

received will be considered prior to finalization of this interim final rule.

List of Subjects

7 CFR Part 905

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

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth above, 7 CFR parts 905 and 944 are amended as follows:

1. The authority citation for 7 CFR parts 905 and 944 continues to read as follows:

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

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

2. Section 905.306 is amended by revising the entries for grapefruit in paragraph (a), Table I, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation.

(a) * * *

TABLE I

Variety (1)	Regulation period (2)	Minimum Grade (3)	Minimum diameter (inches) (4)
* * * * *			
Grapefruit:			
Seeded, red	Except on and after 9/01/94	U.S. No. 1	3-12/16
Seeded, red	On and after 9/01/94	U.S. No. 1	3-12/16
Seedless, red	11/13/95-11/10/96	U.S. No. 1	3-5/16
	11/11/96-11/9/97	U.S. No. 1	3-5/16
Seedless, except red	On and after 11/10/97	U.S. No. 1	3-9/16
	On and after 9/01/94	U.S. No. 1	3-9/16
* * * * *			

PART 944—FRUITS; IMPORT REGULATIONS

4. In § 944.106, paragraph (a) is revised to read as follows:

§ 944.106 Grapefruit import regulation.

(a) Pursuant to Section 8e [7 U.S.C. Section 608e-1] of the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601-674], and Part 944—Fruits; Import Regulations, the

importation into the United States of any grapefruit is prohibited unless such grapefruit meet the following minimum grade and size requirements for each specified grapefruit classification:

Grapefruit classification (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
Seeded	On and after 9/1/94	U.S. No. 1	3-12/16
Seedless, red	11/13/95-11/10/96	U.S. No. 1	3-5/16
	11/11/96-11/9/97	U.S. No. 1	3-5/16
Seedless, except red	On and after 11/10/97	U.S. No. 1	3-9/16
	On and after 9/1/94	U.S. No. 1	3-9/16

Dated: November 27, 1996.
Robert C. Keeney,

Director, Fruit and Vegetable Division.
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7 CFR Part 906

[Docket No. FV96-906-2FR]

Oranges and Grapefruit Grown in the Lower Rio Grande Valley in Texas; Change in Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes the reporting requirements currently

prescribed under the Texas orange and grapefruit marketing order. The marketing order regulates the handling of oranges and grapefruit grown in three counties in the Lower Rio Grande Valley in Texas and is administered locally by the Texas Valley Citrus Committee (committee). Shipments of oranges and grapefruit out of the production area must meet minimum standards of grade, size, quality, and pack. Such shipments are subject to mandatory inspection. This final rule adds language in the

order's rules and regulations to require that all sales of over 400 pounds of oranges and grapefruit for resale inside the production area be covered by a "Buyer Certification" form (Certification Form). This requirement will ensure that handlers are aware of and accept responsibility for complying with the order's requirements and that buyers do not transport uninspected oranges and grapefruit out of the three-county production area.

EFFECTIVE DATE: This final rule becomes effective December 5, 1996.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, McAllen Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (210) 682-2833, Fax # (210) 682-5942; or Charles L. Rush, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 690-3670, Fax # (202) 720-5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone (202) 720-2491; Fax # (202) 720-5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 906 (7 CFR Part 906), as amended, 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."

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This 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. A 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 date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this final 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 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 15 handlers of oranges and grapefruit who are subject to regulation under the order and approximately 2,000 orange and grapefruit producers in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000. The majority of handlers and producers of Texas oranges and grapefruit may be classified as small entities.

This final rule establishes a requirement that handlers (sellers) complete a Certification Form on all sales of over 400 pounds of oranges or grapefruit, or both, destined for resale inside the production area to help ensure that such oranges or grapefruit do not leave the production area without meeting order requirements. The use of this new form was unanimously recommended by the committee at a public meeting on May 29, 1996.

Implementation of the requirement to submit Certification Forms will result in a small increase in reporting requirements imposed on handlers. The added cost of complying with this requirement will be minimal and will be offset by benefits derived from enhanced compliance with the order and more complete statistical data

beneficial to the entire industry. Therefore, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Under the order, Texas orange and grapefruit shipments to fresh markets in the United States, Canada, and Mexico are required to be inspected and are subject to grade, size, quality, container and pack requirements. Exempt from such handling requirements are shipments made: (1) within the production area (Cameron, Hidalgo, and Willacy counties in Texas); (2) in individually addressed gift packages which are not for resale; (3) under the 400-pound minimum quantity exemption provision; and (4) for relief or charity. In addition, fruit shipped to approved processors for processing are exempt from handling requirements. These handling requirements do not change substantially from season to season, and are in effect on a continuing basis subject to amendment, modification, or suspension as may be determined by the Secretary. Currently, the handling regulations under the order are effective from September 1 through June 30 each year.

Section 906.51 of the order provides authority for the committee, with the approval of the Secretary, to require that each handler furnish to the committee reports and other information as may be necessary for the committee to perform its duties under the marketing order.

The committee recommended the establishment of a requirement that handlers of Texas oranges and grapefruit complete a Certification Form on all sales of over 400 pounds of oranges or grapefruit or a combination of both that are not intended to leave the production area. (The order currently provides that 400 pounds of Texas oranges or grapefruit or a combination of both not for resale may be shipped per day outside the production area without having to meet marketing order requirements.) The form will require the following information: (1) names and addresses of the seller and the buyer; (2) description and quantity of the oranges or grapefruit sold; and (3) the destination of the fruit. In addition, the buyer will certify that fruit that is subsequently taken outside the production area for resale will be inspected in accordance with the order and its rules and regulations. The information compiled from use of this form will also provide the committee, its staff, and the industry with valuable statistics on fruit sold and marketed within the production area.

Handling of oranges and grapefruit inside the production area is not

regulated. While monitoring compliance during the 1995-96 season, committee staff became aware of a lack of documentation on fruit intended for use within the production area. Such fruit was on occasion found outside the production area without having been inspected and certified as meeting marketing order requirements. The committee recognized the need to make handlers responsible for ensuring that sales of their fruit intended for resale inside the production area, but subsequently leaving the production area, meet the provisions of the order. The Certification Form was developed to help track such sales. Currently, documentation on sales to peddlers and cash buyers, and other transactions not supported by an inspection certificate or a diversion report (used to track shipments for processing, relief, or charity), is minimal or non-existent. In the process of conducting its compliance program, the committee encountered difficulty in tracking movement of such citrus and detecting violations of the order.

The form will be completed by the seller (handler) in triplicate. The buyer will sign the certification statement on the form. One copy will be submitted by the handler to the committee within 7 days after the sale. One copy will be retained by the handler and the third copy will be given to the buyer. The forms will be reviewed by the committee's compliance staff as they are received and will be compared against handler records and inspection certificates. In addition, the form will also provide valuable statistical information on fruit sold and marketed for use within the production area. Currently, there is no tracking system for local use fruit. Collection of this information will fill a void in the committee's statistical database which will be used to determine total utilization of fruit and further assist the industry in making marketing decisions.

Throughout the past season, the committee considered possible options to monitor shipments of uninspected oranges and grapefruit. It was noted that local use fruit is presently not accounted for, which leaves a significant void in the committee's database. The committee considered, for example, compiling an "approved peddler" list, and allowing uninspected fruit to be sold only to those appearing on the list. This option was determined to be impractical for the industry, as such a list would change constantly and could never be accurately maintained. Development of the Certification Form was the only option believed to be viable. Use of the form will raise

awareness of both the sellers' and buyers' responsibility to comply with the provisions of the marketing order. This option will result in the smallest increase in regulatory burden of the options considered, including the establishment of additional regulatory requirements, such as inspection of all shipments, regardless of destination. Therefore, the committee recommended that § 906.151 be amended by designating the existing paragraph in this section as (a) and adding a new paragraph (b).

The proposed rule concerning this action was published in the September 18, 1996, Federal Register (61 FR 49078), with a 30-day comment period ending October 18, 1996. No comments were received. The proposed rule also announced AMS's intention to request a revision to the currently approved information collection requirements issued under the marketing order. The informal collection requirements in the referenced section have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB No. 0581-0068.

After consideration of all relevant matter presented, including the information and recommendations 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.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register (5 U.S.C. 553) because: (1) the Texas citrus shipping season began in mid-September; (2) this rule was unanimously recommended by the committee at a public meeting and all interested persons had an opportunity to express their views and provide input; (3) Texas orange and grapefruit handlers are aware of this rule and need no additional time to comply with the requirements; and (4) a 30-day comment period was provided for in the proposed rule and no comments were received.

List of Subjects in 7 CFR Part 906

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

For the reasons set forth in the preamble, 7 CFR part 906 is amended as follows:

PART 906—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

1. The authority citation for 7 CFR part 906 continues to read as follows:

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

2. In § 906.151 the existing text is designated as paragraph (a) and new paragraphs (b) and (c) are added to read as follows:

§ 906.151 Reports.

* * * * *

(b) Each handler who sells over 400 pounds of oranges or grapefruit or a combination of both for resale inside the production area shall, for each transaction, report to the committee on a form approved by it the following information:

- (1) Name and address of seller;
- (2) Name and address of buyer;
- (3) Description and quantity of oranges or grapefruit sold;
- (4) Destination of fruit;
- (5) A statement that the buyer certifies that fruit that is subsequently taken outside the production area for resale will be inspected; and

(6) Such other pertinent information as the committee may require.

(c) The handler shall prepare the report in triplicate. The buyer shall sign the certification statement. The pink copy shall be submitted to the committee within 7 days. The green copy shall be retained by the handler and the blue copy shall be given to the buyer. Such form shall be reviewed by the committee staff and the information compiled for the committee's use.

Dated: November 27, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

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7 CFR Parts 911

[Docket No. FV96-911-1 FR]

Limes Grown in Florida and Imported Limes; Increase in the Minimum Size Requirement

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule increases the current minimum size requirement for limes grown in Florida and for limes imported into the United States. This change was recommended by the Florida Lime Administrative Committee (Committee), the agency responsible for the local administration of the