

Agricultural Marketing Service**7 CFR Part 906****[Docket No. FV96-906-4PR]****Oranges and Grapefruit Grown in the Lower Rio Grande Valley in Texas; Reapportionment of Membership on the Texas Valley Citrus Committee****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Proposed rule.

SUMMARY: This proposed rule would reapportion the membership of the 15-member Texas Valley Citrus Committee (committee) established under the Federal marketing order regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This action would provide for more equitable representation between cooperative and independent producers and handlers. This reapportionment would reduce the number of cooperative producer member positions from four to two and provide independent producers with those two positions, thus, increasing independent producer membership to seven positions. In addition, the number of cooperative handler member positions would be reduced from two to one, thereby increasing independent handler membership to five positions.

DATES: Comments must be received by February 3, 1997.**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, Fax # (202) 720-5698. All comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.**FOR FURTHER INFORMATION CONTACT:** Belinda G. Garza, McAllen Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (210) 682-2833, Fax # (210) 682-5942; or Charles L. Rush, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 690-3670, Fax # (202) 720-5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing

Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax # (202) 720-5698.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Agreement and Order No. 906 (7 CFR Part 906), as amended, regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, hereinafter referred to as the "order." This 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 (Department) is issuing this rule in conformance with Executive Order 12866.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. If adopted, this proposal will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

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.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are 17 handlers of oranges and grapefruit who are subject to regulation under the order and approximately 2,000 orange and grapefruit producers in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000. The majority of handlers and producers of Texas oranges and grapefruit may be classified as small entities.

This proposed rule would reapportion the membership of the committee. This action is intended to provide for equitable and balanced representation between cooperative and independent producers and handlers and would not impose additional costs or burdens on producers and handlers.

Therefore, the AMS has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities. Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

Pursuant to section 906.18 of the order, the committee consists of 15 members. Each member has an alternate. Nine of the members are producers and six are handlers. Section 906.122 of the order's rules and regulations provides that the nine producer representatives be allocated so that four members represent cooperative marketing organizations, hereinafter referred to as cooperative producers, and five members represent independent marketing organizations, hereinafter referred to as independent producers. Section 906.122 further provides that the six handler representatives on the committee be allocated so that two members represent cooperative marketing organizations, hereinafter referred to as cooperative handlers, and four represent independent marketing organizations, hereinafter referred to as independent handlers.

Section 906.19 provides for a three-year term of office for committee members and their alternates. The terms of office of the committee are staggered so that one-third of the terms end every third year. Members and alternates serve in their designated positions during the portion of the term of office for which they are selected or until their respective successors are selected and have qualified.

Section 906.21 of the order authorizes the committee, with the Secretary's