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(B) Current enrollment of the Member or a member of his household as a student; and

(ii) A person who is an investigator or project director or who is otherwise identified in a proposal as a party to the proposal or award and with whom the Member has a family relationship as sibling, parent, spouse, or child. Any such relationship is automatically disqualifying.

(b) *Outside employment and activities.* (1) A Member of the National Science Board shall not represent himself, herself, or any other person in negotiations or other dealings with an NSF official on any proposal, award, or other particular matter, as defined in 5 CFR 2635.402(b)(3).

(2) A Member of the National Science Board may not receive compensation from any award made while serving on the Board. However, unless prohibited by law, an award may be charged, and a Member may be reimbursed, for actual expenses incurred by the Member in doing work supported by the award. If a Member was an investigator or consultant under an award before appointment to the Board, the award may be charged and the Member may continue to receive compensation to the extent established before the Member's nomination.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 906

[Docket No. FV96-906-3 FIR]

Oranges and Grapefruit Grown in the Lower Rio Grande Valley in Texas; Revision of Pack and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, with minor modification, the provisions of an interim final rule

revising pack requirements for grapefruit and certain types of oranges under the marketing order covering oranges and grapefruit grown in the Lower Rio Grande Valley in Texas to allow larger sizes of fruit to be marketed in fresh channels. This rule also reduces current minimum size requirements for Texas grapefruit. These actions were recommended by the Texas Valley Citrus Committee (TVCC), the agency responsible for local administration of the marketing order. These changes will enable the industry to market a wider range of sizes of citrus fruit in fresh market channels, thereby meeting consumer demand, increasing sales, and improving returns to growers.

EFFECTIVE DATE: December 26, 1996.

FOR FURTHER INFORMATION CONTACT:

Charles L. Rush, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2522-S, Washington, DC 20090-6456, telephone (202) 690-3670, Fax # (202) 720-5698; or Belinda G. Garza, McAllen Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1313 E. Hackberry, McAllen, Texas 78501; telephone (210) 682-2833, Fax # (210) 682-5942. 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 2525-S, Washington, DC 20090-6456; telephone (202) 720-2491, Fax # (202) 720-5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 906 (7 CFR part 906), as amended, regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, 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 Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule is not intended to have retroactive effect. This final 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 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 rule 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 20 handlers of oranges and grapefruit subject to regulation under the order and approximately 2,000 orange and grapefruit producers in the production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than \$5,000,000, and small agricultural producers have been defined as those having annual receipts of less than \$500,000. The majority of Texas orange and grapefruit handlers and producers may be classified as small entities.

This final rule revises pack requirements for grapefruit and certain varieties of oranges to allow larger sizes to be marketed in fresh channels. Pack requirements are stated in terms of certain size designations. Size designations are defined in terms of minimum and maximum diameter. Improved irrigation methods, technological advances, and improved cultural practices have resulted in the Texas citrus industry growing larger, good quality fruit. Pack regulations preclude this fruit from being marketed in fresh market channels (with the exception of small amounts allowed to exceed the maximum specific diameters), and it is generally directed to the processing market. The

processing market is currently in an oversupply situation and yields low returns to growers. Providing for additional supplies (an additional 5 to 10 percent) to be marketed fresh should enhance grower returns.

This final rule also reduces the minimum size requirements for grapefruit by allowing a broader range of sizes of grapefruit to be marketed. This final rule provides that pack size 112 grapefruit (if it grades at least U.S. No. 1) may be shipped throughout the entire season. This has been done in recent seasons. There is a market for this smaller grapefruit particularly in juice bars, health food stores, and other types of outlets that use smaller fruit for juicing. Some markets, such as Canada, prefer smaller fruit. Also, current drought conditions can lead to an abundance of smaller sizes. This rule enables handlers to market a broader range of sizes of citrus fruit in fresh market outlets, thereby meeting consumer demand, increasing fresh fruit sales, and enhancing returns to handlers and producers.

Therefore, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

An interim final rule was issued on August 16, 1996, and published in the Federal Register (61 FR 43139, August 21, 1996), with an effective date of August 22, 1996. That rule amended § 906.340 of the rules and regulations in effect under the order. That rule provided a 30-day comment period which ended September 20, 1996. No comments were received.

This action is in accordance with § 906.40(a) of the order. This section authorizes the Secretary to limit the handling of particular grades, sizes, qualities, maturities, or packs of any or all varieties of fruit during a specified period or periods. Currently, minimum grade and size requirements, as well as pack and container requirements, are in effect for both grapefruit and oranges throughout the season. Shipments for certain purposes, including processing, are exempt from these requirements.

The TVCC met on May 29, 1996, and unanimously recommended changes in pack and minimum size requirements. The TVCC meets prior to and during each season to review the handling regulations effective on a continuous basis for each citrus fruit regulated under the order. TVCC meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews TVCC recommendations and information, as well as information from other sources, and determines whether

modification, suspension, or termination of the handling regulations would tend to effectuate the declared policy of the Act.

Revision of Pack Requirements

Pack requirements for oranges and grapefruit are in effect under § 906.340 of the order's rules and regulations. These requirements provide, among other things, that oranges and grapefruit be packed in accordance with certain size designations. These size designations are defined in terms of minimum and maximum diameters.

Oranges are divided into two categories for the purpose of pack regulations: (1) Navel, Valencia and similar late-type oranges, and (2) all other oranges. Navel, Valencia and similar late-type oranges must be packed in accordance with 13 size designations. The smallest of these is Size 324, which ranges from $2\frac{3}{16}$ to $2\frac{8}{16}$ inches in diameter. The largest size defined is Size 46, which ranges from $4\frac{3}{16}$ to 5 inches in diameter. Prior to issuance of the interim final rule, oranges other than navel, Valencia and similar late-type oranges were required to be packed in accordance with the various pack sizes in § 51.691(c) of the United States Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona), hereinafter referred to as the "orange standards."

The orange standards define seven pack sizes, from Size 324 ($2\frac{3}{16}$ to $2\frac{8}{16}$ inches in diameter) to Size 100 ($3\frac{7}{16}$ to $3\frac{13}{16}$ inches in diameter). To allow for variations incident to proper packing, a tolerance for undersized and oversized fruit is provided. The tolerance is in terms of the number of fruit in a sample that may be off-size—with the actual number increasing as the sample size increases. Otherwise oversized oranges other than navel, Valencia and similar late-type oranges would be diverted to exempt outlets, such as processing.

The TVCC recommended revising the orange pack regulations to allow all types of oranges to be packed in the full range of sizes—from Size 324 to Size 46. Thus, this rule finalizes a revision of § 906.340(a)(2)(i)(a), which specified pack requirements for oranges other than navel, Valencia and similar late-type oranges, to define the 13 size designations authorized for such oranges. The 7 smallest sizes are defined in the same way they are in the orange standards. (The minimum diameters are $\frac{2}{16}$ inch larger than those specified for navels, Valencias and similar late-type oranges, while the maximum diameters are the same). The 6 sizes added for these oranges are defined similarly (that

is, the minimum diameters differ, but the maximum diameters are the same). The differences in the minimum diameters take into account varietal differences between these two categories of oranges and current industry practice.

Grapefruit are required to be packed within the diameter limits specified for the various pack sizes defined in § 51.630(c) of the United States Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona), hereinafter referred to as the grapefruit standards. Exceptions are that the minimum diameter for pack size 96 grapefruit is $3\frac{9}{16}$ inches, and for pack size 112 grapefruit, the minimum diameter is $3\frac{5}{16}$ inches.

The grapefruit standards define 8 pack sizes. The smallest is Size 125/126, which ranges from a minimum of 3 inches to a maximum of $3\frac{8}{16}$ inches in diameter. The largest is Size 46 which ranges from $4\frac{5}{16}$ to 5 inches in diameter. This rule adds a new, larger Size 36 grapefruit, which ranges in size from $4\frac{15}{16}$ to $5\frac{9}{16}$ inches in diameter.

Improved irrigation methods, technological advances, and improved cultural practices have resulted in the Texas citrus industry growing larger, good quality fruit. Pack regulations preclude this fruit from being marketed in fresh channels (with the exception of small amounts allowed to exceed the maximum specified diameters), and it is generally diverted to the processing market. The processing market is currently in an oversupply situation and yields low returns to growers. Providing for additional supplies (an estimated 5 to 10 percent) to be marketed fresh should, therefore, enhance grower returns.

Additionally, the TVCC indicated that there has been increased demand from consumers in recent years for a broader range of sizes of oranges and grapefruit. Providing that these larger sizes may be shipped will provide greater supplies and more choices to consumers. It should also make the Texas citrus industry more competitive with other citrus-growing areas, which have adapted their marketing efforts to meet consumer demands.

Finally, varying growing conditions in Texas result in diverse size distributions of oranges and grapefruit from season to season. Severe drought conditions may cause a season's crop to be 5 to 10 percent small sizes. Conversely, a rainy season may result in 5 to 10 percent large sizes. These changes in pack requirements to approve the shipment of all commercial sizes of oranges and grapefruit will provide handlers with the flexibility to market available

supplies in light of existing market conditions.

Revision of Minimum Size Requirements for Grapefruit

Minimum size requirements for grapefruit are in effect under § 906.365 of the order's rules and regulations. During the period November 16 through January 31 each season, grapefruit must be at least pack size 96, with a minimum diameter of $3\frac{9}{16}$ inches. At other times, grapefruit that is pack size 112 (with a minimum diameter of $3\frac{5}{16}$ inches), may be shipped if it grades at least U.S. No. 1. Otherwise, the minimum grade requirement for grapefruit is Texas Choice. The smaller fruit is subject to a higher grade requirement because experience indicates that a market exists for this smaller fruit only if it meets a higher quality standard.

This final rule provides that pack size 112 grapefruit (if it grades at least U.S. No. 1) may be shipped throughout the entire season. This has been done in recent seasons. The Texas citrus industry has found that there is a market for this smaller grapefruit, particularly in juice bars, health food stores, and other types of retail outlets that use smaller fruit for juicing. In addition, some markets, such as Canada, prefer smaller fruit.

Also, as previously indicated, drought conditions can lead to an abundance of smaller sizes. Such conditions currently exist in the Lower Rio Grande Valley in Texas. The expected small sized grapefruit, which cannot be marketed profitably in processing outlets, will be made available to meet fresh market needs through this rule. This action is expected to result in improved grower returns.

Permitting shipments of pack size 112 grapefruit grading at least U.S. No. 1 will enable Texas grapefruit handlers to meet market needs and compete with similar size grapefruit expected to be shipped from Florida.

These changes in pack and size requirements for Texas oranges and grapefruit are intended to broaden the range of sizes and increase the amount of fruit available to consumers and increase grower returns. An alternative to this rule is to leave the current regulations in place. However, that would result in more of the larger oranges and grapefruit and the smaller grapefruit going to processors, and less fruit going to the more lucrative fresh market, which yields higher returns to growers.

In the interim final rule, a conforming change to all references to "Table I" of paragraph (a)(2)(i)(c) of § 906.340 was

inadvertently omitted. The interim final rule did not specifically request that all references to "Table I" be revised to read "Table II." The final rule will be modified by revising the phrase "Table I" each time it appears to read "Table II."

After consideration of all relevant material presented, the information and recommendations submitted by the committee, and other information, it is found that finalizing the interim final rule, with modification, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 906

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

Accordingly, the interim final rule amending 7 CFR part 906 which was published at 61 FR 43139 on August 21, 1996, is adopted as a final rule with the following change:

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

1. The authority citation for 7 CFR part 906 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 906.340 [Amended]

2. In § 906.340, paragraph (a)(2)(i)(c), the phrase "Table I" is revised to read "Table II" each time it appears.

Dated: November 15, 1996.

Eric M. Forman,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 96–30033 Filed 11–22–96; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Parts 997 and 998

[Docket No. FV96–998–2 FIR]

Assessment Rate for Domestically Produced Peanuts Handled by Persons Not Subject to Peanut Marketing Agreement No. 146 and for Marketing Agreement No. 146 Regulating the Quality of Domestically Produced Peanuts

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that established an assessment rate for the Peanut Administrative Committee (Committee) under Marketing Agreement No. 146 (agreement) for the 1996–97 and subsequent crop years. The Committee is responsible for local

administration of the marketing agreement which regulates the handling of peanuts grown in 16 States.

Authorization to assess peanut handlers who have signed the agreement enables the Committee to incur expenses that are reasonable and necessary to administer the program. Public Law 103–66 requires the Department to impose an administrative assessment on farmers' stock peanuts received or acquired by handlers who are not signatory (non-signatory handlers) to the agreement. Therefore, this same assessment rate established under the agreement also must be applied to all non-signatory handlers.

EFFECTIVE DATE: Effective on July 1, 1996.

FOR FURTHER INFORMATION CONTACT:

Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone 202–720–9918, 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, FL 33883–2276, telephone 941–299–4770, FAX 941–299–5169. 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 2525–S, Washington, DC 20090–6456, telephone 202–720–2491, FAX 202–720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued pursuant to the requirements of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and as further amended December 12, 1989, hereinafter referred to as the "Act"; Public Law 101–220, section 4(1),(2), 103 Stat. 1878, December 12, 1989; Public Law 103–66, section 8b(b)(1), 107 Stat. 312, August 10, 1993; and under Marketing Agreement 146 (7 CFR part 998) regulating the quality of domestically produced peanuts.

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Farmers' stock peanuts received or acquired by non-signatory handlers and farmers' stock peanuts received or acquired by handlers signatory to the agreement, other than from those described in §§ 998.31(c) and (d), are subject to assessments. It is intended that the assessment rates issued herein