

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Parts 905 and 944

[Docket No. FV00-905-2 PR]

#### Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida and Imported Grapefruit; Relaxation of the Minimum Size Requirements for Red Seedless Grapefruit

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This rule would relax minimum size requirements for red seedless grapefruit grown in Florida and for red seedless grapefruit imported into the United States from size 48 (3<sup>9</sup>/<sub>16</sub> inches diameter) to size 56 (3<sup>5</sup>/<sub>16</sub> inches diameter). The Citrus Administrative Committee (Committee), the agency that locally administers the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida, recommended this change for Florida red seedless grapefruit. The change in the import regulation is required under section 8e of the Agricultural Marketing Agreement Act of 1937. This change would allow handlers and importers to ship size 56 red seedless grapefruit, and is expected to maximize grapefruit shipments to fresh market channels.

**DATES:** Comments must be received by October 17, 2000.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 720-5698, or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during

regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/woab/html>.

**FOR FURTHER INFORMATION CONTACT:**

Doris Jamieson, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone: (863) 299-4770, Fax: (863) 299-5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698, or E-mail: Jay.Guerber@usda.gov.

**SUPPLEMENTARY INFORMATION:** This proposed rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both 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 marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

This proposed rule also is issued under section 8e of the Act, which provides that whenever certain specified commodities, including grapefruit, 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.

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

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

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

The order for Florida citrus provides for the establishment of minimum grade and size requirements with the concurrence of the Secretary. The minimum grade and size requirements are designed to provide fresh markets with fruit of acceptable quality and size, thereby maintaining consumer confidence for fresh Florida citrus. This contributes to stable marketing conditions in the interest of growers, handlers, and consumers, and helps increase returns to Florida citrus growers. The current minimum grade standard for red seedless grapefruit is U.S. No. 1. The current minimum size requirement for domestic shipments is size 56 (at least 3<sup>5</sup>/<sub>16</sub> inches in diameter) through November 12, 2000, and size 48 (3<sup>9</sup>/<sub>16</sub> inches in diameter), thereafter. The current minimum size for export shipments is size 56 throughout the year.

This proposed rule invites comments on a change to the order's rules and regulations that would relax the minimum size requirement for domestic shipments of red seedless grapefruit. This rule would relax the minimum size from size 48 (3<sup>9</sup>/<sub>16</sub> inches in diameter) to size 56 (3<sup>5</sup>/<sub>16</sub> inches in diameter).

Absent this change, the minimum size would revert to size 48 ( $3\frac{9}{16}$  inches in diameter) on November 13, 2000. This change would allow handlers and importers to continue to ship size 56 red seedless grapefruit, and it is expected to maximize grapefruit shipments to fresh market channels. The Committee met on May 26, 2000, and unanimously recommended this action.

Section 905.52 of the order, in part, authorizes the Committee to recommend minimum grade and size regulations to the Secretary. Section 905.306 (7 CFR part 905.306) specifies minimum grade and size requirements for different varieties of fresh Florida grapefruit. Such requirements for domestic shipments are specified in § 905.306 in Table I of paragraph (a), and for export shipments in Table II of paragraph (b). This rule adjusts Table I to establish a minimum size of 56 ( $3\frac{5}{16}$  inches diameter). Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under § 944.106 (7 CFR part 944.106). This rule also adjusts § 944.106 to establish a minimum size of 56. Export requirements for Florida red seedless grapefruit are not changed by this rule.

In the past, the Committee recommended relaxing the minimum size for red seedless grapefruit to size 56 in one year intervals. Rather than continuing to make this recommendation each year, the Committee recommended relaxing the minimum size for red seedless grapefruit from size 48 ( $3\frac{9}{16}$  inches in diameter) to size 56 ( $3\frac{5}{16}$  inches in diameter) on a continuous basis. In making this recommendation, the Committee recognized that the reasoning behind past recommendations to relax the minimum size to size 56 would most probably continue to exist at least into the foreseeable future.

As in the past, the Committee considered supply and demand in making its recommendation. Since the 1994–95 season, the production of red seedless grapefruit has been somewhere between 28.1 and 31.4 million  $1\frac{3}{8}$  bushel boxes each year. Future production is expected to be near or below this range.

The Committee expects fresh market demand to continue to be sufficient to permit the shipment of size 56 red seedless grapefruit. The Committee believes that domestic markets have been developed for size 56 fruit and that the industry should continue to supply those markets. This size relaxation would enable Florida grapefruit shippers to continue shipping size 56 red seedless grapefruit to the domestic

market. This rule would have a beneficial impact on producers and handlers because it would permit Florida grapefruit handlers to make available the sizes of fruit needed to meet consumer needs. Matching the sizes with consumer needs is consistent with current and anticipated demand, and would maximize shipments to fresh market channels.

For the grapefruit industry, it is important to maximize shipments to the fresh market. This is especially true for red seedless grapefruit because the returns for processing are negligible. On-tree returns for processed red seedless grapefruit averaged \$.17 per  $1\frac{3}{8}$  bushel box from 1994 through 1999. In many cases, this is below the cost of production. Comparatively, the average on-tree return is \$3.32 for fresh shipments during the same period.

For the years 1994 through 1999, fresh domestic shipments of red seedless grapefruit averaged 16.7 million  $\frac{4}{5}$  bushel cartons per season. Of these shipments, approximately 2.9 percent were size 56. The average f.o.b. price for size 56 red seedless grapefruit was \$5.22 during the 1998–99 season. Combining this price with the average volume of size 56 calculates an approximate market value of \$2.5 million for size 56 red seedless grapefruit.

During the first 11 weeks of the season, beginning with the third week in September, the Committee has been using a volume regulation to limit the volume of small red seedless grapefruit that can enter the fresh market. The Committee has used this regulation for the past three seasons, and has recommended using it again for the upcoming season. The Committee believes the percentage size regulation has been helpful in reducing the negative effects of having size 56 red seedless grapefruit available on the domestic market, and that no other restrictions on size 56 are needed.

Therefore, based on available information, the Committee unanimously recommended that the minimum size for shipping red seedless grapefruit to the domestic market should be size 56. This minimum size change would pertain to the domestic market, and would not change the minimum size for export shipments, which will remain at size 56. The largest market for size 56 red seedless grapefruit is for export. Additionally, importers would be favorably affected by this change since the relaxation of the minimum size regulation would also apply to imported grapefruit.

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are

regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Since this rule would relax the minimum size requirement under the domestic handling regulations, a corresponding change to the import regulations must also be considered.

Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under § 944.106 (7 CFR 944.106). This rule would relax the minimum size requirement for imported red seedless grapefruit to  $3\frac{5}{16}$  inches in diameter (size 56), to reflect the relaxation being made under the order for red seedless grapefruit grown in Florida.

Handlers in Florida shipped approximately 33,650,000  $\frac{4}{5}$  bushel cartons of grapefruit to the fresh market during the 1999–2000 season. Of these cartons, about 18,463,000 were exported. In the past three seasons, domestic shipments of Florida grapefruit averaged about 16,172,000 cartons. Imports totaled about 456,470 cartons in 1999. Imports account for less than five percent of domestic grapefruit shipments.

During the period January 1, 1999, through December 31, 1999, imports of grapefruit totaled 19,400,000 pounds (approximately 456,470 cartons). Recent yearly data indicate that imports from May through November are typically negligible. Future imports should not vary significantly from the 19,400,000 pounds. The Bahamas were the principal source of imported grapefruit, accounting for 93 percent of the total. Israel, Mexico and Turkey supplied remaining imports. Most imported grapefruit enters the United States from November through May.

Pursuant to 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. Accordingly, AMS has prepared this initial 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 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 75 grapefruit handlers who are subject to regulation under the order, and approximately 11,000 growers of citrus in the regulated

area, and about 25 grapefruit importers. Small agricultural service firms, which include grapefruit handlers and importers, are defined by the Small Business Administration (13 CFR 121.201) 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.

Based on the industry and Committee data for the 1999–2000 season, the average annual f.o.b. price for fresh Florida red seedless grapefruit was around \$7.52 per  $\frac{4}{5}$  bushel carton, and total fresh shipments for the 1999–2000 season are estimated at 25.6 million cartons of red seedless grapefruit. Approximately 25 percent of all handlers handled 70 percent of Florida grapefruit shipments. In addition, many of these handlers ship other citrus fruit and products which are not included in Committee data but would contribute further to handler receipts. Using the average f.o.b. price, about 69 percent of grapefruit handlers could be considered small businesses under SBA's definition. The majority of handlers, importers, and growers may be classified as small entities.

During the period January 1, 1999, through December 31, 1999, imports of grapefruit totaled 19,400,000 pounds (approximately 456,470 cartons). Recent yearly data indicate that imports from May through November are typically negligible. Future imports should not vary significantly from the 19,400,000 pounds. The Bahamas were the principal source of imported grapefruit, accounting for 93 percent of the total. Israel, Mexico, and Turkey supplied remaining imports. Most imported grapefruit enters the United States from November through May.

This proposed rule would relax the minimum size requirement for domestic shipments of red seedless grapefruit from size 48 (3–9/16 inches in diameter) to size 56 (3–5/16 inches in diameter). Absent this rule, the minimum size requirement for domestic shipments would revert to size 48 on November 13, 2000. The Committee believes that domestic markets have been developed for size 56 red seedless grapefruit and that the industry should continue to supply those markets. This change would allow handlers and importers to continue to ship size 56 red seedless grapefruit, and it is expected to maximize shipments to fresh market channels. The Committee unanimously recommended this action. Section 905.306 specifies the minimum grade and size requirements for different varieties of fresh Florida grapefruit.

Authority for this action is provided in § 905.52 of the order.

This action would provide for the continued shipment of size 56 red seedless grapefruit. This change is not expected to increase costs associated with the order requirements, or the grapefruit import regulation. This rule would have a positive impact on affected entities. This rule would benefit producers and handlers by making available those sizes of fruit needed to meet consumer needs. This is consistent with current and anticipated demand, and would provide for the maximization of shipments to fresh market channels. The opportunities and benefits of this rule are expected to be equally available to all grapefruit handlers, growers, and importers regardless of their size of operation.

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Because this rule would change the minimum size for domestic red seedless grapefruit shipments, a similar change would also be applicable to imported grapefruit. Therefore, this rule would also relax the minimum size for imported red seedless grapefruit to size 56. This regulation would benefit importers to the same extent that it would benefit Florida grapefruit producers and handlers because it would continue to allow shipments of size 56 red seedless grapefruit into U.S. markets.

The Committee considered one alternative to this action. The Committee discussed relaxing the minimum size to size 56 for one year, as in the past, rather than on a continuous basis. Members said that, rather than discussing the issue each year and recommending a change, they would prefer to make the change effective on a continuous basis. They also stated that should they ever want to increase the minimum size, they could meet and recommend the change to the Secretary. Therefore, the option of relaxing the minimum size for one year was rejected.

This proposed rule would relax size requirements under the marketing order for Florida citrus. Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large red seedless grapefruit handlers and importers. 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.

The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule. However, red seedless grapefruit must meet the requirements as specified in the U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.750 through 51.784) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

In addition, the Committee's meeting was widely publicized throughout the Florida citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 26, 2000, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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

A 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate because this rule would need to be in place on November 13, 2000. This action is similar to those recommended in previous seasons, and it was unanimously recommended by the Committee. All written comments timely received will be considered before a final determination is made on this matter.

#### 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 proposed to be amended as follows:

1. The authority citation for 7 CFR part 905 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

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

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

(a) \* \* \*

2. In § 905.306, the table in paragraph (a) is amended by revising the entry for “Seedless, red” to read as follows:

TABLE I

Variety	Regulation period	Minimum grade	Minimum Diameter (Inches)
(1)	(2)	(3)	(4)
GRAPEFRUIT			
* * *	* * *	* * *	* * *
Seedless, Red .....	On and after 11/13/00 .....	U.S. No. 1 .....	3–5/16
* * *	* * *	* * *	* * *

**PART 944—FRUITS; IMPORT REGULATIONS**

the entry for “Seedless, red” to read as follows:

**§ 944.106 Grapefruit import regulation.**

(a) \* \* \*

3. In § 944.106, the table in paragraphs (a) is amended by revising

Grapefruit classification	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * *	* * *	* * *	* * *
Seedless, red .....	On and after 11/13/00 .....	U.S. No. 1 .....	3–5/16
* * *	* * *	* * *	* * *

Dated: September 27, 2000.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 00–25188 Filed 9–27–00; 4:21pm]

BILLING CODE 3410–02–P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 2000–CE–55–AD]

RIN 2120–AA64

**Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Pilatus

Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes that are equipped with a certain windshield configuration. The proposed AD would require you to incorporate pilot’s operating handbook (POH) information that would prohibit the operation of the windshield heating system in the “LIGHT” mode, and would require you to modify the windshield deicing system wiring and circuit breakers. You could remove the POH information after accomplishing the modification. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by the proposed AD are intended to prevent loss of electrical power to the windshield deicing system due to operation in the “LIGHT” mode, which could result in icing of the windshield and loss of control of the airplane.

**DATES:** The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before November 7, 2000.

**ADDRESSES:** Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–55–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. This information also may be examined at the Rules Docket at the address above.

**FOR FURTHER INFORMATION CONTACT:** Roman T. Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4141; facsimile: (816) 329–4090.