

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 905**

[Docket No. FV05-905-1 FIR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Change in the Minimum Maturity Requirements for Fresh Grapefruit**AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule reducing the minimum maturity requirements for fresh grapefruit under the marketing order for Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida (order). The Citrus Administrative Committee (Committee), which locally administers the order, recommended this change. This rule continues in effect the action that reduced the minimum maturity requirement for soluble solids (sugars) from 8.0 percent to 7.5 percent until July 31, 2005. This action makes additional quantities of grapefruit available for the fresh market and will help reduce the losses sustained by the grapefruit industry during the recent hurricanes in Florida.

DATES: *Effective Date:* June 6, 2005.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 799 Overlook Drive, Suite A, Winter Haven, Florida 33884-1671; Telephone: (863) 324-3375, Fax: (863) 325-8793; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SE., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, 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 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."

USDA 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 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. A 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 rule continues in effect the action that reduced the minimum maturity requirement for soluble solids (sugars) of fresh grapefruit from 8.0 percent to 7.5 percent until July 31, 2005. This action makes additional quantities of grapefruit available for the fresh market and will help reduce the losses sustained by the grapefruit industry during the recent hurricanes in Florida. This action was unanimously recommended by the Committee at its meeting on November 16, 2004.

Section 905.52 of the order provides authority for establishment of grade and size requirements for Florida citrus. One element of grade is maturity. Section 905.306 of the order specifies, in part, the minimum maturity requirements for grapefruit. Prior to this change, the minimum maturity requirements for Florida grapefruit were 8.0 percent soluble solids (sugars) and 7.5 to 1 solids to acid ratio with a sliding scale minimum ratio of 7.2 to 1.

This rule reduces the minimum maturity requirement for soluble solids (sugars) from 8.0 percent to 7.5 percent soluble solids for the remainder of the

2004-05 season which ends July 31, 2005. On August 1, 2005, the requirement returns to 8.0 percent soluble solids. The 7.5 to 1 solids to acid ratio with a sliding scale minimum of 7.2 to 1 remains unchanged by this action.

During the months of August and September, the major grapefruit growing regions in Florida suffered significant damage and fruit loss from multiple hurricanes. The strong winds from the storms blew substantial volumes of the setting fruit off the trees. The impact of the storms also produced a much higher than normal fruit drop. The extent of the loss is evident in the official USDA crop estimate for this season which reflects a 69 percent decrease from last year's estimate.

In inspecting groves following the storms, growers found that the younger trees retained their fruit better compared to trees in established groves. However, based on Committee discussion, the fruit from younger trees has more difficulty meeting the current maturity requirement. To address the situation, the Committee considered how the maturity requirements might be adjusted so that more fruit from the younger trees would be available for the fresh market.

The Committee considered several options to address this issue including a one-point reduction in the soluble solids and a reduction in the minimum ratio. Several members were concerned about reducing requirements too much and believed that reducing maturity requirements by a full point would impact the quality of the fruit. It was also stated that the industry should not pack inferior fruit just because there is a shortage of volume. The Committee agreed that the current maturity standards have been well received by the market. However, Committee members also recognized that the special circumstances surrounding this season were unprecedented in the history of the grapefruit industry, and based on that, if it was possible, some allowances should be made to assist growers and provide some additional volume to the market.

The Committee reached a compromise position where the soluble solid requirement was reduced by a half a point and the ratios were maintained at current levels. The Committee stressed that this change be made for the remainder of the current season only, and starting August 1, 2005, the maturity requirements return to their previous level. The Committee believes by reducing the soluble solids level and maintaining the minimum ratio combinations at the current levels for

the remainder of the season, additional quantities of grapefruit can be made available for the fresh market without a significant reduction in quality. Therefore, the Committee voted unanimously to reduce the minimum soluble solid level from 8.0 to 7.5 until July 31, 2005. This change benefits both growers and consumers by increasing the available supply of fresh grapefruit.

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. As this rule changes the minimum maturity requirements under the domestic handling regulations, a corresponding change to the import regulations must be considered. Such change to the import regulations would be made under a separate action.

Final Regulatory Flexibility Analysis

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 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 the 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 75 grapefruit handlers subject to regulation under the order and approximately 11,000 producers of citrus in the regulated area. Small agricultural service firms, which includes handlers, are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$6,000,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000 (13 CFR 121.201).

Based on industry and Committee data, the average annual f.o.b. price for fresh Florida grapefruit during the 2003–04 season was approximately \$8.00 per 4/5-bushel carton, and total fresh shipments for the 2003–04 season are estimated at 26 million cartons of grapefruit.

Approximately 25 percent of all handlers handled 75 percent of Florida's grapefruit shipments. Using the average f.o.b. price, at least 69 percent of the

grapefruit handlers could be considered small businesses under SBA's definition. In addition, based on production and grower prices reported by the National Agricultural Statistics Service, and the total number of grapefruit growers, the average annual grower revenue is approximately \$20,600. In view of the foregoing, it can be concluded that the majority of handlers and producers of Florida grapefruit may be classified as small entities.

This rule continues in effect the action that reduced the minimum maturity requirement for soluble solids (sugars) from 8.0 percent to 7.5 percent for fresh grapefruit until July 31, 2005. This action makes additional quantities of grapefruit available for the fresh market and will help reduce the losses sustained by the grapefruit industry during the recent hurricanes in Florida. This action was unanimously recommended by the Committee at its meeting on November 16, 2004. This rule modifies the maturity requirements specified in § 905.306. Authority for this action is provided for in § 905.52 of the order.

With respect to the impact of this action, it is anticipated that this temporary change will not result in any increase in grower or handler costs. However, it makes some additional quantities of grapefruit available for the fresh market. This will help growers maximize their fresh shipments in a year where there may be potential shortages of grapefruit. This will help increase grower returns and address some of the losses sustained from the storms.

The Committee believes by reducing the soluble solids level and maintaining the minimum ratio combinations at the current levels for the remainder of the 2004–05 season, additional quantities of grapefruit will be made available for the fresh market without a significant reduction in quality. This change benefits both growers and consumers by increasing the available supply of fresh grapefruit.

The purpose of this rule is to help improve producer returns and provide some additional volume of grapefruit to the market. The opportunities and benefits of this rule are expected to be available to all grapefruit handlers and producers regardless of their size of operation.

The Committee considered several alternatives to taking this action. One alternative considered was a reduction in maturity requirements to 7.0 percent soluble solids with 7.0 to 1 solids to acid ratio. Committee members believed that this was too much of a change and

that it would negatively impact the quality of the fruit. Therefore, this option was rejected. Another alternative considered was making no change to the maturity requirement. However, the Committee believed that some adjustment should be made to accommodate fruit from young trees. The Committee also recognized the special circumstances surrounding this season as a result of the hurricanes. Consequently, the Committee unanimously supported the action taken by this rule.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large grapefruit 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. In addition, as noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. However, grapefruit must meet the requirements as specified in the U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.760 through 51.784) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

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 November 16, 2004, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

An interim final rule concerning this action was published in the **Federal Register** on December 22, 2004 (69 FR 76597). Copies of the rule were mailed by the Committee's staff to all Committee members and Florida citrus handlers. In addition, the rule was made available through the Internet by USDA and the Office of the Federal Register. That rule provided for a 60-day comment period which ended February 22, 2005. Two comments were received.

One commenter supported in principle the relaxation. The second commenter stated that the order should be eliminated and the Committee be disbanded. USDA disagrees with these suggestions.

The marketing order was implemented and is being administered consistent with the authority in the Agricultural Marketing Agreement Act of 1937, and was favored by citrus growers in a recent continuance referendum. In addition, actions taken by the Committee under the order have

helped increase grower returns to levels above the cost of production, which may contribute to more growers maintaining their groves. This rule is making more fruit available at a time when much of the crop was destroyed by last year's hurricanes without sacrificing fruit quality. This change benefits both growers and consumers by increasing the available supply of fresh grapefruit.

Therefore, no changes will be made as a result of these comments.

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.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (69 FR 76597, December 22, 2004) 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 69 FR 76597 on December 22, 2004, is adopted as a final rule without change.

Dated: May 3, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05-9109 Filed 5-5-05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2004-19693; Directorate Identifier 2004-CE-40-AD; Amendment 39-14076; AD 2004-25-16 R1]

RIN 2120-AA64

Airworthiness Directives; Kelly Aerospace Power Systems Part Number (P/N) 14D11, A14D11, B14D11, C14D11, 23D04, A23D04, B23D04, C23D04, or P23D04 Fuel Regulator Shutoff Valves (Formerly Owned by ElectroSystems, JanAero Devices, Janitrol, C&D Airmotive Products, FL Aerospace, and Midland-Ross Corporation)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is revising Airworthiness Directive (AD) 2004-25-16, which applies to aircraft equipped with a fuel regulator shutoff valve part number (P/N) 14D11, A14D11, B14D11, C14D11, 23D04, A23D04, B23D04, C23D04, or P23D04 used with B1500, B2030, B2500, B3040, B3500, B4050, or B4500 B-Series combustion heaters. AD 2004-25-16 currently requires you to repetitively inspect the fuel regulator shutoff valve (visually or by pressure test) for fuel leakage and replace the fuel regulator shutoff valve with an improved design replacement part with a manufacturer's date code of 02/02 or later if fuel leakage is found. AD 2004-25-16 also allows you to disable the heater as an alternative method of compliance. Since we issued AD 2004-25-16, we received several comments requesting a revision to paragraph (e)(2). Consequently, this AD retains the actions required in AD 2004-25-16 and revises the requirements in paragraph (e)(2) to remove a required action. We are issuing this AD to prevent failure of the fuel regulator shutoff valve, which could result in fuel leakage in aircraft with these combustion heaters. This failure could result in an aircraft fire.

DATES: This AD becomes effective on June 20, 2005.

On January 5, 2005 (69 FR 75228, December 16, 2004), the Director of the Federal Register approved the incorporation by reference of Kelly Aerospace Power Systems Service Bulletin No. A-107A, Issue Date: September 6, 2002; and Piper Vendor Service Publication VSP-150, dated January 31, 2003.

ADDRESSES: To get the service information identified in this AD, contact Kelly Aerospace Power Systems, P.O. Box 273, Fort Deposit, Alabama 36032; telephone: (334) 227-8306; facsimile: (334) 227-8596; Internet: <http://www.kellyaerospace.com>.

To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001 or on the Internet at <http://dms.dot.gov>. The docket number is FAA-2004-19693; Directorate Identifier 2004-CE-40-AD.

FOR FURTHER INFORMATION CONTACT:

Kevin L. Brane, Aerospace Engineer, Atlanta Aircraft Certification Office, FAA, One Crown Center, 1985 Phoenix Boulevard, Suite 450, Atlanta, GA 30349; telephone: (770) 703-6063; facsimile: (770) 703-6097.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD?
Reports of certain regulator shutoff valves leaking caused FAA to issue AD 2001-08-01, Amendment 39-12178 (66 FR 19718, April 17, 2001). AD 2001-08-01 required you to visually inspect and pressure test the fuel regulator shutoff valves for leaks and replace the fuel regulator shutoff valve if leaks were found.

The affected fuel regulator shutoff valves are part of the B1500, B2030, B2500, B3040, B3500, B4050, and B4500 combustion heater configuration.

Operators of aircraft with the affected fuel regulator shutoff valves installed and mechanics who did the actions of AD 2001-08-01 provided suggestions for improvement to the AD. Based on that feedback, FAA superseded AD 2001-08-01 with AD 2001-17-13, Amendment 39-12404 (66 FR 44027, August 22, 2001).

AD 2001-17-13 retained the actions of AD 2001-08-01, except it required only the visual inspection or the pressure test of the fuel regulator shutoff valves (not both) and listed the affected fuel regulator shutoff valves by part number instead of series. AD 2001-17-13 also included a provision for disabling the heater as an alternative method of compliance.

The FAA continued to receive reports of problems with these fuel regulator shutoff valves. This service history reflects that the inspections should be repetitive instead of one-time. Based on this information, FAA superseded AD 2001-17-13 with AD 2004-25-16, Amendment 39-13904 (69 FR 75228, December 16, 2004).