CFR part 718 (61 FR 37552, July 18, 1996), which cover a number of issues common to a number of programs, including NAP. Section 161 of the 1996 Act provides for an exemption from the normal provisions of rule-making for implementing decisions made pursuant to that Act, and this exemption applies in this instance as well because this rule is part of the overall implementation of the 1996 Act and the administration of NAP. The rule has been designed to accommodate normal planting practices and to be flexible where needed to handle the special needs of special crops or special conditions in special areas.

Also, to provide for a transition from the old rules that would not occur in the middle of a crop year, the amended regulation in § 718.107 provides that the new provisions will apply only to the 2003 and subsequent crops.

List of Subjects in 7 CFR Part 718

Determination of Acreage and Compliance, Reconstitution of Farms, Allotments, Quotas, and Acreages.

For reasons set out in the preamble, 7 CFR part 718 is revised as follows:

PART 718—PROVISIONS APPLICABLE TO MULTIPLE PROGRAMS

1. The authority citation for 7 CFR part 718 continues to read as follows:

Authority: 7 U.S.C. 1373, 1374, 7201 *et seq.*; 15 U.S.C. 714b and 714c; and 21 U.S.C. 889.

2. Revise § 718.107 to read as follows:

§ 718.107 Measuring acreage including skip row acreage.

(a) When one crop is alternating with another crop, whether or not both crops have the same growing season, only the acreage that is actually planted to the crop being measured will be considered to be acreage devoted to the measured crop.

(b) Subject to the provisions of this paragraph and section, whether planted in a skip row pattern or without a pattern of skipped rows, the entire acreage of the field or subdivision may be considered as devoted to the crop only where the distance between the rows, for all rows, is 40 inches or less. If there is a skip that creates idle land wider than 40 inches, or if the distance between any rows is more than 40 inches, then the area planted to the crop shall be considered to be that area which would represent the smaller of: a 40-inch width between rows, or the normal row spacing in the field for all other rows in the field—those that are not more than 40 inches apart. The allowance for individual rows would be made based on the smaller of: actual spacing between those rows, or the normal spacing in the field. For example, if the crop is planted in single wide rows that are 48 inches apart, only 20 inches to either side of each row (for a total of 40 inches between the two rows) could, at a maximum, be considered as devoted as the crop and normal spacing in the field would control. Half the normal distance between rows will also be allowed beyond the outside planted rows not to exceed 20 inches and will reflect normal spacing in the field.

(c) In making calculations under this section, further reductions may be made in the acreage considered planted to the extent it is determined that the acreage is more sparsely planted than would be normal using reasonable and customary full production planting techniques.

(d) The Deputy Administrator for Farm Programs has the discretionary authority to allow row allowances other than those specified in this section in those instances in which crops are normally planted with spacings greater or less than 40 inches, such as in the case of tobacco, or where other circumstances are presented which the Deputy Administrator finds justifies that allowance.

(e) Paragraphs (a) through (d) of this section shall apply with respect to the 2003 and subsequent crops. For preceding crops, the rules in effect on January 1, 2002, shall apply.

Signed at Washington, DC, on November 27, 2002.

James R. Little,

Administrator, Farm Service Agency.

[FR Doc. 02–30702 Filed 11–29–02; 1:54 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FVO2–905–2 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 increasing 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 for Florida grapefruit.

EFFECTIVE DATE: January 2, 2003.

FOR FURTHER INFORMATION CONTACT: Melissa Schmaedick, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Post Office Box 1035, Moab, Utah 84532; telephone: (435) 259–7988, Fax: (435) 259–4945; or George Kelhart, Technical Advisor, 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.

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 action 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 an increase in the minimum maturity requirements for fresh Florida grapefruit. This action continues to increase the minimum maturity from a 7.5 percent soluble solids (sugars) and a 7.0 to 1 solids to acid ratio with a sliding scale minimum ratio of 6.0 to 1, to an 8.0 percent soluble solids (sugars) and a 7.5 to 1 solids to acid ratio with a sliding scale minimum ratio of 7.2 to 1. This change results in a sweeter grapefruit taste and should increase consumer demand for fresh grapefruit. This action was recommended by the Committee at its meeting on May 22, 2002, during which thirteen Committee members voted in favor of this change, and three voted against the change.

Section 905.52 of the order provides authority for the 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 grade requirements for grapefruit. The current grade requirement for Florida grapefruit is a U.S. No. 1. The specifics of this grade requirement are listed under the U.S. Standards for Grades of Florida Grapefruit (7 CFR 2851.750–2851.784).

The U.S. Standards for Grades of Florida Grapefruit (Standards) specify minimum and/or maximum allowances for discoloration, firmness, color, texture, form/shape, varietal characteristics, and maturity. The Standards define maturity by referencing the 1995 Florida Department of Citrus (FDOC) Florida Citrus Code, Chapter 601 and the FDOC Official Rules Affecting the Florida Citrus Industry, Part 1, Chapter 20–13. The 1995 Florida Citrus Code specifies a minimum maturity of 7.5 percent soluble solids (sugars) and a 7.0 to 1 ratio of solids to acid. The FDOC also employs a Citrus Fruit Maturity Chart as a sliding scale to determine equivalent soluble solids and ratio maturity combinations. The sliding scale allows for a range of soluble solids and ratio combinations that are comparable to the required minimum maturity level rather than just a fixed minimum requirement. With the sliding scale, a higher level of soluble solids (sugars) allows for a lower solids to acid ratio. In other words, grapefruit with higher soluble solids can have a lower solids to acid ratio and meet the minimum maturity requirements.

This rule continues to increase the minimum maturity requirements for fresh Florida grapefruit. At its meeting on May 22, 2002, the Committee recommended increasing the minimum maturity level for fresh grapefruit from a 7.5 percent soluble solids (sugars) and a 7.0 to 1 solids to acid ratio with a sliding scale minimum ratio of 6.0 to 1 as specified in the Standards, to an 8.0 percent soluble solids (sugars) and a 7.5 to 1 solids to acid ratio with a sliding scale minimum of 7.2 to 1.

The Committee had formed a subcommittee to examine the maturity issue, the Subcommittee on Grapefruit Maturity Standards (subcommittee). The subcommittee determined that the minimum maturity requirements for fresh grapefruit should be increased and forwarded this idea to the full Committee at the May meeting. The subcommittee's presentation to the full Committee focused on declining fresh grapefruit sales, which it attributed to consumer dissatisfaction with taste. Furthermore, it discussed the potential to increase consumer demand through increasing the sweetness of grapefruit, particularly early in the season.

The subcommittee found that consumers would be more likely to make repeat purchases if their initial taste experience with early season grapefruit was positive. By increasing the minimum maturity requirements, the industry could meet consumer demand for a sweeter tasting fruit. The subcommittee based its recommendation to increase the minimum maturity standard on recent market research studies and cited industry requests and support for a higher maturity standard.

The research studies referenced by the subcommittee were undertaken by the FDOC, or at their request, and were designed to determine those factors causing sales of fresh grapefruit to decline and those that cause demand to increase. Much of the decline in sales was attributed to consumer dissatisfaction with bitter tasting grapefruit early in the harvest season which, in turn, resulted in consumer reluctance to make repeat purchases. The studies indicate that consumer demand for grapefruit would increase if the initial taste experience of consumers was positive. In other words, repeat purchases are linked to consumer satisfaction with taste (Florida Department of Citrus, Consumer Research, February 20, 2002, conducted by a market research group; Grapefruit Sensory Evaluation Study, February 19, 1997, conducted by the FDOC; FDOC Grapefruit Strategy Working Session, February 20, 2002, conducted by a market research group).

The subcommittee stated there was also substantial industry support for an increase in the minimum maturity requirements, and referenced memos received by the Committee in support of such an increase. The memos received were from several industry groups representing nearly 80 percent of fresh grapefruit shipments. The memos specified the need to increase sales and identified an increased maturity standard as a means to improve consumer demand, particularly through repeat purchases.

The Committee, in its deliberations following the subcommittee's presentation, discussed the state of the fresh grapefruit market. Discussion centered around declining market demand and the need to improve consumer purchasing patterns, particularly for early season and repeat purchases. The Committee drew from information provided by the subcommittee, market studies, and from Committee members, and determined that providing the consumer with a sweeter, more mature grapefruit will likely result in improved fresh fruit sales.

The purpose of this action is to help stabilize the market for Florida grapefruit and improve producer returns by strengthening demand and increasing the number of repeat purchases of grapefruit. Market research indicates that this rule provides the consumer with a grapefruit that is closer to consumer expectations in terms of sweetness, thereby resulting in an increased demand for fresh grapefruit.

According to the FDOC Florida Citrus Outlook 2001–2002 report, domestic consumption of fresh Florida grapefruit has been declining in recent years, dropping from 7-pounds per capita consumption in the early 1980's to 6-pounds per capita consumption in the late 1990's. The Economic Research Service, USDA, listed per capita domestic consumption of grapefruit as 5.19 pounds in 2000.

This reduced consumption is reflected in shipping data for fresh grapefruit. The Committee's 2000–2001 Annual Statistical Report indicates that shipments of Florida fresh grapefruit have declined 28 percent over the past five seasons, dropping from 22.1 million boxes (1⅗ bushels) in 1996–1997, to 15.9 million boxes in 2000–2001. For the same period, FDOC reports show that domestic consumption of fresh grapefruit has declined nearly 38 percent, from 18.6 million cartons (⅘ bushel) during the 1996–1997 season to

11.6 million cartons for the 2000–2001 season.

The FDOC also notes that Florida's share of the U.S. fresh grapefruit market has declined from 71.7 percent in 1990–1991, to 44.0 percent in 2001–02. Much of this lost market share has gone to Texas. Texas shipped an estimated 273 million pounds of fresh grapefruit to the domestic and Canadian markets in 2000–2001 compared to 184.3 million pounds in 1995–96, and accounted for over 31 percent of those market shipments in 2000–2001, up from 17 percent in 1995–96. Texas had a 32 percent increase in shipments to those markets over the 1995–96 season. During the same period, to the same markets, Florida fresh grapefruit shipments decreased by 32 percent.

The Committee raised the question as to the minimum maturity requirements for fresh Texas grapefruit. One reason for the increasing demand for Texas grapefruit may be its sweeter taste. Texas currently has a higher minimum maturity requirement than Florida. Minimum maturity requirements for fresh Texas grapefruit include a 9.0 percent soluble solids (sugars) and a 7.2 to 1 solids to acid ratio.

The Committee recognizes that Florida grapefruit production has been declining along with demand. However, the lower market supply has not stabilized market prices. Florida accounts for nearly 80 percent of total domestic grapefruit production. Production for the 2000–2001 season was approximately 46 million boxes. This compares to production of approximately 47.1 million boxes for the 1998–99 season, and is substantially less than the 55.8 million boxes produced in 1996–97. While this represents nearly an 18 percent decrease in Florida grapefruit production, lower supply did not result in higher producer returns as demand for fresh Florida grapefruit also declined during this period.

The weakening demand for Florida fresh grapefruit has contributed to declining on-tree prices and has led to economic abandonment of fruit. According to the National Agricultural Statistical Service, on-tree prices for fresh Florida grapefruit, fell from an average of $6.52 per box in 1999–2000 to an average of $4.80 per box in 2000–2001. Due to low economic returns the past several years, some producers have resorted to leaving portions of their crops unharvested. Economic abandonment has impacted the Florida grapefruit industry for four of the past six seasons, reaching an apex of 12 percent of total production in the 1997–1998 season. Abandoned fruit accounted for 4 percent of production in the 2000–2001 and the 2001–02 seasons.

The Committee believes that the over shipment of smaller-sized red seedless grapefruit contributes to poor returns and lower prices. To address this situation the Committee has recommended weekly percentage of size regulation under § 905.153 for the last five seasons. This regulation limits the volume of small sizes entering the market during the regulated period. Under weekly percentage of size regulation, f.o.b. prices and on-tree returns increased and movement stabilized as compared to years with no percentage of size regulation. Weekly percentage of size regulation has helped improved the situation, but it has not solved all the problems. Consequently, the Committee believes it is important to also address the demand side of the market.

The Committee's recommendation to increase the minimum maturity requirements recognizes that due to the loss of market demand, decreasing production and limiting shipments alone cannot adequately stabilize weakening prices. In its efforts to achieve market stabilization, the Committee has turned its focus to increasing consumer demand. The Committee's recommendation to increase the minimum maturity requirement seeks to increase demand by meeting consumer preferences with a sweeter tasting grapefruit.

The Committee's recommendation is supported by several recent market studies. FDOC research on consumer purchasing attitudes towards grapefruit demonstrates the need for increasing sweetness in grapefruit taste. Research results indicate that taste is a crucial factor in consumer grapefruit purchasing patterns, particularly repeat purchases (Grapefruit Sensory Evaluation Study, February 19, 2002, conducted by the FDOC).

One study, compiled in April of 2002 by the FDOC, Blue Ribbon Committee on Grapefruit, links the 30-percent decline in fresh grapefruit sales in less than 10 years to customer attrition and consumer perceptions of inconsistent taste. Another study conducted by the Opinion Dynamics Corporation, a market research group (February 20, 2002), states that taste is by far the most important consideration in consumer purchases of fruit.

A ''Grapefruit Sensory Evaluation Study'' conducted by the FDOC in 1997, concluded that the major determinant of repeat purchases of fresh grapefruit was the flavor of the consumer's first grapefruit purchase of the season. The results of this study indicate a strong correlation between sweetness of flavor and consumer's willingness to make additional purchases. The more bitter the consumer's initial grapefruit experience, the less likely the consumer was to make an immediate repeat purchase. Conversely, increased sweetness resulted in increased repeat purchases of fresh grapefruit.

An additional study prepared by the Compendium Group, a market research group, for the FDOC Grapefruit Strategy Working Session, February 2002, also stressed the importance of consumer perceptions and expectations in purchasing decisions. According to this study, consumers associate sweetness of grapefruit flavor to the overall quality of the fruit. The study states ''consumers want consistent fruit that tastes the way they want it.''

In addition to the above-mentioned market research, there is strong industry support for an increase in the minimum maturity requirements. Industry support for an increase in the minimum maturity requirements was indicated through memos representing nearly 80 percent of Florida grapefruit production. Indian River Citrus League requested, in a memo to the Committee, a raise in the minimum maturity to 8.0 percent soluble solids and a 7.2 to 1 solids to acid ratio, a ratio slightly lower than ultimately recommended by the Committee. Florida Citrus Packers and the Peace River Citrus Growers Association supported an even larger increase in the minimum maturity standard. Several Committee members also expressed strong support for an increase.

The Committee's recommendation to raise the minimum maturity standard incorporates its belief that a sweeter fresh grapefruit is more attractive to consumers, and that consumer satisfaction with taste will lead to an increase in repeat purchases. In turn, greater demand for fresh grapefruit benefits the industry as a whole, as increased demand will likely help stabilize market prices.

While the recommendation to increase the minimum maturity standard was accepted by a majority of Committee members, some raised concerns about the impact of the higher standards on the different grapefruit producing regions and on early market sales. These concerns provided the basis for the three Committee members who opposed the Committee's recommendation.

One concern was that grapefruit production in areas lying to the north of the dominant, central grapefruit growing region could be disadvantaged due to differences in growing conditions. One member indicated there were some areas in the northern production region that may not be able to reach the higher maturity standard regardless of the use of a sliding scale, and, therefore, be excluded from the market. Variety of rootstock and geographic differences in soil and climate were listed as possible reasons for some production not being able to meet the higher standard.

Although some fruit may not meet the higher maturity standard, it is expected that it represents a very small percentage of the overall crop. The Committee's recommendation represents only a slight increase in the minimum maturity and includes a sliding scale. The sliding scale provides producers additional flexibility in meeting the higher standard. Also, the sliding scale helps producers in differing regions of the production area to meet the higher maturity requirements without compromising the desired outcome of a sweeter grapefruit taste.

Florida citrus maturity samples also indicate that the majority of Florida grapefruit will meet the higher maturity level, albeit later in the season. Therefore, while some fruit may require longer maturing periods before harvest, the majority of Florida citrus is expected to meet the higher standard at some point during the season. It is estimated that less than 2 percent of the Florida grapefruit crop will not make the higher maturity in a typical growing season.

Committee members also countered that, although a small percentage of Florida grapefruit production may not be able to meet the higher maturity standard, this percentage pales in comparison to the amount of grapefruit production currently left unharvested due to low economic returns. Several million boxes of grapefruit were left on the tree four of the past six seasons.

Another concern raised was that the higher maturity standard requires some fruit to be left on the tree longer than current industry practice, and that some producers will then forfeit the more lucrative early-season sales. A concern over a potential loss of competitive advantage was also voiced by the Gulf Citrus Growers Association (GCGA), which indicated in a memo to the Committee its opposition to an increase in the maturity standard. The southern production region has historically benefited from early-season sales as climate conditions allow their grapefruit production to mature sooner than the rest of the production area.

The FDOC maturity sampling results indicate that while soluble solids (sugars) levels are on average well over 8.0 from the onset of the grapefruit harvest season, average grapefruit ratio solids to acid levels in Florida grapefruit generally do not increase over 7.0 to 1 until the month of October, nearly one month after the traditional harvest season begins. Hence, a portion of Florida grapefruit crop will not meet the higher maturity requirements until slightly later in the season. However, maturity samples also indicate that meeting the increased maturity requirements later in the season is practicable for the majority of the Florida grapefruit industry as average soluble solids and solids to acid ratio levels are consistently above the recommended minimum threshold.

While the increase in minimum maturity could cause a delay in some fruit being released into the higher priced, early-season market, the Committee pressed the importance of meeting consumer expectations of flavor in order to secure repeat purchases. There is a push to get fruit into the market early to take advantage of high prices available at the beginning of the season. However, early fruit tends to be less mature. The availability of this early, less mature fruit can negatively impact repeat purchases and reduce demand in the long term. In addition, the higher maturity requirements apply to all Florida fresh grapefruit. This change impacts the entire industry, not just individual regions. Any harvesting delays resulting from this increase in maturity will impact all regions of the production area.

Committee members stated that while an increase in the minimum maturity standard could delay the release of some grapefruit onto the market, the potential opportunity costs of losing early-season sales will be more than compensated for by consumers buying grapefruit more frequently due to its sweeter, more appealing taste. Furthermore, the Committee estimated that only a small percentage of total Florida fresh grapefruit shipments will be affected by this change in the minimum maturity standard. In addition, the whole industry benefits from a stronger market demand and increased consumer satisfaction.

Taking into consideration the above concerns, the Committee believes increasing the maturity standard will benefit the industry. The Committee believes the higher maturity requirements will result in a sweeter grapefruit taste and improve producer returns through increased consumer purchases of fresh grapefruit by addressing consumer preferences for a more appealing taste. Moreover, as maturity naturally increases throughout the season, the overall impact on industry shipments will be equal to or less than 2 percent of the total grapefruit crop. Also, the sliding scale allows some flexibility for handlers to meet the higher maturity requirements without compromising the desired sweeter grapefruit taste.

This rule continues to raise the minimum maturity requirements from a 7.5 percent soluble solids (sugars) and a 7.0 to 1 solids to acid ratio with a sliding scale minimum ratio of 6.0 to 1, to an 8.0 percent soluble solids (sugars) and a 7.5 to 1 solids to acid ratio with a sliding scale minimum of 7.2 to 1. The sliding scale is based on the FDOC Citrus Fruit Maturity Chart, and is as follows:

Minimum total solids (sugars), %	Solids to acid minimum ratio
8.0 to (not including) 9.1.	7.50 to 1
9.1 to (not including) 9.2.	7.45 to 1
9.2 to (not including) 9.3.	7.40 to 1
9.3 to (not including) 9.4.	7.35 to 1
9.4 to (not including) 9.5.	7.30 to 1
9.5 to (not including) 9.6.	7.25 to 1
9.6 and greater	7.20 to 1

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. Since this rule increases the minimum maturity requirements under the domestic handling regulations, a corresponding change to the import regulations must also be accomplished. A rule making a similar change to the maturity requirements under the import regulations will be issued as 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 rules issued there under, 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 include 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 $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 2001–02 season was approximately $6.98 per 4⁄5-bushel carton, and total fresh shipments for the 2001–2002 season were estimated at 31.68 million cartons. Approximately 33 percent of all handlers handled 72 percent of Florida grapefruit shipments. Using the average f.o.b. price, at least 66 percent of grapefruit handlers could be considered small businesses under SBA's definition. Therefore, the majority of Florida grapefruit handlers may be classified as small entities. The majority of Florida grapefruit producers may also be classified as small entities.

There has been a significant decline in consumer purchases of fresh Florida grapefruit. The Committee believes that taste is one of the prime factors effecting demand and repeat purchases. This rule continues in effect an increase in the minimum maturity requirements from a 7.5 percent soluble solids and a 7.0 to 1 solids to acid ratio with a sliding scale minimum ratio of 6.0 to 1, to an 8.0 percent soluble solids (sugars) and a 7.5 to 1 solids to acid ratio with a sliding scale minimum ratio of 7.2 to 1. The increase in maturity results in a sweeter tasting fruit, particularly during the early months of the harvest season, and should increase consumer demand for fresh grapefruit. The Committee made its recommendation at its May 22, 2002, meeting, in a vote of thirteen in favor of this change, with three opposed. This rule continues in effect the modifications made to the grade provisions of § 905.306. Authority for this action is provided in § 905.52 of the order.

The increased minimum maturity requirements result in a sweeter grapefruit being released into the marketplace, particularly during the early months of the season. Lower maturity, which often translates into a more tart or bitter grapefruit taste, is typical of early season fresh-picked grapefruit. Market research indicates that a sweeter grapefruit taste is more desirable to consumers and could contribute to more repeat purchases of fresh grapefruit.

A ''Grapefruit Sensory Evaluation Study'' conducted by the FDOC in 1997, concluded that the major determinant of repeat purchases of fresh grapefruit was the flavor of the consumer's first grapefruit purchase of the season. The results of this study indicate a strong correlation between sweetness of flavor and consumer's willingness to make additional purchases. The more-bitter the consumer's initial grapefruit experience, the less likely the consumer was to make an immediate repeat purchase. Conversely, increased sweetness resulted in increased repeat purchases of fresh grapefruit.

The Committee discussed the potential costs associated with this action. It was mentioned that some producers could be disadvantaged by increased costs. Such costs may include, for example, the need for additional maturity checks and fruit that does not meet the higher maturity requirements.

The changes in this rule may require some producers to run additional maturity checks prior to harvest and shipping to ensure maturity. While additional maturity checks could be required for some, such checks are considered a standard practice within the industry and are not expected to result in significant increased costs to producers. Additional maturity tests could be avoided by simply delaying the harvest of the groves in question. Also, the overall impact of this change on shipments is expected to be minimal. Because grapefruit continues to mature throughout the season, the overall impact on industry shipments should be small, with only a small part of the grapefruit crop, equal to or less than 2 percent of overall production, possibly not meeting the increased maturity. The sliding scale also provides some additional flexibility to help producers meet the higher maturity requirements.

This rule may necessitate a delay in the onset of the fresh grapefruit harvest for some producers. This may mean selling fruit later in the season, and possibly missing the higher prices typically available in the early-season. However, the higher maturity requirements apply to all Florida fresh grapefruit. This change will impact the entire industry, not just individual regions. Any harvesting delays resulting from this increase in maturity will impact all regions of the production area.

In addition, it is anticipated that this change will result in higher consumer satisfaction and more repeat purchases, which should strengthen demand and stabilize prices. Therefore, the Committee believes the benefits gained from increased sales as a result of more frequent consumer purchases outweigh any losses associated with slightly lower prices received for shipments delayed due to increased maturity requirements. Any additional harvesting costs should also be compensated for through increased sales and stability in on-tree prices.

The purpose of this rule is to help stabilize the market and improve producer returns by increasing the number of repeat purchases of grapefruit, particularly earlier in the season. Based on the information given above, market research indicates this rule provides the consumer with a product that is closer to consumer expectations in terms of sweetness of flavor, therefore resulting in an increased demand for fresh grapefruit. 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 alternatives to taking this action. One alternative considered was a fixed maturity rate near the level identified in the market research studies of 8.5 percent soluble solids and an 8.0 to 1 solids to acid ratio or higher. Committee members believed this option would be too drastic of a change to effectuate in one season. While market research demonstrates that consumer tastes prefer a higher soluble solids (sugars) and ratio combination and sweeter taste, many producers would not be able to achieve that level until much later into the season. Therefore, this option was rejected.

Another alternative considered was a fixed maturity rate of 8.0 percent soluble solids and a 7.5 to 1 solids to acid ratio without the addition of an equivalent soluble solids and solids to acid ratio sliding scale. However, due to geographical and climactic differences between varying regions in the production area, some Committee members believed that some producers would have more difficulty in achieving the fixed rate, therefore disproportionately foregoing the more lucrative early season sales. Therefore, this alternative was also rejected.

The Committee also discussed leaving the regulations as previously issued. However, the majority of Committee members agreed that some change to minimum maturity was necessary to improve consumer demand for fresh grapefruit and to help them compete in the present market. Consequently, this alternative was also rejected.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large Florida 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. 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, as previously stated, grapefruit have to meet certain requirements set forth in the standards issued under the Agricultural Marketing Act of 1946 (7 CFR 1621 *et seq.*). Standards issued under the Agricultural Marketing Act of 1946 are otherwise voluntary.

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 May 22, 2002, 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 August 28, 2002. 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 and USDA. That rule provided for a 60-day comment period, which ended October 28, 2002.

One comment was received during the comment period. The comment favored the regulation as published. The commenter believes that this is a positive move for the industry. According to the commenter, if the marketing season is delayed until better tasting grapefruit is available, consumers will not be as hesitant to make repeat purchases and may purchase more often. Accordingly, no changes are made to the rule based on the comment received.

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 this interim final rule, without change, as published in the **Federal Register** (67 FR 55101; August 28, 2002) 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 67 FR 55101 on August 28, 2002, is adopted as a final rule without change.

Dated: November 26, 2002.

A. J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–30584 Filed 12–2–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV02–989–6 FIR]

Raisins Produced From Grapes Grown In California; Decrease in Desirable Carryout Used to Compute Trade Demand

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 that decreased the desirable carryout used to compute the yearly trade demand for raisins covered under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (Committee). This action continues to decrease the amount of tonnage available early in the season and is expected to help the industry reduce an oversupply of California raisins.

EFFECTIVE DATE: January 2, 2003.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Senior Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, or 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 and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, 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.''

The Department of Agriculture (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 in equity 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 to decrease the desirable carryout used to compute the yearly trade demand for raisins regulated under the order. Trade demand is computed based on a formula specified in the order, and is used to determine volume regulation percentages for each crop year, if necessary. Desirable carryout, one factor