This rule provides additional Valencia and other late type oranges for late season markets, helping to maximize fresh shipments.

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

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Small businesses may obtain information on complying
with this and other marketing order 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
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2491, Fax: (202) 720-8938, or E-mail:
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SUPPLEMENTARY INFORMATION: This rule is issued under
Marketing Order No. 905, as amended (7 CFR part 905),
regulating the handling of oranges, grapefruit, tangerines,
and tangelos grown in Florida, 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."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

The handling of oranges, grapefruit, tangerines, and tangelos grown in Florida is regulated by 7 CFR part 905. Prior to this change, the minimum grade requirement for Valencia and other late type oranges was a U.S. No. 1 from August 1 through June 14 each season and a U.S. No. 2 external/U.S. No. 1 internal from June 15 through July 31 each season. The Committee reviewed the effects of a temporary grade change for the 2012-13 season and concluded that the change had provided handlers the opportunity to sell additional fruit without affecting overall consumer demand for Valencia and other late type oranges. Consequently, the Committee recommended continuing the relaxation in the minimum grade for the 2013-14 season and subsequent seasons. Therefore, this rule continues in effect the rule that reduced the minimum grade requirement for Valencia and other late type oranges shipped to interstate markets from a U.S. No. 1 to a U.S. No. 1 Golden from May 15 through June 14 each season and to a U.S. No. 2 external/U.S. No. 1 internal from June 15 through August 31 each season.

In an interim rule published in the **Federal Register** on May 28, 2014, and effective on May 23, 2014, (79 FR 30439, Doc. No. AMS-FV-14-0041, FV14-905-2 IR), § 905.306 was amended by changing the minimum grade requirement for Valencia and other late type oranges shipped to interstate markets from a U.S. No. 1 to a U.S. No. 1 Golden from May 15 through June 14 each season and to a U.S. No. 2 external/U.S. No. 1 internal from June 15 through August 31 each season.

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 businesses 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 approximately 30 Valencia and other late type orange handlers subject to regulation under the marketing order and approximately 750 producers of citrus in the production area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those whose annual receipts are less than \$7,000,000, and small agricultural producers are defined as those having annual receipts less than \$750,000 (13 CFR 121.201).

Based on industry and Committee data, the average f.o.b. price for fresh Valencia and other late type oranges during the 2012-13 season was approximately \$11.80 per 4/5 bushel carton, and total fresh shipments were approximately 3.6 million cartons. Using the average f.o.b. price and shipment data, the majority of Florida Valencia and other late type orange handlers could be considered small businesses under SBA's definition. In addition, the average annual grower revenue is below \$750,000 based on production data, grower prices as reported by NASS, and the total number of Florida citrus growers. Thus, assuming a normal distribution, the majority of Valencia and other late type orange handlers and producers may be classified as small entities.

This rule continues in effect the action that reduced the grade requirements for Valencia and other late type oranges prescribed under the order. This rule reduces the minimum grade requirements of Valencia and other late type oranges from a U.S. No. 1 to a U.S. No. 1 Golden from May 15 through June 14 each season and to a U.S. No. 2 external/U.S. No. 1 internal from June 15 through August 31 each season. Authority for these changes is provided in § 905.52.

This action does not impose any additional costs on the industry. However, it is anticipated that this action will have a beneficial impact. Reducing the grade requirements for Valencia and other late type oranges from May 15 through August 31 makes additional fruit available for shipment to the fresh market, providing the opportunity to supply late season markets. The Committee believes that relaxing the grade requirements provides an outlet for fruit that may otherwise go unharvested. This allows more fruit to be shipped to the fresh market and increases returns to both handlers and growers. The benefits of this rule are expected to be equally available to all fresh citrus 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 Florida 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 meeting was widely publicized throughout the Florida citrus industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the April 3, 2014, 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 July 28, 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-14-0041-0001>.

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; the Paperwork Reduction Act (4 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 30439, May 28, 2014) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 905

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

**PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS
GROWN IN FLORIDA**

Accordingly, the interim rule that amended 7 CFR part 905 and that was published at 79 FR 30439 on May 28, 2014, is adopted as a final rule, without change.

Dated: September 24, 2014.

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

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