

# Rules and Regulations

Federal Register

Vol. 72, No. 233

Wednesday, December 5, 2007

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 905

[Docket No. AMS-FV-07-0088; FV07-905-1 FIR]

#### Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Decreased Assessment Rate

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule which decreased the assessment rate established for the Citrus Administrative Committee (Committee) for the 2007-08 and subsequent fiscal periods from \$0.008 to \$0.0072 per  $\frac{4}{5}$  bushel carton of oranges, grapefruit, tangerines, and tangelos handled. The Committee locally administers the marketing order which regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. Assessments upon Florida citrus handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**EFFECTIVE DATE:** January 4, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Manager, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (863) 324-3375, Fax: (863) 325-8793, or E-mail: [Doris.Jamieson@usda.gov](mailto:Doris.Jamieson@usda.gov) or [Christian.Nissen@usda.gov](mailto:Christian.Nissen@usda.gov).

Small businesses may request information on complying with this

regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Florida citrus handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable oranges, grapefruit, tangerines, and tangelos grown in Florida beginning August 1, 2007, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than

20 days after the date of the entry of the ruling.

This rule continues in effect the action that decreased the assessment rate established for the Committee for the 2007-08 and subsequent fiscal periods from \$0.008 per  $\frac{4}{5}$  bushel carton to \$0.0072 per  $\frac{4}{5}$  bushel carton of oranges, grapefruit, tangerines, and tangelos grown in Florida.

The Florida citrus marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of oranges, grapefruit, tangerines, and tangelos. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2005-06 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on May 29, 2007, and unanimously recommended 2007-08 expenditures of \$275,000 and an assessment rate of \$0.0072 per  $\frac{4}{5}$  bushel of oranges, grapefruit, tangerines, and tangelos grown in Florida. In comparison, last year's budgeted expenditures were \$241,000. The assessment rate of \$0.0072 is \$0.0008 lower than the rate previously in effect. This reduction was recommended because the Committee experienced an unanticipated increase in shipments for the 2006-07 fiscal period and had revenues greater than expenses. In addition, the industry has continued to recover from the hurricane damage sustained during the 2004-05 and 2005-06 seasons, which is expected to have a positive affect on total production.

The major expenditures recommended by the Committee for the 2007-08 fiscal year include \$112,000 for salaries, \$25,000 for Manifest

Department—Florida Department of Agriculture and Customer Services (FDACS), \$17,800 for retirement plan, and \$14,550 for insurance and bonds. Budgeted expenses for these items in 2006–07 were \$110,000, \$25,000, \$17,250, and \$14,550, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of oranges, grapefruit, tangerines, and tangelos. Florida citrus shipments for the year are estimated at 30 million  $\frac{4}{5}$  bushels which should provide \$216,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve will be adequate to cover budgeted expenses. Funds in the reserve (currently approximately \$60,000) will be kept within the maximum permitted by the order of not to exceed one half of one fiscal period's expenses as stated in § 905.42(a).

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2007–08 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

#### Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are

unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 8,000 producers of oranges, grapefruit, tangerines, and tangelos in the production area and approximately 55 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$6,500,000 (13 CFR 121.201).

Based on industry and Committee data, the average annual f.o.b. price for fresh Florida citrus during the 2005–06 season was approximately \$11.50 per  $\frac{4}{5}$ -bushel carton, and total fresh shipments were approximately 29.1 million cartons. Using the average f.o.b. price, at least 70 percent of the Florida citrus handlers could be considered small businesses under SBA's definition. In addition, based on production and producer prices reported by the National Agricultural Statistics Service, and the total number of Florida citrus producers, the average annual producer revenue is approximately \$55,540. Therefore, the majority of handlers and producers of Florida citrus may be classified as small entities.

This rule continues in effect the action that decreased the assessment rate established for the Committee and collected from handlers for the 2007–08 and subsequent fiscal periods from \$0.008 to \$0.0072 per  $\frac{4}{5}$  bushel carton of oranges, grapefruit, tangerines, and tangelos. The Committee unanimously recommended 2007–08 expenditures of \$275,000 and an assessment rate of \$0.0072 per  $\frac{4}{5}$  bushel carton. The assessment rate of \$0.0072 is \$0.0008 lower than the 2006–07 rate. The quantity of assessable oranges, grapefruit, tangerines, and tangelos for the 2007–08 season is estimated at 30 million  $\frac{4}{5}$  bushel cartons. Thus, the \$0.0072 rate should provide \$216,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve will be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2007–08 fiscal year include \$112,000 for salaries, \$25,000 for Manifest Department—FDACS, \$17,800 for retirement plan, and \$14,550 for insurance and bonds. Budgeted expenses for these items in 2006–07

were \$110,000, \$25,000, \$17,250, and \$14,550, respectively.

The reduction in the assessment rate was recommended by the Committee as a result of an unanticipated increase in shipments for the 2006–07 fiscal period, which produced revenues that were greater than expenses. In addition, the industry has continued to recover from the hurricane damage sustained during the 2004–05 and 2005–06 seasons, which is expected to have a positive impact on production.

The Committee reviewed and unanimously recommended 2007–08 expenditures of \$275,000. Prior to arriving at this budget, the Committee considered information from various sources including the Committee's Budget Subcommittee. Alternative expenditure levels were discussed by this group, based on different estimates of assessable cartons and budget expenses. The assessment rate of \$0.0072 per  $\frac{4}{5}$  bushel carton of assessable oranges, grapefruit, tangerines, and tangelos was then determined by dividing the total recommended budget by the quantity of assessable Florida citrus, estimated at 30 million  $\frac{4}{5}$  bushel cartons for the 2007–08 season, taking into consideration the availability of reserve funds and interest income. This is approximately \$59,000 under anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the producer price for the 2007–08 season could range between \$1.83 and \$9.76 per  $\frac{4}{5}$  bushels of oranges, grapefruit, tangerines, and tangelos. Therefore, the estimated assessment revenue for the 2007–08 fiscal period as a percentage of total producer revenue could range between .07 and .39 percent.

This action continues in effect the action that decreased the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Florida citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 29, 2007, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements

on either small or large Florida citrus handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

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

An interim final rule concerning this action was published in the **Federal Register** on July 30, 2007 (72 FR 41423). Copies of that rule were also mailed or sent via facsimile to all citrus handlers. Finally, the interim final rule was made available through the Internet by USDA and the Office of the **Federal Register**. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on September 28, 2007, and no comments were received.

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

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 905

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

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

■ Accordingly, the interim final rule amending 7 CFR part 905 which was published at 72 FR 41423 on July 30, 2007, is adopted as a final rule without change.

Dated: November 29, 2007.

**Lloyd C. Day,**

Administrator, Agricultural Marketing Service.

[FR Doc. E7-23529 Filed 12-4-07; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**14 CFR Parts 11, 13, 17, 36, 91, 139, 150, 193, 404, and 406**

#### Change in Address for the Department of Transportation (DOT) and DOT Migration to the Federal Docket Management System (FDMS)

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** This action updates the Department of Transportation (DOT) addresses, changes references from the Docket Management System to the Federal Docket Management System (FDMS), and removes obsolete information listed in FAA regulations as a result of DOT's relocation, migration to the Federal electronic docket system, and closure of the DOT Branch Library. The intended effect of this action is to ensure that the regulated public is informed of address changes, electronic docket changes, and other administrative matters.

**DATES:** Effective December 5, 2007.

**FOR FURTHER INFORMATION CONTACT:** Barbara Dinkins, Office of Rulemaking, ARM-210, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202-493-4657); facsimile: (202-267-5075); e-mail: [barbara.b.dinkins@faa.gov](mailto:barbara.b.dinkins@faa.gov).

**SUPPLEMENTARY INFORMATION:** This technical amendment addresses the following administrative changes—

(1) The Department of Transportation (DOT) relocation of its entire headquarters to 1200 New Jersey Avenue, SE., Washington, DC;

(2) The DOT migration to the governmentwide electronic Federal Document Management System (FDMS) which replaces the old DOT Docket Management System (DMS); and

(3) Closure of DOT Transportation Branch Library.

As a result of these changes, the FAA is amending 14 CFR parts 11, 13, 17, 36, 91, 139, 150, 193, 404, and 406.

Because these actions are merely administrative in nature and removes outdated references, the FAA finds that notice and public procedure under 5 U.S.C. 553(b) is unnecessary. For the same reason, the FAA finds that good cause exists under 5 U.S.C. 553(d) for making this amendment effective upon publication.

## List of Subjects

### 14 CFR Part 11

Administrative practice and procedure, Reporting and recordkeeping requirements.

### 14 CFR Part 13

Administrative practice and procedure, Air transportation, Aviation safety, Hazardous materials transportation, Investigations, Law enforcement, Penalties.

### 14 CFR Part 17

Administrative practice and procedure, Authority delegations (Government agencies), Government contracts.

### 14 CFR Part 36

Agriculture, Aircraft, Noise control.

### 14 CFR Part 91

Afghanistan, Agriculture, Air traffic control, Aircraft, Airmen, Airports, Aviation Safety, Canada, Cuba, Ethiopia, Freight, Mexico, Noise control, Political candidates, Reporting and recordkeeping requirements, Yugoslavia.

### 14 CFR Part 139

Air carriers, Airports, Aviation safety, Reporting and recordkeeping requirements.

### 14 CFR Part 150

Airports, Noise control.

### 14 CFR Part 193

Air transportation, Aviation safety, Reporting and recordkeeping requirements, Security measures.

### 14 CFR Part 404

Administrative practice and procedure, Space transportation and exploration.

### 14 CFR Part 406

Administrative practice and procedure, Confidential business information, Investigations, Penalties, Space transportation and exploration.

## The Amendments

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR chapters I and III as follows:

## PART 11—GENERAL RULEMAKING PROCEDURES

■ 1. The authority citation for part 11 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.