

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.

GENERAL ACCOUNTING OFFICE

4 CFR Part 2

Prohibited Personnel Practices

AGENCY: General Accounting Office.

ACTION: Proposed rule.

SUMMARY: This rule revises the provision concerning prohibited personnel practices against an applicant or employee with a disability, by eliminating the reference to the Rehabilitation Act and replacing it with the Americans with Disabilities Act (ADA), to clarify that GAO's legal responsibilities to the disabled derive from the ADA rather than the Rehabilitation Act.

DATES: Comments must be submitted on or before September 27, 1996.

ADDRESSES: Comments may be mailed to the U.S. General Accounting Office, Office of General Counsel, Legal Services Division, Room 7861, 441 G Street, NW., Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Barbara J. Simball, Senior Attorney, (202) 512-8404.

SUPPLEMENTARY INFORMATION: A review of GAO's Personnel System regulations has shown that the current version of 4 CFR 2.5(a)(4) should be revised. In prohibiting certain personnel actions against persons with disabilities, 4 CFR 2.5(a)(4) implies that GAO is covered by section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791). As a legislative branch agency, GAO is not covered by the Rehabilitation Act of 1973, but rather by the ADA. The ADA prohibits discrimination against persons with disabilities. 4 CFR 2.5 is being amended to reflect GAO's coverage by the ADA.

List of Subjects in 4 CFR Part 2

Civil rights, Nondiscrimination, Employment, Handicapped.

For the reasons set out in the preamble, part 2 of title 4, chapter I, subchapter A of the Code of Federal Regulations is amended as follows:

PART 2—[AMENDED]

1. The authority citation to part 2 continues to read as follows:

Authority: 31 U.S.C. 732.

2. Section 2.5 is amended by revising paragraph (a)(4) to read as follows:

§ 2.5 Prohibited personnel practices.

* * * * *

(a) * * *

(4) On the basis of disability as prohibited under section 509(c) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209(c)); or

* * * * *

Robert P. Murphy,

General Counsel.

[FR Doc. 96-21434 Filed 8-27-96; 8:45 am]

BILLING CODE 1610-01-P

4 CFR Part 7

Personnel Relations and Services

AGENCY: General Accounting Office.

ACTION: Proposed rule.

SUMMARY: This rule revises the provision concerning GAO's prohibition of discrimination against employees or applicants with disabilities by eliminating the reference to the Rehabilitation Act and replacing it with the Americans with Disabilities Act (ADA), to clarify that GAO's legal responsibilities to the disabled derive from the Americans with Disabilities Act rather than the Rehabilitation Act.

DATES: Comments must be submitted on or before 30 days from September 27, 1996.

ADDRESSES: Comments may be mailed to the U.S. General Accounting Office, Office of General Counsel, Legal Services Division, Room 7861, 441 G Street, NW., Washington, DC. 20548.

FOR FURTHER INFORMATION CONTACT: Barbara J. Simball, Senior Attorney, (202) 512-8404.

SUPPLEMENTARY INFORMATION: A review of GAO's Personnel Relations regulations has shown that the current version of 4 CFR 7.2(c)(4) should be revised. In setting forth GAO's equal employment opportunity commitments, 4 CFR 7.2(c)(4) implies that GAO is covered by sections 501 and 505 of the Rehabilitation Act of 1973 (29 U.S.C. 791, 794a). As a legislative branch agency, GAO is not covered by the Rehabilitation Act of 1973, but rather by

the ADA, which prohibits discrimination against persons with disabilities. 4 CFR 7.2 is being amended to reflect GAO's coverage by the ADA.

List of Subjects in 4 CFR Part 7

Civil rights, Nondiscrimination, Employment, Handicapped.

For the reasons set out in the preamble, part 7 of title 4, chapter I, subchapter A of the Code of Federal Regulations is amended as follows:

PART 7—[AMENDED]

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

Authority: 31 U.S.C. 732.

2. Section 7.2 is amended by revising paragraph (c)(4) to read as follows:

§ 7.2 Equal employment opportunity.

* * * * *

(c) ***

(4) By section 509(c) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209(c)); or

* * * * *

Robert P. Murphy,

General Counsel.

[FR Doc. 96-21435 Filed 8-27-96; 8:45 am]

BILLING CODE 1610-01-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV-96-905-2PR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Procedures to Limit the Volume of Small Florida Red Seedless Grapefruit and Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on the addition of a section to the rules and regulations currently prescribed under the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida. This action also announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to the currently approved information

collection requirements issued under the marketing order. The marketing order is administered locally by the Citrus Administrative Committee (committee). This rule would establish procedures for limiting the volume of small red seedless grapefruit entering the fresh market during the first 11 weeks of each season. The committee believes these procedures could be used, when necessary, to help stabilize the market and improve grower returns.

DATES: Comments must be received by September 27, 1996. Pursuant to the Paperwork Reduction Act, comments on the information collection burden must be received by October 28, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, D.C. 20090-6456, Fax # (202) 720-5698. All comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456; telephone (202) 720-2491, Fax # (202) 720-5698.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Southeast Marketing Field Office, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883-2276; telephone: (941) 299-4770, Fax # (941) 299-5169; or Caroline Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2522-S, Washington, D.C. 20090-6456; telephone: (202) 720-8139, Fax # (202) 720-5698.

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

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

This proposal has been reviewed under Executive Order 12988, Civil

Justice Reform. This rule is not intended to have retroactive effect. This proposal 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 the Secretary 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 the Secretary 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 the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

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 rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 100 handlers subject to regulation under the order and approximately 11,000 producers of citrus in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000. The majority of handlers and producers of citrus grown in Florida may be classified as small entities.

This proposed rule would add procedures to the rules and regulations itself. It would not establish any volume regulation. Any implementation of these procedures concerning regulation would require further committee action and additional public rulemaking by the Department.

However, if the procedures in this proposal were used and volume

regulations established, all growers and handlers would be impacted equitably. Before any implementation would occur, the committee would meet and consider any and all economic data available. The goal of this proposal is to provide an additional tool, if needed, to help stabilize the price of red grapefruit. In the past three seasons, during the period which would be covered by this proposed rule, prices of red seedless grapefruit have fallen from an average f.o.b. of \$7.80 per box to an average f.o.b. of \$5.50 per box. On tree prices for fresh red seedless grapefruit have declined steadily from \$9.60 per box during the 1989-90 season, to \$3.45 per box during the 1994-95 season. In many cases, prices during the past two seasons have provided returns less than production costs. This price reduction is forcing many small producers out of business. A stabilized price that returns a fair market value would be beneficial to both small and large producers and handlers.

Based on this information, the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities. Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

The order provides for the establishment of grade and size requirements for Florida citrus. These grade and size requirements are designed to provide fresh markets with citrus fruit of acceptable quality and size, thereby maintaining consumer confidence for fresh Florida citrus. This helps create buyer confidence and contributes to stable marketing conditions. This is in the interest of producers, handlers, and consumers, and is designed to increase returns to Florida citrus producers. The current minimum grade standard for red seedless grapefruit is U.S. No. 1, and the minimum size requirement is size 56 (at least 3⁵/₁₆ inches in diameter).

This proposal invites comments on the addition of a section to the rules and regulations under the order. This rule would establish procedures for limiting the volume of small red seedless grapefruit entering the fresh market during the first 11 weeks of each season. The red seedless grapefruit season runs from mid-September to May. This rule would provide an additional tool under the order to help stabilize the market and improve returns to growers. These changes were recommended by the committee at its meeting on May 24, 1996, by a 10 to 4 vote.

Section 905.52 of the Florida citrus marketing order provides authority to

limit shipments of any grade or size, or both, of any variety of Florida citrus. Such limitations may restrict the shipment of a portion of a specified grade or size of a variety. Under such a limitation, 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 a prior period, established by the committee and approved by the Secretary, in which the handler shipped such variety. This proposed rule would add § 905.153 to the rules and regulations to establish a specified prior period and other procedures necessary to limit the volume of small red seedless grapefruit, sizes 48 and 56, entering the fresh market during the first 11 weeks of the season.

Currently, there are no limitations on the amount of size 48 and size 56 red seedless grapefruit that can be shipped to market. This rule in itself would not limit shipments, but would outline procedures to do so if needed. Implementation of these procedures to limit shipments would require further rulemaking.

The committee recommended this rule to address problems currently facing the industry. For the past few seasons, returns on red seedless grapefruit have been at all time lows, often not returning the cost of production. Fifty-nine percent of red seedless grapefruit is shipped to fresh market channels. There is a processing outlet for grapefruit not sold into the fresh market. The vast majority of processing is squeezing the grapefruit for juice. Because of the properties of the juice of red seedless grapefruit, including problems with color, the processing outlet is limited, and not currently profitable.

Several areas of new plantings in the southern growing region are just beginning to bear fruit. Young trees normally produce mostly small fruit when they first come into production. Florida producers and handlers realize that these new acres will add to the abundance of small sizes of red seedless grapefruit.

The committee believes that to stabilize the market and improve returns to producers, demand for fresh red seedless grapefruit must be stabilized and increased. One problem contributing to the current state of the market is the excessive number of small sized grapefruit shipped early in the marketing season. While there is a market for early grapefruit, the shipment of large quantities of small red seedless grapefruit in a short period oversupplies the fresh market for these sizes and

negatively impacts the market for all sizes.

The committee believes that the overshipment of smaller sized red seedless grapefruit early in the season has contributed to below production cost returns for producers. Based on statistical information from past seasons, there is an indication that once shipments of sizes 48 and 56 reach levels above 250,000 cartons a week, prices decline on those and most other sizes of red seedless grapefruit. Thus, even though later in the season the crop has sized to naturally limit the amount of smaller sizes available for shipment, the price structure in the market has already been negatively affected.

For the majority of the season, larger sizes return better prices than smaller sizes. If these small grapefruit were allowed to remain on the tree to increase in size and maturity, they could provide greater returns to producers. Delaying the harvest of small sizes may also extend the season, thereby increasing the total volume of fresh shipments and improving producer returns. Without volume regulation, the industry has been unable to limit the shipments of small sizes. The committee believes that if shipments of small sizes could be maintained at around 250,000 cartons a week, prices should stabilize and demand for larger, more profitable sizes should increase.

Similar procedures to those considered in this rule are already in place for Dancy tangerines under § 905.152. While the committee has not utilized these procedures for several years, they were successfully implemented for several seasons.

Under the proposed procedures, the authority to limit the shipment of sizes 48 and 56 red seedless grapefruit would only be available for the 11-week period from the third Monday in September (week #1) through the first Sunday in December (week #11), hereinafter called the regulatory period. The committee recommended these weeks for regulation because the majority of small sizes are shipped during this period. By the end of the regulatory period, fruit has begun to size naturally, and there are fewer small sizes available.

The committee may recommend that only a certain percentage of size 48 ($3\frac{3}{16}$ minimum diameter in inches) and size 56 ($3\frac{5}{16}$ minimum diameter in inches) red seedless grapefruit be made available for shipment into fresh market channels for any week or weeks during the regulatory period. Should the committee decide to recommend the limitation of shipments of sizes 48 and 56 red seedless grapefruit, they would

meet and recommend to the Secretary a percentage on which to base the amount of sizes 48 and 56 that could be shipped during a particular week or weeks during the regulatory period. The committee realizes that markets for these sizes do exist. Therefore, the percentage set could not be less than 25 percent of the calculated shipment base. These procedures are designed not to eliminate shipments of sizes 48 and 56, but to keep them from saturating the entire market.

Section 905.52 provides that whenever any size limitation restricts the shipment of a portion of a specified size, the quantity of such 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 as established by the committee and approved by the Secretary.

This proposed rule would establish the prior period as an average week within the immediately preceding five seasons. An average week would be calculated as follows. The total red seedless grapefruit shipments by a handler during the 33-week period beginning the third Monday in September and ending the first Sunday in May during the past five seasons would be added and divided by five to establish an average season. This average season would then be divided by the 33 weeks in a season to derive the average week. This week would be the basis for each shipper for each of the 11 weeks contained in the regulation period.

To illustrate, suppose Handler A shipped a total of 50,000 cartons, 65,000 cartons, 45,000 cartons, 80,000 cartons, and 25,000 cartons of red seedless grapefruit in the last five seasons, respectively. Adding these season totals and dividing by five yields an average season of 53,000 cartons. The average season would then be divided by 33 weeks to yield an average week, in this case, 1,606 cartons. This would be Handler A's base.

The committee chose to use the past five seasons for the average season to provide the most accurate picture of an average season. The use of an average week helps adjust for variations in growing conditions that may affect when fruit matures in different seasons and growing areas. The committee believes that this definition of prior period would provide each handler with an equitable base from which to establish shipments.

The average week for handlers with less than five previous seasons of shipments would be calculated by

averaging the total shipments for the seasons they did ship red seedless grapefruit during the immediately preceding five years and dividing that average by 33. New handlers with no record of shipments would have no prior period on which to base their average week. Therefore, if a volume regulation was established before such handlers have shipped any red seedless grapefruit, the new handlers could ship small sizes as a percentage of their total shipments equal to the percentage applied to other handlers' base. Once new handlers have established shipments, the average week would be calculated as an average of the weeks they have shipped during the current season.

To use these new procedures, the committee would meet and recommend a base percentage of sizes 48 and 56 that could enter the fresh market in any week or weeks from the first Monday in September through the first Sunday in December. If approved by the Secretary, this percentage would be applied to each handler's average week of fresh shipments to determine the amount (allocation) of sizes 48 and 56 red grapefruit each handler could ship. Each regulation period would begin Monday at 12:00 a.m. and end at 11:59 p.m. the following Sunday, since most handlers keep records based on Monday being the beginning of the work week.

When a size limitation is recommended to restrict the shipment during a particular week, the committee would compute each handler's allotment by multiplying the handler's average week by the percentage established by regulation for that week. Such set percentage could vary from week to week, but could not be less than 25 percent. The committee would notify each handler prior to the particular week of the quantity of sizes 48 and 56 red seedless grapefruit such handler could handle during a particular week.

To provide handlers with some flexibility, these procedures would provide allowances for overshipments, loans, and transfers of allotment. These allowances should allow handlers the opportunity each week to supply their markets while limiting the impact of small sizes.

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 could handle, in addition to their weekly allotment, an amount of size 48 and 56 red seedless grapefruit not to exceed 10 percent of that week's allotment. The quantity of overshipments would be deducted from the handler's allotment for the following

week. Overshipments would not be allowed during week 11 because there would be no allotments the following week from which to deduct the overshipments.

If handlers fail to use their entire allotments in a given week, the amounts unshipped would not be carried forward to the following week. However, a handler to whom an allotment has been issued could lend or transfer all or part of such allotment (excluding the overshipment allowance) to another handler. In the event of a loan of allotment, each party would, prior to the completion of the loan agreement, notify the committee of the proposed loan and date of repayment. If a transfer of allotment is desired, each party would promptly notify the committee so that proper adjustments of the records could be made. In each case, the committee would confirm in writing all such transactions prior to the following week. The committee could also act on behalf of handlers wanting to arrange allotment loans or participate in the transfer of allotment. Repayment of an allotment loan would be at the discretion of the handlers party to the loan.

In considering these procedures, the committee discussed several possible alternatives. One alternative considered was an amendment to the marketing order. The amendment would have changed the language regarding the "prior period" in section 905.52. However, this alternative was rejected because of the time required to amend the order.

The committee also discussed limiting or eliminating only shipments of size 56 grapefruit. However, the committee found that it is important to include both sizes 48 and 56 for this regulation to be effective. Also, the committee did not want to eliminate a size entirely. They realize there is a market for small sizes and wish to allow handlers to take advantage of this market without negatively affecting the market for other sizes.

Other concerns were raised during discussion of these procedures. One committee member questioned whether these procedures would allow him to continue to increase his business. It was explained that this action would only put tools in place to allow the limitation of just a certain percentage of the smaller sized red seedless grapefruit. A handler would not in any way be limited from shipping any amount of larger sizes. Another concern raised was the impact these procedures would have on harvesting. It was explained again that this rule would just establish procedures. However, if implemented, it

would require more selective picking of only the sizes desired, something that many are doing already.

After a lengthy discussion, the committee decided that it needs to have available a tool to regulate shipments of small sized red seedless grapefruit early in each marketing season. The committee voted to recommend the establishment of these procedures to provide them with that tool.

The committee reports that it expects that more red seedless grapefruit will be produced in Florida during the 1996-97 season than last season. The committee also expects that supplies of fresh Florida red seedless grapefruit will be adequate to meet consumer demand during the entire 1996-97 season.

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

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

The information collection requirements contained in this section must be approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13) and assigned OMB number 0581-0094 for Florida citrus.

This rule would increase the reporting burden on an estimated 10 handlers of red seedless grapefruit who would be taking about 0.083 hour to complete a report regarding allotment loans or transfers an average of 11 times per year. The total annual increase in burden would be about 9 hours.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments received within the comment period will be considered before a final determination is made on this matter.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the AMS announces its intention to request an extension for and revision to a currently approved information collection for Florida oranges, grapefruit, tangerines, and tangelos.

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

OMB Number: 0581-0094.

Expiration Date of Approval: August 31, 1998.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruits, vegetables and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of high quality product and adequate returns to producers. Under the Act, industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order operations and issue regulations recommended by a committee of representatives from each commodity industry.

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

The Florida citrus marketing order authorizes the issuance of grade, size, container, and pack regulations. It also authorizes the limitation of shipments of certain grades or sizes. Regulatory provisions apply to oranges, grapefruit, tangerines and tangelos shipped outside of the production area, except for those shipments specifically exempt.

The order, and rules and regulations issued thereunder, authorize the committee to require handlers and producers to submit certain information. Much of this information is compiled in aggregate and provided to the industry to assist in marketing decisions.

The committee has developed forms as a means for persons to file required information with the committee relating to citrus supplies, shipments, dispositions, and other information needed to effectively carry out the purpose of the Act and order. As shipments occur throughout the year, these forms are utilized accordingly. A USDA form is used to allow producers

to vote on amendments to the order and whether the order should be continued. In addition, producers and handlers who are nominated by their peers to serve as representatives on the committee must file nomination forms with the Secretary.

This proposed collection includes a new requirement for handlers to report to the committee any allotment loans or transfers during volume regulation of smaller size 48 (at least $3\frac{3}{16}$ inches) or 56 (at least $3\frac{5}{16}$ inches) red seedless grapefruit. Allowing transfers and loans would provide flexibility during such regulation, by allowing handlers to loan or transfer their individual allotments of smaller sized red seedless grapefruit. Requiring such transactions to be reported to the committee would ensure compliance with volume regulations and assist the committee and the Department with oversight and planning of volume regulation of red seedless grapefruit. This new requirement would increase the reporting burden on an estimated 10 handlers of red seedless grapefruit who would be taking about 0.083 hour to complete a report regarding allotment loans or transfers an average of 11 times per year. The total annual increase in burden would be about 9 hours.

These forms require the minimum information necessary to effectively carry out the requirements of the order, and their use is necessary to fulfill the intent of the Act as expressed in the order.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Division regional and headquarter's staff, and authorized employees of the committee. Authorized committee employees are the primary users and AMS employees are the secondary users of the information.

Estimate of Burden: Public reporting burden for this proposed collection of information is estimated to average 0.089 hours per response.

Respondents: Florida citrus producers and for-profit businesses handling fresh citrus.

Estimated Number of Respondents: 1,176.

Estimated Number of Responses per Respondent: 1

Estimated Total Annual Burden on Respondents: 204 hours.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Florida citrus marketing order program and the Department's oversight of that program, including whether the information will have practical utility; (b) the accuracy of AMS's burden estimate of the proposed

collection of information including the validity of methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of appropriate information on those who are to respond, including through the use of appropriate, automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581-0094 and the Florida citrus Marketing Order No. 905, and be sent to USDA in care of Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, room 2522-S, Washington, DC 20090-6456; telephone: 202-720-5127 or Fax: 202-720-5698.

All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Because there is insufficient time for a normal clearance procedure, AMS is seeking temporary approval from OMB for the use of a new form for this upcoming season. The form would be added to the forms which are currently approved for use under OMB Number 0581-0094.

List of Subjects in 7 CFR Part 905

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

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

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

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

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

2. A new § 905.153 is added to read as follows:

§ 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 five seasons. Each handler's average week shall be computed by adding the total volume of red seedless grapefruit handled in the immediately preceding five seasons and dividing the total by

165. The average week for handler with less than five previous seasons of shipments shall be calculated by adding the total volume of shipments for the seasons they did ship red seedless grapefruit, divided by the number of seasons, divided further by 33. 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 11 weeks beginning the third Monday in September and ending the first Sunday in December 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.

(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 week 11. If the handler fails to use his or her entire allotment, the undershipment is not carried forward to the following 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 promptly 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.

Dated: August 22, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96-21960 Filed 8-27-96; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 998

[Docket No. FV96-998-3 PR]]

Domestically Produced Peanuts Handled by Persons Subject to Peanut Marketing Agreement No. 146; Changes in Terms and Conditions of Indemnification

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on modifying, for 1996 and subsequent crop peanuts, the indemnification program for signatory handlers under Peanut Marketing Agreement No. 146 (Agreement). The proposed rule would reduce indemnification payment coverage to certain costs involved with appeal and product claims. This would reduce the Peanut Administrative Committee's (Committee's) indemnification payments for losses incurred by signatory handlers in not being able to ship unwholesome peanuts for edible purposes from a ceiling of \$7 million for each of the last two years, to about \$2300,000. With the proposed reduction in indemnification claim payments, the Committee will have adequate funds in its indemnification reserve to cover costs. No handler assessments for indemnification would be necessary. This would reduce signatory handlers' costs, enabling them to be more competitive with non-signatory handlers, and importers. The changes were recommended by the Committee, the administrative agency which oversees the quality assurance program under the Agreement.

DATES: Comments must be received by September 12, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2523-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 720-5698. All comments should reference the docket number, the date, and page number of this issue of the Federal Register and will be made

available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Jim Wendland, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, D.C. 20090-6456; telephone: (202) 720-2170, or Fax: (202) 720-5698; or William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883-2276; telephone: (941) 229-4770, or Fax: (941) 299-5169. Small businesses may request information on compliance with this proposed regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, D.C. 20090-6456; telephone: (202) 720-2491, or Fax: (202) 720-5698.

SUPPLEMENTARY INFORMATION: This proposal is issued under Peanut Marketing Agreement No. 146 (7 CFR part 998). The program regulates the quality of domestically produced peanuts handled by Agreement signers. The Agreement 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 U.S. Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to apply to 1996 (beginning July 1, 1996) and subsequent crop year peanuts. This proposal will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

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 agreements and orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

About 32 signatory peanut handlers are subject to regulation under the