

DEPARTMENT OF FOOD AND AGRICULTURE  
PROPOSED CHANGES IN THE REGULATIONS

Title 3. Food and Agriculture  
Division 3. Economics

Chapter 1. Fruit and Vegetable Standardization  
Subchapter 4. Fresh Fruits, Nuts and Vegetables  
Articles 4 Containers, and 22 Citrus

§ 1380.19 Standard Containers, 1430.10 Citrus, Uniform Size Requirement, 1430.12 Citrus, Packing Requirements for Standard Containers No. 58, 59, 61, 63, 65, 66, or 68., 1430.14 Oranges, Lemons, and Royal Mandarins, Standard Containers, 1430.26 Grapefruit, Count and Average Diameter, 1430.27 Grapefruit, Standard Container, and 1430.45 Oranges and Royal Mandarins, Count and Average Diameter.

**INITIAL STATEMENT OF REASONS**

**PROBLEM STATEMENT**

Industry standards are changing based on the demands of the market. The proposed changes are intended to address the marketing and shipping needs of the citrus industry, specifically oranges and grapefruit, which aims to minimize waste and maximize sustainability. The proposed container 68 and modifications to containers 66 and 67 will allow citrus commodities to be packed without wasted headspace and loosely packed fruit which occurs when utilizing the current standard reusable plastic container (RPCs).

**BENEFITS**

The proposed regulation will benefit the California citrus producers, packers, retailers, and consumers. Citrus shippers and packers will now be allowed to pack utilizing a more efficient and stable container currently utilized for other commodities. Additionally, the increase in fruit volume allowed in these containers will reduce headspace and damage to fruit which results in cost savings.

**PURPOSE**

In 1915, the Legislature began to establish in statute minimum standards for fresh fruits, nuts, and vegetables by governing such factors as weight compliance, packaging, container size, labeling, color, and maturity. The California Department of Food and Agriculture's (Department's) Standardization Program is responsible for enforcing laws and regulations establishing minimum state standards for fruits and vegetables. It is accomplished by supervising county agricultural commissioners who carry out enforcement at the local level.

Section 14 of the Food and Agricultural Code authorizes the Department to adopt rules and regulations in accordance with the Administrative Procedure Act. Additional authority vested in the Food and Agricultural Code grants the California Department of

Food and Agriculture Secretary the authority to amend or repeal rules and regulations.

Section 407 of the Food and Agricultural Code authorizes the Secretary of the Department to adopt such regulations as are reasonably necessary to carry out the provisions of the Food and Agricultural Code which the Secretary is directed or authorized to administer or enforce.

Section 42681 of the Food and Agricultural Code specifies, in part, that the Secretary of the Department may, upon a petition of a person that the Secretary finds has a substantial interest in the growing or handling of the particular fruit, nut, or vegetable involved, establish, modify, or rescind by regulation, which initially took effect January 1, 1971, standard container, lid, marking, sizing requirement for commodities, and packing arrangement for any fruits, nuts, or vegetables, for which specific quality standards have otherwise been provided by law or regulation.

Section 42682 of the Food and Agricultural Code authorizes the CDFA Secretary to establish, modify, or rescind, by regulation, which initially took effect January 1, 1971, standard container, lid, marking, sizing requirements for commodities, and packing arrangements for any fruits, nuts, or vegetables, for which specific quality standards have otherwise been provided by law or regulation.

The Secretary shall not, by regulation, adopt any new container or packing requirement, unless the new container or packing requirement has previously been authorized by regulation of the director as an experimental container pack.

Section 42684 of the Food and Agricultural Code establishes the statutory requirements for establishing, modifying, or rescinding, by regulation, quality and maturity standards for any fruits, nuts, or vegetables.

Section 42941 of the Food and Agricultural Code mandates that it is unlawful for any person to prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport, cause to be transported, or sell any fruits, nuts, and vegetables and their containers conform to the provisions of the Standardization Program's division or the regulations promulgated thereunder.

## **NECESSITY**

**Section 1380.19:** The proposed changes to this section amend the dimensions of containers 66 and 67 and creates container 68.

Container 66 is amended to expand the depth of the container to allow for the packing of grapefruit. By allowing the use of container 66 for grapefruit, handlers will increase their marketing opportunities by allowing for all citrus to be packed in the one standard container specifically requested by retailers.

Container number 67 is amended to expand the depth and length of the container to allow for the packing of oranges. By allowing both lemons and oranges to be packed in one standard container, there will be a reduction in material costs, as well as allow for increased marketing abilities.

The proposed new container number 68 is being created for retail display. This single layer carton provides wholesalers and retailers the ability to use the container as part of a display. Current practices require removal of the product prior to display. This change will reduce labor costs at the wholesale, retail, and direct marketing facilities.

**Section 1430.10:** Citrus, Uniform Size Requirements, requires uniform sizing to ensure minimal damage occurs during shipment. Adding this requirement to new container 68 provides regulatory consistency and assists with limiting product damage upon arrival.

**Section 1430.12:** Citrus, Packing Requirements for Standard Containers No. 58, 59, 61, 63, 65, 66, or 67, needs to be amended to add new container number 68 to ensure that packing requirements remain consistent with current regulations.

**Section 1430.14:** Oranges, Lemons, and Royal Mandarins, Standard Containers reiterates the container requirement for oranges, lemons, and Royal Mandarins. Adding 67 and 68 as an allowed container for oranges creates consistency with section 1380.19 Standard Containers.

**Section 1430.26:** The citrus industry has a long associated average diameter of individual fruits to a count per container. The allowance of grapefruit to be packed in container 66 now necessitates the need to add corresponding counts for that particular container that correlate to the average diameters. To accomplish this, a new column must be created in section 1430.26 Grapefruit, Count and Average Diameter. This change allows continuity to ensure no sizing disruptions occur as a result of the use of container 66 for grapefruit.

**Section 1430.27:** Grapefruit, Standard Container, states the standard containers in which grapefruit may be packed. This change restates the allowance of container 66 which creates consistency with section 1380.19 Standard Containers.

**Section 1430.45:** The allowance of oranges to be packed in container 67 and new container 68 creates a need to change the packing requirements found in section 1430.45 Oranges and Royal Mandarins, Count and Average Diameter. The changes provide a count which corresponds with long standing industry average diameter per fruit standards which serve as an industry size.

## **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

The Department relied upon the following documents in establishing this proposed rulemaking action:

- A petition received on June 4, 2015 from California Citrus Mutual
- Letters of support from Sunkist and Sun Pacific
- Previous experimental container permits

## **ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

### Purpose

The purpose of the amendment is to address the marketing and shipping needs of the citrus industry, specifically oranges and grapefruit, which aims to minimize waste and maximize sustainability.

### The Creation or Elimination of Jobs Within the State of California

The proposed amendment to Sections 1380.19, 1430.10, 1430.12, 1430.14, 1430.26, 1430.27, and 1430.45 amend standard container 66 and 67 and add standard container 68, found in section 1380.19 (m). These changes are designed to expand industry's standard container and packing options. These containers have been successfully experimented with through the experimental container pack permit process. Therefore, the Department has determined that this regulatory proposal will not have an impact on the creation or elimination of jobs in the State of California.

### The Creation of New Businesses or the Elimination of Existing Businesses Within the State of California

The proposed regulatory action amends two current standard containers and creates an additional container. These containers have been successfully experimented with through the experimental container pack permit process. Therefore, the Department has determined that this regulatory proposal will not have a significant impact on the creation of new businesses or the elimination of existing businesses in the State of California.

### The Expansion of Businesses Currently doing Business Within the State of California

The proposed regulatory action amends two current standard containers and creates an additional container. These containers have been successfully experimented with through the experimental container pack permit process. The amendments to Sections 1380.19, 1430.10, 1430.12, 1430.14, 1430.26, 1430.27, and 1430.45 will not have an impact on the expansion of existing business in the State of California.

### Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The proposed regulation will benefit California producers and packers. Citrus handlers will be allowed to keep their customers satisfied by varying their pack styles and containers. Further, the proper handling and packing of citrus fruits will protect

consumers and the industry, and assure that both entities are purchasing acceptable quality fresh fruits. Therefore, the proposed rulemaking will indirectly impact the general public and protection of public health and safety.

**EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

The Department has determined that this proposed change to the regulations would not have a significant adverse economic impact directly affecting businesses including the ability of California business to compete with businesses in other States because there are no costs to businesses.

**REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES**

The Department has not identified any reasonable alternatives to the proposed action and no adverse impacts to small businesses are expected as a result of this proposed action.