

Hidalgo County. The following individual fields in Hidalgo County are regulated areas:

123272403
123353001

Luna County. The following individual fields in Luna County are regulated areas:

129011301
129012201
129013003
129013006
129022502
129060806
129060901
129060902
129062001
129062801
129062802
129232801
129232804
129232805
129232806
129292404
129300506
129300608
129301104
129301301
129301401
129301701
129301801
129301806
129302001
129302702
129303302
129440601
129440602
129440701
129440702
129440703
129440708
129440801
129441701

Sierra County. The following individual fields in Sierra County are regulated areas:

151013401
151441201
151441202
151441306
151442201
151442601
151442602
151442603
151442604
151442605
151442606
151442607
151442608
151442609
151442610
151442611
151442612
151442613
151442614
151442701
151443501
151443502
151443503
151443601
151443602
151443603
151443604

151451306
151453001
151453101
151453102
151453103
151453104
151502801

Texas

El Paso County. The following individual fields in El Paso County are regulated areas:

441141301
441142301
441142302
441142303
441142304
441142305
441142306
441142307
441142401
441142402
441142403
441142404
441241301
441241302
441252801
441252803
441252804
441252901
441253201
441253302
441253401

Hudspeth County. The following individual fields in Hudspeth County are regulated areas:

429050701
429050702
429070101
429070102

McCulloch County. Beginning at the McCulloch/San Saba County line and the line of latitude 31.232299 N.; then west along the line of latitude 31.232299 N. to the line of longitude -99.13473 W.; then north along the line of longitude -99.13473 W to the line of latitude 31.31004 N.; then east along the line of latitude 31.31004 N. to the line of longitude -99.11427 W.; then north along the line of longitude -99.11427 W to the line of latitude 31.283487 N.; then east along the line of latitude 31.283487 N. to the McCulloch/San Saba County line; then south to the point of beginning.

San Saba County. Beginning at the San Saba/Mills County line and the line of longitude -98.5851 W.; then south along the line of longitude -98.5851 W to the line of latitude 31.167959 N.; then west along the line of latitude 31.167959 N. to the line of longitude -98.903233 W.; then north along the line of longitude -98.903233 W. to the line of latitude 31.310819 N.; then east along the line of latitude 31.310819 N. to the San Saba/Mills County line; then south along the San Saba/Mills County line to the point of beginning; and

Beginning at the San Saba/McCulloch County line and the line of latitude 31.283487 N.; then east along the line of latitude 31.283487 N. to the line of longitude -99.063487 W.; then south along the line of longitude -99.063487 W. to the line of latitude 31.232299 N.; then west along the line of latitude 31.232299 N. to the San Saba/McCulloch County line; then north along the San Saba/McCulloch County line to the point of beginning.

4. Section 301.89-4 is revised to read as follows:

§ 301.89-4 Planting.

Wheat, durum wheat, and triticale may be planted in all fields within a regulated area. All wheat seed, durum wheat seed, and triticale seed that originates within a regulated area must be tested and found free from spores and bunted wheat kernels, then treated with a fungicide in accordance with § 301.89-13(d), before it may be planted within a regulated area.

§ 301.89-6 [Amended]

5. Section 301.89-6 is amended as follows:

a. In paragraph (b), the word "surveillance" is removed and the word "regulated" is added in its place.

b. Paragraph (d) is removed and paragraph (e) is redesignated as paragraph (d).

§ 301.89-12 [Amended]

6. In § 301.89-12, paragraph (b) is removed and reserved.

§ 301.89-13 [Amended]

7. In § 301.89-13, paragraph (f) is removed.

Done in Washington, DC, this 28th day of April 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99-11128 Filed 5-3-99; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 979

[Docket No. FV99-979-1 IFR]

Melons Grown in South Texas; Change in Container Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule changes the handling regulation

currently prescribed under the South Texas melon (cantaloupes and honeydews) marketing order. The marketing order regulates the handling of melons grown in South Texas and is administered locally by the South Texas Melon Committee (committee). This rule changes the dimensions of bulk containers used for shipping honeydew melons, requires these containers to be octagonal or rectangular in shape, and adds a dimension tolerance for that container. It also adds provisions allowing the committee to approve the use of experimental containers and melon shipments for experimental purposes, and removes two experimental containers that have not been used by the industry for several years. These changes were unanimously recommended by the committee and are expected to enable handlers to compete more effectively in the marketplace.

DATES: Effective May 5, 1999; comments received by July 6, 1999, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; Fax: (202) 720-5698; 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 made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, McAllen Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (956) 682-2833, Fax: (956) 682-5942; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone (202) 720-2491, Fax: (202) 720-5698, or E-mail: Jay.Guerber@usda.gov. You may also view the marketing agreement and order small business compliance guide at the

following web site: <http://www.ams.usda.gov/fv/moab.html>.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 156 and Order No. 979 (7 CFR part 979), regulating the handling of melons grown in South Texas, hereinafter referred to as the "order." The marketing agreement and order are 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 (Department) 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 the Secretary 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 the Secretary 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 the Secretary'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 changes the dimensions and specifies the shapes of bulk containers used for shipping honeydew melons, adds a dimension tolerance for that container, adds procedures that allow the committee to approve the use of experimental containers and melon shipments for experimental purposes, and removes two experimental containers that have not been used by the industry for several years. These changes are expected to enable handlers to compete more effectively in the marketplace, better meet market needs, and prevent confusion in the industry. A subcommittee met on January 28, 1999, and unanimously recommended that the committee approve these changes to the regulation. The committee met and unanimously

recommended the changes on March 30, 1999.

Section 979.52 authorizes the issuance of regulations for grade, size, maturity, quality, and pack for any or all varieties of melons during any period. Section 979.54 authorizes the issuance of regulations that modify, suspend, or terminate requirements issued under §§ 979.42, 979.52, or 979.60 to facilitate the handling of melons for special purposes. Section 979.55 requires adequate safeguards to ensure that melons handled under § 979.54 are used for the stated purposes.

Changes to the Bulk Container Requirements for Honeydew Melons

Section 979.304 of the order's rules and regulations sets container requirements for both cantaloupes and honeydew melons. Only honeydews are authorized to be packed in bulk containers. Thus, these changes to bulk container requirements do not apply to cantaloupes.

Currently, § 979.304(b)(4) authorizes the use of a bulk container for honeydew melons and specifies that the container be 48 inches long by 40 inches wide by 24 inches deep or similar dimensions. The phrase "or similar dimensions" was included to provide flexibility recognizing that the dimensions of containers sometimes are a little less or more than those specified in the regulation. The committee now believes, however, that the provisions are too flexible, and that the lack of specificity could result in administrative, compliance, and enforcement problems.

It now believes that a more precise tolerance is needed so that there is no room for misinterpretation by the industry. The committee, therefore, recommended removing the phrase "or similar dimensions" and adding in its place provisions establishing a dimension tolerance of 1½ inch for each dimension. The 1½ inch tolerance for each dimension for this container will allow handlers to pack honeydew melons in containers with dimensions slightly different from the sizes specified in the regulation. Identifying a specific dimension tolerance in the regulation will prevent misunderstandings, and provide handlers the flexibility to use bulk containers with slight dimension variations when packing honeydew melons.

The committee also recommended allowing the depth of the bulk container to range between 24 and 36 inches to permit melon handlers to pack larger or a greater number of honeydew melons in the container, if they desire. The

industry's need to pack larger or a greater number of honeydews in the bulk container, depending on buyer or retailer needs, led to this committee recommendation for increased container flexibility.

The committee further recommended that the shape of bulk containers used for honeydew melons be rectangular or octagonal. Currently, these are the only shapes used by handlers, and the limitation will not impose an added burden on handlers. The change is expected to foster compliance and simplify enforcement. Last season a total of 1,727 bulk containers were shipped by the industry, compared to 1,655 containers in 1997. Demand for bulk containers has increased in recent years because their use results in reduced costs to receivers. Bulk bins can be re-used, whereas other containers cannot. The cost of disposing of used containers has increased.

Addition of Provisions Allowing the Committee To Approve the Use of Experimental Containers and Melon Shipments for Experimental Purposes

The market for both cantaloupes and honeydew melons continues to undergo rapid changes. Buyers, retailers, and consumers continually demand flexibility in container availability. The committee is always looking for ways to strengthen and expand the market for melons. Currently, except for an experimental honeydew pony carton that is removed by this rule, there are no provisions in place allowing the committee to approve melon shipments for experimental purposes nor in experimental containers unless informal rulemaking is initiated. There are times during the melon shipping season when the trade is interested in receiving melons in containers other than those currently authorized by the regulations. The industry currently uses only fiberboard containers, and they are interested in experimenting with plastic bins.

Not being able to respond quickly to market demands for testing different types of melon containers could cause the South Texas melon industry to lose sales to competing melon-producing areas. Competition from other melon production areas demands that the Texas melon industry have the ability to quickly respond to buyer, retailer, and consumer demands for new containers. The committee may become aware of the need for new containers during the shipping season. The shipping season normally runs from May 1 through June 20 each year. For the committee to respond quickly to market needs for containers not currently authorized, it

should have flexibility to approve the use of experimental containers whenever the need arises. Also, melon-producing areas without marketing orders are not bound by container restrictions and have the flexibility to use different types and sizes of containers as needed by consumers and retailers. The added flexibility will allow handlers to better meet buyers' needs.

In addition, the committee recommended that provisions be added to the regulations to permit it to approve shipments for experimental purposes to allow the industry to test different types of melon shipments whenever needed to meet competition from other growing areas, and buyers' needs. Some handlers have expressed an interest in experimenting with the shipment of cantaloupe and honeydew melons in the same container.

Establishing provisions in the regulations to allow the committee to approve the use of experimental containers would allow the industry to respond quickly to market needs for containers not currently approved under the order's container regulations. Establishing provisions in the regulations to allow the committee to approve shipments for experimental purposes would allow the industry to test different types of melon shipments when needed.

Safeguards for these types of shipments are currently specified in paragraph (f) of § 979.304. A handler wanting an exemption for an experimental container or experimental use would apply to the committee for a Certificate of Privilege. The Certificate would be issued by the committee after consideration of the application. Handlers using a Certificate of Privilege would then be required to report each exempt shipment to the committee. This will enable the committee to easily track such shipments, and ensure they are in compliance with the order's rules and regulations.

Once the committee approves the use of experimental containers or experimental shipments, the industry will be able to determine the benefits and market acceptance of the containers and other types of shipments. Also, allowing handlers to ship melons in test containers will enable the committee to determine whether such containers should be added to the permanent list of approved containers in the regulations.

Removal of Two Experimental Containers

An experimental honeydew pony carton added in 1985 to paragraph (e)(3)

and a cantaloupe carton added in 1990 to paragraph (e)(4) in § 979.304 have not been used for several years. The committee, therefore, recommended that they be removed from the handling regulation.

Other Changes in the Regulations

Currently, in § 979.304(c)(4) the name of one of the designated inspection offices and the telephone area codes of the designated inspection offices are incorrect. The name of the inspection office has been changed to "Texas Cooperative Inspection Program" office and the telephone area codes have changed from "210" to "956". The committee recommended that the regulation be updated to reflect these changes.

In addition, in § 979.180 and § 979.304, the word "cantaloup" is misspelled. To correct the misspelling, all references to "cantaloup" should be changed to "cantaloupe."

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 the 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 14 handlers of South Texas melons who are subject to regulation under the marketing order and approximately 33 melon growers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural growers are defined as those having annual receipts of less than \$500,000.

Most of the handlers are vertically integrated corporations involved in producing, shipping, and marketing melons. For the 1997-98 marketing year, 6,770 acres of production were shipped by the industry's 14 handlers; the average acreage and median acreage handled totaled 484 acres and 417 acres, respectively. In terms of production value, total revenues from the 14

handlers were estimated to be \$16.4 million.

The Rio Grande Valley melon industry is characterized by growers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of melons. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the melon production season is complete. For this reason, typical melon growers and handlers either double-crop melons during other times of the year or produce alternate commodities, like onions.

Based on the SBA's definition of small entities, the committee estimates that a majority of the 14 handlers regulated by the order would be considered small entities if only their spring melon revenues are considered. However, revenues from other productive enterprises would likely push a large number of these handlers above the \$5,000,000 annual receipt threshold. Of the 33 growers within the production area, few have sufficient acreage to generate sales in excess of \$500,000; therefore, the majority of growers may be classified as small entities.

This rule changes the container regulation to accurately identify the shapes and dimensions of bulk containers handlers use for shipping honeydew melons, adds procedures allowing the committee to approve the use of experimental containers and melon shipments for experimental purposes, removes two experimental containers that have not been used by the industry for several years, and makes several minor modifications to update the regulations. These changes are expected to enable handlers to compete more effectively in the marketplace, better meet market needs, and prevent confusion. A subcommittee met on January 28, 1999, and unanimously recommended that the committee approve these changes to the regulation. The committee met and unanimously recommended the changes on March 30, 1999.

Section 979.52 authorizes the issuance of regulations for grade, size, maturity, quality, and pack for any or all varieties of melons during any period. Section 979.54 authorizes the issuance of regulations that modify, suspend, or terminate requirements issued under §§ 979.42, 979.52, or 979.60 to facilitate handling of melons for special purposes. Section 979.55 requires adequate safeguards to ensure that melons

handled under § 979.54 are used for the stated purposes.

At its meeting on March 30, 1999, the committee unanimously recommended revising § 979.304 as follows:

(1) Modify the bulk container to accurately identify the shapes and dimensions of bulk containers used for shipping honeydew melons;

(2) Add provisions to allow the committee to approve the use of experimental containers and melon shipments for experimental purposes;

(3) Remove two experimental containers that have not been used by the industry for several years; and

(4) Make several minor modifications to update the regulations.

Changes to the Bulk Container Requirements for Honeydew Melons

Currently, § 979.304(b)(4) authorizes the use of a bulk container for honeydew melons and specifies that the container be 48 inches long by 40 inches wide by 24 inches deep or similar dimensions. The committee recommended that the regulation specify that the bulk containers be rectangular or octagonal, the types of containers currently being used by the industry, in order to help administer the program. Making the regulation more specific will foster compliance and simplify enforcement. (Last season 1,727 of these bulk containers were shipped by the industry.) Specifying the shape of the bulk container in the regulation would clear up any misunderstanding that all shapes of bulk containers may be used for shipping honeydew melons.

The regulation currently does not provide specific tolerances on the container dimensions, and the committee does not know exactly how "similar dimensions" is being interpreted. Differences in interpretation among handlers and the industry regarding the phrase "or similar dimensions" could cause problems enforcing the marketing order program. A more precise tolerance is needed so that there is no room for misinterpretation by the industry. In order to clarify the industry's intentions, the committee recommended removing the phrase "or similar dimensions" and adding in its place, "A tolerance of 1½ inch for each dimension shall be permitted." The committee believes the recommendation to provide a 1½ inch tolerance for each dimension on this container will provide handlers some flexibility, with some preciseness, to pack honeydew melons in containers with slightly different dimensions from the sizes specified in the regulation. Identifying specific dimension

tolerances in the regulation would prevent possible misunderstanding and would give handlers the flexibility to use bulk containers with slightly different dimensions from the sizes specified in the regulation.

The committee also recommended increasing the depth allowance of the bulk container by 12 inches to permit melon handlers to pack larger or a greater number of honeydew melons in the container.

Adding tolerances to the dimensions of the currently approved bulk container and increasing the depth allowance will allow the melon industry to accept containers with slight dimension variations from box manufacturers, which will give handlers additional flexibility.

The industry's need to pack larger or a greater number of honeydews in the bulk container, depending on buyer or retailer needs, led to the committee's recommendation to increase the depth allowance of the container by an additional 12 inches to permit a range from 24 to 36 inches deep.

Addition of Provisions Allowing the Committee To Approve the Use of Experimental Containers and Melon Shipments for Experimental Purposes

The marketplace continues to undergo rapid changes. Buyers, retailers, and consumers continually demand flexibility in container availability. The committee is always looking for ways to strengthen and expand the market for melons. Currently, except for an experimental honeydew pony carton provision that is removed by this rule, there are no procedures in place to allow the committee to approve melon shipments for experimental purposes nor in experimental containers unless they initiate informal rulemaking. There are times during the melon shipping season when the trade is interested in receiving melons in containers other than those currently authorized by the regulations. The industry currently uses only fiberboard containers and they are interested in experimenting with plastic bins. The committee does not currently have the flexibility to react quickly to the need for containers not currently approved for South Texas melon shipments. Not being able to respond quickly to market demands for testing different types of melon containers could cause the South Texas melon industry to lose sales to competing melon-producing areas.

Competition from other melon production areas demands that the Texas melon industry be able to quickly respond to buyer, retailer, and consumer demands for new containers. Because

the melon regulatory period begins May 1 each year and runs through June 20, the committee is not able to meet, approve regulatory changes, and promptly complete the rulemaking process in order to approve various types of experimental containers. The industry may not be aware of the need for new containers until they are in the middle of their shipping season. For the committee to respond quickly to market needs for containers which are not currently authorized, it must have the flexibility to approve the use of experimental containers whenever the need arises. Also, melon-producing areas without marketing orders are not bound by container restrictions and have the flexibility to use different types and sizes of containers as needed by consumers and retailers. The added flexibility will allow handlers to meet the competition from other areas and better meet buyers' needs. In addition, the committee recommended that provisions be added to the regulations to permit it to approve shipments for experimental purposes to allow the industry to test different types of melon shipments whenever needed. As mentioned before, some handlers have expressed an interest in experimenting with the shipment of cantaloupes and honeydew melons in the same container.

Establishing provisions to allow the committee to approve the use of experimental containers would allow the industry to respond quickly to market needs for containers not currently approved under the order's container regulations, and establishing procedures to authorize the committee to approve shipments for experimental purposes would allow the industry to test different types of melon shipments when needed. Because the committee has established safeguards for these types of experimental shipments under paragraph (f) of the handling regulation, they will be able to easily track their use. Once the committee authorizes the use of experimental containers or experimental shipments, the industry will be able to determine the benefits and market acceptance of the containers or other types of shipments. Also, allowing handlers to ship melons in test containers will enable the committee to determine whether such containers should be added to the permanent list of approved containers.

Removal of Two Experimental Containers

Two experimental containers in (e)(3) (a honeydew pony carton added in 1985) and (e)(4) (a cantaloupe carton added in 1990) are obsolete and have

not been used for several years, and the committee recommended that they be removed from the handling regulation.

Other Changes in the Regulations

Currently, in § 979.304(c)(4) the name and telephone area codes of the inspection office are incorrect. The name of the inspection office has been changed to "Texas Cooperative Inspection Program" office and the telephone area codes have changed from "210" to "956." The committee recommended that the regulation be updated to reflect these changes.

In Marketing Order No. 979 the correct spelling of "cantaloupe" is used, and in § 979.180 and § 979.304, "cantaloup" is misspelled. To correct the misspelling and for consistency, all references to "cantaloup" should be changed to "cantaloupe."

This rule change would permit the South Texas melon industry to experiment with different types of containers prior to adding them to their approved container list. The committee believes this would effectively accommodate retailer and customer needs.

The committee recommended these changes to assist the consuming public in receiving Texas melons in containers they desire. Permitting the South Texas melon industry to experiment with different types of containers without the need for rulemaking and adding tolerances to the currently approved honeydew bulk container has small entity orientation.

An alternative to the recommended changes would be to keep the regulations as they are, however:

(1) It was the committee's desire to come up with a more workable bulk honeydew container regulation to make it more precise and eliminate potential problems. Not permitting a 1½ inch tolerance for each dimension on the bulk container could prevent the industry from marketing honeydew melons in containers which might be manufactured slightly different from the sizes specified in the regulation.

(2) Not permitting the committee to quickly approve shipments for experimental purposes exempt from regulations or in experimental containers without rulemaking could hinder the industry's ability to quickly respond to market needs and prevent them from marketing more melons. Not providing the committee the flexibility to quickly respond to market demands for test containers or shipments could result in the industry losing opportunities to other melon-producing areas.

(3) The two permanent experimental containers are no longer needed because the containers have not been used for a number of years and a new section is being added to make it possible for the committee to quickly approve the use of experimental containers.

(4) Not updating the name and telephone numbers of the inspection office to accurately reflect the correct information could cause confusion in the industry.

Although authorizing melon shipments for experimental purposes and the use of experimental containers would impose some additional reporting and recordkeeping requirements on melon handlers, this would be minimal. Currently, handlers making shipments of melons for special purposes, including experimental, are required to obtain a Certificate of Privilege to notify the committee of their intent to ship melons for these purposes. Also, handlers must prepare a special purpose shipment report on each shipment and forward it to the committee. The committee estimates that approximately two to four handlers might request approval for the use of experimental containers, which would increase the total reporting and recordkeeping burden by approximately .1 to .2 hours, and this time is currently approved under OMB No. 0581-0178 by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction of 1995 (44 U.S.C. Chapter 35).

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the committee's meeting was publicized throughout the melon industry and all interested persons were invited to attend the meeting and participate in committee deliberations. Like all committee meetings, the March 30, 1999, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. The committee itself is composed of 10 members, of which 9 are growers and handlers, and one represents the public. Also, the committee has a subcommittee to review certain issues and make recommendations to the committee. The subcommittee met on January 28, 1999, and discussed this issue in detail. The meeting was a public meeting and both large and small entities were able to participate and express their views. Finally, interested

persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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.

This rule invites comments on changes to the handling regulation currently prescribed under the South Texas melon marketing order. Any comments received will be considered prior to finalization of this rule.

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 that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule relaxes requirements for bulk containers for honeydew melons and provides additional opportunities for the industry to ship melons; (2) the committee needs this rule to be in place for the 1999 season beginning May 1, 1999, so the industry may take advantage of these options; (3) the committee unanimously recommended these changes at a public meeting and interested parties had an opportunity to provide input; and (4) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 979

Marketing agreements, Melons, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 979 is amended as follows:

PART 979—MELONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 979 continues to read as follows:

Authority: 7 U.S.C. 601-674.

§ 979.180 [Amended]

2. In § 979.180, the word "cantaloups" is revised to read "cantaloupes" everywhere it appears.

3. In § 979.304, paragraphs (b)(4), (c)(4), and (e)(3) are revised, paragraph (e)(4) is removed, and paragraph (e)(5) is redesignated as paragraph (e)(4) to read as follows:

§ 979.304 Handling regulation.

(b) * * *

(4) Honeydew melons may be packed in rectangular or octagonal bulk containers having dimensions of 48 inches long by 40 inches wide by 24 to 36 inches deep. A tolerance of 1½ inch for each dimension shall be permitted.

* * * * *

(c) * * *

(4) Designated inspection stations will be located at the Texas Cooperative Inspection Program Office, 1301 W. Expressway, Alamo (Phone (956) 787-4091 or 6881) and the Matt Dietz Packing Co., 4700 N. Santa Maria, Laredo (Phone (956) 723-9178 or 9170), to be available for handlers who do not have permanent packing facilities recognized by the committee.

* * * * *

(e) * * *

(3) *Experimental shipments.* (i) Upon approval by the committee, melons may be shipped for experimental purposes exempt from the container requirements specified in paragraph (b) of this section, but shall meet the grade and inspection requirements of paragraphs (a) and (c) of this section and the assessment requirements specified in § 979.219: *Provided*, That the melons are handled in accordance with safeguard provisions of paragraph (f) of this section.

(ii) Upon approval of the committee, melons may be shipped for testing in types and sizes of containers other than those specified in paragraphs (b) and (e)(4) of this section: *Provided*, That the melons are handled in accordance with the provisions of paragraph (f) of this section.

* * * * *

4. In § 979.304, the words "cantaloup", "cantaloups", and "Cantaloups" are revised to read "cantaloupe", "cantaloupes" and "Cantaloupes", respectively everywhere they appear.

Dated: April 28, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Docket No. FV99-993-2 FR]

Dried Prunes Produced in California; Undersized Regulation for the 1999-2000 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes the undersized regulation for dried prunes received by handlers from producers and dehydrators under Marketing Order No. 993 for the 1999-2000 crop year. The marketing order regulates the handling of dried prunes produced in California and is administered locally by the Prune Marketing Committee (Committee). This rule removes the smallest, least desirable of the marketable size dried prunes produced in California from human consumption outlets, and allows handlers to dispose of undersized prunes in such outlets as livestock feed. The Committee estimated that this rule will reduce the excess of dried prunes expected at the end of the 1998-99 crop year by approximately 6,700 tons, leaving sufficient prunes to fulfill foreign and domestic trade demand.

EFFECTIVE DATE: August 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487-5901, Fax: (559) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698. Small businesses may request information on compliance with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698, or E-mail: Jay.Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: <http://www.ams.usda.gov/fv/moab.html>.