

A. By revising paragraphs (a)(2), (a)(4)(ii), and (a)(4)(iv) to read as set forth below;

B. By suspending paragraph (a)(4)(iii) effective August 1, 1999, through July 31, 2000;

C. By removing paragraph (b)(2) and redesignating paragraph (b)(1) as the text of paragraph (b).

**§ 920.302 Grade, size, pack, and container regulations.**

(a) \* \* \*

(2) *Size Requirements.* Such kiwifruit shall be at least a minimum Size 45. Size 45 is defined as a maximum of 55 pieces of fruit in an 8-pound sample.

\* \* \* \* \*

(4) \* \* \*

(ii) (A) Kiwifruit packed in cell compartments, cardboard fillers or molded trays (excluding individual consumer packages) may not vary in diameter more than:

Count	Diameter
30 or less .....	1/2-inch (12.7 mm).
31–38 .....	3/8-inch (9.5 mm).
39 or more .....	1/4-inch (6.4 mm).

(B) Kiwifruit packed in individual consumer packages, bags, volume fill, or bulk containers, fruit may not vary more than:

Size designation	Diameter
30 or larger .....	1/2-inch (12.7 mm).
33, 36, 39, and 42 ....	3/8-inch (9.5 mm).
45 or smaller .....	1/4-inch (6.4 mm).

(C) Not more than 10 percent, by count of the containers in any lot and not more than 5 percent, by count, of kiwifruit in any container, (except that for Sizes 42 and 45 kiwifruit, the tolerance, by count, in any one container, may not be more than 25 percent) may fail to meet the requirements of this paragraph.

\* \* \* \* \*

(iv) When kiwifruit is packed in individual consumer packages, bags, volume fill or bulk containers, the following table specifying the size designation and maximum number of fruit per 8-pound sample is to be used.

Size designation	Maximum number of fruit per 8-pound sample
21 .....	22
25 .....	27
27/28 .....	30
30 .....	33
33 .....	36
36 .....	42

Size designation	Maximum number of fruit per 8-pound sample
39 .....	48
42 .....	53
45 .....	55

\* \* \* \* \*

4. In § 920.303, paragraphs (c)(3), (c)(5), and (d) are revised to read as follows:

**§ 920.303 Container marking regulations.**

(c) \* \* \*

(3) For bulk containers or individual consumer packages not within a master container, the quantity shall be indicated in terms of the size designation and net weight, or in terms of the size designation and count.

\* \* \* \* \*

(5) The quantity shall be indicated in terms of either net weight or count (or both) for individual consumer packages within a master container. If count is used, it must be accompanied by the size designation.

\* \* \* \* \*

(d) All exposed or outside containers of kiwifruit, but not less than 75 percent of the total containers on a pallet, shall be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector, except for individual consumer packages within a master container and containers that are being directly loaded into a vehicle for export shipment under the supervision of the Federal or Federal-State Inspection Service. Individual consumer packages of kiwifruit placed directly on a pallet shall have all outside or exposed packages on a pallet plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector or have one inspection label placed on each side of the pallet.

\* \* \* \* \*

Dated: July 22, 1999.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 99–19092 Filed 7–28–99; 8:45 am]

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**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 979**

[Docket No. FV99–979–1 FIR]

**Melons Grown in South Texas; Change in Container Regulation**

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule changing 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 continues in effect changes to the dimensions of bulk containers used for shipping honeydew melons, requirements that these containers be octagonal or rectangular in shape, and the addition of a dimension tolerance for that container. It also continues the provisions allowing the committee to approve the use of experimental containers and melon shipments for experimental purposes, and the removal of two experimental containers that have not been used by the industry for several years. These changes were unanimously recommended by the committee and will enable handlers to compete more effectively in the marketplace.

**EFFECTIVE DATE:** August 30, 1999.

**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, PO Box 96456, room 2525–S, 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, PO 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 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 continues in effect changes to the dimensions of bulk containers used for shipping honeydew melons, specifications for the shapes of these bulk containers, the addition of a dimension tolerance for that container, the addition of procedures that allow the committee to approve the use of experimental containers and melon shipments for experimental purposes, and the removal of two experimental containers that have not been used by the industry for several years. The changes will 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 of 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.

Prior to the issuance of the interim final rule, § 979.304(b)(4) authorized the use of a bulk container for honeydew melons and specified 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 determined that the provisions were 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 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. Except for an experimental honeydew pony carton that was removed by the interim final rule, there were no provisions in place allowing the committee to approve melon shipments for experimental purposes nor in experimental containers unless informal rulemaking was initiated. There are times during the melon shipping season when the trade is interested in receiving melons in containers other than those authorized by the regulations. The industry has been using 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 have caused 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, 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 allows 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 will allow the industry to respond quickly to market needs for containers not approved under the order's container regulations. Establishing provisions in the regulations to allow the committee to approve shipments for experimental purposes will 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 are required to report each exempt shipment to the committee. This enables the committee to easily track such shipments, and ensure 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 enables 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**

Prior to the issuance of the interim final rule, the name of one of the designated inspection offices and the telephone area codes of the designated inspection offices in § 979.304(c)(4) were incorrect. To correct these references, the committee recommended that the name of the inspection office be changed to "Texas Cooperative Inspection Program" office and the telephone area codes be changed from "210" to "956."

In addition, in § 979.180 and § 979.304, the word "cantaloup" was misspelled. To correct the misspelling, all references to "cantaloup" were changed to "cantaloupe" by the interim final rule.

### **Final 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 final 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 continues the changes to the container regulation to accurately identify the shapes and dimensions of bulk containers handlers use for shipping honeydew melons, the addition of procedures allowing the committee to approve use of experimental containers and melon shipments for experimental purposes, the removal of two experimental containers that have not been used by the industry for several years, and several minor modifications to update the regulations. These changes will 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 purpose.

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

(1) Modify the bulk container requirements 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 in the Bulk Container Requirements for Honeydew Melons**

Prior to the issuance of the interim final rule, § 979.304(b)(4) authorized the use of a bulk container for honeydew melons and specified 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 cleared up any misunderstanding that any shape bulk container could be used for shipping honeydew melons.

The former regulation did not provide specific tolerances on the container dimensions, and the committee did not know exactly how "similar dimensions" was being interpreted. Differences in interpretation among handlers and the industry regarding the phrase "or similar dimensions" could have caused problems enforcing the marketing order program. A more precise tolerance was needed so that there was no room for misinterpretation by the industry. 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 has provided handlers some

flexibility to pack honeydew melons in containers with slightly different dimensions from the sizes specified in the regulation. Identifying specific dimension tolerances in the regulation also has prevented possible misunderstandings on authorized container dimensions.

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 approved bulk container and increasing the depth allowance has allowed the melon industry to accept containers with slight dimension variations from box manufacturers. This has given handlers additional flexibility in making container purchases.

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. Except for an experimental honeydew pony carton provision that was removed by the interim final rule, there were no procedures in place to allow the committee to approve melon shipments for experimental purposes nor in experimental containers unless they initiated informal rulemaking. There are times during the melon shipping season when the trade is interested in receiving melons in containers other than those authorized by the regulations. The industry has been using only fiberboard containers, and they are interested in experimenting with plastic bins. The committee did not have the flexibility to react quickly to the need for containers not approved for South Texas melon shipments. Not being able to respond quickly to market demands for testing different types of melon containers could have caused 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 it is in the middle of its shipping season. For the committee to respond quickly to market needs for containers which were not currently authorized, it needed the flexibility to approve the use of experimental containers whenever the need arose. 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 will allow the industry to respond quickly to market needs for containers not approved under the orders's container regulations, and establishing provisions to authorize the committee to approve shipments for experimental purposes will allow the industry to test different types of melon shipments when needed. Because the committee has established safeguard for these types 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) of § 979.304 are obsolete and have not been used for several years, and the committee recommended that they be removed from the handling

regulation. The interim final rule removed these containers from the regulation.

#### Other Changes in the Regulations

Prior to the interim final rule, the name and telephone area codes of an inspection office in § 979.304(c)(4) were incorrect. To correct these references, the committee recommended that the name of the inspection office be changed to "Texas Cooperative Inspection Program" office and the telephone area codes be changed from "210" to "956."

In Marketing Order No. 979 the correct spelling of "cantaloupe" is used, and in §§ 979.180 and 979.304, "cantaloup" was misspelled. To correct the misspelling and for consistency, all references to "cantaloup" were changed to "cantaloupe" by the interim final rule.

This rule will continue to 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 will allow handlers to more 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 tolerance to the approved honeydew bulk container have small entity orientation.

An alternative to the recommended changes would have been 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 have prevented 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 have hindered the industry's ability to respond to market needs and prevented it from marketing more melons. Not providing the committee the flexibility to quickly respond to market demands for test containers or shipments could have resulted in the industry losing sales to other melon producing areas.

(3) The two permanent experimental containers were no longer needed because the containers have not been used for a number of years, and a new section was 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 have caused confusion in the industry.

Although authorizing melon shipments for experimental purposes and the use of experimental containers will impose some additional reporting and recordkeeping requirements on melon handlers, this will 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 or four handlers might request approval for the use of experimental containers, which will increase the total reporting and recordkeeping burden by approximately .1 to .2 hours, and this time to currently approved under OMB No. 0581-0178 by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act 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, as noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules and 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.

An interim final rule concerning this action was published in the **Federal Register** on May 4, 1999. Copies of the rule were mailed by the committee's staff to all committee members and melon handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 60-day comment period which ended July 6, 1999. No comments were received.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing an interim final rule, without change, was published in the **Federal Register** (64 FR 23754, May 4, 1999) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 981

Marketing agreements, Melons, Reporting and recordkeeping requirements.

#### PART 979—MELONS GROWN IN SOUTH TEXAS

Accordingly, the interim final rule amending 7 CFR part 979 which was published at 64 FR 23754 on May 4, 1999, is adopted as a final rule without change.

Dated: July 23, 1999.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 99-19353 Filed 7-28-99; 8:45 am]

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#### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### 7 CFR Part 981

[Docket No. FV99-981-2 FR]

#### Almonds Grown in California; Revisions to Requirements Regarding Credit for Promotion and Advertising Activities

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

**ACTION:** Final rule.

**SUMMARY:** This rule revises the requirements regarding credit for promotion and advertising activities prescribed under the administrative rules and regulations of the California almond marketing order (order). The order regulates the handling of almonds grown in California and is administered locally by the Almond Board of