

**§ 906.62 Separability.**

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or things, shall not be affected thereby.

**Subpart—Rules and Regulations****§ 906.120 Fruit exempt from regulations.**

(a) *Minimum quantity.* Any person or the occupants of any one vehicle may ship fruit from the production area during any one day exempt from the requirements of §§ 906.34, 906.40, and 906.45, and regulations issued thereunder: *Provided*, That the shipment does not exceed 400 pounds of fruit (either oranges or grapefruit or a combination of both), it consists solely of fruit not for resale, and it is not part of a shipment of fruit exceeding 400 pounds.

(b) *Processing.* The term *processing* as used in § 906.42(b) means the manufacture of any orange or grapefruit product which has been converted into sectioned fruit or into fresh juice, or preserved by any commercial process, including canning, freezing, dehydrating, drying, and the addition of chemical substances, or by fermentation. Fruit so processed, if handled in accordance with § 906.123, shall be exempt from the provisions of §§ 906.34 and 906.40.

(c) *Special purpose shipments and safeguards.* (1) Fruit may be handled for relief or charity exempt from the requirements of §§ 906.34, 906.40, and 906.45 and the regulations issued thereunder: *Provided*, That the fruit shall not be offered for resale, and the handler submits, prior to any such handling, an application to the committee on forms provided by the committee. The application shall contain the name and address of the handler and such other information that the committee may require including, but not limited to, the quantity of fruit involved, license number of the conveyance, and supporting documentation. Approval of the application by the committee shall be evidenced by the issuance of a certificate

of privilege to the applicant in accordance with paragraph (d) of this section.

(2) Gift packages of fruit handled pursuant to § 906.41 shall be in containers stamped or marked with the handler's name and address.

(3) Fruit may be handled exempt from regulations issued pursuant to § 906.40(d), if the following conditions are met:

(i) Each fiscal period the handler submits prior to such handling a written application to the committee on forms provided by the committee. The application shall contain the name and address of the handler, and a description of the container or containers in which such fruit would be handled.

(ii) The fruit grades at least U.S. No. 1.

(iii) The fruit is handled in closed fully telescopic fiberboard cartons with inside dimensions of  $16\frac{1}{2} \times 10\frac{3}{4} \times 10\frac{1}{2}$  inches which are packed level full, and the cover and bottom section have a Mullen or Cady test of at least 250 pounds; in six-packs; in 12-packs; in baskets of a capacity of 1 bushel or less; or in any of the containers authorized under § 906.340, provided they are stamped or marked *special purpose shipment*.

(iv) Each handler shall file a report with the committee within 1 business day after each shipment handled pursuant to paragraph (c)(3). Such report shall contain the name and address of the handler; date fruit is handled; the number and type of containers and packs in such shipment; the inspection certificate numbers applicable to such shipment; name and address of the purchaser; and the license number of the truck, trailer, or automobile, as the case may be, in which the shipment was loaded.

(4) Oranges and grapefruit grown in the production area may be handled exempt from container and pack regulations issued pursuant to § 906.40(d), under the following conditions:

(i) Such oranges and/or grapefruit grown in the production area are mixed with other types of fruit;

(ii) Such oranges and/or grapefruit grown in the production area constitute at least one-third by volume of the contents of any container, and any

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such container is not larger than a  $\frac{7}{10}$  bushel carton.

(iii) Such grapefruit grown in the production area grade at least U.S. No. 1, and such oranges grown in the production area grade at least U.S. Combination (with not less than 60 percent, by count, of the oranges in any lot grading at least U.S. No.1).

(d) The committee or its duly authorized agents, shall approve or deny each handler's request to handle fruit under paragraphs (c)(1) and (c)(3) of this section and promptly notify such handler in writing of its decision: *Provided*, That if it approves a handler's request, it shall issue a certificate of privilege as provided in §906.44, but if it denies a request it shall advise the handler why the application was denied. The committee may rescind a certificate of privilege issued to a handler, or deny a certificate of privilege to a handler upon proof satisfactory to the committee that such handler has shipped fruit contrary to the provisions of this part. Such action denying a certificate of privilege shall apply to and not exceed a reasonable period of time as determined by the committee. Any handler who has had a certificate of privilege rescinded or denied may file a written appeal with the committee for reconsideration.

(e) *Terms*. The term *bushel* means a unit of measure equivalent to 2,150.42 cubic inches; the term *level full* means that the fruit is level with the top edge of the bottom section of the carton; the term *six-pack* means any container with a capacity of one-fourth of a bushel, the term *basket* means any container made of interwoven material; the term *closed* means closed in accordance with good commercial practices; and terms relating to grade mean the same as in the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) (7 CFR 51.620 through 51.653), or in the U.S. Standards for Grades of Oranges (Texas and States other than

Florida, California, and Arizona) (7 CFR 51.680 through 51.714).

[25 FR 9757, Oct. 12, 1960. Redesignated at 26 FR 12751, Dec. 30, 1961, and amended at 39 FR 44736, Dec. 27, 1974; 40 FR 3286, Jan. 21, 1975; 44 FR 75103, Dec. 19, 1979; 48 FR 50502, Nov. 2, 1983; 49 FR 3173, Jan. 26, 1984; 54 FR 18095, Apr. 27, 1989; 59 FR 50826, Oct. 6, 1994; 59 FR 63693, Dec. 9, 1994; 60 FR 13892, Mar. 15, 1995]

### § 906.121 Reestablishment of districts.

The three districts of the production area specified in §906.20 *Districts* are reestablished as a single district comprising the entire production area.

[34 FR 6651, Apr. 18, 1969]

### § 906.122 [Reserved]

### § 906.123 Fruit for processing.

(a) No person shall be granted exemption from regulation to handle oranges and grapefruit for processing unless such fruit is shipped to an approved processor. All such shipments to an approved processor shall be reported to the committee on a form approved by it.

(b) *Approved processor*. Any person who desires to acquire, as an approved processor, fruit for processing, as set forth in §906.120(b), shall, prior thereto, file an application with the committee on a form approved by it, which shall contain, but not be limited to, the following information:

- (1) Name and address of applicant;
- (2) Location of plant or plants where manufacturing is to take place;
- (3) Approximate quantity of fruit used each month;
- (4) A statement that the fruit obtained exempt from fresh fruit regulations will not be resold or transferred for resale, directly or indirectly, but will be used only for processing;
- (5) A statement agreeing to hold a license issued under the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499r), and regulations issued thereunder (7 CFR part 46) when buying Texas oranges and grapefruit for processing;
- (6) A statement agreeing to undergo random inspection by the committee;
- (7) A statement that the requesting processor has no facilities, equipment, or outlet to repack or sell fruit in fresh form;