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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV02–905–3 IFR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Removing Dancy and Robinson Tangerine Varieties From the Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule removes two varieties of tangerines from the regulated varieties of Florida citrus currently prescribed under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida (order). The marketing order is administered locally by the Citrus Administrative Committee (committee). This rule removes Dancy tangerines and Robinson tangerines from the regulated varieties of Florida citrus. This rule also removes a section of the rules and regulations dealing with handling procedures when Dancy and Robinson tangerines are restricted. Production of these varieties has declined and it is expected production will continue to decline. Removing these varieties from the minimum grade and size requirements will have no significant impact on the tangerine market.

DATES: Effective July 24, 2002; comments received by September 23, 2002 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, 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 made 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/moab.html.*

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 799 Overlook Drive, Suite A, Winter Haven, Florida 33884–1671; telephone: (863) 324–3375, Fax: (863) 325–8793; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This 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 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 Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This 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 USDA 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 USDA 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 USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The order provides for the establishment of grade and size requirements for Florida citrus, with the concurrence of USDA. These grade and size requirements are designed to provide fresh markets with citrus fruit of acceptable quality and size. This helps create buyer confidence and contributes to stable marketing conditions. This is in the interest of growers, handlers, and consumers, and is designed to increase returns to Florida citrus growers.

This rule removes Dancy tangerines and Robinson tangerines from the regulated varieties of Florida citrus fruit currently prescribed under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida. Production of these varieties has declined and it is expected that production will continue to decline. Removing these varieties from the minimum grade and size requirements will have no significant impact on the overall quality of tangerines. This action was unanimously recommended by the committee at its meeting on May 22, 2002.

Section 905.52 of the order, in part, authorizes the committee to recommend minimum grade and size regulations to USDA. Section 905.306 of the order's rules and regulations specifies the regulation period and the minimum grade and size requirements for different varieties of fresh Florida citrus. 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). Currently, a minimum grade of U.S. No. 1 as specified in the U.S. Standards for Grades of Florida Tangerines (7 CFR 51.1810 through 51.1837), and a minimum size of 2$^{6}/_{16}$ inches diameter are established for both Dancy and Robinson tangerines.

This rule modifies § 905.306 by deleting Dancy tangerines and Robinson tangerines from the list of entries in Table I of paragraph (a), and in Table II of paragraph (b). In its deliberations, the committee realized that Dancy tangerines and Robinson tangerines no longer significantly impact the citrus market. During the 2001–02 season, early indications are that total shipments of Dancy tangerines will only be around 13,000 cartons. Florida Department of Agriculture statistics show that in 2000–01, 23,000 cartons were shipped. This is down from 94,000 cartons shipped in the 1997–98 season. During 2001–02, early indications are that only 124,000 cartons of Robinson tangerines will be shipped. Florida Department of Agriculture statistics show that in 2000–01, 165,000 cartons were shipped. This is down from 262,000 cartons in 1997–98. Production of these varieties has declined as newer varieties have been developed and planted. The decline is expected to continue. Currently, shipments of these varieties represent approximately 4 percent of fresh shipments of tangerines. Consequently, the committee believes that the current market share and shipment levels justify removal of minimum grade and size requirements for these varieties.

Section 905.152 sets forth procedures for determining handlers' permitted quantities of Dancy and Robinson tangerine varieties when a portion of the 210 size of these varieties is restricted. Because Dancy and Robinson tangerines will no longer have to meet size requirements, § 905.152 is unnecessary and is being removed with this rule.

Initial Regulatory Flexibility Analysis

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 the 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 11,000 producers of Florida citrus in the production area and approximately 75 tangerine handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on industry and committee data, the average annual F.O.B. price for fresh early Florida tangerines during the 2000–01 season was around $9.50 per 4/5-bushel carton, and total fresh shipments of early tangerines for the 2000–01 season were 4.5 million cartons.

Approximately 20 percent of all handlers handled 77 percent of Florida tangerine shipments. Using tangerine shipments and the average F.O.B. prices, it can be determined that the majority of Florida tangerine handlers could be considered small businesses under SBA's definition. In addition, the majority of Florida citrus growers may be classified as small entities.

This rule removes Dancy tangerines and Robinson tangerines from the varieties of citrus regulated under the order. These varieties will no longer be required to meet the minimum grade and size requirements. Production of these varieties has declined and it is expected production will continue to decline. Removing these varieties from the minimum grade and size requirements will have no significant impact on the tangerine market.

Section 905.52 of the order, in part, authorizes the committee to recommend minimum grade and size regulations to the USDA. Section 905.306 of the order's rules and regulations specifies the regulation period and the minimum grade and size requirements for different varieties of fresh Florida citrus. This rule modifies § 905.306 of the rules and regulations concerning covered varieties and minimum grade and size requirements, respectively. This rule also removes § 905.152.

This rule relaxes the handling requirements by removing two varieties from the list of varieties regulated. Handlers will be able to market these varieties free from the order's requirements. There will be no additional costs imposed on growers and handlers with this rule.

Early indications are that only a total of 137,000 cartons of these tangerines will be shipped in the 2001–02 season. Florida Department of Agriculture statistics show that in 2000–01, a total of 188,000 cartons of these varieties were shipped. This is down from a total of 356,000 cartons of Dancy and Robinson tangerines shipped in the 1997–98 season. Currently, shipments of these varieties account for approximately 4 percent of the overall 4.5 million cartons of early Florida tangerines shipped during the 2000–01 season. Production of these varieties has declined as newer varieties have been developed and planted. The decline in production of these varieties is expected to continue. Most producers have already discontinued growing these varieties and handlers find it easier to sell the newer varieties that have been developed. This change is expected to benefit both large and small entities equally.

One alternative discussed was to make no change to the order's handling regulations. The committee saw this alternative as being of no benefit to the industry because of the declining production and minimal market share of these varieties. The committee believes these varieties have no significant impact on the tangerine market and agreed that action should be taken to remove these varieties from the handling regulations, so this alternative was rejected.

Another alternative was to also remove the Ambersweet variety of tangerines from the regulations. However, the committee determined that annual shipments of this variety impact the tangerine market and, therefore, this alternative was rejected.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large Florida tangerine 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 citrus industry and all interested persons were invited to attend the meeting and participate in the committee's deliberations. Like all committee meetings, the May 22, 2002, 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.

This rule invites comments on removal of Dancy tangerines and Robinson tangerines from the rules and regulations concerning covered varieties of Florida citrus. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the committee's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register**. This rule relaxes handling requirements for two varieties of tangerines and, therefore, should be in place when the handlers begin shipments of these early tangerine varieties, beginning October 1, 2002. This issue has been widely discussed at various industry and association meetings, and the committee has kept the industry well informed. Interested persons have had time to determine and express their positions. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 60-day comment period is provided in this rule.

List of Subjects in 7 CFR Part 905

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

For the reasons set forth in the preamble, 7 CFR Part 905 is amended as follows:

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

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

Authority: 7 U.S.C. 601–674.

§ 905.152 [Removed]

2. Section 905.152 is removed.

§ 905.306 [Amended]

3. In § 905.306, Table I and Table II are amended by removing the entries for ''Dancy tangerines'' and ''Robinson tangerines.''

Dated: July 17, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–18571 Filed 7–22–02; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9009]

RIN 1545–AY66

Taxable Years of Partner and Partnership; Foreign Partners

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations on the taxable year of a partnership with foreign partners and tax-exempt partners. The final regulations provide that in certain circumstances the taxable year of a partnership will be determined without regard to the taxable year of certain foreign partners and certain tax-exempt partners.

DATES: *Effective Date:* These regulations are effective on July 23, 2002.

Applicability Date: For dates of applicability of these regulations, see §§ 1.706–1(b)(5)(iii), (b)(6)(v), and (b)(11)(ii).

FOR FURTHER INFORMATION CONTACT: Dan Carmody, (202) 622–3080 (not a toll-free number). For specific information regarding international issues, contact Ronald M. Gootzeit, (202) 622–3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Introduction

This document finalizes portions of § 1.706–1(b) of the Income Tax Regulations (26 CFR part 1) relating to the determination of the taxable year of a partnership with tax-exempt partners and foreign partners. This document also withdraws § 1.706–3T (26 CFR part 1).

Background

On May 24, 1988, Treasury and the Internal Revenue Service (IRS) issued temporary regulations (§ 1.706–3T, promulgated as part of TD 8205 (53 FR 19688)) with a contemporaneous notice of proposed rulemaking (LR–53–88 (53 FR 19715)) relating to the determination of the taxable year of a partnership with tax-exempt partners (the 1988 Proposed Regulations). On January 17, 2001, Treasury and the IRS published in the **Federal Register** a notice of proposed rulemaking [REG–104876–00 (66 FR 3920)] to provide guidance relating to the determination of the taxable year of a partnership with foreign partners (the 2001 Proposed Regulations). In that notice of proposed rulemaking, Treasury and the IRS also indicated that the 1988 Proposed Regulations would be finalized. A public hearing was held on June 6, 2001. After consideration of the comments, the proposed regulations are adopted as revised by this Treasury decision.

Explanation of Revisions and Summary of Comments

I. In General

Section 706 provides rules relating to the taxable years of a partnership and its partners. Under section 706(a), in computing the taxable income of a partner for a taxable year, the partner must include the partner's share of any income, gain, loss, deduction, or credit of the partnership for the partnership's taxable year that ends within or with the partner's taxable year.

Section 706(b)(1)(B) provides that, unless the partnership establishes a business purpose for a different taxable year, a partnership cannot have a taxable year other than: (i) The majority interest taxable year; (ii) if there is no majority interest taxable year, the taxable year of all the principal partners of the partnership; or (iii) if there is no taxable year described in (i) or (ii), the calendar year unless the Secretary by regulation prescribes another period. Section 1.706–1(b)(2) of the Income Tax Regulations provides that, if neither section 706(b)(1)(B)(i) nor (ii) apply, the partnership's taxable year will be the taxable year that results in the least aggregate deferral of partnership income.

As part of a larger guidance project on accounting periods, the regulations under section 706 were restructured on May 17, 2002 [TD 8996 (67 FR 35009)]. To conform with the restructuring, the regulations finalized by this document will be finalized as amendments to § 1.706–1 even though they were proposed under §§ 1.706–3 and 1.706–4. A small portion of the proposed regulation under § 1.706–3 dealing with the effect of partner elections under