

information on the regulatory and informational impacts of this action on small businesses.

A proposed rule concerning this action was published in the **Federal Register** on Tuesday, August 11, 1998 (63 FR 42764). Copies of the rule were mailed or sent via facsimile to all committee members and to grapefruit growers and handlers. The rule was also made available through the Internet by the Office of the Federal Register.

A 20-day comment period was provided to allow interested persons to respond to the proposal. The comment period ended August 31, 1998. No comments were received.

As previously stated, subsequent to the end of the comment period, the committee met and recommended modifying its original recommendation. The committee recommended that the weekly percentages be changed from 25 percent for each of the 11 regulated weeks to 37 percent for the first seven weeks (September 21 through November 8), and 32 percent for the next four weeks (November 9 through December 6). Because of this recommendation, the Department has determined that interested parties should be provided the opportunity to comment on the changes to the original recommendation. However, the Department has further determined that extending the comment period with no percentages in effect limiting the shipments of small red seedless grapefruit when the period of regulation begins would be detrimental to the industry. Therefore, the Department is instituting the regulations on small red seedless grapefruit through this interim final rule which will allow 10 additional days to comment.

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

A 10-day comment period is provided to allow interested persons to respond to this interim final rule. Ten days is deemed appropriate because the regulation period begins on September 21, 1998, and continues for 11 weeks. Adequate time will be necessary so that any changes made to the regulations based on comments filed could be made effective during the 11-week period. All written comments timely received will be considered before a final determination is made on this matter.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to

give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because this rule needs to be in place when the regulatory period begins on the week of September 21, 1998, and handlers begin shipping grapefruit. The committee has kept the industry well informed on this issue. It has also been widely discussed at various industry and association meetings. Interested persons have had time to determine and express their positions. In addition, these size small red grapefruit are already being harvested and handlers need to know the amount they will be allowed to ship, in order to determine harvesting quantities that will allow these increased amounts to be shipped. This rule is necessary to help stabilize the market and to improve grower returns. Further, handlers are aware of this rule, which was recommended at public meetings. Also, a 20-day comment period was provided for in the proposed rule and a 10-comment period is provided in this rule.

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 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 § 905.350 is added to read as follows:

§ 905.350 Red seedless grapefruit regulation.

This section establishes the weekly percentages to be used to calculate each handler's weekly allotment of small sizes. If the minimum size in effect under § 905.306 for red seedless grapefruit is size 56, handlers can fill their allotment with size 56, size 48, or a combination of the two sizes such that the total of these shipments are within the established weekly limits. If the minimum size in effect under § 905.306 for red seedless grapefruit is 48, handlers can fill their allotment with size 48 red seedless grapefruit such that the total of these shipments are within the established weekly limits. The weekly percentages for sizes 48 and/or 56 red seedless grapefruit grown in Florida, which may be handled during the specified weeks are as follows:

Week	Weekly percentage
(a) 9/21/98 through 9/27/98	37
(b) 9/28/98 through 10/4/98	37
(c) 10/5/98 through 10/11/98	37
(d) 10/12/98 through 10/18/98 ..	37
(e) 10/19/98 through 10/25/98 ..	37
(f) 10/26/98 through 11/1/98	37
(g) 11/2/98 through 11/8/98	37
(h) 11/9/98 through 11/15/98	32
(i) 11/16/98 through 11/22/98 ...	32
(j) 11/23/98 through 11/29/98 ...	32
(k) 11/30/98 through 12/6/98	32

Dated: September 22, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

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DEPARTMENT OF JUSTICE

8 CFR Part 3

28 CFR Part 0

[EOIR No. 123F; AG Order No. 2180–98]

RIN 1125–AA24

Executive Office for Immigration Review, Board of Immigration Appeals; 18 Board Members

AGENCY: Executive Office for Immigration Review, Justice.

ACTION: Final rule.

SUMMARY: This final rule expands the Board of Immigration Appeals (Board) to eighteen permanent members, including sixteen Board Members, a Chairman, and a Vice Chairman. This rule also recognizes the position of Deputy Director in the organizational hierarchy of the Executive Office for Immigration Review.

EFFECTIVE DATE: This final rule is effective September 28, 1998.

FOR FURTHER INFORMATION CONTACT: Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone: (703) 305–0470.

SUPPLEMENTARY INFORMATION: This final rule provides for an expansion of the Board of Immigration Appeals to an 18-member permanent Board. This expansion is necessary because of the Board's increasing caseload. To maintain an effective, efficient system of appellate adjudication, it has become necessary to increase the number of Board Members. This change will further enhance effective, efficient adjudication while providing for en

banc review in appropriate cases. This rule amends 8 CFR part 3 and 28 CFR part 0 to reflect the new 18-member Board. Although this rule authorizes three additional Board member positions, the Department does not anticipate filling all of these positions at the present time.

This rule also recognizes the position of Deputy Director in the organizational hierarchy of the Executive Office for Immigration Review. The Deputy Director reports directly to the Director, and may accept any delegation of authority from the Director.

Finally, the rule makes minor technical changes to 8 CFR 0.115.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is not necessary because this rule relates to agency procedure and practice.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule does not have a significant economic impact on a substantial number of small entities.

Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12866

The Attorney General has determined that this rule is not a significant regulatory action under Executive Order No. 12866, and accordingly this rule has not been reviewed by the Office of Management and Budget.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects

8 CFR Part 3

Administrative practice and procedure, Immigration, Lawyers, Organizations and functions (Government agencies), Reporting and recordkeeping requirements.

28 CFR Part 0

Authority delegation (Government agencies), Government employees, Organizations and functions (Government agencies), Whistleblowing.

For the reasons set forth in the preamble, Chapter I of Title 8 of the Code of Federal Regulations and Chapter I of Title 28 of the Code of Federal Regulations are to be amended as follows:

TITLE 8—ALIENS AND NATIONALITY

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

1. The authority citation for 8 CFR part 3 continues to read as follows:

Authority: 5 U.S.C. 301; 8 U.S.C. 1103; 1252 note, 1252b, 1362; 28 U.S.C. 509, 510, 1746; sec. 2, Reorg. Plan No. 2 of 1950, 3 CFR, 1949–1953 Comp., p. 1002.

2. In 8 CFR 3.0, revise paragraph (a) to read as follows:

§ 3.0 Executive Office for Immigration Review.

(a) *Organization.* The Executive Office for Immigration Review shall be headed by a Director who shall be assisted by a Deputy Director. The Director shall be responsible for the general supervision of the Board of Immigration Appeals and the Office of the Chief Immigration Judge in the execution of their duties in accordance with this part 3. The Director may redelegate the authority delegated to him by the Attorney General to the Deputy Director, the Chairman of the Board of Immigration

Appeals, or the Chief Immigration Judge.

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Subpart A—Board of Immigration Appeals

§ 3.1 [Amended].

3. In 8 CFR 3.1, amend paragraph (a)(1) by removing the words “Chairman and fourteen” in the second sentence and adding in their place the words “Chairman, Vice Chairman, and sixteen”.

TITLE 28—JUDICIAL ADMINISTRATION

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart U—Executive Office for Immigration Review

4. The authority citation for 28 CFR part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

5. In 28 CFR, revise § 0.115 to read as follows:

§ 0.115 General functions.

(a) The Executive Office for Immigration Review shall be headed by a Director who shall be assisted by a Deputy Director. The Director shall be responsible for the general supervision of the Board of Immigration Appeals, the Office of the Chief Immigration Judge, and the Office of the Chief Administrative Hearing Officer in the execution of their duties.

(b) The Director may redelegate the authority delegated to him by the Attorney General to the Deputy Director, the Chairman of the Board of Immigration Appeals, the Chief Immigration Judge, or the Chief Administrative Hearing Officer.

6. In 28 CFR, amend § 0.116 by revising the first sentence to read as follows:

§ 0.116 Board of Immigration Appeals.

The Board of Immigration Appeals shall consist of a Chairman, a Vice Chairman, and sixteen other members.

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Dated: September 22, 1998.

Janet Reno,

Attorney General.

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