

# Proposed Rules

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 905

[Docket No. FV00-905-3 PR]

#### Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Proposed Increase in the Minimum Size Requirements for Dancy, Robinson, and Sunburst Tangerines

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would increase the minimum size requirements for Dancy, Robinson, and Sunburst tangerines grown in Florida. The minimum size requirements would be increased to 2<sup>5</sup>/<sub>16</sub> inches diameter for both domestic and export shipments. The marketing order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is administered locally by the Citrus Administrative Committee (Committee). This proposed rule would help the Florida tangerine industry meet market demands for larger fruit and should help increase returns to producers.

**DATES:** Comments must be received by August 31, 2000.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 720-5698, or E-mail: moab.docketclerk@usda.gov. 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, or can be viewed at: <http://www.ams.usda.gov/fv/moab/html>.

#### FOR FURTHER INFORMATION CONTACT:

William Pimental, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone: (863) 299-4770, Fax: (863) 299-5169; 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 proposed 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 proposed rule 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 the date of the entry of the ruling.

The order for Florida citrus provides for the establishment of minimum grade and size requirements with the concurrence of the Secretary. The minimum grade and size requirements are designed to provide fresh markets with fruit of acceptable quality and size, thereby maintaining consumer confidence for fresh Florida citrus. This contributes to stable marketing conditions in the interest of growers, handlers, and consumers, and helps increase returns to Florida citrus growers. The current minimum grade standard for domestic and export shipments of Dancy, Robinson, and Sunburst tangerines is U.S. No. 1. The current minimum size requirement for domestic shipments is 2<sup>4</sup>/<sub>16</sub> inches in diameter (size 210), and the minimum size for export shipments is 2<sup>3</sup>/<sub>16</sub> inches in diameter for Dancy tangerines and 2<sup>4</sup>/<sub>16</sub> for Robinson and Sunburst.

This proposed rule invites comments on a change to the order's rules and regulations that would increase the minimum size requirement for domestic and export shipments of Dancy, Robinson, and Sunburst tangerines. This rule would increase the minimum size to 2<sup>5</sup>/<sub>16</sub> inches in diameter for Dancy, Robinson, and Sunburst tangerines both for domestic and export shipments. This proposed rule would help the Florida tangerine industry meet market and industry demands for larger fruit and should help increase returns to producers. The Committee met on May 26, 2000, and unanimously recommended this action.

Section 905.52 of the order, in part, authorizes the Committee to recommend minimum grade and size regulations to the Secretary. Section 905.306 (7 CFR part 905.306) specifies minimum grade and size requirements for different varieties of fresh Florida tangerines. Such requirements for domestic shipments are specified in § 905.306 in Table I of paragraph (a), and for export shipments in Table II of paragraph (b).

This rule would adjust Table I and Table II to establish a minimum size of  $2\frac{5}{16}$  inches diameter for Dancy, Robinson, and Sunburst tangerines.

This proposed rule would increase the minimum size requirement for domestic and export shipments of Dancy, Robinson, and Sunburst tangerines. Based on an analysis of markets and demands of buyers, the Committee believes that an increase in minimum size would improve the marketing of Florida tangerines. This follows an industry movement toward shipping larger tangerines. New commercial varieties have resulted in larger-sized tangerines being shipped in response to a strong consumer demand. Because of this demand, production of larger tangerines has been a popular method of improving returns among producers as it also increases total yields.

The shift toward tangerine varieties producing larger fruit has been in response to customer needs. Robinson and Dancy tangerines tend to be smaller varieties. Overall, production of these two varieties has decreased by more than 60 percent from the 1995–96 season to the 1999–2000 season. Conversely, production of larger varieties such as Sunburst and Fallglo has been increasing. In terms of total shipments of Dancy, Robinson, and Sunburst tangerines, Sunburst represented almost 95 percent of combined shipments for the 1999–2000 season.

The preference for large sizes is also evident in the volume of small sizes shipped. From the 1995–96 season to the 1999–2000 season, shipments of size 210 fruit accounted for on average less than 1.3 percent of total Dancy, Robinson, and Sunburst tangerine shipments. Even during the 1998–99 season when sizes for all Florida citrus were unusually small, shipments of size 210 tangerines only accounted for 2.3 percent of total shipments of these three varieties.

The change in the minimum size was recommended to address this movement of customer demand and industry production toward larger sizes. Size continues to be a major influence on price. The Committee believes that the availability of small size 210 fruit has a negative affect on market price. In terms of price, a carton of size 210 ( $2\frac{4}{16}$  inch diameter) tangerines can be as much as \$3 less than a carton of size 176 ( $2\frac{5}{16}$  inch) tangerines. For the 1999–2000 season, the average price for a carton of size 210 Dancy, Robinson, or Sunburst tangerines was \$7.80. This compares to a weighted average price for all sizes of \$11.26. The Committee believes

increasing the minimum size would match supply with demand and lessen the price depressing affect of smaller sizes.

In addition, the seasons for these three varieties are short. The season for the Dancy tends to be three weeks long, five weeks for the Robinson, and 12 weeks for the Sunburst. With this short marketing window, it is of increased importance that only the best, most preferred fruit enters the market. The market has no time to recover from shipments of fruit that have a depressing effect on price. Also, on average, approximately 65 percent of the crop for these three varieties goes to the fresh market. With the on tree price for processing averaging less than \$1.00, it is imperative that the fresh market be maintained.

The increase in the minimum size to  $2\frac{5}{16}$  inches in diameter is not expected to significantly affect the total number of shipments. During the 1999–2000 season, of the approximate 3,821,000  $\frac{4}{5}$  bushel container shipments of Dancy, Robinson, and Sunburst tangerines from Florida, only about 20,670 cartons were size 210. Therefore, the increase in the size requirement would only reduce shipments by around .5 percent. This change would also make the minimum size consistent for all tangerines, as the minimum size is already  $2\frac{5}{16}$  inches for Fallglo and Honey tangerines.

Experience has shown that providing uniform quality and size acceptable to consumers helps stabilize the market, improve grower returns, and foster market growth. The increased minimum size would match supply to market preferences, which would benefit both producers and handlers of Florida tangerines. Increasing the minimum size is expected to further enhance consumer demand and would encourage repeat purchases resulting in increased returns to producers. Therefore, based on available information, the Committee unanimously recommended that the minimum size for shipping Dancy, Robinson, or Sunburst tangerines to the domestic and export market be  $2\frac{5}{16}$  inches in diameter.

Handlers in Florida shipped approximately 3,821,000  $\frac{4}{5}$  bushel cartons of tangerines to the fresh market during the 1999–2000 season. Of these cartons, about 150,000 were exported. In the past three seasons, domestic shipments of Florida tangerines averaged about 3.5 million cartons.

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.

Accordingly, AMS has prepared this initial 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 55 tangerine handlers who are subject to regulation under the order, and approximately 11,000 growers of citrus in the regulated area. Small agricultural service firms, which include tangerine handlers, are 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 121.201).

Based on industry and Committee data for the 1999–2000 season, the average annual f.o.b. price for fresh tangerines was around \$12.00 per  $\frac{4}{5}$  bushel carton, and total fresh shipments for the 1999–2000 season were 3,821,000 cartons of tangerines. Approximately 25 percent of all handlers handled 70 percent of Florida tangerine 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 55 percent of tangerine handlers could be considered small businesses under SBA's definition. The majority of these handlers, and growers may be classified as small entities.

This proposed rule would increase the minimum size requirement for domestic and export shipments of tangerines to  $2\frac{5}{16}$  inches in diameter for the Dancy, Robinson, and Sunburst varieties. The current minimum size requirement for domestic shipments is  $2\frac{4}{16}$  inches in diameter, and the minimum size for export shipments is  $2\frac{3}{16}$  inches in diameter for Dancy tangerines and  $2\frac{4}{16}$  for Robinson and Sunburst. Section 905.52 of the order, in part, authorizes the Committee to recommend minimum grade and size regulations to the Secretary. Section 905.306 (7 CFR part 905.306) specifies minimum grade and size requirements for different varieties of fresh Florida tangerines. Such requirements for domestic shipments are specified in § 905.306 in Table I of paragraph (a), and for export shipments in Table II of paragraph (b). This rule would adjust

Table I and Table II to establish a minimum size of 2 $\frac{9}{16}$  inches in diameter for Dancy, Robinson, and Sunburst tangerines. This proposed rule would help the Florida tangerine industry meet market and industry demands and should help increase returns to producers.

The costs associated with this rule are expected to be minimal. The increase in the minimum size is not expected to significantly affect the total number of tangerine shipments. Rather, the Committee believes this size increase would help improve the marketing of Florida tangerines. The direct cost related to this change would stem from the shipment volume of size 210 tangerines times price. In terms of last season, that would be approximately 20,670 cartons times the average price for size 210 tangerines, \$7.80, for a possible cost of about \$161,226.

However, the Committee believes that this action would help stabilize prices and increase shipments. This change was made to address the increasing demand for larger sizes. While there are some short-term costs associated with increasing the minimum size, the benefits are expected to outweigh the costs. If this regulation just succeeds in raising returns five cents a carton, it would more than cover its costs. In addition, this change should not require the purchase of any additional equipment. This action is consistent with current and anticipated demand. The opportunities and benefits of this rule are expected to be equally available to tangerine handlers and growers regardless of their size of operation.

The Committee considered one alternative to this action. The Committee discussed leaving the

regulations as they were. However, this alternative was rejected based on the consideration of current demand for larger sizes and the possible negative impact on price resulting from maintaining the current minimum size.

This proposed rule would increase size requirements under the marketing order for Florida citrus. Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large tangerine handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule. However, tangerines must meet the requirements as specified in the U.S. Standards for Grades of Florida Tangerines (7 CFR 51.1810 through 51.1837) 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 Florida 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 May 26, 2000, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may

be viewed at: <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.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate because this rule would need to be in place as soon as possible since handlers will begin shipping tangerines in September. Also, Florida tangerine handlers are aware of this issue which was discussed at a public meeting and was unanimously recommended by the Committee. All comments received in a timely manner will be considered before a final determination is made on this matter.

#### List of Subjects in 7 CFR Part 905

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

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. In § 905.306, Table I in paragraph (a) and Table II in paragraph (b) are amended by revising the entries for Dancy, Robinson, and Sunburst under “Tangerines,” to read as follows:

#### § 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation.

(a) \* \* \*

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
<b>TANGERINES</b>			
Dancy .....	On and after 9/1/00 .....	U.S. No. 1 .....	2 $\frac{9}{16}$
Robinson .....	On and after 9/1/00 .....	U.S. No. 1 .....	2 $\frac{9}{16}$
Sunburst .....	On and after 9/1/00 .....	U.S. No. 1 .....	2 $\frac{9}{16}$
* .....	* .....	* .....	*

(b) \* \* \*

TABLE II VARIETY

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
<b>TANGERINES</b>			
Dancy .....	On and after 9/1/00 .....	U.S. No. 1 .....	2 <sup>9</sup> / <sub>16</sub>
Robinson .....	On and after 9/1/00 .....	U.S. No. 1 .....	2 <sup>9</sup> / <sub>16</sub>
Sunburst .....	On and after 9/1/00 .....	U.S. No. 1 .....	2 <sup>9</sup> / <sub>16</sub>

\* \* \* \* \*

Dated: July 27, 2000.

**Robert C. Keeney,**

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00-19344 Filed 7-31-00; 8:45 am]

BILLING CODE 3410-02-P

**DEPARTMENT OF JUSTICE****Immigration and Naturalization Service****8 CFR Parts 212, 236, and 241**

[INS No. 2029-00; AG Order No. 2310-2000]

RIN 1115-AF82

**Detention of Aliens Ordered Removed****AGENCY:** Immigration and Naturalization Service, Justice.**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** On June 30, 2000, at 65 FR 40540, the Immigration and Naturalization Service published a proposed rule in the **Federal Register**, to provide a uniform review process governing the detention of criminal, inadmissible, and other aliens, excluding Mariel Cubans, who have received a final order but whose departure has not been effected within the 90-day removal period. To ensure that the public has ample opportunity to fully review and comment on the proposed rule, this notice extends the public comment period from July 31, 2000, through August 11, 2000.

**DATES:** Written comments must be submitted on or before August 11, 2000.

**ADDRESSES:** Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., room 4034, Washington, DC 20536. To ensure proper handling, please reference INS No. 2029-00 on your correspondence.

**FOR FURTHER INFORMATION CONTACT:** Joan S. Lieberman, Office of the General Counsel, Immigration and Naturalization Service, 425 I Street, NW., room 6100, Washington, DC 20536, telephone 202-514-1932.

Dated: July 27, 2000.

**Doris Meissner,**

Commissioner, Immigration and Naturalization Service.

[FR Doc. 00-19412 Filed 7-28-00; 8:45 am]

BILLING CODE 4410-10-P

**DEPARTMENT OF VETERANS AFFAIRS****38 CFR Part 36**

RIN 2900-AG20

**Loan Guaranty: Net Value and Pre-Foreclosure Debt Waivers****AGENCY:** Department of Veterans Affairs.**ACTION:** Proposed rule.

**SUMMARY:** We propose to amend the Loan Guaranty Regulations to change the formula for calculating the net value of property securing VA guaranteed loans being terminated and to add criteria for granting preforeclosure debt waivers. The proposed changes regarding net value appear necessary to more accurately reflect current costs. The proposed changes regarding waivers appear necessary to more accurately reflect statutory intent.

**DATES:** Comments must be received on or before October 2, 2000. VA proposes to make these regulations effective 30 days after publication of the final regulations.

**ADDRESSES:** Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AG20." All

written comments received will be available for public inspection at the above address, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Fyne, Assistant Director for Loan Management (261), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, Washington DC 20420, (202) 273-7380.

**SUPPLEMENTARY INFORMATION:** We propose to amend the Loan Guaranty Regulations to change the formula for calculating the net value of property securing VA guaranteed loans being terminated and to add criteria for granting preforeclosure debt waivers.

Under current law, when a VA guaranteed loan is reported as being in default, the Secretary is required to establish the "net value" of the property securing the guaranteed loan in default. "Net value" means the fair market value of the property minus certain costs that VA would incur to acquire, manage, and dispose of the property. The relationship between the net value of the property, the total indebtedness of the veteran at the time of loan termination, and the amount of VA's guaranty determines whether or not VA may acquire the property following foreclosure from the foreclosing loan holder. These factors also affect the Government's claim payment to the foreclosing holder under the guaranty. In addition, they will affect the amount of the veteran's debt to the Government under those circumstances where, by law, VA is entitled to establish a debt against a veteran. Moreover, they affect the VA's loss on the guaranty transaction which, in turn, will affect the veteran's ability to have previously-used entitlement restored.

Under § 36.4301, VA computes "net value" using cost data for the preceding three fiscal years. We propose to change how VA computes "net value." Instead