

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. AO-85-A10; AMS-FV-07-0132; FV08-905-1]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Hearing on Proposed Amendment of Marketing Agreement 84 and Order No. 905

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of hearing on proposed rulemaking.

SUMMARY: Notice is hereby given of a public hearing to receive evidence on proposed amendments to Marketing Agreement No. 84 and Order No. 905 (order), which regulate the handling of oranges, grapefruit, tangerines, and tangelos (citrus) grown in Florida. Four amendments are proposed by the Citrus Administrative Committee (committee), which is responsible for local administration of the order. These proposed amendments would: modify committee representation by cooperative entities; allow additional alternates to represent absent members of the committee to better meet quorum requirements; add authority to conduct committee meetings by telephone or other means of communication; and add authority for marketing promotions, including paid advertising, and production research for fresh Florida citrus. In addition, the Agricultural Marketing Service (AMS) proposes to make any such changes as may be necessary to the order to conform to any amendment that may result from the hearing. These proposed amendments are intended to improve the operation and administration of the order.

DATES: The hearing dates are February 12, 2008, 9 a.m. to 5 p.m.; and continuing on February 13, 2008, at 9 a.m., if necessary, in Winter Haven, Florida.

ADDRESSES: The hearing will be held at the Florida Department of Agriculture and Consumer Services, 500 3rd Street, NW., Winter Haven, FL 33881.

FOR FURTHER INFORMATION CONTACT: Melissa Schmaedick, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 S.W. Third Avenue, Room 385, Portland, Oregon 97204; Telephone: (503) 326-2724, Fax: (503) 326-7440, or e-mail: Melissa.Schmaedick@usda.gov; or Laurel May, 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: Laurel.May@usda.gov.

Small businesses may request information on this proceeding 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 administrative action is instituted pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act." This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

The Regulatory Flexibility Act (5 U.S.C. 601-612) seeks to ensure that within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. Interested persons are invited to present evidence at the hearing on the possible regulatory and informational impacts of the proposals on small businesses.

The amendments proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with the proposals.

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. 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 the USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The hearing is called pursuant to the provisions of the Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900).

The proposed amendments were recommended by the committee on May 29, 2007, and submitted to USDA on August 16, 2007. After reviewing the proposals and other information submitted by the committee, USDA made a determination to schedule this matter for hearing. The proposed amendments to the order recommended by the committee are summarized as follows:

1. Reduce committee representation by producers and shippers affiliated with cooperative marketing organizations. This proposal would amend § 905.23, Selection, and would result in conforming changes being made to § 905.22, Nominations.

2. Add authority to allow additional alternates to represent absent committee members at committee meetings to better meet quorum requirements. This proposal would amend § 905.29, Inability of members to serve.

3. Add authority to conduct committee meetings by telephone or other means of communication technology. This proposal would amend § 905.34, Procedure of committees.

4. Add a new § 905.54 to provide authority to establish and conduct research and promotion activities, including paid advertising.

The committee works with USDA in administering the order. These proposals submitted by the committee

have not received the approval of USDA. The committee believes that its proposed changes would improve the operation and administration of the order by reallocating committee membership to better reflect current industry makeup and by fostering greater participation in committee business meetings. The committee also believes that the research and promotional needs of the fresh citrus industry would be better addressed through programs administered under order authority.

In addition to the proposed amendments to the order, AMS proposes to make any such changes as may be necessary to the order to conform to any amendment that may result from the hearing.

The public hearing is held for the purpose of: (i) Receiving evidence about the economic and marketing conditions which relate to the proposed amendments of the order; (ii) determining whether there is a need for the proposed amendments to the order; and (iii) determining whether the proposed amendments or appropriate modifications thereof will tend to effectuate the declared policy of the Act.

Testimony is invited at the hearing on all the proposals and recommendations contained in this notice, as well as any appropriate modifications or alternatives.

All persons wishing to submit written material as evidence at the hearing should be prepared to submit four copies of such material at the hearing and should have prepared testimony available for presentation at the hearing.

From the time the notice of hearing is issued and until the issuance of a final decision in this proceeding, USDA employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an *ex parte* basis with any person having an interest in the proceeding. The prohibition applies to employees in the following organizational units: Office of the Secretary of Agriculture; Office of the Administrator, AMS; Office of the General Counsel; and the Fruit and Vegetable Programs, AMS.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

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

For the reasons set forth in the preamble, 7 CFR part 905 is proposed to be amended as follows:

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

Authority: 7 U.S.C. 601–674.

2. Testimony is invited on the following proposals or appropriate alternatives or modifications to such proposals.

Proposals submitted by the Citrus Administrative Committee:

Proposal Number 1

3. Amend § 905.22 by revising paragraphs (a)(2) and (b)(2) to read as follows:

§ 905.22 Nominations.

(a) * * *

(1) * * *

(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 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) * * *

(1) * * *

(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 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.

4. Revise § 905.23 to read as follows:

§ 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.

(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.

Proposal Number 2

5. In § 905.29, redesignate paragraph (b) as paragraph (c), and add a new paragraph (b) to read as follows:

§ 905.29 Inability of members to serve.

* * * * *

(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 represents the same district and group affiliation as the absent member. If the member is unable to designate such an alternate, the committee members present may designate such alternate: *Provided that*, to the extent possible, the substitute alternate represents the same district and group affiliation of the absent member.

* * * * *

Proposal Number 3

6. Revise paragraph (c) of § 905.34 to read as follows:

§ 905.34 Procedure of committees.

* * * * *

(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.

* * * * *

Proposal Number 4

7. Add a new § 905.54 to read as follows:

§ 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.

Proposal Submitted by USDA

Proposal Number 5

Make other such changes as may be necessary to the order to conform with any amendment thereto that may result from the hearing.

Dated: January 24, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 08-362 Filed 1-25-08; 9:15 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. APHIS-2007-0095]

RIN 0579-AC63

Importation of Cattle From Mexico; Addition of Port at San Luis, AZ

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations regarding the importation of cattle from Mexico by adding San Luis, AZ, as a port through which cattle that have been infested with fever ticks or exposed to fever ticks or tick-borne diseases may be imported into the United States. A new facility for the handling of animals is to be constructed on the Mexican side of the border at the port of San Luis, AZ, that will be equipped with facilities necessary for the proper chute inspection, dipping, and testing that are required for such cattle under the regulations. We would also amend the regulations to remove provisions that limit the admission of cattle that have been infested with fever ticks or exposed to fever ticks or tick-borne diseases to the State of Texas. The statutory requirement that limited the admission of those cattle to the State of Texas has been repealed. These proposed changes would make an

additional port of entry available and relieve restrictions on the movement of imported Mexican cattle within the United States.

DATES: We will consider all comments that we receive on or before March 31, 2008.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0095> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS-2007-0095, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2007-0095.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

FOR FURTHER INFORMATION CONTACT: Dr. Freeda Isaac, Assistant Director for Animal Import, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 734-6479.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 93 prohibit or restrict the importation of certain animals, birds, and poultry into the United States to prevent the introduction of communicable diseases of livestock and poultry. Subpart D of part 93 (§§ 93.400 through 93.436, referred to below as the regulations) governs the importation of ruminants; within subpart D, §§ 93.424 through 93.429 specifically address the importation of various ruminants from Mexico into the United States.

In § 93.426, paragraph (a) states that all ruminants offered for entry into the United States from Mexico must be inspected at the port of entry and found to be free from communicable diseases

and fever tick infestation and to not have been exposed to communicable diseases and fever tick infestation. Ruminants found to be affected with or to have been exposed to a communicable disease, or infested with fever ticks, are to be refused entry except as provided in § 93.427(b)(2).

Under § 93.427(b)(2), cattle that have been exposed to splenetic, southern, or tick fever, or that have been infested with or exposed to fever ticks, may be imported from Mexico for admission into the State of Texas, except that portion of the State quarantined because of fever ticks, either at one of the land border ports in Texas listed in § 93.403(c) of the regulations, or at the port of Santa Teresa, NM, provided that certain conditions are met. Those conditions are spelled out in paragraphs (b)(2)(i) through (b)(2)(v) of § 93.427.

In a proposed rule published in the **Federal Register** (70 FR 67933-67935, Docket No. 05-041-1) on November 9, 2005, we proposed to amend the regulations governing the importation of cattle from Mexico (referred to below as the regulations) by adding San Luis, AZ, as a port through which cattle that have been infested with fever ticks or exposed to fever ticks or tick-borne diseases may be imported into the United States. We also proposed to amend the regulations to remove the limitation that cattle that have been infested with ticks or tick-borne diseases may only be imported into Texas and that prohibits the movement of such cattle into areas of Texas that are quarantined because of fever ticks.

We solicited comments concerning our proposal for 60 days ending January 9, 2006. We received a total of 11 comments by that date. They were from representatives of the cattle industry, State agriculture and animal health departments, and private citizens. Three of the commenters supported the proposed rule. The remaining commenters were opposed to the proposed rule, citing concerns about importing Mexican cattle, maintaining and staffing the new port, or increasing the risk of spreading bovine piroplasmiasis (another name for splenetic, southern, or tick fever) to domestic cattle within Texas or California.

After considering the concerns raised by several of the commenters, on April 13, 2006, we published a withdrawal of the proposed rule (71 FR 19134-19135; Docket No. 05-041-2) pending further analysis of the animal health risks associated with the proposed changes. As part of our evaluation, we prepared a risk assessment. Copies of the risk