



## **Agricultural Marketing Service**

### **7 CFR Part 905**

**[Doc. No. AMS-SC-24-0071]**

## **Oranges, Grapefruit, Tangerines, and Pummelos Grown in Florida; Increased Assessment Rate**

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would implement a recommendation from the Citrus Administrative Committee (Committee) to increase the assessment rate established for the 2024-2025 and subsequent fiscal periods from \$0.02 to \$0.025 per 4/5-bushel carton or equivalent for oranges, grapefruit, tangerines and pummelos grown in Florida. The proposed assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposed rule. Comments can be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237. Comments can also be sent to the Docket Clerk electronically by email: [MarketingOrderComment@usda.gov](mailto:MarketingOrderComment@usda.gov) or via the internet: <https://www.regulations.gov>. Comments should reference the document number, the date, and the page number of this issue of the *Federal Register*. Comments submitted in response to this proposed rule will be included in the record, will be made available to the public, and can be viewed at: <https://www.regulations.gov>. Please be advised that the

identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:** Jennie M. Varela, Marketing Specialist, or Christian D. Nissen, Chief, Southeast Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; telephone: (863) 324-3375, fax: (863) 291-8614, or email: [Jennie.Varela@usda.gov](mailto:Jennie.Varela@usda.gov) or [Christian.Nissen@usda.gov](mailto:Christian.Nissen@usda.gov).

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-8085, or email: [Antoinette.Carter@usda.gov](mailto:Antoinette.Carter@usda.gov).

**SUPPLEMENTARY INFORMATION:** This action, pursuant to 5 U.S.C. 553, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Order No. 905, as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and pummelos grown in Florida. Part 905 (referred to as “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 Committee locally administers the Order and is comprised of growers of fresh citrus operating within the area of production, and one public member.

The Agricultural Marketing Service (AMS) is issuing this proposed rule in conformance with Executive Order 12866, as amended by Executive Order 13563. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action falls within a category of

regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This proposed rule has been reviewed under Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” which requires Federal agencies to consider whether their rulemaking actions would have Tribal implications. AMS has determined that this proposed rule is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

This proposed rule has been reviewed under Executive Order 12988, “Civil Justice Reform.” Under the Order now in effect, Florida citrus handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the proposed assessment rate would be applicable to all assessable Florida citrus for the 2024-2025 fiscal period, and continue until amended, suspended, or terminated.

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 U.S. Department of Agriculture (USDA) 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. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA 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 USDA’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 proposed rule would increase the assessment rate for Florida citrus handled under the Order from \$0.02 to \$0.025 per 4/5-bushel carton or equivalent, for the 2024-2025 and subsequent fiscal periods.

Sections 905.40 and 905.41 of the Order authorize the Committee, with the approval of AMS, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are familiar with the Committee's needs and with the costs of goods and services in their local area and, thus, can formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting, and all directly affected persons have an opportunity to participate and provide input.

For the 2023-2024 and subsequent fiscal periods, the Committee recommended, and AMS approved, an assessment rate of \$0.02 per 4/5-bushel carton of citrus or equivalent. That rate continues in effect from fiscal period to fiscal period until modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other information available to AMS.

The Committee met on September 23, 2024, and unanimously recommended 2024-2025 fiscal period expenditures of \$119,624 and an increased assessment rate of \$0.025 per 4/5-bushel carton of citrus or equivalent handled for the 2024-2025 fiscal period and subsequent fiscal periods. In comparison, budgeted expenditures for the 2023-2024 fiscal year were \$124,624. The proposed assessment rate of \$0.025 is \$0.005 higher than the rate currently in effect. The Committee recommended increasing the assessment rate to reduce the burden on its financial reserve, which had been strained during the previous two seasons after unexpected, decreased shipment volumes. Following Hurricanes Helene and Milton, the Committee met again on November 14, 2024, and reaffirmed its recommendation for an assessment rate increase to help respond to damage incurred by both weather events. The Committee estimates shipments of approximately

4,500,000 4/5-bushel cartons of citrus or equivalent for the 2024-2025 fiscal period, which is 1,145,904 fewer cartons than was handled for the 2023-2024 fiscal period.

The major expenditures recommended by the Committee for the 2024-2025 fiscal period include management, auditing, and compliance travel expenses —the same as budgeted for the 2023-2024 fiscal period.

The Committee derived the recommended assessment rate by considering anticipated expenses, an estimated 4,500,000 4/5-bushel cartons or equivalent of assessable Florida citrus, and the amount of funds available in the authorized reserve. At the current assessment rate of \$0.02, the expected 4,500,000 4/5-bushel cartons or equivalent of the assessable Florida citrus would generate \$90,000 in assessment revenue (4,500,000 cartons multiplied by the \$0.02 assessment rate), which would require the use of \$29,624 of reserves to cover the anticipated expenditures of \$119,624 for the 2024-2025 fiscal period. By increasing the assessment rate by \$0.005 to \$0.025, assessment revenue would generate \$112,500 (4,500,000 cartons multiplied by the \$0.025 assessment rate) for the 2024-2025 fiscal period and would only require \$7,124 in reserves to cover expenditures. Income derived from handler assessments, along with reserve funds and interest income, would be sufficient to meet the Committee's recommended budgeted expenditures of \$119,624 for the 2024-2025 fiscal period. Funds available in the reserve (approximately \$146,000) are expected to be kept within the maximum permitted by the Order (approximately two fiscal periods' expenses as authorized in § 905.42).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other available information. Although this assessment rate would be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider

recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or AMS. Committee meetings are open to the public and interested persons may express their views at these meetings. AMS will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2024-2025 fiscal period budget, and those for subsequent fiscal periods, will be reviewed and, as appropriate, approved by AMS.

### **Initial Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), AMS has considered the economic impact of this proposed rule 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 businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are 12 handlers of Florida citrus who are subject to regulation under the Order and approximately 500 citrus producers in the regulated area. At the time this analysis was prepared, the Small Business Administration (SBA) defined small agricultural producers as those having annual receipts equal to or less than \$4.0 million for orange producers (North American Industry Classification System (NAICS) code 111310), and \$4.25 million for other citrus producers (including grapefruit) (NAICS code 111320). Small agricultural service firms, including handlers, are defined as those whose annual receipts are equal to or less than \$34.0 million (NAICS 115114) (13 CFR 121.201).

According to the data from the National Agricultural Statistic Service (NASS), the average free on board (FOB) price for fresh Florida oranges for the 2023-2024 season was approximately \$18.15 per carton with total shipments of 3,504,000 cartons for a total value of \$63,597,600. The average FOB price for fresh Florida grapefruit for the 2023-2024 season was \$22.75 per carton with total fresh shipments of 1,201,000 cartons for a total value of \$54,645,000. Based on this information, the majority of fresh citrus handlers have average annual receipts less than \$34,000,000 ( $\$63,597,600$  plus  $\$54,645,500$  equals  $\$118,243,100$  divided by 12 handlers equals  $\$9,853,591.67$ ).

In addition, based on the NASS data, the on-tree price for growers for the 2023-2024 season was estimated at a weighted average price of \$4.51 per carton. Fresh oranges make up a small segment of the citrus industry. The on-tree price for fresh oranges was \$7.93 per carton with shipments of 3,504,000 cartons for a value of \$27,786,720, while oranges for processing were \$4.14 per carton with shipments of 32,416,000 cartons for a total value of \$134,040,160.

Conversely, the grapefruit market is predominantly fresh. The on-tree price for fresh grapefruit was \$13.44 per carton during the same period with shipments of 2,402,000 for a total value of \$32,282,880. NASS could not estimate an on-tree price for processing. Based on grower prices, shipment data, and the total number of Florida growers, the average annual grower revenue, even including oranges for processing, is well below \$4,000,000 ( $\$27,786,720$  in fresh orange shipments plus  $\$134,040,160$  in processed orange shipments, plus  $\$32,282,880$  in fresh grapefruit shipments equals  $\$194,109,760$  divided by 500 growers equals  $\$388,219$ ). Thus, the majority of Florida citrus handlers and growers may be classified as small entities.

This proposed rule would increase the assessment rate for the 2024-2025 fiscal year and subsequent fiscal years from \$0.02 to \$0.025 per 4/5-bushel carton of citrus or equivalent. The Committee recommended 2024-2025 expenditures of \$119,624 and an

assessment rate of \$0.025 per 4/5-bushel carton. The proposed assessment rate of \$0.025 is \$0.005 more than the current assessment rate. The quantity of assessable Florida citrus for the 2024-2025 season is estimated at 4,500,000 4/5-bushel cartons or equivalent. The \$0.025 rate should provide \$112,500 in assessment income (4,500,000 cartons multiplied by \$0.025 assessment rate). Income derived from handler assessments along with reserve funds and interest income, should provide sufficient funds to cover budget expenses.

The major expenditures recommended by the Committee for the 2023-2024 fiscal year include management, auditing, and compliance travel expenses —the same as budgeted for the 2023-2024 fiscal period.

The Committee recommended increasing the assessment rate to minimize the use of reserves after drawing down these funds over the past two seasons due to shipment volumes and assessment being lower than expected. The Committee estimates shipments of approximately 4,500,000 4/5-bushel cartons of citrus or equivalent for the 2024-2025 fiscal year which is 1,145,904 fewer cartons than was handled for the 2023-2024 fiscal year. At the current assessment rate of \$0.02, the expected 4,500,000 4/5-bushel cartons or equivalent of the assessable Florida citrus would generate \$90,000 (4,500,000 cartons multiplied by \$0.02 assessment rate), which would require the use of close to \$30,000 of reserves to cover the anticipated expenditures of \$119,624 for the 2024-2025 fiscal period. By increasing the assessment rate by \$0.005 to \$0.025, assessment income would generate \$112,500 (4,500,000 cartons multiplied by \$0.025 assessment rate) for the 2024-2025 fiscal year and require the use of less reserve funds to cover expenditures. The increased assessment amount, along with reserve funds and interest income, should provide sufficient funds to meet anticipated expenses for the 2024-2025 fiscal period.

Prior to arriving at this budget and assessment rate, the Committee considered alternatives, including raising the assessment rate to \$0.03 per carton to replenish reserves. However, Committee members determined that because annual expenditures

were relatively stable, it was not crucial to add to reserves at this time and the alternative was rejected. The Committee also considered maintaining the current assessment rate of \$0.02 per carton. However, the Committee members did not want to make another large draw on reserves to meet 2024-2025 expenses after doing so in previous seasons.

Consequently, this alternative was rejected.

A review of historical and preliminary information pertaining to the 2024-2025 fiscal period indicates the average grower price should be approximately \$7.43 4/5-bushel carton of citrus or equivalent. Therefore, the estimated assessment revenue for the 2024-2025 fiscal period as a percentage of total grower revenue would be about 0.34 percent (\$0.025 divided by \$7.43 multiplied by 100).

This proposed rule would increase the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, these costs are expected to be offset by the benefits derived by the operations of the Order.

The Committee's meetings are widely publicized throughout the Florida citrus industry and all interested persons are invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the September 23, 2024, and November 14, 2024, meetings were public meetings and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581-0189 Fruit Crops. No changes to those requirements would be necessary based on this proposed rule. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large Florida citrus 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.

AMS is committed to complying with the E-Government Act to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <https://www.ams.usda.gov/rules-regulations/moa/small-businesses>. Any questions about the compliance guide should be sent to Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendations submitted by the Committee and other available information, AMS has determined that this proposed rule is consistent with and would effectuate the purposes of the Act.

A 30-day comment period is provided to allow interested persons to comment on this proposed rule. All written comments timely received will be considered before a final determination is made on this rule.

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

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

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR part 905 as follows:

**PART 905 – ORANGES, GRAPEFRUIT, TANGERINES, AND PUMMELOS**

**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. Section 905.235 is revised to read as follows:

**§ 905.235 Assessment rate.**

On and after August 1, 2024, an assessment rate of \$0.025 per 4/5-bushel carton or equivalent is established for Florida citrus covered under the Order.

**Erin Morris,**  
*Administrator,*  
*Agricultural Marketing Service.*

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