

could be shipped, the grower could only supply fruit to one market. Growers believe raising the limit on the number of boxes per variety they can ship for the season will allow them to supply the markets previously developed as well as develop additional markets for their tree run fruit.

The committee reviewed this issue and discussed the concerns of small growers and the problems encountered during the past season. The committee determined that offering the exemption for another season will provide additional information on how fruit shipped under the exemption was received by the market. It will also provide a better indication of whether or not other markets exist that packed fruit is not currently supplying, where these markets are located, and approximately how much fruit can be sold in such markets. Extending the exemption also gives other growers an opportunity to try it.

Tree run fruit will be sold primarily to non-competitive, niche markets, such as farmers' markets, flea markets, roadside stands, and similar outlets and will not compete with non-exempt fruit shipped under the order. Fruit is sold in similar markets within the state, and such markets have been successful. Continuing the exemption for another season allows growers to sell directly to similar markets outside of the state, supplying markets that might not otherwise be supplied. The committee believes this action will allow the industry to service more non-traditional markets and may be a way to increase fresh market shipments and to develop new markets.

The committee also discussed the limits on the amount of fruit growers can ship during the season. Several different combinations of shipment totals were discussed. The committee determined that the limit of 150 boxes of each variety per shipment was still appropriate because it allowed the grower to ship a sufficient amount of fruit to make the exemption cost effective, but prevented too much fruit from entering market channels exempt from order requirements. However, the committee did agree that by raising the total amount of citrus a grower can ship during the season, the grower may be able to service more markets and sell more fruit. The committee continues to support the increase in the volume limit from 1,500 boxes to 3,000 boxes per variety under the exemption. This amount provides additional volume for the grower while limiting the amount of fruit that can be shipped under the exemption. Maintaining shipments at

these levels will help keep this fruit in non-competitive outlets.

With the potential for additional fruit entering the market under the exemption, ensuring compliance with the provisions of the exemption and reducing the chances of tree run fruit getting into regular market channels is an important consideration. As a means of tracking the fruit and ensuring compliance, the committee decided that each container of tree run fruit should contain the name and address of the grower. Because tree run fruit can be shipped in a variety of containers, the committee thought requiring a label on the containers themselves may be impractical. For some containers, such as a cardboard box, having the name and address printed on the outside of the container would not be problematic. However, on other containers, such as field boxes, plastic boxes, or mesh bags, it can be difficult to print the name and address or affix a label. Therefore, the committee agreed that placing the name and address inside the container provides a means for identifying the owner of the fruit with the least amount of difficulty.

Consequently, for the reasons discussed, the committee voted unanimously to extend the tree run exemption for the 2003–04 season, raise the limit on the amount of citrus a grower can ship from 1,500 boxes to 3,000 boxes per variety, and require that growers identify each container with their name and address. The exemption is extended for the 2003–04 season only, and will expire on July 31, 2004. At the end of the season, the committee will review all available information and decide whether the exemption should be continued on a permanent basis.

Growers will continue to be required to apply to the committee, on the "Grower Tree Run Certificate Application" form provided by the committee, for an exemption to ship tree run citrus fruit to interstate markets. On this form the grower must provide their name; address; phone number; legal description of the grove; variety of citrus to be shipped; and the approximate number of boxes produced in the specified grove. The grower must also certify that the fruit to be shipped comes from the grove owned by the grower applicant. The application form will be submitted to the committee manager and reviewed for completeness and accuracy. The manager will also verify the information provided. After the application has been reviewed, the manager will notify the grower applicant in writing whether the application is approved or denied.

Once the grower has received approval for their application for exemption and begins shipping fruit, a "Report of Shipments Under Grower Tree Run Certificate" form, also provided by the committee, must be completed for each shipment. On this form, the grower will provide the location of the grove, the amount of fruit shipped, the shipping date, and the type of transportation used to ship the fruit, along with the vehicle license number. The grower must supply the Road Guard Station with a copy of the grower certificate report for each shipment, and provide a copy of the report to the committee. This report will enable the committee to maintain compliance and gather data, which will be used to determine the effectiveness of the exemption. Failure to comply with these requirements may result in the cancellation of a grower's certificate.

This rule does not affect the provisions that handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day exempt from regulatory requirements. Fruit shipped in gift packages that are individually addressed and not for resale, and fruit shipped for animal feed are also exempt from handling requirements under specified conditions. Also, fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements under the order.

Section 8e of the Act requires that whenever grade, size, quality, or maturity requirements are in effect for certain commodities under a domestic marketing order, including citrus, imports of that commodity must meet the same or comparable requirements. This rule does not change the minimum grade and size requirements under the order. Therefore, no change is necessary in the citrus import regulations as a result of this 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