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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. AMS-FV-07-0017; FV07-905-610 Review]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Section 610 Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Confirmation of regulations.

SUMMARY: This action summarizes the results under the criteria contained in section 610 of the Regulatory Flexibility Act (RFA), of an Agricultural Marketing Service (AMS) review of Marketing Order No. 905, regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida (order). AMS has determined that the order should be continued.

ADDRESSES: Interested persons may obtain a copy of the review. Requests for copies should be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938; or E-mail: moab.docketclerk@usda.gov. A copy of the review may also be obtained via the Internet at: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson or Christian D. Nissen, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Winter Haven, Florida 33884; Telephone: (863) 324-3375; Fax: (863) 325-8793; or E-mail: Doris.Jamieson@usda.gov or Christian.Nissen@usda.gov.

SUPPLEMENTARY INFORMATION: Marketing Order No. 905, as amended (7 CFR part

905), regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The order establishes the Citrus Administrative Committee (Committee) as the administrative body charged with overseeing program operations. Staff is hired to conduct the daily administration of the program. The Committee consists of 18 members. There are nine grower members representing four districts, and eight shipper members representing both independent shippers and cooperative marketing organizations, and one nonindustry member who represents the public. Each member has an alternate. Grower members and alternate members are elected through nomination meetings held in each district. Shipper members and alternate members are elected at a nomination meeting of shippers. The public member and alternate are nominated by the Committee.

Currently, there are approximately 8,000 producers and approximately 75 handlers of Florida citrus. The majority of growers and handlers may be classified as small entities. The regulations implemented under the order are applied uniformly and are designed to benefit all entities, regardless of size.

AMS published in the **Federal Register** on February 18, 1999 (64 FR 8014), a plan to review certain regulations, including Marketing Order No. 905, under criteria contained in section 610 of the RFA (5 U.S.C. 601-612). Updated plans were published in the **Federal Register** on January 4, 2002 (67 FR 525), August 14, 2003 (68 FR 48574), and again on March 24, 2006 (71 FR 14827). Accordingly, AMS published a notice of review and request for written comments on the Florida citrus marketing order in the June 20, 2007, issue of the **Federal Register** (72 FR 33918). The deadline for comments ended August 20, 2007. Two comments were received in response to the notice, and are discussed later in this document.

The review was undertaken to determine whether the Florida citrus marketing order should be continued

without being changed, amended, or rescinded to minimize the impacts on small entities. In conducting this review, AMS considered the following factors: (1) The continued need for the order; (2) the nature of complaints or comments received from the public concerning the order; (3) the complexity of the order; (4) the extent to which the order overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the order has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the order.

The order authorizes grade, size, maturity, and quality regulations, as well as reporting and inspection requirements. The order also authorizes volume regulation by limiting the shipments of any grade or size of any variety. The grade, size, maturity, and inspection regulations are also applied to imported grapefruit and oranges under section 608e of the Act.

The grade, size, and maturity requirements have helped maintain demand for Florida citrus over the years by ensuring only quality product reaches the consumer. The volume control provisions of the order have helped stabilize supplies and prices of red seedless grapefruit by preventing the market from being flooded with small sizes during the early part of the season. The compilation and dissemination of aggregate statistical information collection from handlers is used by the industry to make informed production and marketing decisions. Funds to administer the order are obtained from handler assessments.

Regarding complaints or comments received from the public concerning the order, AMS received two comments. One comment raised issues concerning country of origin labeling, which is outside the scope of this 610 review. One comment was in favor of the continuation of the order and addressed three of the five factors under consideration by AMS. The commenter noted that the marketing order helps to ensure high quality Florida citrus reaches the fresh market. The commenter also favored the Department's policy of recognizing small businesses and reviewing customer complaints.

Marketing order issues and programs are discussed at public meetings, and all interested persons are allowed to express their views. All comments are considered in the decision making process by the Committee and the AMS before any program changes are implemented.

In considering the order's complexity, AMS has determined that the order is not unduly complex.

During the review, the order was also checked for duplication and overlap with other regulations. AMS did not identify any relevant Federal rules, or State and local regulations that duplicate, overlap, or conflict with the marketing order for Florida citrus. The Florida Department of Citrus, a state organization, is authorized to conduct marketing promotion programs and research for the Florida citrus industry. The marketing order currently does not have authority for marketing promotion and research.

The order was established in 1939 and was last amended in September, 1989. During the 68 years the order has been effective, AMS and the Florida citrus industry have continuously monitored marketing operations. Changes in regulations have been implemented to reflect current industry operating practices, and to solve marketing problems as they occur. The goal of periodic evaluations is to ensure that the order and the regulations implemented under it fit the needs of the industry and are consistent with the Act.

The Committee meets several times a year to discuss the order and the various regulations issued thereunder, and to determine if, or what, changes may be necessary to reflect current industry practices. As a result, regulatory changes have been made numerous times over the years to address industry operation changes and to improve program administration. In addition, in May 2007, the Committee voted to amend the order, recommending several changes including adding the authority for research and promotion under the order. Currently, there is an on-going formal rulemaking proceeding to amend the order (see 73 FR 5130).

Based on the potential benefits of the order to producers, handlers, and consumers, AMS has determined that the Florida citrus marketing order should be continued. The order was established to help the Florida citrus industry work with USDA to solve marketing problems. The order's regulations on grade, size, quality, and maturity continue to be beneficial to producers, handlers, and consumers. AMS will continue to work with the

Florida citrus industry in maintaining an effective marketing order program.

Dated: March 12, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8-5359 Filed 3-17-08; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. AMS-FV-07-0160; FV08-916/917-1 IFR]

Nectarines and Peaches Grown in California; Changes in Handling Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule changes the handling requirements applicable to well matured fruit covered under the nectarine and peach marketing orders (orders). The orders regulate the handling of nectarines and peaches grown in California and are administered locally by the Nectarine Administrative and Peach Commodity Committees (committees). This rule updates the variety-specific size requirements to reflect changes in commercially significant varieties. This will enable handlers to continue to ship fresh nectarines and peaches in a manner that meets consumer needs, increases returns to producers and handlers, and reflects current industry practices.

DATES: Effective March 19, 2008; comments received by May 19, 2008 will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938, or Internet: <http://www.regulations.gov>. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection at the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Jennifer Garcia, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487-5901, Fax: (559) 487-5906; or E-mail: Jen.Garcia@usda.gov or Kurt.Kimmel@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.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order Nos. 916 and 917, both as amended (7 CFR parts 916 and 917), regulating the handling of nectarines and peaches grown in California, respectively, hereinafter referred to as the "orders." The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule changes the handling requirements applicable to well matured fruit covered under the nectarine and