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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: Final rule.

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

DATES: Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Rebecca Geller, Marketing Specialist, or Christian D. Nissen, Chief, Southeast Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; telephone: (863) 324-3375, or email: Rebecca.Geller@usda.gov or Christian.Nissen@usda.gov.

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This final rule is issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674) (the Act), amending Marketing Order No. 905 (7 CFR part 905; the Order), regulating the handling of oranges, grapefruit, tangerines, and pummelos grown in Florida. The Citrus Administrative Committee (Committee) locally administers the

Order and is comprised of growers of fresh citrus operating within the area of production, as well as a public member.

This action is exempt from the Office of Management and Budget (OMB) review process required by Executive Order 12866. This rule amends existing Marketing Order No. 905, as amended (7 CFR part 905), Oranges, Grapefruit, Tangerines, and Pummelos Grown in Florida, and is necessary for the continued operation of Marketing Order No. 905. Additionally, this action is exempt from the requirements of Executive Order 14192, “Unleashing Prosperity Through Deregulation,” pursuant to section 5(c).

This final 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. The Agricultural Marketing Service (AMS) has determined that this 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 final 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 assessment rate will 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 remedies must be exhausted before parties may file suit in court. Under section 608(c)(15)(A) of the Act, any handler subject to an order may file with 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 final rule increases 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 fiscal period and subsequent fiscal periods.

Sections 905.40 and 905.41 of the Order authorize the Committee, with AMS approval, 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 are able to 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 fiscal period and subsequent fiscal periods, the Committee recommended, and AMS approved, an assessment rate of \$0.02 per 4/5-bushel carton or equivalent of Florida citrus. 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, with a vote of 18 in favor and none opposed, 2024-2025 fiscal period expenditures of \$119,624 and an assessment rate of \$0.025 per 4/5-bushel carton or equivalent of citrus handled for the 2024-2025 fiscal period and subsequent fiscal periods. In comparison, budgeted expenditures for the 2023-2024 fiscal period were \$124,624. The 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 the damage incurred by both weather events. The Committee estimates shipments of approximately 4,500,000 4/5- bushel cartons or equivalent of citrus for the 2024-2025 fiscal period, which is 1,145,904 cartons fewer than was handled 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 (4,500,000 cartons multiplied by \$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 income is expected to generate \$112,500 (4,500,000 cartons multiplied by \$0.025 assessment rate) for the 2024-2025 fiscal period and only require \$7,124 in reserves to cover expenditures. Income derived from handler assessments along with reserve funds and interest income should be sufficient to meet the Committee's recommended budgeted expenditures of \$119,624 for the 2024-2025 fiscal period. Funds available in reserves (approximately \$146,000) will be kept within the maximum permitted by the Order (approximately two fiscal periods' expenses as authorized in § 905.42).

The assessment rate will continue in effect indefinitely until modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other available information. Although this assessment rate will 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 from 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.

Final 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 final rule 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 businesses subject to such action in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act are unique regulations in that they are brought about through group action of typically small entities acting on their own behalf.

There are approximately 500 producers of Florida citrus in the production area and 12 handlers subject to regulation under the Order. 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 \$4,000,000 for orange producers (North American Industry Classification System (NAICS) code 111310), and \$4,250,000 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 \$34,000,000 (NAICS 115114, Postharvest Crop Activities) (13 CFR 121.201).

The USDA National Agricultural Statistics Service (NASS) reported an average free on board (FOB) price for fresh Florida oranges for the 2023-2024 season of 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 \$134,202,240.

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 $\$134,202,240$ 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 final rule increases the assessment rate for the 2024-2025 fiscal period and subsequent fiscal periods from \$0.02 to \$0.025 per 4/5-bushel carton or equivalent of Florida citrus. The Committee recommended 2024-2025 expenditures of \$119,624 and

an assessment rate of \$0.025 per 4/5-bushel carton or equivalent of Florida citrus. The new 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 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 assessments being lower than expected. The Committee estimates shipments of approximately 4,500,000 4/5-bushel cartons or equivalent of citrus 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 should 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 also 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 per 4/5-bushel carton or equivalent of citrus. 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 final rule increases 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.

Committee meetings are widely publicized throughout the production area. 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 were invited to submit comments on this rule, including the regulatory and information collection 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 in those requirements would be necessary as a result of this final rule. Should any changes become necessary, they would be submitted to OMB for approval.

This final rule will 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 final rule.

A proposed rule concerning this action was published in the *Federal Register* on October 1, 2025 (90 FR 47240). Copies of the proposed rule were provided to all Florida citrus handlers. In addition, the proposal was made available through the internet by AMS and the Office of the Federal Register via <https://www.regulations.gov>. A 30-day comment period ending October 31, 2025, was provided for interested persons to respond to the proposal. AMS received four comments during the comment period. Two comments supported the proposal and one comment did not pertain to the merits of the rule. One comment challenged the procedural sufficiency of the rulemaking, asserting that AMS did not adhere to the requirements of the Administrative Procedure Act and the Regulatory Flexibility Act.

Specifically, the commenter claimed that AMS procedurally bypassed notice and comment or waived the 30-day delayed effective date without adequate good cause and failed to present a clear analysis of the impacts on small businesses. The commenter also claimed that this action would have an impermissible retroactive effect to the start of the fiscal period on August 1, 2024. After review of the comment, AMS determined that all the statutory and procedural requirements for rulemaking have been met regarding this action.

Contrary to the comment's assertions, AMS did not bypass notice and comment or invoke good cause. Interested persons had numerous opportunities to review pertinent information, present their views, and participate in the rulemaking process. As noted above, AMS published a notice of proposed rulemaking to the *Federal Register* on October 1, 2025, that included a 30-day comment period for interested persons, ending October 31, 2025. The proposed rulemaking also included an Initial Regulatory Flexibility Analysis, pursuant to requirements set forth in the Regulatory Flexibility Act, that considered and detailed for the public's review, the economic impact of this rule on small entities. AMS has provided adequate opportunity for interested persons to consider the proposal and provide comments. Accordingly, AMS made no changes to the rule as proposed.

Regarding the retroactive effect of this action, the commenter also cited *Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204, 208 (1988) for the proposition that there is a "presumption against retroactivity" absent clear congressional authorization. Even if the assessments are retroactive rules, Congress expressly granted the Secretary the power to promulgate them. The Act provides that handlers shall pay assessments for such expenses "as the Secretary may find are reasonable and are likely to be incurred by such authority or agency, during any period specified by him[.]" 7 U.S.C. 610(b)(2)(ii). See *Cal-Almond, Inc. v. U.S. Dep't of Agric.*, 14 F.3d 429, 442–43 (9th Cir. 1993). Accordingly, AMS made no changes to the rule as proposed.

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 final rule is consistent with and effectuates the purposes of the Act.

Lists of Subjects in 7 CFR Part 905

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

For the reasons set forth in the preamble, 7 CFR part 905 is amended 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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