

(j) From subsection (g)(1) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

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*Acting Chief Privacy Officer, Department of Homeland Security.*

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**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 51**

[Document Number AMS-SC-17-0076, SC-18-327]

**U.S. Standards for Grades of Grapefruit (Texas and States Other Than Florida, California, and Arizona), and U.S. Standards for Grades of Oranges (Texas and States Other Than Florida, California, and Arizona)**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) proposes to revise the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) and the U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona). The revision would convert the Acceptable Quality Level (AQL) tables from showing the acceptable number of allowable defective fruit in each grade to showing the percentage of defects permitted in each grade; revise the minimum sample size to 25 fruit; update size classifications; remove references to Temple oranges from the orange standards for grade; and more closely align terminology in both grade standards with Florida and California citrus standards.

**DATES:** Comments must be submitted on or before May 11, 2020.

**ADDRESSES:** Interested persons are invited to submit written comments to the USDA, Specialty Crops Inspection Division, 100 Riverside Parkway, Suite 101, Fredericksburg, VA 22406; fax: (540) 361-1199; or at

[www.regulations.gov](http://www.regulations.gov). Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours. Comments can also be viewed as submitted, including any personal information you provide, on the [www.regulations.gov](http://www.regulations.gov) website.

**FOR FURTHER INFORMATION CONTACT:**

Olivia L. Banks at the address above, or by phone (540) 361-1120; fax (540) 361-1199; or, email [olivia.banks@usda.gov](mailto:olivia.banks@usda.gov). Copies of the proposed U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) and U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) may be viewed at <http://www.regulations.gov>. Copies of the current U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) and U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) are available on the AMS website at <https://www.ams.usda.gov/grades-standards/fruits>.

**SUPPLEMENTARY INFORMATION:** The proposed changes would convert the AQL tables in the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) and the U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) from showing the acceptable number of allowable defective fruit in each grade to showing the percentage of defects permitted in each grade, revise minimum sample size to 25 fruit, update size classifications, remove reference to Temple orange in the orange standards for grade and more closely align terminology in both grade standards with Florida and California citrus standards. These revisions also affect the grade requirements under the marketing order (Order) Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas, 7 CFR part 906, issued under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601-674) and applicable imports.

**Executive Orders 12866, 13771, and 13563**

This proposed rule is not expected to be an Executive Order 13771 regulatory action because it is not significant under Executive Order 12866. See the Office of Management and Budget's memorandum, "Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs'" (February 2, 2017). Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety

effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

**Executive Order 13175**

This proposed rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments nor significant Tribal implications.

**Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

**Background**

AMS continuously reviews fruit and vegetable grade standards to assess their effectiveness in the industry and to modernize language. On September 20, 2016, AMS received a request from the Texas Valley Citrus Committee (TVCC) to modernize the language of and clarify the Texas citrus standards by removing outdated AQL tables. The standards were last revised in September 2003. AMS worked closely with the TVCC throughout the development of the proposed revisions, soliciting their comments and suggestions about the standards through discussion drafts that outlined the conversion from AQL tables to a defined percentage of defects permitted in each grade. The proposed percentages correspond to those currently allowed in the AQL tables and more closely align with California and Florida orange and grapefruit standards.

Additional proposed revisions to the Texas grapefruit standard include adding size 64 to the size classifications to align with sizes in the Order; changing the minimum sample size from 33 to 25 fruit; and changing the scoring basis for defects from a 70-size fruit to a 4 1/8-inch grapefruit. Proposed revisions to the Texas orange standard also include adding size 163 to the size classifications to align with sizes in the Order; changing the minimum sample size from 50 to 25 fruit; changing the scoring basis for defects from a 200-size fruit to a 2 7/8-inch orange; and removing Temple oranges from the standard.

AMS also conducted a grapefruit shape survey with the TVCC to identify areas of the standards for revision in

order to more closely align the Texas citrus standards with those of Florida and California. On May 23, 2018, AMS met with the TVCC to review the proposed revisions. These efforts culminated with the TVCC submitting a petition to AMS on June 12, 2018 to revise the U.S. standards for Texas oranges and grapefruit as discussed and approved at the May 2018 meeting.

This rule proposes several changes in the U.S. standards. The chart below shows the requirements of the current standards, the proposed changes, and the rationale for each change. The first chart covers the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) and the second chart covers the U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona).

The proposed revisions more closely align terminology related to defects and grade requirements with the Florida citrus grade standards as requested by the TVCC and align the standards with current industry practices.

#### Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this proposed rule 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 businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

This rule will revise the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) and U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) that were issued under the Agricultural Marketing Act of 1946. Standards issued under the 1946 Act are voluntary.

There are approximately 170 producers of grapefruit and oranges in the production area and 14 handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than \$1,000,000, and small agricultural service firms are defined as those whose annual receipts are less than \$30,000,000 (13 CFR 121.201).

According to Texas Valley Citrus Committee (TVCC) data, the average price for Texas citrus during the 2017–18 season prices ranged from \$11.10 to \$33.35 per carton. The average price was \$22.23 per carton (\$11.10 plus

\$33.35 equals \$44.45, divided by 2 equals \$22.23 per carton) and total shipments were 7.9 million cartons. Using the average price, shipment information, and number of handlers, and assuming a normal distribution, the majority of handlers would have average annual receipts of less than \$30,000,000 (\$22.23 per carton times 7.9 million cartons equals \$175.6 million, divided by 14 equals \$12.5 million per handler).

In addition, based on National Agricultural Statistics Service information, the average Free on Board (f.o.b.) price for Texas citrus during the 2018–19 season was approximately \$35.05 per carton. Using the average f.o.b. price, shipment information, and the number of producers, and assuming a normal distribution, the majority of producers would have annual receipts of \$1.6 million, which is more than \$1,000,000 (\$35.05 per carton times 7.9 million cartons equals \$276.9 million, divided by 170 equals \$1.6 million per producer). Thus, the majority of producers of Texas citrus may be classified as large entities, while the majority of handlers of Texas citrus may be classified as small entities.

This proposed rule would convert the AQL Tables from showing the acceptable number of allowable defective fruit in each grade to a percentage of defects permitted in each grade, revise minimum sample size to 25 fruit, update size classifications, remove references to Temple orange from the orange standards for grade, and more closely align terminology in both standards for grade with Florida and California citrus standards.

This proposed action would make the standards more consistent with current marketing trends and practices. This proposed action will not impose any additional reporting or recordkeeping requirements on small or large orange or grapefruit producers or handlers. USDA has not identified any Federal rules that duplicate, overlap, or conflict with this rule. However, there are marketing programs that regulate the handling of oranges and grapefruit under 7 CFR part 906. Oranges and grapefruit subject to the Order must meet certain requirements set forth in the grade standards for oranges and grapefruit.

A 60-day comment period is provided for interested persons to submit comments on the proposed revised grade standards. Copies of the proposed revised standards are available at <http://www.regulations.gov>. After the 60-day comment period, AMS will move forward in accordance with 7 CFR 36.3(a).

#### List of Subjects in 7 CFR Part 51

Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Vegetables.

For reasons set forth in the preamble, 7 CFR part 51 is amended as follows:

#### PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

- 1. The authority citation for part 51 continues to read as follows:

**Authority:** 7 U.S.C. 1621–1627.

- 2. Revise the subpart heading “Subpart—United States Standards for Grades of Grapefruit (Texas and States Other than Florida, California, and Arizona)” to read as follows:

##### Application of Tolerances

- 3. Revise § 51.620 to read as follows:

###### § 51.620 U.S. Fancy.

“U.S. Fancy” consists of grapefruit which meet the following requirements:

(a) Basic requirements:

(1) *Discoloration*: Not more than one-tenth of the surface, in the aggregate, may be affected by discoloration. (See § 51.638.);

(2) Firm;

(3) Mature;

(4) Similar varietal characteristics;

(5) Smooth texture;

(6) Well formed; and

(7) Well colored.

(b) Free from:

(1) Ammoniation;

(2) Bruises;

(3) Buckskin;

(4) Decay;

(5) Growth cracks;

(6) Scab;

(7) Skin breakdown;

(8) Sprayburn;

(9) Unhealed skin breaks; and

(10) Wormy fruit.

(c) Free from injury caused by:

(1) Green spots;

(2) Hail;

(3) Oil spots;

(4) Scale;

(5) Scars; and

(6) Thorn scratches.

(d) Free from damage caused by:

(1) Dryness or mushy condition;

(2) Insects;

(3) Sprouting;

(4) Sunburn; and

(5) Other means.

(e) For tolerances see § 51.628.

- 4. Revise § 51.621 to read as follows:

###### § 51.621 U.S. No. 1.

“U.S. No. 1” consists of grapefruit which meet the following requirements:

## (a) Basic requirements:

(1) *Discoloration*: Not more than one-half of the surface, in the aggregate, may be affected by discoloration. (See § 51.638.);

(2) Fairly smooth texture;

(3) Fairly well colored;

(4) Fairly well formed;

(5) Firm;

(6) Mature; and

(7) Similar varietal characteristics.

(b) Free from:

(1) Bruises;

(2) Caked melanose;

(3) Decay;

(4) Growth cracks;

(5) Sprayburn;

(6) Unhealed skin breaks; and

(7) Wormy fruit.

(c) Free from damage caused by:

(1) Ammoniation;

(2) Buckskin;

(3) Caked melanose;

(4) Dryness or mushy condition;

(5) Green spots;

(6) Hail;

(7) Oil spots;

(8) Scab;

(9) Scale;

(10) Scars;

(11) Skin breakdown;

(12) Sprayburn;

(13) Sprouting;

(14) Sunburn;

(15) Thorn scratches; and

(16) Other means.

(d) For tolerances see § 51.628.

■ 5. Revise § 51.623 to read as follows:

**§ 51.623 U.S. No. 1 Bronze.**

The requirements for this grade are the same as for U.S. No. 1 except that all fruit must show some discoloration and at least 10 percent, by count, of the fruit shall have more than one-half of their surface, in the aggregate, affected by discoloration. The predominating discoloration on each of these fruits shall be of rust mite type. For tolerances see § 51.628.

■ 6. Revise § 51.624 to read as follows:

**§ 51.624 U.S. Combination.**

“U.S. Combination” consists of a combination of U.S. No. 1 and U.S. No. 2 grapefruit: *Provided*, That at least 55 percent, by count, meet the requirements of U.S. No. 1 grade for defects, *And provided further*, That the lot meets the basic requirement for discoloration as specified in the U.S. No. 2 grade. For tolerances see § 51.628.

■ 7. Revise § 51.625 to read as follows:

**§ 51.625 U.S. No. 2.**

“U.S. No. 2” consists of grapefruit which meet the following requirements:

(a) Basic requirements:

(1) *Discoloration*: Not more than two-thirds of the surface, in the aggregate,

may be affected by discoloration. (See § 51.638.);

(2) Fairly firm;

(3) Mature;

(4) Not more than slightly misshapen;

(5) Not more than slightly rough

texture;

(6) Slightly colored; and

(7) Similar varietal characteristics.

(b) Free from:

(1) Bruises;

(2) Decay;

(3) Growth cracks;

(4) Unhealed skin breaks; and

(5) Wormy fruit.

(c) Free from serious damaged caused by:

(1) Ammoniation;

(2) Buckskin;

(3) Caked melanose;

(4) Dryness or mushy condition;

(5) Green spots;

(6) Hail;

(7) Oil spots;

(8) Scab;

(9) Scale;

(10) Scars;

(11) Skin breakdown;

(12) Sprayburn;

(13) Sprouting;

(14) Sunburn;

(15) Thorn scratches; and

(16) Other means.

(d) For tolerances see § 51.628.

■ 8. Revise § 51.626 to read as follows:

**§ 51.626 U.S. No. 2 Russet.**

The requirements for this grade are the same as for U.S. No. 2 except that at least 10 percent of the fruit shall have more than two-thirds of their surface, in the aggregate, affected by any type of discoloration. For tolerances see § 51.628.

■ 9. Revise § 51.627 to read as follows:

**§ 51.627 U.S. No. 3.**

“U.S. No. 3” consists of grapefruit which meet the following requirements:

(a) Basic requirements:

(1) Mature;

(2) May be misshapen;

(3) May be slightly spongy;

(4) May have rough texture;

(5) May be poorly colored. Not more than 25 percent of the surface may be of a solid dark green color;

(6) Not seriously lumpy or cracked; and

(7) Similar varietal characteristics.

(b) Free from:

(1) Decay;

(2) Unhealed skin breaks; and

(3) Wormy fruit.

(c) Free from very serious damage caused by:

(1) Ammoniation;

(2) Buckskin;

(3) Caked melanose;

(4) Dryness or mushy condition;

(5) Green spots;

(6) Hail;

(7) Oil spots;

(8) Scab;

(9) Scale;

(10) Scars;

(11) Skin breakdown;

(12) Sprayburn;

(13) Sprouting;

(14) Sunburn;

(15) Thorn scratches; and

(16) Other means.

■ 10. Revise § 51.628 to read as follows:

**§ 51.628 Tolerances.**

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified. No tolerance shall apply to wormy fruit.

(a) *Defects*—(1) *U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, U.S. No. 2, and U.S. No. 2 Russet*—(i) *For defects at shipping point.*<sup>1</sup> Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the specified grade: *Provided*, That included in this amount not more than 5 percent shall be allowed for defects causing very serious damage, including in this latter amount not more than 1 percent for decay.

(ii) For defects en route or at destination. Not more than 12 percent of the fruit in any lot may fail to meet the requirements of the specified grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or

(B) 7 percent for defects causing very serious damage, including therein not more than 5 percent for very serious damage by permanent defects and not more than 3 percent for decay.

(2) *U.S. Combination*—(i) *For defects at shipping point.*<sup>1</sup> Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the U.S. No. 2 grade: *Provided*, That included in this amount not more than 5 percent shall be allowed for defects causing very serious damage, included in this latter amount not more than 1 percent for decay.

(ii) For defects en route or at destination. Not more than 12 percent of the fruit in any lot may fail to meet the requirements of the U.S. No. 2 grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or

(B) 7 percent for defects causing very serious damage, including therein not

more than 5 percent for very serious damage by permanent defects and not more than 3 percent for decay.

(iii) *For defects at shipping point<sup>1</sup> and en route or at destination.* No part of any tolerance shall be allowed to reduce, for the lot as a whole, the 55 percent of U.S. No. 1 fruit required in the U.S. Combination grade, but individual samples may have not more than 15 percent less than the required percentage for the grade: *Provided*, That the entire lot averages within the percentage required.

(3) *U.S. No. 3—(i) For defects at shipping point.<sup>1</sup>* Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the grade: *Provided*, That included in this amount not more than 1 percent for decay.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit in any lot may fail to meet the requirements of the grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or

(B) 3 percent for decay.

(b) *Discoloration—(1) U.S. No. 1, U.S. No. 1 Bright, U.S. Combination, and U.S. No. 2.* Not more than 10 percent of the fruit in any lot may fail to meet the requirements relating to discoloration as specified in each grade; No sample may have more than 20 percent of the fruit with excessive discoloration: *Provided*, That the entire lot averages within the percentage specified.

(2) *U.S. No. 1 Bronze.* At least 10 percent of the fruit shall have more than one-half of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage: *Provided*, That the entire lot averages within the percentage specified. No tolerance is provided for fruit showing no discoloration.

(3) *U.S. No. 2 Russet.* At least 10 percent of the fruit shall have more than two-thirds of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage: *Provided*, That the entire lot averages within the percentage specified.

<sup>1</sup> Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the

case of shipments from outside the continental United States, the port of entry into the United States.

- 11. Revise the undesignated center heading before § 51.629 “SAMPLE FOR GRADE OR SIZE DETERMINATION” to read as follows:

#### Application of Tolerances

- 12. Revise § 51.629 to read as follows:

#### § 51.629 Application of tolerances.

Individual samples are subject to the following limitations, unless otherwise specified in § 51.628. Individual samples shall have not more than one and one-half times a specified tolerance of 10 percent or more, and not more than double a specified tolerance of less than 10 percent: *Provided*, That at least one decayed fruit may be permitted in any sample: *And provided further*, That the averages for the entire lot are within the tolerances specified for the grade.

- 13. Revise § 51.630 to read as follows:

#### § 51.630 Standard pack.

(a) Fruits shall be fairly uniform in size, unless specified as uniform in size. When packed in approved containers, fruit shall be arranged according to approved and recognized methods.

(b) “Fairly uniform in size” means that not more than 10 percent of fruit in any lot, and not more than double that amount in any sample, are outside the ranges of diameters given in Table 1 to this section:

TABLE 1 TO § 51.630—7/10 BUSHEL CARTON

Pack size/ number of grapefruit	Diameter in inches	
	Minimum	Maximum
18 .....	4–15/16	5–9/16
23 .....	4–5/16	5
27 .....	4–2/16	4–12/16
32 .....	3–15/16	4–8/16
36 .....	3–13/16	4–5/16
40 .....	3–10/16	4–2/16
48 .....	3–9/16	3–14/16
56 .....	3–5/16	3–10/16
64 .....	3	3–8/16

(c) “Uniform in size” means that not more than 10 percent of fruit in any lot, and not more than double that amount in any sample, may vary more than the following amounts:

(1) 32 size and smaller—not more than six-sixteenths inch in diameter; and

(2) 27 size and larger—not more than nine-sixteenths inch in diameter.

(d) In order to allow for variations, other than sizing, incident to proper packing, not more than 5 percent of the packages in any lot may fail to meet the requirements of standard pack.

- 14. Revise § 51.637 to read as follows:

#### § 51.637 Injury.

*Injury* means any specific defect described in Table 1 to § 51.652; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which slightly detracts from the appearance, or the edible or marketing quality of the fruit.

- 15. Revise § 51.642 to read as follows:

#### § 51.642 Damage.

*Damage* means any specific defect described in Table 1 to § 51.652; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit.

- 16. Revise § 51.646 to read as follows:

#### § 51.646 Serious damage.

*Serious damage* means any specific defect described in Table 1 to § 51.652; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the fruit.

- 17. Revise § 51.650 to read as follows:

#### § 51.650 Very serious damage.

*Very serious damage* means any specific defect described in Table 1 to § 51.652; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the fruit.

- 18. Revise § 51.652 to read as follows:

#### § 51.652 Classification of defects.

All references to area or aggregate area, or length in this standard are based on a grapefruit 4 1/4 inches in diameter, allowing proportionately greater areas on larger fruit and lesser areas on smaller fruit.

TABLE 1 TO § 51.652

Factor	Injury	Damage	Serious damage	Very serious damage
Ammoniation .....	Not occurring as light speck type	Scars are cracked or dark and aggregating more than a circle 3/4 inch in diameter.		Aggregating more than 25 percent of the surface.

TABLE 1 TO § 51.652—Continued

Factor	Injury	Damage	Serious damage	Very serious damage
Buckskin .....	.....	Aggregating more than a circle 1¼ inches in diameter.	Aggregating more than 25 percent of the surface.	Aggregating more than 50 percent of the surface.
Caked melanose .....	.....	.....	Aggregating more than a circle 1 inch in diameter.	Aggregating more than 25 percent of the surface.
Dryness or mushy condition. ....	.....	Affecting all segments more than ¼ inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than ½ inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than ¾ inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.
Green spots or oil spots. ....	More than slightly affecting appearance.	Aggregating more than a circle 1 inch in diameter.	Aggregating more than a circle 1½ inches in diameter.	Not well healed, or aggregating more than a circle 1 inch in diameter.
Hail .....	Not well healed, or aggregating more than a circle ½ inch in diameter.	Not well healed, or aggregating more than a circle ½ inch in diameter.	Not well healed, or aggregating more than a circle ½ inch in diameter.	Not well healed, or aggregating more than a circle 1 inch in diameter.
Scab .....	.....	Materially detracts from the shape or texture, or aggregating more than a circle ¾ inch in diameter.	Seriously detracts from the shape or texture, or aggregating more than a circle 1 inch in diameter.	Aggregating more than 25 percent of the surface.
Scale .....	More than a few adjacent to the “button” at the stem end, or more than 6 scattered on other portions of the fruit.	Blotch aggregating more than a circle ¾ inch in diameter, or occurring as a ring more than a circle 1¼ inches in diameter.	Blotch aggregating more than a circle 1 inch in diameter, or occurring as a ring more than a circle 1½ inches in diameter.	Aggregating more than 25 percent of the surface.
Scars .....	Depressed, not smooth, or detracts from appearance more than the amount of discoloration permitted in the grade.	Very deep or very rough aggregating more than a circle ½ inch in diameter; deep or rough aggregating more than 1 inch in diameter; slightly rough or of slight depth aggregating more than 10 percent of surface.	Very deep or very rough aggregating more than a circle 1 inch in diameter; deep or rough aggregating more than 5 percent of the fruit surface; slight depth or slightly rough aggregating more than 15 percent of surface.	Very deep or very rough or unsightly that appearance is very seriously affected.
Skin Breakdown ..	.....	Aggregating more than a circle ¾ inch in diameter.	Aggregating more than a circle ½ inch in diameter.	Aggregating more than a circle 1¼ inches in diameter.
Sprayburn .....	.....	.....	Hard or aggregating more than a circle 1¼ inches in diameter.	Aggregating more than 25 percent of the surface.
Sprouting .....	.....	More than 6 seeds are sprouted, including not more than 1 sprout extending to the rind, remainder average not over ¼ inch in length.	More than 6 seeds are sprouted, including not more than 2 sprouts extending to the rind, remainder average not over ½ inch in length.	More than 6 seeds are sprouted, including not more than 3 sprouts extending to the rind, remainder average not over ¾ inch in length.
Sunburn .....	.....	Skin is flattened, dry, darkened, or hard, aggregating more than 25 percent of surface.	Skin is hard, fruit is decidedly one-sided, aggregating more than one-third of surface.	Aggregating more than 50 percent of fruit surface.
Thorn scratches ..	Not well healed, or more unsightly than discoloration permitted in the grade.	Not well healed, hard concentrated thorn injury aggregating more than a circle ¾ inch in diameter, or slight scratches aggregating more than a circle 1 inch in diameter.	Not well healed, hard concentrated thorn injury aggregating more than a circle ¾ inch in diameter, or slight scratches aggregating more than a circle 1¼ inches in diameter.	Aggregating more than 25 percent of the surface.

■ 19. Revise the heading of Subpart—United States Standards for Grades of Oranges (Texas and States Other than Florida, California, and Arizona) to read as follows:

#### Application of Tolerances

■ 20. Revise § 51.681 to read as follows:

#### § 51.681 U.S. Fancy.

“U.S. Fancy” consists of oranges which meet the following requirements:

(a) Basic requirements:

(1) Discoloration: Not more than one-tenth of the surface, in the aggregate, may be affected by discoloration. (See § 51.700.);

(2) Firm;

(3) Mature;

(4) Similar varietal characteristics;

(5) Smooth texture;

(6) Well colored; and

(7) Well formed.

(b) Free from:

(1) Ammoniation;

(2) Bruises;

- (3) Buckskin;
- (4) Caked melanose;
- (5) Creasing;
- (6) Decay;
- (7) Growth cracks;
- (8) Scab;
- (9) Skin breakdown;
- (10) Sprayburn;
- (11) Undeveloped segments;
- (12) Unhealed skin breaks; and
- (13) Wormy fruit.

(c) Free from injury caused by:

- (1) Green spots;
- (2) Hail;
- (3) Oil spots;
- (4) Rough, wide or protruding navels;
- (5) Scale;
- (6) Scars;
- (7) Split navels; and
- (8) Thorn scratches.

(d) Free from damage caused by:

- (1) Dirt or other foreign material;
- (2) Disease;
- (3) Dryness or mushy condition;
- (4) Insects;

(5) Sunburn; and

(6) Other means.

(e) For tolerances see § 51.689.

■ 21. Revise § 51.682 to read as follows:

#### § 51.682 U.S. No. 1.

“U.S. No. 1” consists of oranges which meet the following requirements:

(a) Basic requirements:

(1) Color:

(i) Early and midseason varieties shall be fairly well colored.

(ii) For Valencia and other late varieties, not less than 50 percent, by count, shall be fairly well colored and the remainder reasonably well colored.

(2) Discoloration: Not more than one-third of the surface, in the aggregate, may be affected by discoloration. (See § 51.700.);

(3) Firm;

(4) Fairly smooth texture;

(5) Mature;

(6) Similar varietal characteristics; and

(7) Well formed.

- (b) Free from:
  - (1) Bruises;
  - (2) Caked melanose;
  - (3) Decay;
  - (4) Growth cracks;
  - (5) Sprayburn;
  - (6) Undeveloped segments;
  - (7) Unhealed skin breaks; and
  - (8) Wormy fruit.
- (c) Free from damage caused by:
  - (1) Ammoniation;
  - (2) Buckskin;
  - (3) Creasing;
  - (4) Dirt or other foreign material;
  - (5) Disease;
  - (6) Dryness or mushy condition;
  - (7) Green spots;
  - (8) Hail;
  - (9) Insects;
  - (10) Oil spots;
  - (11) Scab;
  - (12) Scale;
  - (13) Scars;
  - (14) Skin breakdown;
  - (15) Split, rough or protruding navels;
  - (16) Sunburn;
  - (17) Thorn scratches; and
  - (18) Other means.
- (d) For tolerances see § 51.689.

■ 22. Revise § 51.684 to read as follows:

#### **§ 51.684 U.S. No. 1 Bronze.**

The requirements for this grade are the same as for U.S. No. 1 except that all fruit must show some discoloration and at least 10 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by discoloration. The predominating discoloration on these fruits shall be of rust mite type. For tolerances see § 51.689.

■ 23. Revise § 51.685 to read as follows:

#### **§ 51.685 U.S. Combination.**

“U.S. Combination” consists of a combination of U.S. No. 1 and U.S. No. 2 oranges: *Provided*, That at least 55 percent, by count, meet the requirements of U.S. No. 1 grade for defects, *And provided further*, That the lot meets the basic requirement for discoloration as specified in the U.S. No. 2 grade. For tolerances see § 51.689.

■ 24. Revise § 51.686 to read as follows:

#### **§ 51.686 U.S. No. 2.**

“U.S. No. 2” consists of oranges which meet the following requirements:

- (a) Basic requirements:
  - (1) Discoloration: Not more than one-half of the surface, in the aggregate, may be affected by discoloration. (See § 51.700.);
  - (2) Fairly firm;
  - (3) Mature;
  - (4) Not more than slightly misshapen;
  - (5) Not more than slightly rough texture;

- (b) Reasonably well colored; and
- (7) Similar varietal characteristics.
- (b) Free from:
  - (1) Bruises;
  - (2) Decay;
  - (3) Growth cracks;
  - (4) Unhealed skin breaks; and
  - (5) Wormy fruit.
- (c) Free from serious damaged caused by:
  - (1) Ammoniation;
  - (2) Buckskin;
  - (3) Caked melanose;
  - (4) Creasing;
  - (5) Dirt or other foreign material;
  - (6) Disease;
  - (7) Dryness or mushy condition;
  - (8) Green spots;
  - (9) Hail;
  - (10) Insects;
  - (11) Oil spots;
  - (12) Scab;
  - (13) Scale;
  - (14) Scars;
  - (15) Skin breakdown;
  - (16) Split, rough or protruding navels;
  - (17) Sprayburn;
  - (18) Sunburn;
  - (19) Thorn scratches; and
  - (20) Other means.
- (d) For tolerances see § 51.689.

■ 25. Revise § 51.687 to read as follows:

#### **§ 51.687 U.S. No. 2 Russet.**

The requirements for this grade are the same as for U.S. No. 2 except that at least 10 percent by count of the fruit shall have more than one-half of their surface, in the aggregate, affected by any type of discoloration. For tolerances see § 51.689.

■ 26. Revise § 51.688 to read as follows:

#### **§ 51.688 U.S. No. 3.**

“U.S. No. 3” consists of oranges which meet the following requirements:

- (a) Basic requirements:
  - (1) Mature;
  - (2) May be misshapen;
  - (3) May be poorly colored. Not more than 25 percent of the surface may be of a solid dark green color;
  - (4) May be slightly spongy;
  - (5) May have rough texture;
  - (6) Not seriously lumpy or cracked; and
  - (7) Similar varietal characteristics.
- (b) Free from:
  - (1) Decay;
  - (2) Unhealed skin breaks; and
  - (3) Wormy fruit.
- (c) Free from very serious damage caused by other means.
- (d) For tolerances see § 51.689.

■ 27. Revise § 51.689 to read as follows:

#### **§ 51.689 Tolerances.**

In order to allow for variations incident to proper grading and handling

in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified. No tolerance shall apply to wormy fruit.

(a) *Defects*—(1) *U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, U.S. No. 2, and U.S. No. 2 Russet Grades*—(i) *For defects at shipping point.*<sup>1</sup> Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the specified grade:

*Provided*, That included in this amount not more than 5 percent shall be allowed for defects causing very serious damage, including in this latter amount not more than 1 percent for decay.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit in any lot may fail to meet the requirements of the specified grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or

(B) 7 percent for defects causing very serious damage, including therein not more than 5 percent for very serious damage by permanent defects and not more than 3 percent for decay.

(2) *U.S. Combination*—(i) *For defects at shipping point.*<sup>1</sup> Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the U.S. No. 2 grade: *Provided*, That included in this amount not more than 5 percent shall be allowed for defects causing very serious damage, including in this latter amount not more than 1 percent for decay.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit in any lot may fail to meet the requirements of the U.S. No. 2 grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or

(B) 7 percent for defects causing very serious damage, including therein not more than 5 percent for very serious damage by permanent defects and not more than 3 percent for decay.

(iii) *For defects at shipping point<sup>1</sup> and en route or at destination.* No part of any tolerance shall be allowed to reduce for the lot as a whole, the 55 percent of U.S. No. 1 fruit required in the U.S. Combination grade, but individual samples may have not more than 15 percent less than the required percentage for the grade: *Provided*, That the entire lot averages within the percentage required.

(3) *U.S. No. 3*—(i) *For defects at shipping point.*<sup>1</sup> Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the grade:

*Provided*, That included in this amount not more than 1 percent for decay.

(ii) *For defects en route or at destination*. Not more than 12 percent of the fruit in any lot may fail to meet the requirements of the grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or

(B) 3 percent for decay.

(b) *Discoloration*—(1) *U.S. No. 1, U.S. No. 1 Bright, U.S. Combination, and U.S. No. 2*. Not more than 10 percent of the fruit in any lot may fail to meet the requirements relating to discoloration as specified in each grade. No sample may have more than 20 percent of the fruit with excessive discoloration: *Provided*, That the entire lot averages within the percentage specified.

(2) *U.S. No. 1 Bronze*. At least 10 percent of the fruit shall have more than one-third of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage. No sample may have less than 5 percent of the fruit with required discoloration: *Provided*, That the entire lot averages within the percentage specified. No tolerance shall apply to fruit showing no discoloration.

(3) *U.S. No. 2 Russet*. At least 10 percent of the fruit shall have more than one-half of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage. No sample may have less than 5 percent of the fruit with the required discoloration: *Provided*, That the entire lot averages within the percentage specified.

<sup>1</sup> Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

■ 28. Revise undesignated center heading “SAMPLE FOR GRADE OR SIZE DETERMINATION” before § 51.690 to read as follows:

## APPLICATION OF TOLERANCES

- 29. Revise § 51.690 to read as follows:

### § 51.690 Application of tolerances.

Individual samples are subject to the following limitations, unless otherwise specified in § 51.689. Individual samples shall have not more than one and one-half times a specified tolerance of 10 percent or more, and not more than double a specified tolerance of less than 10 percent: *Provided*, That at least one decayed may be permitted in any sample: *And provided further*, That the averages for the entire lot are within the tolerances specified for the grade.

- 30. Revise § 51.691 to read as follows:

### § 51.691 Standard pack.

(a) Fruit shall be fairly uniform in size. When packed in approved containers, fruit shall be arranged according to approved and recognized methods.

(b) “Fairly uniform in size” means that not more than 10 percent of fruit in any lot, and not more than double that amount in any sample, are outside the ranges of diameters given in Table 1:

TABLE 1 TO § 51.691—7/10 BUSHEL CARTON

Pack size/number of oranges	Diameter in inches	
	Minimum	Maximum
24 .....	3 <sup>1</sup> / <sub>16</sub>	5 <sup>1</sup> / <sub>16</sub>
32 .....	3 <sup>6</sup> / <sub>16</sub>	4 <sup>9</sup> / <sub>16</sub>
36 .....	3 <sup>4</sup> / <sub>16</sub>	4 <sup>6</sup> / <sub>16</sub>
40 .....	3 <sup>2</sup> / <sub>16</sub>	4 <sup>4</sup> / <sub>16</sub>
48 .....	2 <sup>15</sup> / <sub>16</sub>	4
56 .....	2 <sup>13</sup> / <sub>16</sub>	3 <sup>13</sup> / <sub>16</sub>
64 .....	2 <sup>11</sup> / <sub>16</sub>	3 <sup>1</sup> / <sub>16</sub>
72 .....	2 <sup>9</sup> / <sub>16</sub>	3 <sup>8</sup> / <sub>16</sub>
88 .....	2 <sup>8</sup> / <sub>16</sub>	3 <sup>4</sup> / <sub>16</sub>
113 .....	2 <sup>7</sup> / <sub>16</sub>	3
138 .....	2 <sup>6</sup> / <sub>16</sub>	2 <sup>12</sup> / <sub>16</sub>
163 .....	2 <sup>5</sup> / <sub>16</sub>	2 <sup>9</sup> / <sub>16</sub>

(c) In order to allow for variations, other than sizing, incident to proper packing, not more than 5 percent of the packages in any lot may fail to meet the requirements of standard pack.

- 31. Revise § 51.699 to read as follows:

TABLE 1 TO § 51.713

Factor	Injury	Damage	Serious damage	Very serious damage
Ammoniation .....		Not occurring as light speck type	Scars are cracked or dark and aggregating more than a circle $\frac{3}{4}$ inch in diameter or light colored and aggregating more than a circle $1\frac{1}{4}$ inches in diameter.	Aggregating more than 25 percent of the surface.
Buckskin .....		Aggregating more than a circle 1 inch in diameter.	Aggregating more than 25 percent of the surface.	Aggregating more than 50 percent of the surface.
Caked melanose .....			Aggregating more than a circle $\frac{3}{4}$ inch in diameter.	Aggregating more than 25 percent of the surface.
Creasing .....		Materially weakens the skin, or extends over more than one-third of the surface.	Seriously weakens the skin, or extends over more than one-half of the surface.	Very seriously weakens the skin, or is distributed over practically the entire surface.

### § 51.699 Injury.

*Injury* means any specific defect described in Table 1 to § 51.713; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which slightly detracts from the appearance, or the edible or marketing quality of the fruit.

- 32. Revise § 51.702 to read as follows:

### § 51.702 Damage.

*Damage* means any specific defect described in Table 1 to § 51.713; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit.

- 33. Revise § 51.708 to read as follows:

### § 51.708 Serious damage.

*Serious damage* means any specific defect described in Table 1 to § 51.713; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the fruit.

- 34. Revise § 51.711 to read as follows:

### § 51.711 Very serious damage.

*Very serious damage* means any specific defect described in Table 1 to § 51.713; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the fruit.

- 35. Revise § 51.713 to read as follows:

### § 51.713 Classification of Defects.

All references to area or aggregate area, or length in this standard are based on an orange  $2\frac{7}{8}$  inches in diameter, allowing proportionately greater areas on larger fruit and lesser areas on smaller fruit.

TABLE 1 TO § 51.713—Continued

Factor	Injury	Damage	Serious damage	Very serious damage
Dryness or mushy condition.		Affecting all segments more than $\frac{1}{4}$ inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than $\frac{1}{2}$ inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than $\frac{3}{4}$ inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.
Green spots or oil spots.	More than slightly affecting appearance.	Aggregating more than a circle $\frac{7}{8}$ inch in diameter.	Aggregating more than a circle $1\frac{1}{4}$ inches in diameter.	
Hail .....	Not well healed, or aggregating more than a circle $\frac{1}{4}$ inch in diameter.	Not well healed, or aggregating more than a circle $\frac{3}{8}$ inch in diameter.	Not well healed, or aggregating more than a circle $\frac{1}{2}$ inch in diameter.	Not well healed, or aggregating more than a circle $\frac{3}{4}$ inch in diameter.
Scab .....		Materially detracts from the shape or texture, or aggregating more than a circle $\frac{5}{8}$ inch in diameter.	Seriously detracts from the shape or texture, or aggregating more than a circle $\frac{3}{4}$ inch in diameter.	Aggregating more than 25 percent of the surface.
Scale .....	More than a few adjacent to the "button" at the stem end, or more than 6 scattered on other portions of the fruit.	Aggregating more than a circle $\frac{5}{8}$ inch in diameter.	Aggregating more than a circle $\frac{3}{4}$ inch in diameter.	Aggregating more than 25 percent of the surface.
Scars .....	Depressed, not smooth, or detracts from appearance more than the amount of discoloration permitted in the grade.	Deep, rough or hard aggregating more than a circle $\frac{1}{4}$ inch in diameter; slightly rough with slight depth aggregating more than a circle $\frac{7}{8}$ inch in diameter; smooth or fairly smooth with slight depth aggregating more than a circle $1\frac{1}{4}$ inches in diameter.	Deep, rough aggregating more than a circle $\frac{1}{2}$ inch in diameter; slightly rough with slight depth aggregating more than a circle $1\frac{1}{4}$ inches in diameter.	Deep, rough or unsightly that appearance is very seriously affected.
Skin breakdown ...		Aggregating more than a circle $\frac{1}{4}$ inch in diameter.	Aggregating more than a circle $\frac{5}{8}$ inch in diameter.	Aggregating more than 25 percent of the surface.
Sunburn .....		Skin is flattened, dry, darkened or hard, aggregating more than 25 percent of the surface.	Affecting more than one-third of the surface, hard, decidedly one-sided, or light brown and aggregating more than a circle $1\frac{1}{4}$ inches in diameter.	Aggregating more than 50 percent of the surface.
Sprayburn .....			Hard, or aggregating more than a circle $1\frac{1}{4}$ inches in diameter.	Aggregating more than 25 percent of the surface
Split, rough or protruding navels.	Split is unhealed; navel protrudes beyond general contour; opening is so wide, growth so folded and ridged that it detracts noticeably from appearance.	Split is unhealed, or more than $\frac{1}{4}$ inch in length, or more than 3 well healed splits, or navel protrudes beyond the general contour, and opening is so wide, folded or ridged that it detracts materially from appearance.	Split is unhealed, or more than $\frac{1}{2}$ inch in length, or aggregate length of all splits exceed 1 inch, or navel protrudes beyond general contour, and opening is so wide, folded and ridged that it seriously detracts from appearance.	Split is unhealed or fruit is seriously weakened.
Thorn scratches ..	Not slight, not well healed, or more unsightly than discoloration permitted in the grade.	Not well healed, or hard concentrated thorn injury aggregating more than a circle $\frac{5}{8}$ inch in diameter.	Not well healed, or hard concentrated thorn injury aggregating more than a circle $\frac{3}{4}$ inch in diameter.	Aggregating more than 25 percent of the surface.

Dated: February 27, 2020.

**Bruce Summers,**

*Administrator, Agricultural Marketing Service.*

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#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Food and Drug Administration

#### 21 CFR Parts 1100, 1107, and 1114

[Docket No. FDA-2019-N-2854]

RIN 0910-AH44

#### Premarket Tobacco Product Applications and Recordkeeping Requirements; Reopening of the Comment Period

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed rule; reopening of the comment period.

**SUMMARY:** The Food and Drug Administration (FDA or the Agency) is reopening the comment period only for the agency information collection activity associated with proposed rulemaking entitled "Premarket Tobacco Product Applications and Recordkeeping Requirements," which appeared in the **Federal Register** of September 25, 2019. FDA is not reopening the comment period associated with any other aspects of the proposed rulemaking. The Agency is taking this action to seek comment on an additional proposed form to collect information that would be required under certain provisions of the proposed rule. This proposed form would allow for easier identification of each new tobacco product contained in a grouped submission of premarket tobacco product applications (PMTAs).

FDA is reopening the comment period only on the proposed agency information collection activity to allow interested persons additional time to submit comments on this form.

**DATES:** FDA is reopening the comment period on the agency information collection activity contained in the proposed rule published in the **Federal Register** of September 25, 2019 (84 FR 50566). Submit either electronic or written comments by April 9, 2020.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202-395-7285, or emailed to [ira\\_submission@omb.eop.gov](mailto:ira_submission@omb.eop.gov). All comments should be identified with the OMB control number 0910-0879 and title "Premarket Tobacco Product Applications and Recordkeeping