

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

## **Subpart A—Order Regulating Handling**

### DEFINITIONS

#### Sec.

- 905.1 Secretary.
- 905.2 Act.
- 905.3 Person.
- 905.4 Fruit.
- 905.5 Variety.
- 905.6 Producer.
- 905.7 Handler.
- 905.8 Prepare for market.
- 905.9 Handle or ship.
- 905.10 Carton or standard packed carton.
- 905.11 Fiscal period.
- 905.12 Committee.
- 905.13 District.
- 905.14 Redistricting.
- 905.15 Regulation Area I.
- 905.16 Regulation Area II.
- 905.17 Production area.
- 905.18 Improved No. 2 grade and Improved No. 2 Bright grade.

### ADMINISTRATIVE BODIES

- 905.19 Establishment and membership.
- 905.20 Term of office.
- 905.21 Selection of initial members of the committee.
- 905.22 Nominations.
- 905.23 Selection.
- 905.27 Failure to nominate.
- 905.28 Qualification and acceptance.
- 905.29 Inability of members to serve.
- 905.30 Powers of the committee.
- 905.31 Duties of Citrus Administrative Committee.
- 905.33 Compensation and expenses of committee members.
- 905.34 Procedure of committees.
- 905.35 Right of the Secretary.
- 905.36 Funds.

### EXPENSES AND ASSESSMENTS

- 905.40 Expenses.
- 905.41 Assessments.
- 905.42 Handler's accounts.

### REGULATIONS

- 905.50 Marketing policy.
- 905.51 Recommendations for regulation.
- 905.52 Issuance of regulations.
- 905.53 Inspection and certification.
- 905.54 Marketing, research and development.

### HANDLERS' REPORTS

- 905.70 Manifest report.
- 905.71 Other information.

### MISCELLANEOUS PROVISIONS

- 905.80 Fruit not subject to regulation.
- 905.81 Compliance.
- 905.82 Effective time.
- 905.83 Termination.
- 905.84 Proceedings after termination.
- 905.85 Duration of immunities.
- 905.86 Agents.
- 905.87 Derogation.
- 905.88 Personal liability.
- 905.89 Separability.

## **Subpart B—Administrative Requirements**

- 905.105 Tangerine and grapefruit classifications.
- 905.107 Registered handler certification.
- 905.114 Redistricting of citrus districts and reapportionment of grower members.
- 905.120 Nomination procedure.

### NON-REGULATED FRUIT

- 905.140 Gift packages.
- 905.141 Minimum exemption.
- 905.142 Animal feed.
- 905.145 Certification of certain shipments.
- 905.146 Special purpose shipments.
- 905.147 Certificate of privilege.
- 905.148 Reports of special purpose shipments under certificates of privilege.
- 905.149 Procedure for permitting growers to ship tree run citrus fruit.
- 905.150 Eligibility requirements for public member and alternate member.
- 905.153 Procedure for determining handlers' permitted quantities of red seedless grapefruit when a portion of sizes 48 and 56 of such variety is restricted.
- 905.161 Repacking shipper.
- 905.162 Repacking certificate of privilege.
- 905.163 Reports of shipments under repacking certificate of privilege.
- 905.171 Handler supplier report.

## **Subpart C—Assessment Rate**

- 905.235 Assessment rate.

## **Subpart D—Grade and Size Requirements**

- 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation.
- 905.350 [Reserved]

## **Subpart E—Interpretations**

- 905.400 Interpretation of certain provisions.

AUTHORITY: 7 U.S.C. 601–674.

## **Subpart A—Order Regulating Handling**

SOURCE: 22 FR 10734, Dec. 27, 1957, unless otherwise noted. Redesignated at 26 FR 12751, Dec. 30, 1961.

## Agricultural Marketing Service, USDA

## § 905.7

### DEFINITIONS

#### § 905.1 Secretary.

*Secretary* means the Secretary of Agriculture of the United States, or any officer or employee of the United States Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

[42 FR 59368, Nov. 17, 1977]

#### § 905.2 Act.

*Act* means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended. (48 Stat. 31, as amended; 7 U.S.C. 601 *et seq.*; 68 Stat. 906, 1047.)

#### § 905.3 Person.

*Person* means an individual, partnership, corporation, association, business trust, legal representative, or any organized group of individuals.

#### § 905.4 Fruit.

*Fruit* means any or all varieties of the following types of citrus fruits grown in the production area:

- (a) Citrus *sinensis*, Osbeck, commonly called “oranges”;
- (b) Citrus *paradisi*, MacFadyen, commonly called “grapefruit”;
- (c) Citrus *reticulata*, commonly called “tangerines” or “mandarin”;
- (d) Citrus *maxima* Merr (L.); Osbeck, commonly called “pummelo”; and,
- (e) “Citrus hybrids” that are hybrids between or among one or more of the four fruits in paragraphs (a) through (d) of this section and the following: Trifoliate orange (*Poncirus trifoliata*), sour orange (*C. aurantium*), lemon (*C. limon*), lime (*C. aurantifolia*), citron (*C. medica*), kumquat (*Fortunella* species), tangelo (*C. reticulata* x *C. paradisi* or *C. grandis*), tangor (*C. reticulata* x *C. sinensis*), and varieties of these species. In addition, citrus hybrids include: Tangelo (*C. reticulata* x *C. paradisi* or *C. grandis*), tangor (*C. reticulata* x *C. sinensis*), Temple oranges, and varieties thereof

[81 FR 10454, Mar. 1, 2016]

#### § 905.5 Variety.

*Variety* or *varieties* means any one or more of the following classifications or groupings of fruit:

- (a) *Oranges*. (1) Early and Midseason oranges;
- (2) Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type;
- (3) Navel oranges.
- (b) *Grapefruit*. (1) Red Grapefruit, to include all shades of color;
- (2) White Grapefruit.
- (c) *Tangerines and mandarins*. (1) Dancy and similar tangerines;
- (2) Robinson tangerines;
- (3) Honey tangerines;
- (4) Fall-Glo tangerines;
- (5) US Early Pride tangerines;
- (6) Sunburst tangerines;
- (7) W-Murcott tangerines;
- (8) Tangors.
- (d) *Pummelos*. (1) Hirado Buntan and other pink seeded pummelos;
- (2) [Reserved].
- (e) *Citrus hybrids*—(1) *Tangelos*. (i) Orlando tangelo;
- (ii) Minneola tangelo.
- (2) Temple oranges.
- (f) *Other varieties of citrus fruits specified in § 905.4, including hybrids, as recommended and approved by the Secretary*. *Provided*, That in order to add any hybrid variety of citrus fruit to be regulated under this provision, such variety must exhibit similar characteristics and be subject to cultural practices common to existing regulated varieties.

[81 FR 10454, Mar. 1, 2016]

#### § 905.6 Producer.

*Producer* is synonymous with *grower* and means any person who is engaged in the production for market of fruit in the production area and who has a proprietary interest in the fruit so produced.

[42 FR 59368, Nov. 17, 1977]

#### § 905.7 Handler.

*Handler* is synonymous with *shipper* and means any person (except a common or contract carrier transporting fruit for another person) who, as owner, agent, or otherwise, handles fruit in fresh form, or causes fruit to be handled. Each handler shall be registered

## § 905.8

with the Committee pursuant to rules recommended by the Committee and approved by the Secretary.

[81 FR 10454, Mar. 1, 2016]

### § 905.8 Prepare for market.

*Prepare for market* means to wash, grade, size, or place fruit (whether or not wrapped) into any container whatsoever; but such term shall not include the harvesting of fruit.

### § 905.9 Handle or ship.

*Handle or ship* means to sell, transport, deliver, pack, prepare for market, grade, or in any other way to place fruit in the current of commerce within the production area or between any point in the production area and any point outside thereof.

[81 FR 10455, Mar. 1, 2016]

### § 905.10 Carton or standard packed carton.

*Carton or standard packed carton* means a unit of measure equivalent to four-fifths (4/5) of a United States bushel of fruit, whether in bulk or in any container.

[42 FR 59368, Nov. 17, 1977]

### § 905.11 Fiscal period.

*Fiscal period* means the period of time from August 1 of any year until July 31 of the following year, both dates inclusive.

### § 905.12 Committee.

*Committee* means the Citrus Administrative Committee established pursuant to § 905.19.

[42 FR 59368, Nov. 17, 1977]

### § 905.13 District.

(a) *Citrus District One* shall include the Counties of Hillsborough, Pinellas, Pasco, Hernando, Citrus, Sumter, and Lake.

(b) *Citrus District Two* shall include the Counties of Osceola, Orange, Seminole, Alachua, Putnam, St. Johns, Flagler, Marion, Levy, Duval, Nassau, Baker, Union, Bradford, Columbia, Clay, Gilchrist, and Suwannee, and County Commissioner, Districts One, Two, and Three of Volusia County, and that part of the Counties of Indian

## 7 CFR Ch. IX (1–1–23 Edition)

River and Brevard not included in Regulation Area II.

(c) *Citrus District Three* shall include the County of St. Lucie and that part of the Counties of Brevard, Indian River, Martin, and Palm Beach described as lying within Regulation Area II, and County Commissioner's Districts Four and Five of Volusia County.

(d) *Citrus District Four* shall include the Counties of Manatee, Sarasota, Hardee, Highlands, Okeechobee, Glades, De Sota, Charlotte, Lee, Hendry, Collier, Monroe, Dade, Broward, and that part of the Counties of Palm Beach and Martin not included in Regulation Area II.

(e) *Citrus District Five* shall include the County of Polk.

[42 FR 59368, Nov. 17, 1977]

### § 905.14 Redistricting.

(a) The Committee may, with the approval of the Secretary, redefine the districts into which the production area is divided or reapportion or otherwise change the grower membership of districts, or both: *Provided*, That the membership shall consist of at least eight but not more than nine grower members, and any such change shall be based, insofar as practicable, upon the respective averages for the immediately preceding three fiscal periods of:

(1) The number of bearing trees in each district;

(2) The volume of fresh fruit produced in each district;

(3) The total number of acres of citrus in each district; and

(4) Other relevant factors.

(b) Each redistricting or reapportionment shall be announced on or prior to March 1 preceding the effective fiscal period.

[81 FR 10455, Mar. 1, 2016]

### § 905.15 Regulation Area I.

*Regulation Area I* is defined as the "Interior District", and shall include all that part of the production area not included in Regulation Area II.

[54 FR 37292, Sept. 8, 1989]

## Agricultural Marketing Service, USDA

## § 905.20

### § 905.16 Regulation Area II.

*Regulation Area II* is defined as the “Indian River District”, and shall include that part of the State of Florida particularly described as follows:

Beginning at a point on the shore of the Atlantic Ocean where the line between Flagler and Volusia Counties intersects said shore, thence follow the line between said two counties to the Southwest corner of Section 23, Township 14 South, Range 31 East; thence continue South to the Southwest corner of Section 35, Township 14 South, Range 31 East; thence East to the Northwest corner of Township 15 South, Range 32 East; thence South to the Southwest corner of Township 17 South, Range 32 East; thence East to the Northwest corner of Township 18 South, Range 33 East; thence South to the St. Johns River; thence along the main channel of the St. Johns River and through Lake Harney, Lake Poinsett, Lake Winder, Lake Washington, Sawgrass Lake, and Lake Helen Blazes to the range line between Ranges 35 East and 36 East; thence South to the South line of Brevard County; thence East to the line between Ranges 36 East and 37 East; thence South to the Southwest corner of St. Lucie County; thence East to the line between Ranges 39 East and 40 East; thence South to the South line of Martin County; thence East to the line between Ranges 40 East and 41 East; thence South to the West Palm Beach Canal (also known as the Okeechobee Canal); thence follow said canal eastward to the mouth thereof; thence East to the shore of the Atlantic Ocean; thence Northerly along the shore of the Atlantic Ocean to the point of beginning.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, and further redesignated at 42 FR 59368, Nov. 17, 1977, as amended at 42 FR 59370, Nov. 17, 1977; 54 FR 37292, Sept. 8, 1989]

### § 905.17 Production area.

*Production area* means that portion of the State of Florida which is bounded by the Suwannee River, the Georgia border, the Atlantic Ocean, and the Gulf of Mexico.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, and further redesignated at 42 FR 59368, Nov. 17, 1977]

### § 905.18 Improved No. 2 grade and Improved No. 2 Bright grade.

*Improved No. 2 grade* and *Improved No. 2 Bright grade* means grapefruit meeting all of the respective requirements of the U.S. No. 2 grade and the U.S. No. 2 Bright grade and those requirements

of the U.S. No. 1 grade relating to shape (form) and color, as such requirements are set forth in the U.S. Standards for Grades of Florida Grapefruit (§§ 51.750–51.783 of this title) or as such standards may hereafter be amended.

[31 FR 15060, Dec. 1, 1966. Redesignated at 42 FR 59368, Nov. 17, 1977]

## ADMINISTRATIVE BODIES

### § 905.19 Establishment and membership.

(a) There is hereby established a Citrus Administrative Committee consisting of at least eight but not more than nine grower members, and eight shipper members. Grower members shall be persons who are not shippers or employees of shippers: Provided, that the committee, with the approval of the Secretary, may establish alternative qualifications for such grower members. Shipper members shall be shippers or employees of shippers. The committee may be increased by one non-industry member nominated by the committee and selected by the Secretary. The committee, with approval of the Secretary, shall prescribe qualifications, term of office, and the procedure for nominating the non-industry member.

(b) Each member shall have an alternate who shall have the same qualifications as the member for whom this person is an alternate.

[54 FR 37293, Sept. 8, 1989]

### § 905.20 Term of office.

The term of office of members and alternate members shall begin on the first day of August of even-numbered years and continue for two years and until their successors are selected and have qualified. The consecutive terms of office of a member shall be limited to two terms. The terms of office of alternate members shall not be so limited. Members, their alternates, and their respective successors shall be nominated and selected by the Secretary as provided in §§ 905.22 and 905.23.

[81 FR 10455, Mar. 1, 2016]

## § 905.21

## 7 CFR Ch. IX (1–1–23 Edition)

### § 905.21 Selection of initial members of the committee.

The initial members of the Citrus Administrative Committee and their respective alternates shall be the members and alternates of the Growers Administrative Committee and the Shippers Advisory Committee serving on the effective date of his amendment. Each member and alternate shall serve until completion of the term for which he was selected and until his successor has been selected and qualified.

[42 FR 59369, Nov. 17, 1977]

### § 905.22 Nominations.

(a) *Grower members.* (1) The Committee shall give public notice of a meeting of producers in each district to be held not later than June 10th of even-numbered years, for the purpose of making nominations for grower members and alternate grower members. The Committee, with the approval of the Secretary, shall prescribe uniform rules to govern such meetings and the balloting thereat. The chairman of each meeting shall publicly announce at such meeting the names of the persons nominated, and the chairman and secretary of each such meeting shall transmit to the Secretary their certification as to the number of votes so cast, the names of the persons nominated, and such other information as the Secretary may request. All nominations shall be submitted to the Secretary on or before the 20th day of June.

(2) Each nominee shall be a producer in the district from which he or she is nominated. In voting for nominees, each producer shall be entitled to cast one vote for each nominee in each of the districts in which he or she is a producer. At least two of the nominees and their alternates so nominated shall be affiliated with a bona fide cooperative marketing organization.

(b) *Shipper members.* (1) The Committee shall give public notice of a meeting for bona fide cooperative marketing organizations which are handlers, and a meeting for other handlers who are not so affiliated, to be held not later than June 10th of even-numbered years, for the purpose of making nominations for shipper members and their

alternates. The Committee, with the approval of the Secretary, shall prescribe uniform rules to govern each such meeting and the balloting thereat. The chairperson of each such meeting shall publicly announce at the meeting the names of the persons nominated and the chairman and secretary of each such meeting shall transmit to the Secretary their certification as to the number of votes cast, the weight by volume of those shipments voted, and such other information as the Secretary may request. All nominations shall be submitted to the Secretary on or before the 20th day of June.

(2) Nomination of at least two members and their alternates shall be made by bona fide cooperative marketing organizations which are handlers. Nominations for not more than six members and their alternates shall be made by handlers who are not so affiliated. In voting for nominees, each handler or his or her authorized representative shall be entitled to cast one vote, which shall be weighted by the volume of fruit by such handler during the then current fiscal period.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, nomination and election of members and alternate members to the Committee may be conducted by mail, electronic mail, or other means according to rules and regulations recommended by the Committee and approved by the Secretary.

[42 FR 59369, Nov. 17, 1977, as amended at 74 FR 46306, Sept. 9, 2009; 81 FR 10455, Mar. 1, 2016]

### § 905.23 Selection.

(a) From the nominations made pursuant to § 905.22(a) or from other qualified persons, the Secretary shall select one member and one alternate member to represent District 2 and two members and two alternate members each to represent Districts 1, 3, 4, and 5 or such other number of members and alternate members from each district as may be prescribed pursuant to § 905.14. At least two such members and their alternates shall be affiliated with bona fide cooperative marketing organizations.

## Agricultural Marketing Service, USDA

## § 905.31

(b) From the nominations made pursuant to § 905.22(b) or from other qualified persons, the Secretary shall select at least two members and their alternates to represent bona fide cooperative marketing organizations which are handlers, and the remaining members and their alternates to represent handlers who are not so affiliated.

[74 FR 46306, Sept. 9, 2009]

### § 905.27 Failure to nominate.

In the event nominations for a member or alternate member of the committee are not made pursuant to the provisions of §§ 905.22 and 905.25, the Secretary may select such member or alternate member without regard to nominations.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 42 FR 59370, Nov. 17, 1977]

### § 905.28 Qualification and acceptance.

Any person nominated to serve as a member or alternate member of the Committee shall, prior to selection by the Secretary, qualify by filing a written qualification and acceptance statement indicating such person's qualifications and willingness to serve in the position for which nominated.

[81 FR 10455, Mar. 1, 2016]

### § 905.29 Inability of members to serve.

(a) An alternate for a member of the committee shall act in the place and stead of such member (1) in his absence, or (2) in the event of his removal, resignation, disqualification, or death, and until a successor for his unexpired term has been selected.

(b) If both a member and his or her respective alternate are unable to attend a committee meeting, such member may designate another alternate to act in his or her place in order to obtain a quorum: *Provided*, That such alternate member represents the same group affiliation as the absent member. If the member is unable to designate such an alternate, the committee members present may designate such alternate.

(c) In the event of the death, removal, resignation, or disqualification of any person selected by the Secretary as a member or an alternate member of

the committee, a successor for the unexpired term of such person shall be selected by the Secretary. Such selection may be made without regard to the provisions of this subpart as to nominations.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 42 FR 59370, Nov. 17, 1977; 74 FR 46306, Sept. 9, 2009]

### § 905.30 Powers of the committee.

The committee, in addition to the power to administer the terms and provisions of this subpart, as herein specifically provided, shall have power (a) to make, only to the extent specifically permitted by the provisions contained in this subpart, administrative rules and regulations; (b) to receive, investigate and report to the Secretary complaints of violations of this subpart; and (c) to recommend to the Secretary amendments to this subpart.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 42 FR 59370, Nov. 17, 1977]

### § 905.31 Duties of Citrus Administrative Committee.

It shall be the duty of the Citrus Administrative Committee:

(a) To select a chairman from its membership, and to select such other officers and adopt such rules and regulations for the conduct of its business as it may deem advisable;

(b) To keep minutes, books, and records which will clearly reflect all of its acts and transactions, which minutes, books, and records shall at all times be subject to the examination of the Secretary;

(c) To act as intermediary between the Secretary and the producers and handlers;

(d) To furnish the Secretary with such available information as he may request;

(e) To appoint such employees as it may deem necessary and to determine the salaries and define the duties of such employees;

(f) To cause its books to be audited by one or more certified or registered public accountants at least once for each fiscal period, and at such other times as it deems necessary or as the Secretary may request, and to file with

### § 905.33

### 7 CFR Ch. IX (1–1–23 Edition)

the Secretary copies of all audit reports;

(g) To prepare and publicly issue a monthly statement of financial operations of the committee;

(h) To provide an adequate system for determining the total crop of each variety of fruit, and to make such determinations, including determinations by grade and size, as it may deem necessary, or as may be prescribed by the Secretary, in connection with the administration of this subpart;

(i) To perform such duties in connection with the administration of section 32 of the act to amend the Agricultural Adjustment Act and for other purposes, Public Act No. 320, 74th Congress, as amended, as may from time to time be assigned to it by the Secretary;

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 30 FR 13934, Nov. 4, 1965; 42 FR 59369, Nov. 17, 1977]

### § 905.33 Compensation and expenses of committee members.

The members and alternate members of the Committee shall serve without compensation but may be reimbursed for expenses necessarily incurred by them in attending committee meetings and in the performance of their duties under this part.

[42 FR 59369, Nov. 17, 1977]

### § 905.34 Procedure of committees.

(a) Ten members of the committee shall constitute a quorum.

(b) For any decision or recommendation of the committee to be valid, ten concurring votes, five of which must be grower votes, shall be necessary: *Provided*, That the committee may recommend a regulation restricting the shipment of grapefruit grown in Regulation Area I or Regulation Area II which meets the requirements of the Improved No. 2 grade or the Improved No. 2 Bright grade only upon the affirmative vote of a majority of its members present from the regulation area in which such restriction would apply; and whenever a meeting to consider a recommendation for release of such grade is requested by a majority of the members from the affected area, the committee shall hold a meeting within a reasonable length of time for

the purpose of considering such a recommendation. If after such consideration the requesting area majority present continues to favor such release for their area, the request shall be considered a valid recommendation and transmitted to the Secretary. The votes of each member cast for or against any recommendation made pursuant to this subpart shall be duly recorded. Whenever an assembled meeting is held each member must vote in person.

(c) The committee may provide for meeting by telephone, telegraph, or other means of communication, and any vote cast at such a meeting shall be promptly confirmed in writing: *Provided*, That if any assembled meeting is held, all votes shall be cast in person.

(d) The committee shall give the Secretary the same notice of meetings as is given to the members thereof.

[42 FR 59369, Nov. 17, 1977, as amended at 74 FR 46306, Sept. 9, 2009]

### § 905.35 Right of the Secretary.

The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time and upon his disapproval shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 42 FR 59370, Nov. 17, 1977]

### § 905.36 Funds.

(a) All funds received by the committee pursuant to any provision of this subpart shall be used solely for the purposes herein specified and shall be accounted for in the manner provided in this subpart.

(b) The Secretary may, at any time, require the committee and its members to account for all receipts and disbursements.

## Agricultural Marketing Service, USDA

## § 905.42

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds, together with all books and records, in his possession, to his successor in office, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and claims vested in such member pursuant to this subpart.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 42 FR 59370, Nov. 17, 1977]

### EXPENSES AND ASSESSMENTS

#### § 905.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred to carry out the functions of the committee under this subpart during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments upon handlers as provided in § 905.41.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 42 FR 59370, Nov. 17, 1977]

#### § 905.41 Assessments.

(a) Each handler who first handles fruit shall pay to committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds will be incurred by the committee for the maintenance and functioning, during each fiscal period, of the committee established under this subpart. Each such handler's share of such expenses shall be that proportion thereof which the total quantity of fruit shipped by such handler as the first handler thereof during the applicable fiscal period is of the total quantity of fruit so shipped by all handlers during the same fiscal period. The Secretary shall fix the rate of assessment per standard packed carton of fruit to be paid by each such handler. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provi-

sions thereof are suspended or become inoperative.

(b) At any time during or after the fiscal period, the Secretary may increase the rate of assessment so that the sum of money collected pursuant to the provisions of this section shall be adequate to cover the said expenses. Such increase shall be applicable to all fruit shipped during the given fiscal period. In order to provide funds to carry out the functions of the committee established under § 905.19, handlers may make advance payment of assessments.

(c) In the case of an extreme emergency, the committee may borrow money on a short term basis to provide funds for the administration of this part. Any such borrowed money shall only be used to meet the committee's current financial obligations, and the committee shall repay all such borrowed money by the end of the next fiscal period from assessment income.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 42 FR 59370, Nov. 17, 1977; 54 FR 37293, Sept. 8, 1989]

#### § 905.42 Handler's accounts.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, the Committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided*, That funds already in the reserve do not exceed approximately two fiscal periods' expenses. Such reserve funds may be used (1) to cover any expenses authorized by this part and (2) to cover necessary expenses of liquidation in the event of termination of this part. If any such excess is not retained in a reserve, each handler entitled to a proportionate refund shall be credited with such refund against the operations of the following fiscal period unless he demands payment of the sum due him, in which case such sum shall be paid to him. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.



## § 905.50

## 7 CFR Ch. IX (1–1–23 Edition)

(b) The committee may, with the approval of the Secretary, maintain in its own name or in the name of its members a suit against any handler for the collection of such handler's pro rata share of the said expense.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 34 FR 12427, July 30, 1969; 42 FR 59371, Nov. 17, 1977; 81 FR 10455, Mar. 1, 2016]

### REGULATIONS

#### § 905.50 Marketing policy.

(a) Before making any recommendations pursuant to § 905.51 for any variety of fruit, the committee shall, with respect to the regulations permitted by § 905.52, submit to the Secretary a detailed report setting forth an advisable marketing policy for such variety for the then current shipping season. Such report shall set forth the proportion of the remainder of the total crop of such variety of fruit (determined by the committee to be available for shipment during the remainder of the shipping season of such variety) deemed advisable by the committee to be shipped during such season.

(b) In determining each such marketing policy and advisable proportion, the committee shall give due consideration to the following factors relating to citrus fruit produced in Florida and in other States:

(1) The available crop of each variety of citrus fruit in Florida, and in other States, including the grades and sizes thereof, which grades and sizes in Florida shall be determined by the committee pursuant to § 905.31;

(2) The probable shipments of citrus fruit from other States;

(3) The level and trend in consumer income;

(4) The prospective supplies of competitive commodities; and

(5) Other pertinent factors bearing on the marketing of fruit.

(c) In addition to the foregoing, the committees shall set forth a schedule of proposed regulations for the remainder of the shipping season for each variety of fruit for which recommendations to the Secretary pursuant to § 905.51 are contemplated. Such schedules shall recognize the practical operations of harvesting and preparation

for market of each variety and the change in grades and sizes thereof as the respective seasons advance. In the event it is deemed advisable to alter such marketing policy or advisable proportion as the shipping season progresses, in view of changed demand and supply conditions with respect to fruit, the said committee shall submit to the Secretary a report thereon.

(d) The committee shall transmit a copy of each marketing policy report or revision thereof to the Secretary and to each producer and handler who files a request therefor. Copies of all such reports shall be maintained in the office of the committee where they shall be available for examination by producers and handlers.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 30 FR 13934, Nov. 4, 1965; 42 FR 59371, Nov. 17, 1977]

#### § 905.51 Recommendations for regulation.

(a) Whenever the committee deems it advisable to regulate any variety in the manner provided in § 905.52, it shall give due consideration to the following factors relating to the citrus fruit produced in Florida and in other States: (1) Market prices, including prices by grades and sizes of the fruit for which regulation is recommended; (2) maturity, condition, and available supply, including the grade and size thereof in the producing areas; (3) other pertinent market information; and (4) the level and trend in consumer income. The committee shall submit to the Secretary its recommendations and supporting information respecting the factors enumerated in this section.

(b) The committee shall give notice of any meeting to consider the recommendation of regulations pursuant to § 905.52 by mailing a notice of meeting to each handler who has filed his address with committee for this purpose. The committee shall give the same notice of any such recommendation before the time it is recommended that such regulation become effective.

[42 FR 59370, Nov. 17, 1977]

#### § 905.52 Issuance of regulations.

(a) Whenever the Secretary shall find from the recommendations and reports

## Agricultural Marketing Service, USDA

## § 905.53

of the committee, or from other available information, that to limit the shipment of any variety would tend to effectuate the declared policy of the act, he shall so limit the shipment of such variety during a specified period or periods. Such regulations may:

(1) Limit the shipments of any grade or size, or both, of any variety, in any manner as may be prescribed, and any such limitation may provide that shipments of any variety grown in Regulation Area II shall be limited to grades and sizes different from the grade and size limitations applicable to shipments of the same varieties grown in Regulation Area I: *Provided*, That whenever any such grade or size limitation restricts the shipment of a portion of a specified grade or size of a variety the quantity of such grade or size that may be shipped by a handler during a particular week shall be established as a percentage of the total shipments of such variety by such handler in such prior period established by the committee with the approval of the Secretary, in which he shipped such variety.

(2) Limit the shipment of any variety by establishing and maintaining, only in terms of grades or sizes, or both, minimum standards of quality and maturity;

(3) Limit the shipment of the total quantity of any variety by prohibiting the shipment thereof: *Provided*, that no such prohibition shall apply to exports or be effective during any fiscal period with respect to any variety other than for one period not exceeding five days during the week in which Thanksgiving Day occurs, and for not more than two periods not exceeding a total of 14 days during the period December 20 to January 20, both dates inclusive.

(4) Establish, prescribe, and fix the size, capacity, weight, dimensions, marking (including labels and stamps), or pack of the container or containers which may be used in the packaging, transportation, sale, shipment, or other handling of fruit.

(5) Provide requirements that may be different for the handling of fruit within the production area, the handling of fruit for export, or for the handling of fruit between the production area and

any point outside thereof within the United States.

(6) Any regulations or requirements pertaining to intrastate shipments shall not be implemented unless Florida statutes and regulations regulating such shipments are not in effect.

(b) Prior to the beginning of any such regulations, the Secretary shall notify the committee of the regulation issued by him, and the committee shall notify all handlers by mailing a copy thereof to each handler who has filed his address with said committee for this purpose.

(c) Whenever the Secretary finds from the recommendations and reports of the committee, or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of fruit in order to effectuate the declared policy of the act, he shall so modify, suspend, or terminate such regulation. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulation. On the same basis, and in like manner, the Secretary may terminate any such modification or suspension.

(d) Whenever any variety is regulated pursuant to paragraph (a)(3) of this section, no such regulation shall be deemed to limit the right of any person to sell, contract to sell, or export such variety but no handler shall otherwise ship any fruit of such variety which was prepared for market during the effective period of such regulation.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 34 FR 12427, July 30, 1969; 42 FR 59370, Nov. 17, 1977; 54 FR 37292, Sept. 8, 1989; 81 FR 10455, Mar. 1, 2016]

### § 905.53 Inspection and certification.

(a) Whenever the handling of a variety of a type of fruit is regulated pursuant to § 905.52, each handler who handles any variety of such type of fruit shall, prior to the handling of any lot of such variety, cause such lot to be inspected by the Federal-State Inspection Service and certified by it as meeting all applicable requirements of such regulation: *Provided*, That such inspection and certification shall not

## § 905.54

be required if the particular lot of fruit previously had been so inspected and certified unless such prior inspection was not performed within such time limitations as may be prescribed pursuant to paragraph (b) of this section. Each handler shall promptly submit, or cause to be submitted, to the committee a copy of each certificate of inspection issued to him covering varieties so handled.

(b) With respect to any variety regulated pursuant to § 905.52(a)(4), the committee may prescribe, with the approval of the Secretary, such requirements with respect to time of inspection as it may deem necessary to insure satisfactory condition of the fruit at time of export.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 42 FR 59371, Nov. 17, 1977]

## § 905.54 Marketing, research and development.

The committee may, with the approval of the Secretary, establish, or provide for the establishment of, projects including production research, marketing research and development projects, and marketing promotion including paid advertising, designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of fruit. The expenses of such projects shall be paid by funds collected pursuant to § 905.41. Upon conclusion of each project, but at least annually, the committee shall summarize the program status and accomplishments to its members and the Secretary. A similar report to the committee shall be required of any contracting party on any project carried out under this section. Also, for each project, the contracting party shall be required to maintain records of money received and expenditures, and such shall be available to the committee and the Secretary.

[74 FR 46306, Sept. 9, 2009]

### HANDLERS' REPORTS

## § 905.70 Manifest report.

The committee may request information from each handler regarding the variety, grade, and size of each stand-

## 7 CFR Ch. IX (1-1-23 Edition)

ard packed carton of fruit shipped by him and may require such information to be mailed or delivered to the committee or its duly authorized representative, within 24 hours after such shipment is made, in a manner or by such method as the said committee may prescribe, and upon such forms as may be prepared by it.

[42 FR 59371, Nov. 17, 1977]

## § 905.71 Other information.

Upon request of the committee, made with the approval of the Secretary, every handler shall furnish the committee, in such manner and at such times as it prescribes, such other information as will enable it to perform its duties under this subpart.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 42 FR 59371, Nov. 17, 1977]

### MISCELLANEOUS PROVISIONS

## § 905.80 Fruit not subject to regulation.

Except as otherwise provided in this section, any person may, without regard to the provisions of §§ 905.52 and 905.53 and the regulations issued thereunder, ship any variety for the following purposes: (a) To a charitable institution for consumption by such institution; (b) to a relief agency for distribution by such agency; (c) to a commercial processor for conversion by such processor into canned or frozen products or into a beverage base; (d) by parcel post; or (e) in such minimum quantities, types of shipments, or for such purposes as the committee with the approval of the Secretary may specify. No assessment shall be levied on fruit so shipped. The committee shall, with the approval of the Secretary, prescribe such rules, regulations, or safeguards as it may deem 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. Such rules, regulations,

## Agricultural Marketing Service, USDA

## § 905.84

and safeguards may include the requirements that handlers shall file applications with the committee for authorization to handle a variety pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the variety will not be used for any purpose not authorized by this section.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 42 FR 59371, Nov. 17, 1977]

### § 905.81 Compliance.

Except as provided in this part, no person shall ship fruit the shipment of which has been prohibited by the Secretary in accordance with the provisions of this part.

### § 905.82 Effective time.

The provisions of this subpart shall become effective on and after 12:01 a.m., e.s.t., September 1, 1946, and shall continue in force until terminated in one of the ways specified in § 905.83.

### § 905.83 Termination.

(a) The Secretary may at any time terminate the provisions of this part by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary shall terminate the provisions of this part at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers who, during the preceding fiscal period, have been engaged in the production for market of fruit: *Provided*, That such majority have, during such period, produced for market more than 50 percent of the volume of such fruit produced for market, but such termination shall be effective only if announced on or before July 31 of the then current fiscal period.

(c) The Secretary shall conduct a referendum six years after the effective date of this paragraph and every sixth year thereafter to ascertain whether continuance of this part is favored by producers. The Secretary may terminate the provisions of this part at the end of any fiscal period in which the Secretary has found that continuance of this part is not favored by producers

who during a representative period, determined by the Secretary, have been engaged in the production for market of the fruit in the production area. Such termination shall be announced on or before July 31 of the fiscal period.

(d) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 54 FR 37293, Sept. 8, 1989]

### § 905.84 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the then functioning members of the committee shall continue as joint trustees, for the purpose of liquidating the affairs of the committee, of all the funds and property then in the possession of or under control of committee, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees (1) shall continue in such capacity until discharged by the Secretary, (2) shall, from time to time, account for all receipts and disbursements or deliver all property on hand, together with all books and records of the committee and of the joint trustees, to such person as the Secretary may direct; and (3) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee, or the joint trustees pursuant to this part.

(c) Any funds collected pursuant to § 905.41, over and above the amounts necessary to meet outstanding obligations and expenses necessarily incurred during the operation of this part and during the liquidation period, shall be returned to handlers as soon as practicable after the termination of this part. The refund to each handler shall be represented by the excess of the amount paid by him over and above his pro rata share of the expenses.

(d) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations

## **§ 905.85**

imposed upon the members of the committee and upon the said joint trustees.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 42 FR 59371, Nov. 17, 1977]

## **§ 905.85 Duration of immunities.**

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

## **§ 905.86 Agents.**

The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

## **§ 905.87 Derogation.**

Nothing contained in this part is, or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

## **§ 905.88 Personal liability.**

No member or alternate of the committee nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee, except for acts of dishonesty.

[22 FR 10734, Dec. 27, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 42 FR 59371, Nov. 17, 1977]

## **§ 905.89 Separability.**

If any provision of this part is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, cir-

## **7 CFR Ch. IX (1-1-23 Edition)**

cumstance, or thing shall not be affected thereby.

## **Subpart B—Administrative Requirements**

SOURCE: 42 FR 59371, Nov. 17, 1977, unless otherwise noted.

## **§ 905.105 Tangerine and grapefruit classifications.**

(a) Pursuant to § 905.5(m), the following classifications of grapefruit are renamed as follows:

(1) Marsh and other seedless grapefruit, excluding pink grapefruit, are renamed as Marsh and other seedless grapefruit, excluding red grapefruit;

(2) Duncan and other seeded grapefruit, excluding pink grapefruit, are renamed as Duncan and other seeded grapefruit, excluding red grapefruit;

(3) Pink seedless grapefruit is renamed as Red seedless grapefruit;

(4) Pink seeded grapefruit is renamed as Red seeded grapefruit.

(b) Pursuant to § 905.5(m), the term *variety* or *varieties* includes Sunburst and Fallglo tangerines.

[56 FR 49132, Sept. 27, 1991, as amended at 63 FR 55500, Oct. 16, 1998]

## **§ 905.107 Registered handler certification.**

Each handler who handles citrus grown in the production area must be certified as a registered handler by the Committee in order to ship such regulated citrus outside of the regulated area. A handler who is certified as a registered handler is a handler who has adequate facilities to meet the requirements for preparing citrus for market, obtains inspection on citrus handled, agrees to handle citrus in compliance with the Order's grade, size and container requirements, pays applicable assessments on a timely basis, submits reports required by the Committee, and agrees to comply with other regulatory requirements on the handling of citrus grown in the production area.

(a) *Eligibility.* Based on the criteria specified in this section, the Committee shall determine eligibility for certification as a registered handler. The Committee or its authorized agent shall inspect a handler's facilities to

determine if the facilities are adequate for preparing citrus for market. To be adequate for such purposes, the facilities must be permanent, nonportable buildings located in the production area with equipment that is nonportable for the proper washing, grading, sizing and packing of citrus grown in the production area.

(b) *Application for certification.* Application for certification shall be executed by the handler by August 1st of fiscal period and filed with the Committee on a form, prescribed by and available at the principal office of the Committee, containing the following information:

- (1) Business name,
- (2) Address of handling facilities (including telephone, email and facsimile number),
- (3) Mailing address (if different from handling facility address),
- (4) Number of years in the citrus business in Florida,
- (5) Type of business entity, and
- (6) Names of senior officers, partners, or principal owners with financial interest in the business.

(c) *Determination of certification.* If the Committee determines from available information that an applicant meets the criteria specified in this section, the applicant shall be certified as a registered handler and informed by written notice from the Committee. Certification is effective for a fiscal period unless the Committee determines, based on criteria herein, that cancellation is warranted. If certification is denied, the handler shall be informed by the Committee in writing, stating the reasons for denial.

(d) *Cancellation of certification.* A registered handler's certification shall be cancelled by the Committee, with the approval of the Secretary, if the handler fails to pay assessments within 90 days of the invoice date, fails to provide reports to the Committee, or no longer has adequate facilities as described in this section. Cancellation of a handler's certification shall be made in writing to the handler and shall specify the reason(s) for and effective date of the cancellation. Cancellation shall be for a minimum two-week period if a handler is found to be shipping without proper inspection. The Com-

mittee shall recertify the handler's registration at such time as the handler corrects the deficiencies which resulted in the cancellation and the Committee or its agent verifies compliance. The Committee shall notify the handler in writing of its recertification.

(e) *Inspection certification.* During any period in which the handling of citrus is regulated pursuant to this part, no handler shall obtain an inspection certifying that the handler's citrus meets the requirements of the Order unless the handler has been certified as a registered handler by the Committee. Any person who is not certified as a registered handler may receive inspection from the Federal-State Inspection Service, however, the inspection certificate shall state "Fails to meet the requirements of Marketing Order No. 905 because the handler is not a registered handler."

(f) *Contrary shipping.* The Committee may cancel or deny a handler's registration if the handler has shipped citrus contrary to the provisions of this part. The cancellation or denial of a handler's registration shall be effective for a minimum of two weeks and not exceed the applicable shipping season as determined by the Committee.

(g) *Appeals.* Any handler who has been denied a handler's registration or who has had a handler's registration cancelled, may appeal to the Secretary, supported by any arguments and evidence the handler may wish to offer as to why the application for certification or recertification should have been approved. The appeal shall be in writing and received at the Specialty Crops Program office in Washington, DC, within 90 days of the date of notification of denial or cancellation.

[85 FR 55362, Oct. 8, 2020]

#### **§ 905.114 Redistricting of citrus districts and reapportionment of grower members.**

Pursuant to § 905.14, the citrus districts and membership allotted each district shall be as follows:

- (a) Citrus District One shall include the counties of Alachua, Baker, Bradford, Citrus, Clay, Columbia, Duval, Flagler, Gilchrist, Hernando,

## § 905.120

Hillsborough, Lake, Levy, Marion, Nassau, Orange, Osceola, Pasco, Pinellas, Polk, Putnam, Seminole, St. Johns, Sumter, Suwannee, and Union and County Commissioner's Districts One, Two, and Three of Volusia County, and that part of the counties of Indian River and Brevard not included in Regulation Area II. This district shall have two grower members and alternates.

(b) Citrus District Two shall include the counties of Broward, Charlotte, Collier, Dade, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Monroe, Okeechobee, Sarasota, and that part of the counties of Palm Beach and Martin not included in Regulation Area II. This district shall have three grower members and alternates.

(c) Citrus District Three shall include the County of St. Lucie and that part of the counties of Brevard, Indian River, Martin, and Palm Beach described as lying within Regulation Area II, and County Commissioner's Districts Four and Five of Volusia County. This district shall have four grower members and alternates.

[78 FR 13781, Mar. 1, 2013]

### § 905.120 Nomination procedure.

Meetings shall be called by the committee in accordance with the provisions of § 905.22, for the purpose of making nominations for members and alternate members of the Citrus Administrative Committee. The manner of nominating members and alternate members of said committee shall be as follows:

(a) At each such meeting the committee's representative shall announce the requirements as to eligibility for voting for nominees and the procedure for voting, and shall explain the duties of the committee.

(b) A chairman and a secretary of each meeting shall be selected.

(c) At each meeting there shall be presented for nomination and there shall be nominated not less than the number of nominees required under the provisions of § 905.19, all of whom shall have the qualifications as specified in § 905.22.

(d) At the meetings of handlers, any person authorized to represent a handler may cast a ballot for such handler.

## 7 CFR Ch. IX (1-1-23 Edition)

(e) At each meeting each eligible person may cast one vote for each of the persons to be nominated to represent the district or group, as the case may be.

(f) Voting may be by written ballot. If written ballots are used, all ballots shall be delivered by the chairman or the secretary of the meeting to the agent of the Secretary. If ballots are not used, the committee's representative shall deliver to the Secretary's agent a listing of each person nominated and a count of the number of votes cast for each nominee for grower member and alternate. Said representative shall also provide the agent the register of eligible voters present at each meeting, a listing of each person nominated, the number of votes cast, and the weight by volume of shipments voted for each nominee for shipper member and alternate.

(g) Up to four grower members may be growers who are also shippers, or growers who are also employees of shippers.

[43 FR 9455, Mar. 8, 1979, as amended at 78 FR 13781, Mar. 1, 2013]

### NON-REGULATED FRUIT

### § 905.140 Gift packages.

Any handler may, without regard to the provisions of §§ 905.52 and 905.53 and the regulations issued thereunder, ship any varieties for the following purpose and types of shipment:

(a) To any person gift packages containing such varieties: *Provided*, That such packages are individually addressed to such person, and shipped directly to the addressee for use by such person other than for resale; or

(b) to any individual gift package distributor of such varieties to be handled by such distributor: *Provided*, That such person is the original purchaser and the gift packages are individually addressed or marked "not for resale". This exemption does not apply to "commercially handled" shipments for resale.

[58 FR 65539, Dec. 15, 1993]

### § 905.141 Minimum exemption.

Any shipment of fruit which meets each of the following requirements

## Agricultural Marketing Service, USDA

## § 905.146

may be transported from the production area during any one day by any person or by the occupants of one vehicle exempt from the requirements of §§905.52 and 905.53 and regulations issued thereunder:

(a) The shipment does not exceed a total of 15 standard packed cartons (12 bushels) of fruit, either a single fruit or a combination of two or more fruits;

(b) The shipment consists of fruit not for resale; and

(c) Such exempted quantity is not included as a part of a shipment exceeding 15 standard packed cartons (12 bushels) of fruit.

### § 905.142 Animal feed.

(a) The handling of citrus for animal feed shall be exempt from the provisions of §§905.52 and 905.53 and the regulations issued thereunder under the following conditions:

(1) The handler notifies the committee each fiscal period, prior to such handling of his/her intention to handle such fruit, the quantity he/she anticipates handling and the destination point of each lot of fruit and receives from the committee a special shipping permit for the shipment;

(2) The fruit is used for animal feed and is not offered for resale, disposed of, or in any way handled so as to enter fresh fruit channels;

(3) The quantity does not exceed 1,000  $\frac{1}{2}$  bushel cartons per fiscal period or such other quantity as may be specified by the committee;

(4) The fruit is placed in containers of uniform capacity; and

(5) Each shipment is certified by the Federal-State Inspection Service as to the quantity shipped.

(b) [Reserved]

[46 FR 47056, Sept. 24, 1981]

### § 905.145 Certification of certain shipments.

Whenever a regulation pursuant to §905.52 restricts the shipment of a portion of a specified grade or size of a variety, each handler shipping such variety during the regulation period shall, with respect to each such shipment, certify to the U.S. Department of Agriculture and the committee the quantity of the partially restricted grade or size, or both, contained in such ship-

ment. Such certification shall accompany the manifest of such shipment which the handler furnishes to the Federal-State Inspection Service.

### § 905.146 Special purpose shipments.

(a) A Special Purpose Shipper is one who handles Florida citrus fruit that is certified by a Florida Department of Agriculture and Consumer Services licensed certifying agent as organically grown under Florida law. In addition, the shipper shall certify that shipments will be limited to outlets handling organically grown fruits. Any such shipments shall be subject to a Certificate of Privilege issued by the committee.

(b) To qualify for a Certificate of Privilege, each such shipper must notify the committee prior to the first shipment of certified organically grown Florida citrus fruit in the fiscal period of the shipper's intent to ship such citrus, submit an application on forms supplied by the committee, and agree to other requirements as set forth in §§905.147 and 905.148 inclusive, with respect to such shipments. The shipper shall certify that no claims will be made, written or verbal, concerning any alleged advantages of using, or any alleged superiority of, fruit shipped under a Certificate of Privilege, compared to other Florida produced citrus.

(c) Citrus meeting all other applicable requirements may be handled without regard to grade regulations issued under §905.52 under the following conditions:

(1) Such fruit meets the requirements of U. S. No. 2 Russet grade and those requirements of U. S. No. 1 grade relating to shape (form), as such requirements are set forth in the revised U. S. Standards for Grades of Florida Oranges and Tangelos (7 CFR 51.1140 through 51.1179), the revised Standards for Florida Tangerines (7 CFR 51.1810 through 51.1837), or the revised U. S. Standards for Grades of Florida Grapefruit (7 CFR 51.750 through 51.784). Such fruit also meets applicable minimum size requirements in effect for domestic shipments of citrus fruits.

(2) All such citrus shall be inspected as required by §905.53 by the Federal or Federal-state Inspection Service prior



## § 905.147

to the time such citrus is shipped from the packing facility, and certified as meeting the applicable requirements.

(3) Be reported as required in § 905.148.

[59 FR 26928, May 25, 1994, as amended at 66 FR 229, Jan. 3, 2001]

### § 905.147 Certificate of privilege.

(a) *Application.* Application for Certificate of Privilege by a Special Purpose Shipper shall be made on forms furnished by the committee. Each application may contain, but need not be limited to, the name and address of each handler; a list of certified organic citrus fruit growers, including addresses; a list of receivers; the quantity and variety of citrus to be shipped; a certification to the Secretary 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 for the purposes stated in § 905.146.

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

(c) *Suspension or Denial of Certificate of Privilege.* The committee may investigate the handling of special purpose shipments under Certificates of Privilege to determine whether Special Purpose Shippers are complying with the requirements and regulations applicable to such certificates. Whenever the committee finds that a Special Purpose Shipper or consignee is failing to comply with the requirements and regulations applicable to such certificates, the Certificate of Privilege issued to such Special Purpose Shipper may be suspended or, in the case of an application for the issuance of an initial Certificate of Privilege, may be denied. Such suspension of a certificate shall be for a reasonable period of time as determined by the committee, but in

## 7 CFR Ch. IX (1-1-23 Edition)

no event shall it extend beyond the end of the current fiscal period. 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 Certificate of Privilege, the committee shall give the shipper or applicant reasonable advance notice in writing of its intention and the facts and reasons therefor, and afford the shipper or applicant an opportunity, either orally or in writing, to present opposing facts and reasons. The shipper or applicant shall be informed of the committee's determination in writing and in a timely manner.

[43 FR 9456, Mar. 8, 1978, as amended at 59 FR 26929, May 25, 1994]

### § 905.148 Reports of special purpose shipments under certificates of privilege.

(a) Each handler of citrus shipping under Certificates of Privilege shall supply the committee with reports on each shipment as requested by the committee, on forms supplied by the committee, showing the name and address of the shipper or shippers; name and address of the certified organic Florida citrus fruit grower or growers supplying fruit for such shipment; truck or other conveyance identification; the loading point; destination, consignee; the inspection certificate number; and any other information deemed necessary by the committee.

(b) One copy of the report on each shipment shall be forwarded by the shipper to the committee within 10 days after such shipment, and two copies of the report shall accompany each shipment to the receiver. Upon the receipt of each shipment, the receiver shall complete the applicable portion of the form and return one copy to the committee within 10 days and one copy shall be retained by the shipper. Such completion shall contain a certification to the Secretary and the committee that the citrus described shall be distributed in the outlets described. Failure to complete and return such

forms will be cause to remove that receiver's name from the committee's list of eligible receivers.

[43 FR 9456, Mar. 8, 1978, as amended at 59 FR 26929, May 25, 1994]

**§ 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 the end of the fiscal period. 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% bushel boxes per variety, per shipment.

(2) A grower may only ship up to 3,000 boxes per variety per season.

(3) Each grower shall apply to the Citrus Administrative Committee and

## § 905.150

receive a Grower Tree Run Certificate prior to shipping their own tree run Florida citrus fruit.

(4) 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.

(5) Each container of tree run fruit shipped under a Grower Tree Run Certificate shall be labeled with or contain the name and address of the grower shipping under the Grower Tree Run Certificate.

[67 FR 62313, Oct. 7, 2002, as amended at 68 FR 52329, Sept. 3, 2003; 69 FR 50269, Aug. 16, 2004]

## § 905.150 Eligibility requirements for public member and alternate member.

(a) The public member shall be neither a producer nor a handler of Florida citrus fruit and shall have no direct financial interest in the production or marketing of citrus fruit (except as a consumer of agricultural products).

(b) The public member should be able to devote sufficient time and express a willingness to attend Committee activities regularly and become familiar with the background and economics of the industry.

(c) The public member must be a resident of the production area.

(d) The public member should be nominated by the Citrus Administrative Committee and should serve a 1-year term which coincides with the term of office of producer and handler members of the Committee.

[43 FR 32397, July 27, 1978]

## 7 CFR Ch. IX (1-1-23 Edition)

### § 905.153 Procedure for determining handlers' permitted quantities of red seedless grapefruit when a portion of sizes 48 and 56 of such variety is restricted.

(a) For the purposes of this section, the prior period specified in § 905.52 is hereby established as an average week within the immediately preceding three seasons. Each handler's average week shall be computed by adding the total volume of red seedless grapefruit handled in the immediately preceding three seasons and dividing the total by 99. The average week for handlers with less than three previous seasons of shipments shall be calculated by adding the total volume of shipments for the seasons they did ship red seedless grapefruit, divide by the number of seasons, divide further by 33. If crop conditions limit shipments from any or all of the immediately preceding three season(s), the committee may use a prior season or seasons for the purposes of calculating an average week. New handlers with no record of shipments could ship size 48 and 56 red seedless grapefruit as a percentage of total shipments equal to the percentage applied to other handlers' average week; once such handlers have recorded shipments, their average week shall be calculated as an average of total shipments for the weeks they have shipped red seedless grapefruit during the current season. When used in the regulation of red seedless grapefruit, the term season means the weeks beginning the third Monday in September and ending the first Sunday in the following May. The term *regulation period* means the 22-week period beginning the third Monday in September of the current season.

(b) When a size limitation restricts the shipment of a portion of sizes 48 and 56 red seedless grapefruit during a particular week as provided in § 905.52, the committee shall compute the quantity of sizes 48 and 56 red seedless grapefruit that may be shipped by each handler by multiplying the handler's calculated average week shipments of such grapefruit by the percentage established by regulation for red seedless grapefruit for that week. Such set percentage may vary from week to week

## Agricultural Marketing Service, USDA

## § 905.161

but shall not be less than 25 percent in any week.

(c) The committee shall notify each handler of the quantity of size 48 and 56 red seedless grapefruit such handler may handle during a particular week.

(d) During any regulation week for which the Secretary has fixed the percentage of sizes 48 and 56 red seedless grapefruit, any person who has received an allotment may handle, in addition to their total allotment available, an amount of size 48 and 56 red seedless grapefruit up to 10 percent greater than their allotment. The quantity of the overshipment shall be deducted from the handler's allotment for the following week. Overshipments will not be allowed during the last week of regulation. If the handler fails to use his or her entire allotment, the undershipment is not carried forward to the following week. Each handler shipping size 48 and/or 56 red seedless grapefruit during the regulation period shall complete and submit to the committee, no later than 2 p.m. of the business day following the shipment, a report of red seedless grapefruit shipments by day for each regulation week.

(e) Any handler may transfer or loan any or all of their shipping allotment (excluding the overshipment allowance) of size 48 and 56 red seedless grapefruit to any other handler. Each handler party to such transfer or loan shall no later than noon on the Wednesday following the regulation week notify the committee so the proper adjustment of records may be made. In each case, the committee shall confirm in writing all such transactions, prior to the following week, to the handlers involved. The committee may act on behalf of handlers wanting to arrange allotment loans or participate in the transfer of allotments.

(f) New handlers with no record of shipments planning to ship red seedless grapefruit covered by any percentage size regulation shall register with the committee prior to the regulation period so their allotments can be properly calculated. Each new handler shall provide on a form furnished by the committee their Florida citrus fruit dealer's license number, their Florida Department of Agriculture and Consumer Services' Fruit and Vegetable

Division packinghouse registration number, and the physical location of the packinghouse where the red seedless grapefruit is to be prepared for market. The committee shall notify any new handlers of their allotments prior to the regulation period.

[61 FR 69015, Dec. 31, 1996, as amended at 62 FR 52011, Oct. 6, 1997; 64 FR 51892, Sept. 27, 1999; 67 FR 809, Jan. 8, 2002; 69 FR 50278, Aug. 16, 2004; 70 FR 54242, Sept. 14, 2005]

### § 905.161 Repacking shipper.

(a) A repacking shipper is a person who repacks and ships citrus fruit grown in the production area in Florida which has been previously inspected and certified as meeting the requirements specified under § 905.52 of the order, and who has obtained a currently valid repacking certificate of privilege issued to him or her by the committee as specified in § 905.162.

(b) Each repacking shipper, to qualify for a repacking certificate of privilege, must notify the committee 10 days prior to his or her first shipment of repacked citrus fruit during a particular fiscal period of his or her intent to ship such citrus fruit, submit an Application for a Repacking Certificate of Privilege form supplied by the committee, and agree to other requirements as set forth in §§ 905.162 and 905.163 inclusive, with respect to such shipments. The repacking shipper shall certify that he or she will only handle previously inspected and certified citrus fruit.

(c) Any repacking shipper who handles citrus fruit shipped under a repacking certificate of privilege must, other order provisions not withstanding, meet the following requirements:

(1) All such citrus fruit must be positive lot identified by the Federal or Federal/State Inspection Service and certified as meeting the applicable requirements for citrus fruit shipped to the domestic market (fruit shipped from the production area to any point outside thereof in the 48 contiguous States and the District of Columbia of the United States), prior to being repacked and shipped by the repacking shipper. Each such citrus fruit shipment shall be accompanied by a Federal-State manifest that certifies the

## § 905.162

grade and amount of each load of citrus fruit received, which shall be retained by the repacking shipper.

(2) Be reported as required in § 905.163.

(3) The repacking facility used to repack previously inspected and certified citrus fruit by the repacking shipper shall not have operable equipment to wash, brush, wax, or dry citrus fruit.

(4) All citrus fruit handled by a repacking shipper shall be packed in approved Florida Department of Citrus fruit containers.

(5) Each container shipped with such citrus fruit shall be marked with the repacking shipper's repacking certificate of privilege number.

[59 FR 48782, Sept. 23, 1994]

### **§ 905.162 Repacking certificate of privilege.**

(a) *Application.* Application for a repacking certificate of privilege by a repacking shipper shall be made on an Application for a Repacking Certificate of Privilege form supplied by the committee. Each such application shall contain, but need not be limited to, the name, address and Florida citrus fruit dealer license number of the applicant; approximate number of boxes to be handled during the season; the various types of containers to be used to ship the repacked citrus fruit; a certification to the Secretary 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 duly authorized agents for the purposes stated in § 905.161.

(b) *Approval.* The committee or its duly authorized agents shall give prompt consideration to each application for a repacking certificate of privilege. Approval of an application based upon a determination as to whether the information contained therein and other information available to the committee supports approval, shall be evidenced by the issuance of a repacking certificate of privilege to the applicant. Each such certificate shall expire at the end of the fiscal period.

(c) *Suspension or denial of certificate of privilege.* The committee may investigate the handling of repacked fresh

## 7 CFR Ch. IX (1-1-23 Edition)

citrus fruit shipments under certificates of privilege to determine whether repacking shippers are complying with the requirements and regulations applicable to such certificates. Whenever the committee finds that a repacking shipper is failing to comply with the requirements and regulations applicable to such certificates, the certificate of privilege issued to such repacking shipper may be suspended or, in the case of an application for the issuance of an initial certificate of privilege, 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 the end of the then current fiscal period. 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 certificate of privilege, the committee shall give the shipper or applicant an opportunity, either orally or in writing, to present opposing facts and reasons. The shipper or applicant shall be informed of the committee's determination in writing and in a timely manner.

[59 FR 48783, Sept. 23, 1994]

### **§ 905.163 Reports of shipments under repacking certificate of privilege.**

(a) Each repacking shipper who handles citrus fruit under a repacking certificate of privilege shall supply the committee with reports on each shipment as requested by the committee, on a Report of Shipments Under Certificate of Privilege form supplied by the committee, showing the name and address of the repacking shipper; name and address of the handler supplying the inspected and certified citrus fruit for such shipment; number of packages; size and containers; brand; grade; certificate number; and any other information deemed necessary by the committee. Each repacking shipper of citrus fruit shall maintain on file a copy of the Federal-State manifest that certifies the grade and amount of each load of citrus fruit received. These

**Agricultural Marketing Service, USDA**

**§ 905.306**

manifests shall be readily available to the committee upon request.

(b) One copy of the Report of Shipments Under Certificate of Privilege form on each shipment shall be forwarded to the committee promptly, one copy of such form shall be retained by the repacking shipper, and one copy of such form shall accompany the shipment. Failure to complete and return such form shall be cause for suspension of the repacking shippers repacking certificate of privilege.

[59 FR 48783, Sept. 23, 1994]

**§ 905.171 Handler supplier report.**

Each handler shall furnish a supplier report to the Committee on an annual basis. Such reports shall be made on forms provided by the Committee and shall include the name and business address of each grower whose fruit was shipped or acquired by the handler during the season. Handlers shall submit this report to the Committee not later than June 15 of each season.

[78 FR 32070, May 29, 2013]

**Subpart C—Assessment Rate**

**§ 905.235 Assessment rate.**

On and after August 1, 2018, an assessment rate of \$0.015 per 4/5-bushel carton or equivalent is established for Florida citrus covered under the Order.

[84 FR 2049, Feb. 6, 2019]

**Subpart D—Grade and Size Requirements**

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

(a) No handler shall ship between the production area and any point outside thereof, in the 48 contiguous States and the District of Columbia of the United States, any variety of fruit listed in column (1) of Table I, except for Ambersweet and Temple, unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) of this section) specified for such variety in columns (2) and (3) of Table I: *Provided*, That all grapefruit meet the minimum maturity requirements specified in paragraph (e) of this section.

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
<b>Oranges</b>			
Early and midseason .....	.....	U.S. No. 1 .....	2 <sup>3</sup> / <sub>16</sub>
Navel .....	.....	U.S. No. 1 .....	2 <sup>3</sup> / <sub>16</sub>
Valencia and other late type.	September 1–May 14 .....	U.S. No. 1 .....	2 <sup>3</sup> / <sub>16</sub>
	May 15–June 14 .....	U.S. No. 1 Golden .....	2 <sup>3</sup> / <sub>16</sub>
	June 15–August 31 .....	U.S. No. 2, External/U.S. No. 1, Internal.	2 <sup>3</sup> / <sub>16</sub>
Grapefruit, Seedless .....	.....	U.S. No. 1 .....	3
<b>Tangerines:</b>			
Fallglo .....	.....	U.S. No. 1 .....	2 <sup>5</sup> / <sub>16</sub>
Honey .....	.....	Florida No. 1 .....	2 <sup>5</sup> / <sub>16</sub>
Sunburst .....	.....	U.S. No. 1 .....	2 <sup>5</sup> / <sub>16</sub>
Tangelos .....	.....	U.S. No. 1 .....	2 <sup>5</sup> / <sub>16</sub>

(b) No handler shall ship to any destination outside the 48 contiguous States and the District of Columbia of the United States any variety of fruit listed in column (1) of Table II, except for Ambersweet and Temple, unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) of

this section) specified for such variety in columns (2) and (3) of Table II: *Provided*, That all grapefruit meet the minimum maturity requirements specified in paragraph (e) of this section.

TABLE II

Variety	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)
Oranges .....	U.S. No. 1 .....	2 <sup>1</sup> / <sub>16</sub>
Navels .....	U.S. No. 1 Golden .....	2 <sup>1</sup> / <sub>16</sub>
Grapefruit, Seedless .....	U.S. No. 1 .....	3
Tangerines:		
Fallglo .....	U.S. No. 1 .....	2 <sup>5</sup> / <sub>16</sub>
Honey .....	Florida No. 1 .....	2 <sup>5</sup> / <sub>16</sub>
Sunburst .....	U.S. No. 1 .....	2 <sup>5</sup> / <sub>16</sub>
Tangelos .....	U.S. No. 1 .....	2 <sup>5</sup> / <sub>16</sub>

(c) *Size tolerances.* To allow for variations incident to proper sizing in the determination of minimum diameters as prescribed in Tables I and II, not more than 10 percent, by count, of the fruit in any lot of containers may fail to meet the minimum diameter size requirements, and not more than 15 percent, by count, in any individual sample may fail to meet the minimum diameter size requirements specified: *Provided*, That such tolerances for other than Navel and Temple oranges shall be based only on the oranges in the lot measuring 2<sup>1</sup>/<sub>16</sub> inches or smaller in diameter.

(d) Terms used in the marketing order including Improved No. 2 grade for grapefruit, when used herein, mean the same as is given to the terms in the order; Florida No. 1 grade for Honey tangerines means the same as provided in Rule No. 20–35.03 of the Regulations of the Florida Department of Citrus, and terms relating to grade, except Improved No. 2 grade for grapefruit and diameter, shall mean the same as is given to the terms in the revised U. S. Standards for Grades of Florida Oranges and Tangelos (7 CFR 51.1140 through 51.1179), the revised U. S. Standards for Florida Tangerines (7 CFR 51.1810 through 51.1837), or the revised U. S. Standards for Grades of Florida Grapefruit (7 CFR 51.750 through 51.784).

(e)(1) All grapefruit shipped under the order shall meet minimum maturity requirements of 8.0 percent soluble solids (sugars) and 7.5 to 1 solids to acid ratio or shall comply with one of the alternate equivalent soluble solids and solids to acid ratio combinations set forth in Table III: *Provided*, That the

minimum ratio shall not drop below 7.2 even if the soluble solids (sugars) reaches a level higher than 9.6.

(2) Notwithstanding the provision of paragraph (e)(1) of this section, for the period December 23, 2004 to July 31, 2005, all grapefruit shipped under the order shall meet minimum maturity requirements of 7.5 percent soluble solids (sugars) and 7.5 to 1 solids to acid ratio or shall comply with one of the alternate equivalent soluble solids and solids to acid ratio combinations set forth in Table III: *Provided*, That the minimum ratio shall not drop below 7.2 even if the soluble solids (sugars) reaches a level higher than 9.6.

TABLE III

Minimum total solids (sugars), %	Solids to acid minimum ratio
8.0 to (not including) 9.1	7.50 to 1
9.1 to (not including) 9.2	7.45 to 1
9.2 to (not including) 9.3	7.40 to 1
9.3 to (not including) 9.4	7.35 to 1
9.4 to (not including) 9.5	7.30 to 1
9.5 to (not including) 9.6	7.25 to 1
9.6 and greater	7.20 to 1

[46 FR 60171, Dec. 8, 1981]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 905.306, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

**§ 905.350 [Reserved]**

**Subpart E—Interpretations**

**§ 905.400 Interpretation of certain provisions.**

(a) In interpreting the provisions of paragraph (d) of § 905.52, the limitation

## Agricultural Marketing Service, USDA

Pt. 906

on shipment of any variety of fruit regulated pursuant to paragraph (a)(3) of that section, which was prepared for market during the effective period of such regulation, shall not be deemed to apply to shipment of such variety which was prepared for market incidentally as part of a lot packed for export and shipped following the period of regulation.

(b) Prior to shipment of any variety of fruit so prepared, the handler shall provide the Citrus Administrative Committee or its designated agent a copy of the shipping manifest applicable to such shipment with a notation thereon that the fruit was packed incidentally as part of a lot packed for export.

[54 FR 46597, Nov. 6, 1989]

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

#### Subpart A—Order Regulating Handling

##### DEFINITIONS

Sec.	
906.1	Secretary.
906.2	Act.
906.3	Person.
906.4	Production area.
906.5	Fruit.
906.6	Handler.
906.7	Handle.
906.8	Producer.
906.9	Grade and size.
906.10	Pack.
906.11	Maturity.
906.12	Container.
906.13	Variety or varieties.
906.14	Committee.
906.15	Fiscal period.
906.16	District.

##### COMMITTEE

906.18	Establishment and membership.
906.19	Term of office.
906.20	Districts.
906.21	Redistricting.
906.22	Selection.
906.23	Nominations.
906.24	Failure to nominate.
906.25	Acceptance.
906.26	Vacancies.
906.27	Alternate members.
906.28	Procedure.
906.29	Expenses and compensation.
906.30	Powers.
906.31	Duties.

##### EXPENSES AND ASSESSMENTS

906.32	Expenses.
906.33	Budget.
906.34	Assessments.
906.35	Accounting.

##### RESEARCH AND DEVELOPMENT

906.37	Research and development.
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##### REGULATION

906.38	Marketing policy.
906.39	Recommendations for regulations.
906.40	Issuance of regulations.
906.41	Gift fruit shipments.
906.42	Shipments for special purposes.
906.43	Notification of regulations.
906.44	Safeguards.

##### INSPECTION

906.45	Inspection and certification.
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##### REPORTS

906.51	Reports.
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##### MISCELLANEOUS PROVISIONS

906.52	Compliance.
906.53	Right of the Secretary.
906.54	Effective time.
906.55	Termination.
906.56	Proceedings after termination.
906.57	Effect of termination or amendment.
906.58	Duration of immunities.
906.59	Agents.
906.60	Derogation.
906.61	Personal liability.
906.62	Separability.

#### Subpart B—Administrative Requirements

906.120	Fruit exempt from regulations.
906.121	Reestablishment of districts.
906.122	[Reserved]
906.123	Fruit for processing.
906.137	Handlers use of identifying marks utilized by the committee in promotional and advertising projects.
906.151	Reports.
906.235	Assessment rate.

#### Subpart C—Container and Pack Requirements

906.340	Container, pack, and container marking regulations.
906.365	Texas Orange and Grapefruit Regulation 34.

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

#### Subpart A—Order Regulating Handling

SOURCE: 25 FR 9093, Sept. 22, 1960, unless otherwise noted. Redesignated at 26 FR 12751, Dec. 30, 1961.