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DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 868

United States Standards for Milled Rice; Correction

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Direct final rule; correction.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration published a Direct final rule in the *Federal Register* revising the United States Standards for Milled rice to establish and add a new level of milling degree, "hard milled," to the existing milling requirements, and to eliminate reference to "lightly milled" from the milling requirements of U.S. Standards for Milled Rice.

FOR FURTHER INFORMATION CONTACT: John Giler, (202) 720-0252.

Correction

In the *Federal Register* of September 30, 2002 (67 FR 61249), make the following corrections to the Effective Date section of the **SUPPLEMENTARY INFORMATION**, first column, last paragraph on page 61250:

1. Remove "June 30, 2002", and add "October 31, 2002" in its place.
2. Remove "August 1, 2002", and add "December 1, 2002" in its place.

Dated: October 2, 2002.

Donna Reifschneider,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 02-25432 Filed 10-4-02; 8:45 am]

BILLING CODE 3410-EN-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV02-905-4 IFR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Exemption for Shipments of Tree Run Citrus

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule changes the rules and regulations currently prescribed under the Florida citrus marketing order (order). The order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is administered locally by the Citrus Administrative Committee (committee). This rule exempts shipments of small quantities of tree run citrus from the grade, size, and assessment requirements of the order. Producers can ship 150 1-3/5 bushel boxes per variety, per shipment, of their own citrus free from order regulations, not to exceed 1,500 boxes per variety for the season. This change is effective for the 2002-03 season only. The committee believes this action may be a way to increase fresh market shipments, develop new markets, and improve grower returns.

DATES: Effective October 8, 2002; comments received by December 6, 2002 will be considered prior to issuance of a final rule. Pursuant to the Paperwork Reduction Act, comments on the information collection burden must be received by December 6, 2002.

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:

Doris Jamieson, 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.

This rule changes the rules and regulations under the order to exempt shipments of small quantities of tree run citrus from grade, size, and assessment requirements. Tree run citrus is wholesome citrus picked and boxed in the field and taken directly to market without being graded or sized. With this change, producers are allowed to ship 150 1 $\frac{3}{4}$ bushel boxes per variety, per shipment, of their own citrus free from marketing order regulations. Total shipments cannot exceed 1,500 boxes per variety for the season. This action was unanimously recommended by the committee at its meeting held on May 22, 2002.

Section 905.80 of the marketing order provides authority for the Committee to exempt certain types of shipments from regulation. Exemptions can be implemented for types of shipments of any variety in such minimum quantities, or for such purposes as the committee with the approval of USDA may specify. No assessment is levied on fruit so shipped. The committee shall, with the approval of USDA, prescribe such rules, regulations, or safeguards as it deems necessary to prevent varieties handled under the provisions of this section from entering channels of trade for other than the purposes authorized by this section.

This rule adds section 905.149 to the rules and regulations under the order. This section defines grower tree run citrus and outlines the procedures to be used for growers to apply to the committee to ship their own tree run citrus fruit exempt from grade, size, and assessment requirements under the order. Under this section, once the exemption has been approved, the grower must report to the committee the volume of fruit shipped, the date of the shipment, and type of transportation used.

According to Florida Department of Citrus (FDOC) regulation 20–35.006, “Tree run grade is that grade of naturally occurring sound and wholesome citrus fruit which has not been separated either as to grade or size after severance from the tree.” Also, FDOC regulation 20–62.002 defines wholesomeness as fruit free from rot, decay, sponginess, unsoundness,

leakage, staleness, or other conditions showing physical defects of the fruit. By definition, this fruit is handled by the grower and bypasses normal handler operations. Prior to this change, all tree run citrus had to meet all requirements of the marketing order, as well as State of Florida Statutes and Florida Department of Citrus regulations. Even with this change, tree run citrus must continue to meet applicable State of Florida Statutes and Florida Department of Citrus regulations, including inspection. Growers will be able to pick, box, and ship directly to buyers, and avoid the costs incurred when citrus is handled by packinghouses.

Over the past few years, small producers of Florida citrus have expressed concerns regarding problems incurred when selling their citrus. These concerns include costs, returns, and available markets. These problems, along with market conditions, have driven a fair number of citrus growers and handlers out of the citrus industry. These concerns have been discussed at committee meetings, as well as meetings of other industry groups.

Some small growers have stated they have had difficulty getting packinghouses to pack their fruit. There is limited demand for certain varieties of citrus produced. In some cases, supply exceeds demand in the standard markets. According to committee data, over the past five years, fresh grapefruit sales have dropped 25 percent and fresh orange shipments are down 11 percent. In some cases, varieties may be out of favor with handlers and consumers, or there may be a glut on the market of a particular variety of fruit. As a result, packinghouses do not wish to become over stocked with fruit which is difficult to market and, therefore, will not pack less popular minor varieties of fruit or fruit that is in oversupply. Packinghouses do not want to pack what they cannot sell. These factors have caused wholesome fruit to be shipped to processing plants or left on the tree.

The costs of growing for the fresh market have been increasing, while, in many cases the returns to the grower have been decreasing. The cost of picking, packing, and hauling, and associated handling costs for fruit going to the fresh market, is sometimes greater than the grower's return on the fruit. The costs associated with growing for the fresh market are greater than the costs for growing for the processed market.

When citrus cannot be sold into the fresh market, it can be sold to the processing plants. However, the prices received are considerably lower. For

example, during the last five years, only the 1999–2000 season produced on-tree returns for processed red seedless grapefruit that exceeded one dollar per box. Over the period from 1977 through 2000, the differential between fresh prices and processed prices has averaged \$3.55 per box. The average on-tree price for processed Florida oranges during the 2000–01 season was \$2.72 compared to \$4.25 for fresh oranges.

In some cases, where the cost of harvesting citrus exceeds the returns to the grower or the grower cannot find a buyer for the fruit, economic abandonment can occur. According to information from the National Agricultural Statistics Service, the seasons of 1995–96, 1996–97, 1997–98, and 2000–01 had an average economic abandonment of two million boxes or more of red seedless grapefruit alone.

Consequently, growers are looking for other outlets to move their fruit in an effort to increase returns. Several growers at the meeting stated regulations imposed on the citrus industry have made it difficult for them to ship homegrown fruit into interstate markets. Some growers believe secondary markets exist which are not currently being supplied that would provide them an additional outlet to sell their citrus. They think niche markets exist that could be profitable if they were given the opportunity to reach them. They believe they can ship quality fruit directly to out-of-state markets and that it would be well received.

Growers want the opportunity to pursue those niche markets. These growers contend tree run citrus does not need a minimum grade and size to be marketable, and that they can supply quality fruit to secondary markets not served by packed fruit. However, they believe to do it profitably, they need to bypass the normal handler operations and the associated costs.

The committee listened to the concerns of these small growers and the problems they have encountered. In an effort to allow these growers to pursue these niche markets, the committee, which consists of growers and handlers, unanimously voted to allow a minimum quantity of citrus to be shipped exempt from the grade, size, and assessment regulations. The committee recommended growers be allowed to ship up to 150 1 $\frac{3}{4}$ bushel boxes of each variety, per shipment, from their own groves, with total shipments for the season not to exceed 1,500 boxes per variety.

Throughout industry discussions, many different combinations of varieties and shipment totals were discussed. In

making this recommendation, the committee determined that 150 boxes of each variety per shipment will allow the grower to ship a sufficient amount of fruit to make the exemption cost effective and yet not allow too much fruit to enter market channels exempt from marketing order requirements. The committee believes this level of volume will help keep this fruit in non-competitive outlets.

The committee believes this tree run fruit will be sold primarily to non-competitive, niche markets, such as farmers' markets, flea markets, roadside stands, and similar outlets and will not compete with non-exempt fruit shipped under the order. Fruit is sold in similar markets within the state, and such markets have been successful. This change allows growers to sell directly to similar markets outside of the state. The committee believes this action will allow the industry to service more non-traditional markets and that this may be a way to increase fresh market shipments and develop new markets. Granting this exemption will allow growers to supply markets that might not otherwise be supplied. Some members expect that this tree run or grove fresh fruit may create greater consumer interest in fresh citrus fruit.

Under this provision, the grower is required to apply to the committee, on a "Grower Tree Run Certificate Application" form provided by the committee, for an exemption to ship tree run citrus fruit to interstate markets. On this form, the grower must provide the committee with their name; address; phone number; legal description of the grove; variety of citrus to be shipped; and the approximate number of boxes produced on the specified grove. The grower must also certify that the fruit to be handled comes from the grove owned by the grower applicant. The grower will report to the committee the actual number of boxes per variety shipped under the exemption on the shipment form discussed below.

The Grower Tree Run Certificate Application form will be submitted to the committee manager. The manager will review the application for completeness and accuracy. The manager will also verify the information provided. After the application has been reviewed, the manager will notify the grower applicant in writing whether the application is approved or denied.

Once the grower has received approval for their application for exemption and begins shipping fruit, a "Report of Shipments Under Grower Tree Run Certificate" form, also provided by the committee, must be completed for each shipment. On this

form, the grower will provide the location of the grove, the amount of fruit shipped, the shipping date, and the type of transportation used to ship the fruit, along with the vehicle license number. The grower must supply the Road Guard Station with a copy of the grower certificate report for each shipment, and provide a copy of the report to the committee. This report will enable the committee to maintain compliance and gather data, which will be used to determine the effectiveness of the exemption. Failure to comply with these requirements may result in the cancellation of a grower's certificate.

The FDOC defines tree run grade and wholesomeness of citrus fruit. This fruit is handled by the grower and bypasses normal handler operations. Even with the change to the provisions under the order, tree run citrus must still meet the requirements of the State of Florida Statutes and FDOC regulations, including inspection. Consequently, growers will continue to need to have the fruit inspected to meet current State requirements.

This exemption will be effective for the current season, beginning with the effective date of this rule, and ending July 1, 2003, only. The committee determined that offering the exemption for one season will provide sufficient information on how the fruit shipped under the exemption was received on the market. It will also indicate whether or not other markets exist that packed fruit is not currently supplying, where these markets are located, and approximately how much fruit can be sold in such markets. It will also indicate the number of growers interested in utilizing the exemption and the volume of citrus shipped under the exemption. In addition, it will provide the committee with information regarding any potential impact on competitive outlets. The committee will also have information available regarding any compliance issues not previously discussed. At the end of the season, the committee will review all available information and decide whether the exemption should be continued.

This rule does not affect the provision that handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day exempt from regulatory requirements. Fruit shipped in gift packages that are individually addressed and not for resale, and fruit shipped for animal feed are also exempt from handling requirements under specific conditions. Also, fruit shipped to commercial processors for conversion into canned or frozen products or into

a beverage base are not subject to the handling requirements under the order.

Section 8e of the Act requires that whenever grade, size, quality, or maturity requirements are in effect for certain commodities under a domestic marketing order, including citrus, imports of that commodity must meet the same or comparable requirements. This rule does not change the minimum grade and size requirements under the order. Therefore, no change is necessary in the citrus import regulations as a result of this action.

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 80 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 Florida citrus during the 2000–01 season was approximately \$8.10 per 4/5-bushel carton for all shipments, and the total fresh shipments for the 2000–01 season are estimated at 53.5 million 4/5-bushel cartons of Florida citrus.

Approximately 50 percent of the handlers handled 93 percent of Florida citrus shipments. Using information provided by the committee, about 60 percent of citrus handlers could be considered small businesses under the SBA definition. Although specific data is unavailable, the Department believes that the majority of Florida citrus producers may be classified as small entities.

This rule adds a § 905.149 to the rules and regulations under the order to exempt shipments of small quantities of

tree run citrus from the grade, size, and assessment requirements of the order. This action allows growers to ship 150 1 $\frac{3}{4}$ bushel boxes per variety, per shipment, of their own tree run citrus free from marketing order regulations into interstate markets. Total shipments cannot exceed 1,500 boxes per variety for the season per individual grower. This change is effective for the 2002–03 season only. The committee believes this action may be a way to increase fresh market shipments, develop new markets, and improve grower returns. Authority for this action is provided in § 905.80(e).

According to a recent study by the University of Florida—Institute of Food and Agricultural Sciences, production costs for the 2001–02 season ranged from \$1.71 per box for processed oranges to \$2.41 per box for grapefruit grown for the fresh market. The average packing charge for oranges is approximately \$6.50 per box, for grapefruit the charge is approximately \$5.75 per box, and for tangerines the charge can be as high as \$9 per box. In a time when grower returns are weak, sending fruit to a packinghouse can be cost prohibitive, especially for the small grower. This rule may provide an additional outlet for fruit that might otherwise be forced into the processing market or left on the tree altogether.

This rule will not impose any additional costs on the grower. This rule has the opposite effect, reducing the costs associated with having fruit handled by a packinghouse. This rule will enable growers to ship their tree run citrus free from grade, size, and assessment requirements under the order. This action will allow growers to ship minimum quantities of their citrus directly into interstate commerce exempt from some order requirements and their related costs. With this action, growers will be able to reduce handling costs and use those savings toward developing additional markets. This will benefit all growers regardless of size but it is expected to have a particular benefit for the small grower.

The committee considered several alternatives to this action, including making no change to the current regulations. The committee believed that some change was necessary to help Florida citrus growers. The committee considered allowing growers to ship unlimited quantities of any grower's citrus. This option was rejected because it would have caused market disruption and compliance problems, as growers could become shippers for other growers. It would have also made it more difficult to keep this fruit in noncompetitive outlets. Other

alternatives considered were increasing the number of boxes available to be shipped per load, and increasing the number of boxes available to be shipped per season. These options were also rejected amid concerns that too much fruit could be shipped and find its way into the competitive markets.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. 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.

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 committee 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.

Also, the committee has a number of appointed subcommittees to review certain issues and make recommendations to the committee. A subcommittee met May 21, 2002, and discussed the tree run issue in detail. That meeting was also a public meeting and both large and small entities were able to participate and express their views. 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 action requires two additional forms. These information collection requirements are discussed in the following section.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces that AMS is requesting emergency approval for a new information collection request for Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida, Marketing Order No. 905. The emergency request is necessary because insufficient time is available to follow normal clearance procedures.

Title: Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida, Marketing Order No. 905.

OMB Number: 0581–NEW.

Type of Request: New collection.

Abstract: The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the Florida citrus marketing order program, which has been operating since 1939.

On May 22, 2002, the committee unanimously recommended revising the order's administrative rules and regulations to exempt a small volume of a grower's tree run fruit from certain order requirements and to require producers to apply to the committee for such an exemption and to report to the committee information on their shipments under the exemption. This information will be reported on two new committee forms. *Form CAC 401, Grower Tree Run Certificate Application*, is used by growers to apply for an exemption to ship their own tree run Florida citrus fruit during the season. *Form CAC 402, Report of Shipments Under Grower Tree Run Certificate*, is used by growers to inform the committee of their tree run shipments during the regulation period.

The new reports are needed so the committee can collect information on the number of growers shipping their own tree run Florida citrus fruit into interstate commerce during the regulation period, and information on the volume of tree run fruit shipped. The committee will evaluate this information and determine whether a grower is in compliance with the regulation. These reports will ensure compliance with the regulations and assist the committee and the USDA with oversight and planning.

The information collected is used only by authorized representatives of USDA, including AMS, Fruit and Vegetable Programs regional and headquarters staff, and authorized committee employees. Authorized committee employees will be the primary users of the information and AMS would be the secondary user.

The request for approval of the new information collections under the order is as follows:

CAC 401, Grower Tree Run Certificate Application

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5 minutes per response.

Respondents: Growers applying to ship their own tree run Florida citrus fruit during the 2002–03 season.

Estimated Number of Respondents: 45.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 3.74 hours.

CAC 402, Report of Shipments Under Grower Tree Run Certificate

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5 minutes per response.

Respondents: Growers who handle their own tree run Florida citrus fruit during the regulation period.

Estimated Number of Respondents: 45.

Estimated Number of Responses per Respondent: 3.

Estimated Total Annual Burden on Respondents: 11.21 hours.

Comments: Comments are invited on:

(1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581-NEW and the Florida citrus marketing order, and be sent to USDA in care of the Docket Clerk at the previously mentioned address. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. As mentioned before, because there is insufficient time for a normal clearance procedure and prompt implementation is needed, AMS is seeking emergency approval from OMB for the use of the two new forms for the 2002-03 regulation period. Upon OMB approval, the forms will be merged with the forms currently approved under OMB No. 0581-0189, "Generic OMB Fruit Crops." 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 to this change in the information collection burden, this rule

exempts grower owned, tree run, Florida citrus fruit from some of the rules and regulations under the order. 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 needs to be in place as soon as possible to cover as many shipments during the 2002-03 season as possible. Also, growers need to know they are free to market their citrus under these exemption procedures. In addition, 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, growers and handlers are aware of this rule, which was recommended at public meetings. Also, a 60-day comment period is provided for in this rule.

List of Subjects in 7 CFR Part 905

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

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.

2. A new § 905.149 is added to read as follows:

§ 905.149 Procedure for permitting growers to ship tree run citrus fruit.

(a) *Tree run citrus fruit.* Tree run citrus fruit as referenced in this section is defined in the Florida Department of Citrus (FDOC) regulation 20-35.006, which specifies that "Tree run grade is that grade of naturally occurring sound and wholesome citrus fruit which has not been separated either as to grade or size after severance from the tree."

Wholesomeness is as defined in FDOC regulation 20-62.002. The tree run citrus fruit shipped under this provision also must be from the applying grower's own grove.

(b) *Application.* A grower shall apply to ship tree run fruit using a Grower Tree Run Certificate Application, furnished by the committee. Such application shall contain, but not be limited to: the name, address, and phone number of the grower; legal description of the grove(s) from which citrus will be shipped; variety of citrus produced on the identified grove(s); approximate number of boxes produced on the identified grove(s); and a certification to the U.S. Department of Agriculture and to the committee as to the truthfulness of the information shown thereon; and any other appropriate information or documents deemed necessary by the committee or its duly authorized agents.

(c) *Approval.* The committee or its duly authorized agents shall give prompt consideration to each application for a Grower Tree Run Certificate. Approval of an application will be based upon a determination as to whether the information contained therein and on whether other information available to the committee supports an application's approval. Approval of an application shall be evidenced by the issuance of a Grower Tree Run Certificate to the applicant. Each certificate shall expire at the end of the fiscal period.

(d) *Suspension or denial of a Grower Tree Run Certificate.* The committee may investigate the handling of tree run shipments under a Grower Tree Run Certificate to determine whether growers are complying with the requirements and regulations applicable to such certificates. Whenever the committee finds that a grower is failing to comply with the requirements and regulations applicable to such certificates, the Grower Tree Run Certificate issued to such grower may be suspended or, in the case of an application for the issuance of an initial Grower Tree Run Certificate, may be denied. Such suspension of a certificate shall be for a reasonable period of time as determined by the committee, but in no event shall it extend beyond July 31, 2003. In the case of the denial of an application for the issuance of an initial certificate, such certificate shall be denied until the applicant comes into compliance with the requirements and regulations applicable to such certificates. Prior to suspending or denying an application for a Grower Tree Run Certificate, the committee shall give the grower reasonable

advance notice in writing of its intention and the facts and reasons therefor, and afford the grower an opportunity, either orally or in writing, to present opposing facts and reasons. The grower shall be informed of the committee's determination in writing and in a timely manner.

(e) To qualify for a Grower Tree Run Certificate, each such grower must notify the committee prior to the first shipment of tree run Florida citrus fruit of the grower's intent to ship such citrus, submit an application on forms supplied by the committee, and agree to other requirements as set forth in this section with respect to such shipments.

(f) The handling of tree run citrus under a Grower Tree Run Certificate shall be exempt from the provisions of §§ 905.52 and 905.53 and the regulations issued thereunder, under the following conditions:

(1) A grower may only ship up to 150 1 $\frac{3}{8}$ bushel boxes per variety, per shipment.

(2) A grower may only ship up to 1,500 boxes per variety per season.

(3) This rule is applicable for the 2002–03 season only. Each grower certificate shall expire July 31, 2003.

(4) Each grower shall apply to the Citrus Administrative Committee and receive a Grower Tree Run Certificate prior to shipping their own tree run Florida citrus fruit.

(5) Each grower of citrus shipping under a Grower Tree Run Certificate shall supply the committee with reports on each shipment as requested by the committee, on forms supplied by the committee, providing the following information: The name and address of the grower, along with the grower's Grower Tree Run Certificate number; the legal description of the grove; the variety and amount of citrus shipped; the date the fruit was shipped; and the truck/trailer license number. A copy of the form will be completed for each shipment. One copy of the report will be forwarded by the grower to the committee office within 10 days after such shipment, and one copy of the report will accompany each shipment and be given to the Road Guard Station.

Dated: October 1, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–25430 Filed 10–2–02; 2:25 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 906

[Docket No. FV02–906–1 IFR]

Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule decreases the assessment rate established for the Texas Valley Citrus Committee (Committee) for the 2002–03 and subsequent fiscal periods from \$0.12 to \$0.11 per $\frac{7}{10}$ -bushel carton of oranges and grapefruit handled. The Committee locally administers the marketing order which regulates the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. Authorization to assess orange and grapefruit handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective October 8, 2002. Comments received by December 6, 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. 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/moab.html>.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, TX 78501; telephone: (956) 682–2833, Fax: (956) 682–5942; 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 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.” 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. Under the marketing order now in effect, orange and grapefruit handlers in the Lower Rio Grande Valley in Texas are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable oranges and grapefruit beginning on August 1, 2002, and continue until amended, suspended, or terminated. 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. Such 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.