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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV99-905-4 FIR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Modification of Procedures for Limiting the Volume of Small Red Seedless Grapefruit

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 modifying the procedures used in limiting the volume of small red seedless grapefruit prescribed under the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida. The marketing order is administered locally by the Citrus Administrative Committee (committee). The changes will help the committee better monitor handler compliance with any percentage size regulations in effect. This rule continues the changes in handler reporting requirements on shipments of size 48 and/or 56 red seedless grapefruit to standardize and assure continuity of reporting. Provisions on new handlers are also continued to assure equitable application of the percentage size regulation to new and established handlers. These modifications are expected to help the committee better administer the percentage size regulations, when such regulations are effective.

EFFECTIVE DATE: January 12, 2000.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Southeast Marketing Field Office, F&V, AMS, USDA, P.O. Box 2276, Winter Haven,

Florida 33883-2276; telephone: (941) 299-4770, Fax: (941) 299-5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, F&V, AMS, USDA, room 2522-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 690-3919, Fax: (202) 720-5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone (202) 720-2491, Fax: (202) 720-5698 or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect, and 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 the date of the entry of the ruling.

Section 905.52 of the 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.

Section 905.153 of the regulations provides procedures for limiting the volume of small red seedless grapefruit entering the fresh market. Under the procedures, the committee may recommend that only a certain percentage of size 48 ($3\frac{3}{16}$ minimum diameter in inches) and/or 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 regulation period. The regulation period is 11 weeks long and begins the third Monday in September. Under such a limitation, the quantity of sizes 48 and/or 56 red seedless grapefruit that may be shipped by a handler during a regulated week is calculated using the recommended percentage. By taking the recommended weekly percentage times the average weekly volume of red seedless grapefruit handled by such handler in the previous five seasons, handlers can calculate the volume of sizes 48 and/or 56 they may ship in a regulated week. Provisions also are included in paragraph (a) for handlers with less than five previous seasons of shipments and new handlers with no record of shipments. The committee performs the specified calculations when regulation is established by the Secretary for a given week, and provides the calculations to each handler.

Section 905.153 contains a variety of provisions designed to provide handlers with some marketing flexibility. Paragraphs (d) and (e) of that section provide allowances for overshipments, loans, and transfers of allotment. These allowances allow handlers the opportunity to supply their markets while limiting the impact of small sizes on a weekly basis.

Pursuant to paragraph (d) of § 905.153, during any week for which the Secretary fixes the percentage of sizes 48 and/or 56 red seedless grapefruit, any handler can handle an amount of sizes 48 and/or 56 red seedless grapefruit not to exceed 110

percent of their allotment for that week. The quantity of overshipments (the amount shipped in excess of a handler's weekly allotment) is deducted from the handler's allotment for the following week.

If handlers fail to use their entire allotments in a given week, the amounts undershipped cannot be carried forward to the following week. However, pursuant to paragraph (e) of § 905.153, a handler to whom an allotment has been issued can lend or transfer all or part of such allotment (excluding the overshipment allowance) to another handler. In the event of a loan, each party, prior to the completion of the loan agreement, notifies the committee of the proposed loan and date of repayment. If a transfer of allotment is desired, each party promptly notifies the committee so that proper adjustments of the records can be made. In each case, the committee confirms in writing all such transactions prior to the following week. Under these provisions, the committee can act on behalf of handlers wanting to arrange allotment loans or participate in the transfer of allotment.

The committee computes each handler's allotment by multiplying the handler's average week by the percentage established by regulation for that week. The committee notifies each handler prior to that particular week of the quantity of sizes 48 and 56 red seedless grapefruit such handler could handle during a particular week, making the necessary adjustments for overshipments and loan repayments.

This rule continues in effect reporting procedures in paragraphs (d) and (e) of § 905.153, and the addition of a new paragraph (f) on new handler participation. The changes were recommended unanimously by the committee at its meeting on April 6, 1999.

This rule does not establish any volume regulation. A proposed rule to establish volume regulation during the 1999–2000 season was published in the **Federal Register** on August 26, 1999 (64 FR 46603). The period for the receipt of written comments on that proposal ended September 10, 1999. Subsequently, an interim final rule adjusting the proposed percentages as recommended by the committee was published in the **Federal Register** on September 17, 1999 (64 FR 50419). Comments were invited until September 27, 1999, and none was received. An action finalizing the interim final rule was published November 18, 1999 (64 FR 63159).

The changes continued in effect by this rule are intended to standardize and

foster uniformity of reporting, help the committee better monitor compliance with any percentage size regulations in effect, and improve overall administration of the program. The provisions on "new handler" registration are intended to ensure that the shipment calculations for such handlers are correct and that the shipment allotments are appropriately applied. According to committee management, these improvements have worked well.

This rule continues in effect the revisions to paragraph (d) of § 905.153 requiring handlers to report red seedless grapefruit shipments to interstate and export markets by day for each regulation week. The report is required to be completed and received by the committee no later than 2 p.m. of the business day following the shipments. The committee previously obtained shipment information from daily manifest reports from the Florida Department of Agriculture and Consumer Services' Fruit and Vegetable Division, but the information needed to be reformatted by the committee for use in checking handler compliance with the weekly percentage size regulation, and in arranging loans or transfers of excess allotments among handlers. This had been costly and time consuming for the committee.

When percentage size regulations were applied last season, most handlers voluntarily supplied (electronically or by fax) the committee with daily shipment information on their size 48 and/or 56 size red seedless grapefruit. This helped the committee expedite the compilation and dissemination of shipment information on the small-sized red seedless grapefruit. The more timely information helped the handlers make marketing plans to service their customers better, and enabled the committee to verify handler compliance in a more timely and less burdensome manner.

The information provided by handlers shipping 48 and/or 56 size red seedless grapefruit is maintained by them as part of their regular business operations so the burden in supplying this information has been minimal. Thus, the addition of this reporting requirement to the procedures in § 905.153(d) merely standardizes the collection of information which handlers maintain as part of their regular business operations. The report has ensured that the daily shipment information received by the committee is in the same format from all handlers shipping 48 and/or 56 size red seedless grapefruit.

Paragraph (e) of § 905.153 previously specified, among other things, that each handler party to a transfer or loan of any or all of their shipping allotment (excluding the overshipment allowance) shall promptly notify the committee so the proper adjustment of records may be made. To provide uniformity in reporting and help the committee confirm such transactions prior to the following week to the handlers involved, the committee recommended that the notification be made no later than noon on the Wednesday following the regulation week.

With a precise reporting deadline, the committee has been able to adjust its records in a more timely manner and more easily confirm the transactions in writing to the handlers involved prior to the following week. It also has enabled the committee to do a more effective job when acting on behalf of handlers in arranging allotment loans or transfers. Continuation of this change will not be unduly burdensome on handlers because most had already been filing their reports by the specified deadline prior to the issuance of the interim final rule.

The committee also recommended precluding sales agents of handlers from filing weekly cumulative handler reports on transfers or loans for all of the handlers they represent, rather than reports for each handler involved in such transactions. The current provisions require individual reports to be filed and the individual handlers involved are required to certify that the information on the reports submitted to the committee is accurate. Thus, no change in § 905.153 is needed to require sales agents to submit individual handler reports on such transactions for each of the participating handlers for which they act as sales agents.

A new paragraph (f) was added to § 905.153 covering new handler registration. The new paragraph specifies that new handlers without a shipment history shall register with the committee for their red seedless grapefruit allotments prior to the regulation period. On a form provided by the committee, each new handler indicates its name, address, telephone and fax number, its Florida citrus dealer's license number, the packinghouse registration number issued by the Florida Department of Agriculture and Consumer Services' Fruit and Vegetable Division, and the physical location of the packinghouse where the red seedless grapefruit will be prepared for market. New handler registrations have allowed the committee to place the handler on its

mailing list to assure that the handler receives needed information.

The addition of these registration procedures for new handlers will assure that these handlers continue to receive the shipment allocations to which they are entitled during the regulation period, and help the committee with its handler audits and compliance checks.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this rule have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581-0094. Also, pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

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 80 grapefruit handlers subject to regulation under the order and approximately 11,000 growers of citrus in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (SBA) 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 (13 CFR 121.601).

Based on industry and committee data, the average annual f.o.b. price for fresh Florida red grapefruit during the 1998-99 season was around \$7.20 per $\frac{1}{8}$ bushel carton, and total fresh shipments for the 1998-99 season are estimated at 14.6 million cartons of red grapefruit. Approximately 20 percent of all handlers handled 60 percent of Florida grapefruit shipments. In addition, many of these handlers ship other citrus fruit and products which are not included in committee data but would contribute further to handler receipts. Using the average f.o.b. price, about 80 percent of grapefruit handlers could be considered small businesses under SBA's definition, and about 20 percent of the handlers could be considered large businesses. The majority of Florida grapefruit handlers and growers may be classified as small entities.

Section 905.52 of the 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.

Section 905.153 of the regulations provides procedures for limiting the volume of small red seedless grapefruit entering the fresh market. Under the procedures, the committee may recommend that only a certain percentage of size 48 ($3\frac{9}{16}$ minimum diameter in inches) and/or 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 regulation period. The regulation period is 11 weeks long and begins the third Monday in September. Under such a limitation, the quantity of sizes 48 and/or 56 red seedless grapefruit that may be shipped by a handler during a regulated week is calculated using the recommended percentage. By taking the recommended weekly percentage times the average weekly volume of red seedless grapefruit handled by such handler in the previous five seasons, handlers can calculate the volume of sizes 48 and/or 56 they may ship in a regulated week. Provisions also are included in paragraph (a) for handlers with less than five previous seasons of shipments and new handlers with no record of shipments. The committee staff performs the specified calculations when regulation is established by the Secretary for a given week, and provides the calculations to each handler.

Section 905.153 contains a variety of provisions designed to provide handlers with some marketing flexibility. Paragraphs (d) and (e) of that section provide allowances for overshipments, loans, and transfers of allotment. These allowances allow handlers the opportunity to supply their markets while limiting the impact of small sizes on a weekly basis.

Pursuant to paragraph (d) of § 905.153, during any week for which the Secretary fixes the percentage of sizes 48 and/or 56 red seedless grapefruit, any handler can handle an amount of sizes 48 and/or 56 red seedless grapefruit not to exceed 110 percent of their allotment for that week. The quantity of overshipments (the amount shipped in excess of a handler's weekly allotment) is deducted from the handler's allotment for the following week.

If handlers fail to use their entire allotments in a given week, the amounts undershipped cannot be carried forward to the following week. However, pursuant to paragraph (e) of § 905.153 a

handler to whom an allotment has been issued can lend or transfer all or part of such allotment (excluding the over shipment allowance) to another handler. In the event of a loan, each party, prior to the completion of the loan agreement, notifies the committee of the proposed loan and date of repayment. If a transfer of allotment is desired, each party promptly notifies the committee so that proper adjustments of the records can be made. In each case, the committee confirms in writing all such transactions prior to the following week. Under these provisions, the committee can act on behalf of handlers wanting to arrange allotment loans or participate in the transfer of allotment.

The committee computes each handler's allotment by multiplying the handler's average week by the percentage established by regulation for that week. The committee notifies each handler prior to that particular week of the quantity of sizes 48 and 56 red seedless grapefruit such handler could handle during a particular week, making the necessary adjustments for overshipments and loan repayments.

This rule continues in effect the modified reporting procedures in paragraphs (d) and (e) of § 905.153, and the addition of a new paragraph (f) on new handler participation. The changes were recommended unanimously by the committee at its meeting on April 6, 1999.

This rule does not establish any volume regulation. A proposed rule to establish volume regulation during the 1999-2000 season was published in the **Federal Register** on August 26, 1999 (64 FR 46603). The period for the receipt of written comments on that proposal ended September 10, 1999. Subsequently, an interim final rule was published in the **Federal Register** on September 27, 1999 (64 FR 51888) establishing adjusted percentages recommended by the committee. The period for written comments ended on October 27, 1999, and none was received. An action finalizing the interim final rule was published on November 18, 1999 (64 FR 63159).

The changes continued by this rule are intended to standardize and foster uniformity of reporting, help the committee better monitor compliance with any percentage size regulations in effect, and improve overall administration of the program. The provisions on "new handler" registration are intended to ensure that new handlers receive shipment allotments, that the shipment calculations for such handlers are correct, and that the shipment allotments are appropriately applied.

According to committee management, these improvements have worked well during 1999.

This action continues in effect the revisions to paragraph (d) of § 905.153 requiring handlers to report red seedless grapefruit shipments to interstate and export markets by day for each regulation week. The report is required to be completed and received by the committee no later than 2 p.m. of the business day following the shipments. The committee previously obtained shipment information from daily manifest reports from the Florida Department of Agriculture's Division of Fruit and Vegetable, but the information needed to be reformatted by the committee for use in checking handler compliance with the weekly percentage size regulation, and in arranging loans or transfers of excess allotment among handlers. This had proven to be costly and time consuming for the committee.

When percentage size regulations were applied last season, most handlers voluntarily supplied (electronically or by fax) the committee daily shipment information on their size 48 and/or 56 size red seedless grapefruit to help the committee expedite the compilation and dissemination of shipment information on the small-sized red seedless grapefruit. The more timely information helped the handlers make marketing plans, and enabled the committee to verify handler compliance in a more timely and less burdensome manner.

The information provided by handlers shipping 48 and/or 56 size red seedless grapefruit is maintained by them as part of their regular business operations so the burden in supplying this information has been minimal. Thus, the continuation of this reporting requirement in the procedures in § 905.153(d) merely standardizes the collection of information which handlers maintain as part of their regular business operations.

Paragraph (e) of § 905.153 specifies, among other things, that each handler party to a transfer or loan of any or all of their shipping allotment (excluding the over shipment allowance) shall promptly notify the committee so the proper adjustment of records may be made. To provide uniformity in reporting and help the committee confirm such transactions prior to the following week to the handlers involved, the committee recommended that the notification be made no later than noon on the Wednesday following the regulation week.

With a precise reporting deadline, the committee has been able to adjust its records in a more timely manner and more easily confirm the transactions in

writing to the handlers involved prior to the following week. It also has been able to do a more effective job when acting on behalf of handlers in arranging allotment loans or transfers. This change will not be unduly burdensome on handlers because most are already filing their reports by the specified deadline.

The committee also recommended precluding sales agents of handlers from filing weekly cumulative handler reports on transfers or loans for all of the handlers they represent, rather than reports for each handler involved in such transactions. The current provisions require individual reports to be filed and the individual handlers involved are required to certify that the information on the reports submitted to the committee is accurate. Thus, no change is required to the procedures in § 905.153 to require sales agents to report information on an individual handler basis.

Regarding the provisions on new handler registration, a new paragraph (f) was added to § 905.153. The new paragraph specifies that new handlers without a shipment history shall register for their red seedless grapefruit allotments prior to the regulation period. On a form provided by the committee, each new handler indicates its name, address, telephone and fax number, its Florida citrus dealer's license number, the packinghouse registration number issued by the Florida Department of Agriculture and Consumer Services' Fruit and Vegetable Division, and the physical location of the packinghouse where the red seedless grapefruit will be prepared for market.

The addition of these registration procedures for new handlers will continue to assure that these handlers receive the shipment allocations to which they are entitled during the regulation period, and help the committee with its handler audits and compliance checks.

Handlers will be required to submit a form to the committee on their daily shipments of size 48 and/or 56 red seedless grapefruit, and new handlers also will have to submit a registration form to ship fruit pursuant to any allotment percentage established by the Secretary. The rule will increase the reporting burden on approximately 80 handlers of red seedless grapefruit who will take about 0.05 of an hour to complete each report regarding allotment loans or transfers, and shipments. New handlers without a record of shipments registering with the committee will take about 0.03 of an hour to complete the "new handler" registration form. The information

collection requirements contained in § 905.153 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and assigned OMB number 0581-0094.

The committee considers the changes made by this rule the most viable ways to improve the percentage size volume regulation procedures.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule. However, red seedless grapefruit must meet the requirements as specified in the U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.750 through 51.784) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

In addition, the committee's meeting was widely publicized throughout the citrus industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the April 6, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following web site: <http://www.ams.usda.gov/fv/moab/.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

An interim final rule concerning this action was published in the **Federal Register** on September 27, 1999. Copies of the rule were mailed by the Committee's staff to all Committee members and grapefruit handlers. In addition, the rule was made available through the Internet by the Office of the **Federal Register**. That rule provided for a 30-day comment period which ended October 27, 1999. No comments were received.

After consideration of all relevant material presented, including the information and recommendations submitted by the committee and other available information, it is hereby found that finalizing the interim final rule, without change, as published in the **Federal Register** (64 FR 51888, September 27, 1999) will tend to effectuate the declared policy of the Act.

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

Accordingly, the interim final rule amending 7 CFR part 905 which was published at 64 FR 51888 on September 27, 1999, is adopted as a final rule without change.

Dated: December 7, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99-32231 Filed 12-10-99; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 906**

[Docket No. FV99-906-3 FIR]

Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas; Changes to Pack Requirements

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 which changed the pack requirements prescribed under the marketing order covering oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. The marketing order regulates the handling of such fruit and is administered locally by the Texas Valley Citrus Committee (Committee). This rule continues in effect the changes to the orange and grapefruit pack sizes so that each pack size reflects the actual number of fruit in a $\frac{7}{10}$ bushel carton. It also more closely aligns the pack sizes for Texas oranges with the pack sizes used by shippers of California oranges. The rule also continues in effect conforming changes to the pack size references in the minimum size regulations. Continuation of these changes will enable Texas handlers to compete more effectively in the marketplace.

EFFECTIVE DATE: January 12, 2000.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs,

AMS, USDA, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (956) 682-2833, Fax: (956) 682-5942; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone (202) 720-2491, Fax: (202) 720-5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 906, as amended (7 CFR part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

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

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with 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 the date of the entry of the ruling.

This rule continues in effect the changes to the previous orange and

grapefruit pack sizes from a $1\frac{1}{2}$ bushel box basis to pack sizes based upon the actual number of fruit packed in a $\frac{7}{10}$ bushel carton. The orange pack sizes will also be more closely aligned to the pack sizes and size tolerances used by California orange shippers. The rule also continues in effect the conforming changes to the pack size references in the minimum size regulations for oranges and grapefruit so the minimum size requirements remain the same as previously specified. Continuation of these changes will enable handlers to compete more effectively in the marketplace.

The Committee's Grade and Size Subcommittee met on April 20 and 29, and May 4, 1999, and discussed possible changes to the order's pack requirements. At a meeting on May 13, 1999, the Subcommittee recommended and the Committee unanimously approved changes to the regulations. On July 1, 1999, the Committee met again and unanimously recommended the following changes to the orange and grapefruit pack and conforming changes to the size regulations.

(1) Eliminate two pack size tables for different orange varieties, change the pack sizes to a $\frac{7}{10}$ bushel carton basis for all orange varieties to be consistent with California pack sizes, and add a pack size 64 to the California sizes. The changes resulted in one pack size chart ranging from pack size 24 to 138 with minimum and maximum diameter size ranges for all oranges, and, when packed in $\frac{7}{10}$ bushel containers, the pack sizes reflect the actual number of fruit in the container;

(2) Replace the $1\frac{1}{2}$ bushel box references in the regulations with $\frac{7}{10}$ bushel carton references;

(3) Change the grapefruit pack sizes based on a $1\frac{1}{2}$ bushel box to pack sizes based upon the actual number of fruit packed in a $\frac{7}{10}$ bushel carton; and

(4) Make conforming changes to the size requirements in § 906.365 based on the above changes to keep the minimum size requirements for oranges and grapefruit the same as previously specified.

Under the terms of the order, fresh market shipments of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas are required to be inspected and meet grade, size, container, and pack requirements. Section 906.40 authorizes the issuance of pack regulations. Section 906.340(a)(2) of the order's rules and regulations outlines pack requirements for fresh shipments of Texas oranges and grapefruit.