a beneficiary of a mortgagee loss payable clause; and

(2) In the case of crop insurance, execute an assignment of indemnity in favor of the Agency.

§ 764.11 Charges and fees.

The applicant must pay all filing, recording, notary, and lien search fees necessary to process and close a loan. The applicant may pay or be reimbursed for these fees from Emergency loan funds.

PART 1945—EMERGENCY

2. Subparts B, C and D are removed.

Signed at Washington, DC, on December 31, 2001.

J.B. Penn,

Under Secretary for Farm and Foreign Agricultural Services.

[FR Doc. 02–359 Filed 1–7–02; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV01–905–2 IFR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Modifying Procedures and Establishing Regulations To Limit the Volume of Small Red Seedless Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule modifies the procedures used to limit the volume of sizes 48 and 56 red seedless grapefruit entering the fresh market under the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida (order). The order is administered locally by the Citrus Administrative Committee (Committee). This rule increases the number of weeks available under weekly percentage of size regulation from 11 weeks to 22 weeks and institutes weekly percentages for 6 additional weeks of the 2001–02 season. It will be beneficial to have the additional weeks available, when necessary, to help stabilize the market and improve grower returns. The percentages established for the 2001–02 season are intended to supply enough small red seedless grapefruit without saturating all markets with small sizes.

DATES: Effective January 7, 2002; comments received by January 23, 2002 will be considered prior to issuance of a final rule. Pursuant to the Paperwork Reduction Act, comments on the information collection burden must be received by March 11, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW Stop 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or e-mail: *moab.docketclerk@usda.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 2276, Winter Haven, Florida, 33881; 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, 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 interim final rule is issued under Marketing Agreement 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.''

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 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 modifies the procedures used to limit the volume of sizes 48 (3 9/16 inches minimum diameter) and 56 (3 5/16 inches minimum diameter) red seedless grapefruit entering the fresh market under the order by increasing the number of weeks available under weekly percentage of size regulation from 11 weeks to 22 weeks. This rule also institutes weekly percentages for 6 additional weeks of the 2001–02 season. It will be beneficial to have the additional weeks available, when necessary, to help stabilize the market and improve grower returns. This rule is intended to supply enough small red seedless grapefruit without saturating all markets with small sizes during 2001–02.

Section 905.52 of the order provides authority to limit shipments of any grade or size, or both, of any variety of Florida citrus. Such limitations may restrict the shipment of a portion of a specified grade or size of a variety. Under such a limitation, the quantity of such grade or size a handler may ship during a particular week would be established as a percentage of the total shipments of such variety by such handler in a prior period, established by the Committee and approved by the USDA.

Section 905.153 of the regulations provides procedures for limiting the volume of small red seedless grapefruit entering the fresh market. The procedures specify that the Committee may recommend that only a certain percentage of sizes 48 and 56 red seedless grapefruit be made available for shipment into fresh market channels for any week or weeks during the regulatory period. Currently, the regulation period covers 11 weeks starting the third Monday in September. Under such a limitation, the quantity of sizes 48 and 56 red seedless grapefruit that may be shipped by a handler during a regulated week is calculated using the recommended percentage. By taking the recommended weekly percentage times the average weekly volume of red seedless grapefruit handled by such handler in the previous five seasons, handlers can calculate the total volume of sizes 48 and 56 they may ship in a regulated week.

This rule expands the weeks available for limiting the volume of small red seedless grapefruit entering the fresh market from the first 11 weeks of each season to the first 22 weeks. This adds 11 weeks to a tool that has been effective in stabilizing the market and in improving returns to growers. This rule also establishes weekly base percentages for 6 additional weeks of the 2001–02 season. The Committee recommended the percentages be set at 40 percent for the first 3 weeks (December 3 through December 23) and 30 percent for the remaining eight weeks (December 24 through February 17) of the second 11 weeks. These actions are based on unanimous recommendations of the Committee made at meetings on May 22, 2001, and August 29, 2001. Because of the current timeframe, this action establishes weekly percentages for the 6 remaining weeks of the second 11-week regulatory period (January 7 through February 17, 2002).

At the May 22, 2001, meeting, the Committee also unanimously voted to establish percentage of size regulation for the first 11 weeks of the season (September 17 through December 2, 2001). The Committee's initial recommendation was issued as a proposed rule published in the **Federal Register** on July 31, 2001 (66 FR 39459). No comments were received during the comment period, which expired August 10, 2001. At the August 29, 2001 meeting, the Committee unanimously recommended adjusting the proposed percentages. The Committee's revised recommendation was issued as an interim final rule published in the **Federal Register** on September 26, 2001 (66 FR 49088). No comments were received during the comment period, which expired October 9, 2001.

The first action considered in this rulemaking modifies the procedures for limiting the volume of small red seedless grapefruit entering the fresh market as specified in § 905.153 of the order. This change increases the number of weeks available for regulation from the first 11 weeks of each season to the first 22 weeks. The red seedless grapefruit season runs approximately 33 weeks, from mid-September through May. Prior to this rule, only the first 11 weeks of a season could be regulated to control shipments of sizes 48 and 56 red seedless grapefruit. This change in itself does not limit shipments, but expands the weeks available for percentage of size regulation to 22 weeks so small sizes can be regulated for an additional 11 weeks, if needed.

The original rule creating § 905.153 (December 31, 1996, 61 FR 69011) established procedures for percentage of size regulation of small red seedless grapefruit. This rule provided a tool, if needed, to help stabilize the price and supply of red seedless grapefruit. The procedures were established to cover an 11-week period to address problems associated with the oversupply of small-sized red seedless grapefruit early in the season. The Committee believed the overshipment of early, small-sized fruit was depressing the market for all red seedless grapefruit, and concluded having a tool to limit the amount of small red grapefruit entering the fresh market would be very helpful in addressing this problem.

Under the original procedures, authority to limit shipments of sizes 48 and 56 red seedless grapefruit was established for the period starting the third Monday in September through the next 11 weeks. The Committee recommended 11 weeks at the time because the majority of small sizes were being shipped during this period. By the end of the 11 weeks, fruit had begun to size naturally, and there were fewer small sizes available.

However, this is no longer the case. The fruit is not sizing as it has in past seasons for reasons yet to be determined. This leaves a larger supply of smaller sizes available later in the season. For the past three seasons, the volume of small sizes available from December through February has been much larger than in past seasons. Returns on red seedless grapefruit have also been declining during this period. The Committee has concluded that the problems associated with small red seedless grapefruit have begun to extend beyond the 11-week regulation period. The Committee believes the increased volumes of small red seedless grapefruit shipped or available to be shipped during the middle of the season is having a detrimental effect on the market. The Committee recommended increasing the weeks available for percentage of size regulation to address this problem.

The last three seasons, 1998–99, 1999–2000, 2000–01, have shown a marked increase in the volume of small-sized red seedless grapefruit available later in the season. For these three seasons, the percentage of the crop represented by small sizes in the month of February has averaged 51 percent. This compares to an average of 26 percent for the same month for the three prior seasons (1995–98). In fact, the last three seasons have averaged a greater percentage of smaller sizes across each month, October through February, than over the three previous seasons. The trend across the last six seasons has been a continuing increase in the volume of small sizes as a percentage of the overall crop. This is most dramatically evidenced by the 72 percent increase in small sizes as a percentage of the overall crop from February 1996 to February 2001.

The available volumes of small-sized red seedless grapefruit in December, January, and February for the 1998–99, 1999–2000, and 2000–01 seasons were comparable or exceeded volumes available for October, November, and December for the 1995–96, 1996–97, and 1997–98 seasons. The following chart that shows the volume of sizes 48 and smaller red seedless grapefruit available for these months as a percentage of the total crop.

SIZES 48 AND SMALLER AS A PERCENTAGE OF TOTAL CROP

	95–96	96–97	97–98		98–99	99–00	00–01
October	43	62	73	December	56	64	64
November	34	56	61	January	54	58	57
December	32	51	52	February	50	49	54

It was following the 1995–96 season that the Committee began its initial discussions regarding the need to control the volume of small-sized red seedless grapefruit entering the fresh market early in the season. Percentage of size regulation was first used to control the volume of small sizes during the first 11 weeks of the 1997–98 season. Small sizes were problem at those volume levels for the months of October through December for the 1995–96, 1996–97, and 1997–98 seasons. Having comparable or greater volumes of small sizes available during midseason also represents a problem for the industry.

The University of Florida, Citrus Research and Education Center published an estimated cost of production per acre for the 2000–2001 season. The cost to produce Florida citrus fruit for the fresh market was estimated at $882.25 per acre for the SunRidge area, or the interior of the state, $907.72 per acre for the Gulf production area, and $974.46 per acre for the Indian River area, or the Atlantic coast region. Using an average of these estimates, it cost approximately $921 per acre to cultivate citrus for the fresh market in 2000–2001. This average represents a somewhat lower cost of production than what most growers of red seedless grapefruit experience because a major share of production is in the Indian River area.

During the past five seasons, red seedless grapefruit production has averaged around 409 boxes (1⅗ bushels) per acre. For the 2000–2001 season, the average on-tree value for red seedless grapefruit is estimated at $2.10 per box. Using these numbers, total on-tree revenue for the 2000–2001 season calculates as approximately $859 per acre. When combined with the cost of production, the average red seedless grapefruit producer in Florida had a negative return of more than $62 per acre or a $0.15 per box loss.

On-tree returns have been at below production costs for all but one of the last eight seasons. Eleven-week regulation has helped. Growers have benefited from several years of increased on-tree returns due to percentage of size regulation. While 11-week regulation has improved the situation, it has not solved all the problems.

For the first time since the 1997–98 season, grower returns have again decreased. Total on-tree returns declined from $3.36 during the 1999–2000 season to $2.10 for the 2000–01 season. On-tree returns for fresh red grapefruit also declined by 22 percent. Comparing on-tree returns for fresh sales by month, shows that for the seasons 1997–98, 1998–99, and 1999–2000, there was an average decline in returns of $.60 per box from November to February. When you combine this $.60 reduction with the average volume of 4.7 million boxes of all red seedless grapefruit moved during this period, the drop in revenue to growers is nearly $2.8 million. During a period when growers are struggling to realize returns that at least equal the cost of production, this $.60 can mean the difference between profit and loss.

A similar situation is observable with f.o.b. prices. F.o.b. prices have stabilized somewhat under 11-week regulation. However, while it has helped eliminate dramatic drops in price during the first 11 weeks, prices have continued to decrease throughout the season. In the three seasons 1998–99, 1999–2000, and 2000–01, prices of red seedless grapefruit fell from an average f.o.b. price of $7.72 per carton (⅘ bushel) in November to an average f.o.b. price of $7.02 in February. Also, as with grower returns, after two years of increased average season f.o.b. prices, this past season, 2000–01, represented a $.50 per carton decrease from the prior season.

The Committee believes the overshipment of smaller sized red seedless grapefruit during the middle of the season is contributing to poor returns and lower prices. While there is a market for small-sized red seedless grapefruit, the shipment of large quantities in a short time oversupplies the fresh market and negatively impacts the market for all sizes. Smaller sizes normally return the lowest prices, and when there is too much volume, the overabundance of lower priced fruit drives prices down for all sizes.

The purpose of this change is to provide the Florida citrus industry a tool, when needed, that helps stabilize the market and the price of red seedless grapefruit during the middle part of the season. Committee members agreed that extending the weeks available under § 905.153 for percentage of size regulation an additional 11 weeks provides a tool that will help address the problems associated with small sizes during the middle of the season. The Committee supports the additional weeks because they have successfully used the provisions of § 905.153 to address very similar problems for the first 11 weeks of the season.

For the seasons 1994–95, 1995–96, and 1996–97, returns for red seedless grapefruit had been declining, often not returning the cost of production. On-tree prices for red seedless grapefruit had fallen steadily from $9.60 per carton (4/5 bushel) during the 1989–90 season, to $3.45 per carton during the 1994–95 season, to $1.41 per carton during the 1996–97 season.

The Committee determined that one problem contributing to the market's condition was the excessive number of small-sized grapefruit shipped early in the marketing season. In the 1994–95, 1995–96, and 1996–97 seasons, sizes 48 and 56 accounted for 34 percent of total shipments during the 11-week regulatory period, with the average weekly percentage exceeding 40 percent of shipments. This contrasted with sizes 48 and 56 representing only 26 percent of total shipments for the remainder of the season.

To address this situation the Committee recommended weekly percentage of size regulation under § 905.153 for the first 11 weeks of the 1997–98, 1998–99, 1999–2000, 2000–01, and 2001–02 seasons. Under 11-week regulation, f.o.b. prices and on-tree returns increased and movement stabilized as compared to years with no 11-week percentage of size regulation.

Average f.o.b. prices were higher during the 11-week percentage of size regulation than for the three years prior to regulation. The average price for red seedless grapefruit in late October was $8.46 per carton for the regulated seasons compared to $7.22 for the same period for the three years before regulation. Prices have also remained at a higher level, with an average f.o.b. price of $7.29 per carton in mid-December during the years with regulation compared to $6.02 for the three prior years. The average season f.o.b. price has also been higher, averaging $7.15 per carton during years with 11-week regulation compared to $5.83 for the three prior seasons without regulation.

The on-tree returns per box for fresh red seedless grapefruit also improved during 11-week regulation, providing better returns to growers. On-tree returns increased from $2.85 in 1997–98, to $4.52 in 1998–99, to $5.52 for the 1999–2000 season.

Eleven-week percentage of size regulation also helped stabilize the volume of small sizes entering the fresh market early in the season. During the three years prior to the 11-week regulation, small sizes accounted for over 34 percent of the total shipments of red seedless grapefruit during the 11-week period covered. This compares to 31 percent for the same period during the last four years with 11-week regulation. There has also been a 43 percent reduction in the volume of small sizes entering the fresh market during the 11-week regulatory period from 1995–96 to 2000–01.

An economic study done by Florida Citrus Mutual (Lakeland, Florida) in April 1998, found the weekly percentage regulation had been effective. The study stated that part of the strength in early season pricing appeared to be due to the use of the weekly percentage rule to limit the volume of sizes 48 and 56. It said prices were generally higher across the size spectrum with sizes 48 and 56 having the largest gains, and larger-sized grapefruit registering modest improvements. The rule shifted the size distribution toward the higher-priced, larger-sized grapefruit, helping raise weekly average f.o.b. prices. It further stated that sizes 48 and 56 grapefruit accounted for around 27 percent of domestic shipments during the same 11 weeks during the 1996–97 season. Comparatively, sizes 48 and 56 accounted for only 17 percent of domestic shipments during the same period in 1997–98, as small sizes were used to supply export customers with preferences for small sized grapefruit.

Much of what the Committee is now seeing in the second 11 weeks of a season reminds them of the adverse conditions they were facing during the first 11 weeks for the 1994–95, 1995–96, and 1996–97 seasons. The Committee believes the problems successfully addressed by using the 11-week percentage of size regulation during the first part of the season are the same problems they are now seeing during the middle of the season. The Committee believes the overshipment of smaller sized red seedless grapefruit during the middle of the season is contributing to poor returns and lower prices. Therefore, the Committee believes expanding the period available for percentage of size regulation under § 905.153 from 11 weeks to 22 weeks will provide them with the best tool to address these problems.

In making this decision, the Committee considered expanding the regulated period to cover all thirty-three weeks of a season. However, it was decided that the addition of 11 weeks best serves the current marketing situation. A major factor in deciding to expand the regulated period by 11 weeks rather than 22 weeks is the timing of the majority of export shipments. On average, more than 45 percent of export shipments occur after the second week in February. Export markets also tend to prefer smaller grapefruit. Last season, 85 percent of shipments to the Pacific Rim, 75 percent of shipments to Canada, and 60 percent of shipments to Europe were sizes 48 and 56. Consequently, starting in February, there is a much larger demand for sizes 48 and 56 red seedless grapefruit. This effectively addresses the problem with the volume of small sizes during the last 11 weeks of the season. Therefore, the Committee believed that under these conditions, it was not necessary to be able to regulate small sizes during the last 11 weeks of a season, even though weak marketing conditions exist in some export markets.

During deliberations regarding percentage of size regulation in past seasons, the Committee considered how shipments had affected the market. Based on available statistical information, Committee members concluded once shipments of sizes 48 and 56 reached levels above 250,000 cartons a week, prices declined on those and most other sizes of red seedless grapefruit. The Committee determined if shipments of small sizes could be maintained at or below 250,000 cartons a week, prices should stabilize and demand for larger sizes should increase.

In the last three seasons, weekly shipments of sizes 48 and 56 red seedless grapefruit exceeded 250,000 cartons an average of 5 of the 11 weeks of the second 11 weeks of the season. When the initial 11-week regulated period ends, handlers are shipping greater quantities of smaller sizes to the fresh market. In 1998–99, 1999–2000, and 2000–01, shipments of sizes 48 and 56 red seedless grapefruit during the second 11 weeks of the season exceeded shipments of small sizes for the first 11 weeks by an average of nearly one million cartons. These factors may have contributed to the marketing problems experienced by the industry.

Approximately 51 percent of red seedless grapefruit on average is shipped to fresh market channels. There is a processing outlet for grapefruit. The majority, 49 percent on average, is squeezed for juice. This outlet offers limited returns and currently is not profitable. Recent statistics from the Florida Department of Citrus show there is a 40-week inventory of processed grapefruit from last season. This will have an additional negative impact on expected returns.

For the 2000–2001 season, on-tree returns were negative for processed red seedless grapefruit. During the last five years, only 1999–2000 produced on-tree returns for processed red seedless grapefruit that exceeded one dollar per box. When on-tree returns for processed grapefruit drop below a dollar, there is pressure to shift a larger volume of the overall crop to the fresh market to benefit from the higher prices normally paid for fresh fruit.

A fair percentage of red seedless grapefruit shipped for processing tend toward the smaller sizes. When returns for processed red grapefruit are low, an additional volume of small sizes can be shifted toward the fresh market, further exacerbating problems with excessive volumes of small sizes. Current projections of on-tree prices for processed red seedless grapefruit for the 2001–02 season are low due to the large quantities of stored juice. This fact, combined with the past history for juice prices, further supports the need to have the additional 11 weeks available to control excessive volumes of small sizes during the middle of the season.

Shipments during the 11 weeks added by this regulation account for nearly 50 percent of the total volume of red seedless grapefruit shipped to the fresh market. Considering this volume and the limited returns for processing, it is important that returns from the fresh market be maximized during this period. Even a small increase in price when coupled with the volume shipped represents a significant increase in the overall return to growers.

The 11-week percentage of size regulation in place for the first part of the season has been having the desired effect on early markets the past four seasons. However, when the regulation period ends, there is an increased supply of small red seedless grapefruit shipped to the fresh market. This has had a depressing effect on price and grower returns. The Committee decided it needed to have a tool available to regulate shipments of small-sized red seedless grapefruit during the middle part of the marketing season. Therefore, the Committee voted to recommend increasing the weeks available for regulation under § 905.153 from 11 to 22 weeks to provide them with that tool.

To use these procedures, the committee would meet and recommend a base percentage of sizes 48 and 56 that could enter the fresh market in any week or weeks from the first Monday in September for the next 22 weeks. If approved by the USDA, this percentage would be applied to each handler's average week of fresh shipments to determine the amount of sizes 48 and 56 red grapefruit each handler could ship.

The second action taken by this rule establishes weekly base percentages for 6 additional weeks during the 2001–02 season. The Committee met August 29, 2001, and recommended that percentages be set at 40 percent for the first 3 weeks (December 3 through December 23) and 30 percent for the remaining eight weeks (December 24 through February 17). However, because of the current timeframe, this action establishes weekly percentages for 6 weeks of the second 11-week period at 30 percent (January 7 through February 17, 2002. This rule supplies enough small-sized red seedless grapefruit to meet market demand, without saturating all markets with these small sizes. This action will help stabilize the market and improve grower returns. This action is similar to those taken during the first 11 weeks of the 1997–98, 1998–99, 1999–2000, 2000–01, and 2001–02 seasons.

For the 1998–99, 1999–2000, and 2000–01 seasons there has been a substantial increase in the volume of small sizes available later in the season. The percentage of the crop represented by small sizes in February averaged 51 percent for these three seasons, compared to a 26 percent average for the same month for the three prior seasons (1995–98). Small sizes available for shipment in December, January, and February for the 1998–99, 1999–2000, and 2000–01 seasons equal or exceed volumes available during October, November, and December for the 1995–96, 1996–97, and 1997–98 seasons.

Following the 1995–96 season the Committee began discussing the need to control the volume of small-sized red seedless grapefruit entering the fresh market. Small sizes were a problem for the months of October through December for the 1995–96, 1996–97, and 1997–98 seasons. Having equal or greater volumes available during midseason represents a comparable problem. Initial estimates by the Florida Agricultural Statistics Service show that small sizes represent a large percentage of the 2001–02 crop, accounting for over 83 percent of the fruit per September measurements.

The Committee believes excessive shipments of small-sized red seedless grapefruit during the second 11 weeks of the season is contributing to the market's poor condition. For the months of December through February shipments of small sizes exceed those shipped during September through November by nearly 91,000 cartons a week on average. There is a market for small red seedless grapefruit. However, shipping large quantities in a short period oversupplies the market for these small sizes and negatively impacts the market for all sizes. As previously stated, the midseason crop has had a greater percentage of small sizes the past few seasons, creating a glut of smaller, lower-priced fruit on the market, driving down the price for all sizes.

On-tree returns have been below production costs for seven of the last eight seasons. Growers benefited from several years of increased returns, due to the 11-week percentage of size regulations used during the first part of the seasons. However, for the first time since the 1997–98 season, on-tree returns have again decreased. On-tree returns dropped from $3.36 during the 1999–2000 season to $2.10 for the 2000–01 season. On-tree returns for fresh red grapefruit also declined by 22 percent. In addition, on-tree returns declined an average of $.60 from November to February for the seasons 1997–98, 1998–99, and 1999–2000. By combining this $.60 reduction with an average volume of 4.7 million boxes shipped during this period the loss in grower returns tops nearly $2.8 million.

In the past three seasons, 1998–99, 1999–2000, and 2000–01, prices of red seedless grapefruit fell from an average f.o.b. price of $7.72 per carton in November to an average f.o.b. price of $7.02 in February. Also, as with grower returns, after two years of increased average season f.o.b. prices, the 2000–01 season marked a $.50 per carton decrease from the prior season.

The Committee believes the overshipment of small sizes is contributing to the decreasing returns. To address similar problems with an oversupply of small sizes and decreasing returns during the first part of the season, the Committee successfully used the provisions of § 905.153, and recommended weekly regulation of small sizes during the first 11 weeks of the 1997–98, 1998–99, 1999–2000, 2000–01, and 2001–02 seasons. Under the 11-week regulations, prices increased and movement stabilized as compared to seasons without 11-week regulation.

In making the recommendation to establish weekly percentages for the second 11 weeks, Committee members considered the success of the 11-week regulations during the early season and their experiences from past seasons. Members reviewed shipment data covering the second 11-week period for the last three seasons. The information contained the amounts and percentages of sizes 48 and 56 shipped during each week.

Committee members agreed that limiting the volume of small sizes available for the fresh market has been successful when used during the early part of a season. The Committee believes that the volume of small sizes will be a problem during the middle of the season, and that limiting the volume available for shipment will be beneficial.

Based on available statistical information, Committee members concluded once shipments of sizes 48 and 56 reached levels above 250,000 cartons a week, prices declined on those and most other sizes of red seedless grapefruit. The Committee believed if shipments of small sizes could be maintained at or below 250,000 cartons a week, prices should stabilize and demand for larger, more profitable sizes should increase.

The last three seasons during the second 11-week period, shipments of sizes 48 and 56 red seedless grapefruit exceeded 250,000 cartons an average of 5 of the 11 weeks. During the 1998–99, 1999–2000, and 2000–01 seasons, shipments of sizes 48 and 56 red seedless grapefruit from the second 11 weeks exceeded shipments of small sizes from the first 11 weeks by an average of nearly one million cartons. This may have contributed to the problems facing the industry.

Setting the weekly percentages at 30 percent for the remaining 6 weeks provides a total available weekly allotment of approximately 244,000 cartons (30 percent of the total industry base of 813,191 cartons). Setting the weekly percentages at this level allows total shipments of small red seedless grapefruit to approach the 250,000-carton mark during the regulated period without exceeding it.

The Committee believes that the problems associated with an uncontrolled volume of small sizes entering the market in the middle of the season will continue without regulation. Therefore, this action establishes weekly percentages at 30 percent for the remaining 6 weeks (January 7 through February 17).

The Committee believes it is best to set regulation at these levels, and then relax the percentages later in the season if conditions warrant. The Committee recognized they could meet again in December and in the months following and use the most current information to consider adjustments in the weekly percentage rates. Any changes to the weekly percentages established by this rule would require additional rulemaking and the approval of the USDA.

The provisions governing the operation of percentage of size regulation remain the same. The Committee still cannot set restrictions tighter than 25 percent. The method for calculating base and allotment also remains the same. The only changes to § 905.153 are the number of available regulation weeks and the cut off period for overshipments.

Under § 905.153, the quantity of sizes 48 and 56 red seedless grapefruit a handler may ship during a regulated week is calculated using the recommended percentage. By taking the weekly percentage times the average weekly volume of red seedless grapefruit handled by such handler in the previous five seasons, handlers can calculate the total volume of sizes 48 and 56 they may ship in a regulated week.

The Committee calculates an average week for each handler. To calculate an average week, the total red seedless grapefruit shipments by a handler during the 33 week period beginning the third Monday in September and ending the first Sunday in May from the previous five seasons are added together, then divided by five to establish an average season. This average season is divided by the 33 weeks to derive the average week. This average week is the base for each handler for each of the 11 weeks of the regulatory period.

The weekly percentage is multiplied by a handler's average week. The product is that handler's total allotment of sizes 48 and 56 red seedless grapefruit for the given week. Handlers can fill their allotment with sizes 48 or 56, or a combination of both sizes such that total shipments are within established limits. The Committee staff performs the specified calculations and provides them to each handler.

The average week for handlers with less than five seasons of shipments is calculated by averaging the total shipments for the seasons they did ship red seedless grapefruit during the previous five years and dividing that average by 33. New handlers have no prior shipments on which to base their average week. Therefore, a new handler can ship small sizes such that their volume of small sizes as a percent of their total shipments during their first week shipping are equal to the weekly percentage set for that week. Once a new handler has established shipments, their average week is calculated as an average of the weeks they have shipped during the current season.

The regulatory period begins the third Monday in September, and runs for 22 weeks. Each regulation week begins Monday at 12:00 a.m. and ends at 11:59 p.m. the following Sunday, since most handlers keep records based on Monday as the beginning of the workweek.

The rules and regulations governing percentage size regulation contain a variety of provisions designed to provide handlers with some marketing flexibility. Section 905.153(d) provides allowances for overshipments, loans, and transfers of allotment. These provisions should allow handlers the opportunity to supply their markets while limiting the impact of small sizes.

This rule makes one slight change to the provisions governing overshipments. During a week of percentage of size regulation, any person who has received an allotment can handle an amount of sizes 48 and 56 red seedless grapefruit equal to their weekly allotment, plus an additional overshipment amount not to exceed 10 percent of that week's allotment. The quantity of overshipments is deducted from the handler's allotment for the following week. Section 905.153 did state that overshipments were not allowed during week 11 because there were no allotments the following week from which to deduct the overshipments. This rule changes this to read that no overshipments are allowed during week 22 to reflect the longer regulated period.

The Committee can act on behalf of handlers wanting to arrange allotment loans or participate in the transfer of allotment. Repayment of an allotment loan is at the discretion of the handlers' party to the loan. The Committee informs each handler of the quantity of sizes 48 and 56 red seedless grapefruit they can handle during a particular week, making the necessary adjustments for overshipments and loan repayments.

This rule does not affect the provision 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 specific 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 grapefruit, imports of that commodity must meet the same or comparable requirements. This rule does not change the minimum grade or size requirements under the order, only the percentages of sizes 48 and 56 red grapefruit that may be handled. Therefore, no change is necessary in the grapefruit import regulation as a result of this action.

Initial 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 initial 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 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 growers 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 $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 red seedless grapefruit during the 2000–01 season was approximately $7.20 per 4/5 bushel carton, and total fresh shipments for the 2000–01 season are estimated at 24.7 million cartons of red grapefruit. Approximately 25 percent of all handlers handled 70 percent of Florida grapefruit shipments. In addition, many of these handlers ship other citrus fruit and products which are not included in Committee data but would contribute further to handler receipts. Using the average f.o.b. price, about 69 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.

The overshipment of small-sized red seedless grapefruit has contributed to poor returns for growers and lower on-tree values. This rule increases the current number of regulated weeks available under weekly percentage of size regulation from 11 weeks to 22 weeks. With additional volumes of small size now available later in the season, it will be beneficial to have the additional weeks available, when necessary, to help stabilize the market and improve grower returns. This rule also institutes weekly percentages for an additional 6 weeks during 2001–02 season. Authority for this action is provided in § 905.52 of the order. This rule also uses the provisions of § 905.153. The rule is based on unanimous recommendations of the Committee at meetings on May 22, and August 29, 2001.

The first change this rule makes only provides additional weeks for percentage of size regulation. The goal of this change is to provide an additional tool, if needed, to help stabilize the price of red seedless grapefruit.

The second action establishes weekly percentages for an additional 6 weeks of the 2001–02 season. The Committee recommended that weekly percentages be set at 40 percent for the first three weeks (December 3 through December 23) and 30 percent for the eight remaining weeks (December 24 through February 17) of the second 11-week period. However, because of the current timeframe, this action establishes weekly percentages for the remaining 6 weeks of the second 11-period regulatory period at 30 percent (January 7, 2002, through February 17, 2002).

This action is intended to supply enough small red seedless grapefruit, without saturating all markets with small sizes. The quantity of sizes 48 and 56 red seedless grapefruit that may be shipped by a handler during a particular week is calculated using the recommended percentage. This action will help stabilize the market and improve grower returns. This action is similar to the actions taken during the first 11 weeks of the 1997–98, 1998–99, 1999–2000, 2000–01, and 2001–02 seasons.

During the past three seasons for the months of December through February available supplies of small sizes have been at levels previously only seen during the months of September to early December. For these three seasons, the percentage of the crop represented by small sizes in the month of February has averaged 51 percent. This compares to an average of 26 percent for the same month for the three prior seasons (1995–98). In the past three seasons, during the second 11 weeks of the season, prices of red seedless grapefruit have fallen. On-tree prices for fresh red seedless grapefruit have also declined. In many cases, prices have provided returns less than production costs. This is making it difficult for some small producers to remain in business.

The Committee believes having the ability to control the volume of small sized red seedless grapefruit has been an important tool during the first 11 weeks of the past four seasons. The Committee believes the benefits the industry derived under 11 weeks of volume regulation will continue if the period available for volume regulation is increased to 22 weeks. Recognizing the trend of having more small sizes available later in a season, the Committee believes having the ability to regulate volume during the middle of the season will be a valuable tool. The purpose of this change is not to eliminate small-sized red grapefruit. It is merely to provide a tool to prevent a surplus of small-sized red seedless grapefruit from damaging the overall grapefruit market during the middle part of the season. A tool that will help stabilize price and returns benefits both small and large producers and handlers.

The past three seasons, shipments of small sizes for December through February exceeded those shipped during September through November by nearly 91,000 cartons a week on average. For the first time since the 1997–98 season, on-tree returns have decreased. On-tree returns dropped from $3.36 during the 1999–2000 season to $2.10 for the 2000–01 season. On-tree returns for fresh red grapefruit also declined by 22 percent. In addition, on-tree returns declined an average of $.60 from November to February for the seasons 1997–98, 1998–99, and 1999–2000. By combining this $.60 reduction with an average volume of 4.7 million boxes shipped during this period the loss in grower returns tops nearly $2.8 million. The Committee attributes the decrease in returns to the volume of small sizes.

The Committee believes the volume of small sizes will continue to be a problem during the middle part of this season. Initial estimates by the Florida Agricultural Statistics Service show that small sizes represent a large percentage of the 2001–02 crop, accounting for over 83 percent of the fruit per September measurements. Therefore, the Committee recommended establishing volume regulation during the second 11 weeks of the 2001–2002 season. However, because of the current timeframe, this action establishes weekly percentages for the remaining 6 weeks of the second 11-week period.

While the establishment of volume regulation may necessitate additional spot picking, which could entail slightly higher harvesting costs, many producers are already using the practice. In addition, with spot picking, the persons harvesting the fruit are more selective and pick only the desired sizes and qualities. This reduces the amount of time and effort needed in sorting fruit, because undersize fruit is not harvested. These savings may result in reduced processing and packing costs. Also, regulation is only in effect for part of the season.

If a 25 percent restriction on small sizes had been applied during the second 11-week period for the three prior seasons, an average of 4.9 percent of the overall shipments during that period would have been subject to regulation. A large percentage of this volume most likely could have been replaced by larger sizes for which there are no volume restrictions. Under percentage of size regulation, larger sizes have been substituted for smaller sizes with a nominal effect on overall shipments.

In addition, handlers can transfer, borrow or loan allotment based on their needs in a given week. Handlers also have the option of overshipping their allotment by 10 percent in a week, provided any overshipments are deducted from the following week's shipments. Transfers and loans have been used very effectively during past seasons with percentage of size regulation. Therefore, the overall impact of this regulation on total shipments should not be substantial.

The Committee believes establishing volume regulation during the second 11 weeks of the season will have benefits similar to those realized under regulation of the first 11 weeks. Handlers and producers have received higher returns under the 11-week percentage of size regulations issued for the first 11 weeks of the last four seasons. In late October, during the four years with 11-week regulation, the average f.o.b. price for red seedless grapefruit was $7.99 per carton compared to $7.22 for the three years prior to regulation. F.o.b. prices also have remained higher, with an average price of $7.29 in mid-December during 11-week regulation compared to $6.02 for the three years prior to regulation. Season average prices have also been higher under 11-week regulation averaging $7.14 per carton compared to $5.83 for the prior three years. On-tree earnings per box for fresh red seedless grapefruit have also improved under regulation, providing better returns to growers. The on-tree price increased from $3.26 per box in 1996–97, to $3.42 for 1997–98, to $5.04 for 1998–99, to $5.62 for the 1999–2000 season.

If 11-week regulation applied at the start of a season has been successful in controlling the volume of small sizes and increasing returns, applying similar volume regulation during the second 11 weeks of the season should also be effective in addressing the problems with the overshipment of small sizes. Even if this action was only successful in raising returns by $.10 per carton, this increase in combination with the substantial number of shipments generally made during this second 11 week period, would represent an increased return of nearly $1 million. Consequently, any increased returns generated by this action should more than offset any additional costs associated with this regulation.

The purpose of this rule is to help stabilize the market and improve grower returns. This rule provides a supply of small-sized red seedless grapefruit sufficient to meet market demand, without saturating all markets with these small sizes. This action is not expected to decrease the overall consumption of red seedless grapefruit. It is expected to benefit all red seedless grapefruit growers and handlers regardless of their size of operation. This rule will likely help small under-capitalized growers who need additional weekly revenues to meet operating costs.

The Committee discussed different alternatives to these changes. Several alternatives had to do with the number of weeks that would be available under percentage of size regulation. The alternatives considered included not increasing the number of weeks available, to increasing the regulation to include all 33 weeks of the season. Committee members agreed producers and handlers would benefit from smaller-sized fruit being controlled for a greater portion of the season. They also noted the majority of export shipments occur during the last 11 weeks of the season helping to alleviate problems with small sizes during that part of the season. Consequently, these alternatives were rejected.

Other alternatives considered had to do with the length of the holiday season and percentages set for that period. The holiday season is the weeks before Christmas when a large volume of small sizes are used for gift fruit shipments and fundraisers. One alternative was to add an additional week to those weeks considered as the holiday season, and set higher percentages for the first four weeks rather than the first three. Another alternative discussed was setting percentages higher than 40 percent for the weeks covered that were considered part of the holiday season. The Committee reviewed and discussed the suggestions and agreed that the weeks included and the percentages recommended were the best solutions based on the information available. The Committee further recognized that if marketing conditions indicated a change might be necessary the Committee could meet again later in the season and recommend that the percentages be relaxed. Therefore, these alternates also were rejected.

This action requires two new handler reports. These information collection requirements are discussed in the following section.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. However, red seedless 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).

In addition, the Committee's meetings were widely publicized throughout the Florida citrus industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the May 22, and August 29, 2001, meetings were public meetings and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of these actions on small businesses.

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.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces that AMS has obtained emergency approval for a new information collection request for Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida, Marketing Order No. 905. The emergency request was necessary because insufficient time was available to follow normal clearance procedures.

Title: Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida, Marketing Order No. 905.

OMB Number: 0581–NEW.

Type of Request: New collection.

Abstract: The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the Florida citrus marketing order program, which has been operating since 1939.

On May 22, and August 29, 2001, the Committee unanimously recommended revising the order's administrative rules and regulations to require handlers to report to the Committee information on small red seedless grapefruit during an additional 11-week volume regulation period. This information will be reported on two new Committee forms. *Form CAC 301A, Handler making/acquiring Loan and/or Transfer,* is used by handlers receiving base quantity loans, and by handlers receiving base quantity transfers during weeks 12 through 22 of the regulation period. *Form CAC 302A, Report of Red Grapefruit Shipments by Day and Regulation Week,* is used by handlers to inform the Committee of their daily shipments of sizes 48 and 56 red seedless grapefruit during weeks 12 through 22 of the regulation period.

The new reports are needed so the Committee can collect information on sizes 48 and 56 red seedless grapefruit during the second 11-week volume regulation period. The Committee will evaluate this information and determine whether a handler is in compliance with the regulation. These reports will ensure compliance with the volume regulation and assist the Committee and the USDA with oversight and planning.

The information collected is used only by authorized representatives of USDA, including AMS, Fruit and Vegetable Programs regional and headquarters staff, and authorized Committee employees. Authorized Committee employees will be the primary users of the information and AMS is the secondary user.

The request for approval of the new information collections under the order is as follows:

CAC 301A, Handler making/acquiring Loan and/or Transfer

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5 minutes per response.

Respondents: Handlers who acquire a loan or transfer for sizes 48 and 56 small red seedless grapefruit during the additional 11-week regulation period.

Estimated Number of Respondents: 45.

Estimated Number of Responses per Respondent: 3.

Estimated Total Annual Burden on Respondents: 11.21 hours.

CAC 302A, Report of Red Grapefruit Shipments by Day and Regulation Week

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3 minutes per response.

Respondents: Handlers who handle size 48 and/or 56 small red seedless grapefruit during the second 11-week regulation period.

Estimated Number of Respondents: 45.

Estimated Number of Responses per Respondent: 55.

Estimated Total Annual Burden on Respondents: 123.75 hours.

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–NEW and the Florida citrus marketing order, and be sent to USDA in care of the Docket Clerk at the previously mentioned address. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

As mentioned before, because there was insufficient time for a normal clearance procedure and prompt implementation is needed, AMS has obtained emergency approval from OMB for the use of the two new forms for the second 11-week volume regulation period. The forms will be added to the forms currently approved for use under OMB No. 0581–0189. 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 to the information collection burden, this rule also invites comments on the modification to the procedures used to limit the volume of sizes 48 and 56 red seedless grapefruit entering the fresh market under the order. This rule increases the number of weeks available under weekly percentage of size regulation from 11 weeks to 22 weeks and institutes weekly percentages for 6 additional weeks of the 2001–02 season. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register**. This rule needs to be in place when the during the second 11-week regulatory period. Also, handlers need to know what their allotments of small sizes are to make their marketing plans. This issue has been widely discussed at various industry meetings, and the Committee has kept the industry well informed. Further, handlers are aware of this rule, which was recommended at public meetings. Also, a 15-day comment period is provided in this rule on increasing the number of weeks in the regulatory period from 11 to 22, and on the percentages established for the remaining 6 weeks of the second 11-week regulatory period. A 15-day comment period is deemed appropriate because this action should be finalized by the end of the regulatory period (February 17, 2002).

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

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

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS 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. In § 905.153, paragraph (a), the last sentence is revised, and in paragraph (d), the third sentence is revised to read as follows:

§ 905.153 Procedure for determining handlers' permitted quantities of red seedless grapefruit when a portion of sizes 48 and 56 of such variety is restricted.

(a) * * * The term *regulation period* means the 22-week period beginning the third Monday in September of the current season.

* * * * *

(d) * * * Overshipments will not be allowed during week 22. * * *

* * * * *

3. Section 905.350 is revised to read as follows:

§ 905.350 Red seedless grapefruit regulation.

This section establishes the weekly percentages to be used to calculate each handler's weekly allotment of small sizes. Handlers can fill their allotment with size 56, size 48, or a combination of the two sizes such that the total of these shipments are within the established weekly limits. The weekly percentages for size 48 (3⁹⁄₁₆ inches minimum diameter) and size 56 (3⁵⁄₁₆ inches minimum diameter) red seedless grapefruit grown in Florida, which may be handled during the specified weeks are as follows:

Week	Weekly percentage
(a) 9/17/01 through 9/23/01	45
(b) 9/24/01 through 9/30/01	45
(c) 10/1/01 through 10/7/01	35
(d) 10/8/01 through 10/14/01	30
(e) 10/15/01 through 10/21/01	30
(f) 10/22/01 through 10/28/01	30
(g) 10/29/01 through 11/4/01	30
(h) 11/5/01 through 11/11/01	30
(i) 11/12/01 through 11/18/01	30
(j) 11/19/01 through 11/25/01	30
(k) 11/26/01 through 12/2/01	40
(l) 1/7/02 through 1/13/02	30
(m) 1/14/02 through 1/20/02	30
(n) 1/21/02 through 1/27/02	30
(o) 1/28/02 through 2/3/02	30
(p) 2/4/02 through 2/10/02	30
(q) 2/11/02 through 2/17/02	30

Dated: January 3, 2002.

Barry L. Carpenter,

Acting Administrator, Agricultural Marketing Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–48–AD; Amendment 39–12591; AD 2001–26–25]

RIN 2120–AA64

Airworthiness Directives; Grob-Werke Gmbh & Co KG Models G102 Club Astir III, G102 Club Astir IIIb, and G102 Standard Astir III Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Grob-Werke Gmbh & Co KG (Grob) Models G102 Club Astir III, G102 Club Astir IIIb, and G102 Standard Astir III sailplanes. This AD requires you to apply a red mark and install a placard on the airspeed indicator to restrict the Vne airspeed. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to prevent elevator flutter, which could cause structural damage. Such damage could result in loss of control of the sailplane.