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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Parts 905 and 944

[Docket No. FV99-905-6 IFR]

#### Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida and Imported Grapefruit; Relaxation of the Minimum Size Requirement for Red Seedless Grapefruit

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

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule relaxes the minimum size requirement for red seedless grapefruit grown in Florida and for red seedless grapefruit imported into the United States from size 48 ( $3\frac{1}{16}$  inches diameter) to size 56 ( $3\frac{5}{16}$  inches diameter). The Citrus Administrative Committee (Committee), the agency that locally administers the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida, unanimously recommended the change for Florida grapefruit. The change in the import regulation is required under section 8e of the Agricultural Marketing Agreement Act of 1937. This change allows handlers and importers to ship size 56 red seedless grapefruit through November 12, 2000, and is expected to maximize grapefruit shipments to fresh market channels.

**DATES:** Effective November 8, 1999, through November 12, 2000; comments received by January 3, 2000 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, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 720-5698; or

E-mail: moabdocket.clerk@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 available for public inspection in the office of the Docket Clerk during regular business hours.

#### FOR FURTHER INFORMATION CONTACT:

William G. Pimental, Southeast Marketing Field Office, F&V, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone: (941) 299-4770, Fax: (941) 299-5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, F&V, AMS, USDA, room 2522-S, PO Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698, or E-mail: Jay.Guerber@usda.gov.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, 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."

This rule is also issued under section 8e of the Act, which provides that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

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.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

The order for Florida citrus provides for the establishment of minimum grade and size requirements with the concurrence of the Secretary. The minimum grade and size requirements are designed to provide fresh markets with fruit of acceptable quality and size, thereby maintaining consumer confidence for fresh Florida citrus. This contributes to stable marketing conditions in the interest of growers, handlers, and consumers, and helps increase returns to Florida citrus growers. The current minimum grade requirement for red seedless grapefruit is U.S. No. 1. The current minimum size requirement for domestic shipments is size 56 (at least  $3\frac{5}{16}$  inches in diameter) through November 7, 1999, and size 48 ( $3\frac{9}{16}$  inches in diameter) thereafter. The current minimum size for export shipments is size 56 throughout the year.

This interim final rule invites comments on a change to the order's rules and regulations relaxing the minimum size requirement for domestic shipments of red seedless grapefruit. This action allows for the continued shipment of size 56 red seedless grapefruit. This rule relaxes the

minimum size from size 48 ( $3\frac{9}{16}$  inches in diameter) to size 56 ( $3\frac{5}{16}$  inches in diameter) through November 12, 2000. Absent this change, the minimum size would revert to size 48 ( $3\frac{9}{16}$  inches in diameter) on November 8, 1999. The Committee met on August 31, 1999, and unanimously recommended this action.

Section 905.52 of the order, in part, authorizes the Committee to recommend minimum grade and size regulations to the Secretary. Section 905.306 (7 CFR 905.306) specifies minimum grade and size requirements for different varieties of fresh Florida grapefruit. Such requirements for domestic shipments are specified in § 905.306 in Table I of paragraph (a), and for export shipments in Table II of paragraph (b). This rule adjusts Table I to establish a minimum size of 56 through November 12, 2000. Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under § 944.106 (7 CFR 944.106). This rule also adjusts § 944.106 to establish a minimum size of 56 through November 12, 2000. Export requirements for Florida red seedless grapefruit are not changed by this rule.

In making its recommendation, the Committee considered estimated supply and demand. While the official crop estimate will not be available until October, the supply of red seedless grapefruit is expected to be below last year's production of 28.7 million  $1\frac{3}{5}$  bushel boxes. Acreage has declined in recent years from 81,348 acres in 1996, to 76,025 acres in 1998, to 71,731 acres in 1999. Losses are due to groves being abandoned due to economic reasons, unhealthy groves being removed and replanted, and sick and diseased trees being removed from healthy, productive groves and not being replanted.

The Committee anticipates that fresh shipments of red seedless grapefruit will be at or below last season's level of 14.6 million  $\frac{4}{5}$  bushel cartons. The quality of this year's crop is anticipated to be normal to above normal. However, the fruit is expected to be misshapen more than normal. All growing districts appear to be affected by poorly shaped fruit, which could reduce the packout percentages for the 1999–2000 crop. The individual fruit size for the upcoming crop is projected to be a little smaller than normal, but not as small as last season. The Committee reports that it expects fresh market demand to be sufficient to permit the shipment of size 56 red seedless grapefruit grown in Florida during the entire 1999–2000 season.

This size relaxation will enable Florida grapefruit shippers to continue shipping size 56 red seedless grapefruit

to the domestic market. This rule will have a beneficial impact on producers and handlers, because it will permit Florida grapefruit handlers to make available the sizes of fruit needed to meet consumer needs. Matching the sizes with consumer needs is consistent with current and anticipated demand for the 1999–2000 season, and will maximize shipments to fresh market channels.

The Committee believes that domestic markets have been developed for size 56 fruit and that the industry should continue to supply those markets. This minimum size change pertains to the domestic market, and does not change the minimum size for export shipments which will continue at size 56 throughout the season. The largest market for size 56 small red seedless grapefruit is for export.

Committee members stated that during the first 11 weeks of the season (September 20 through December 5), there will likely be a volume regulation in effect to limit the volume of small red seedless grapefruit that can enter the fresh market. The Department has since issued such a rule, which was published on September 17, 1999 (64 FR 50419). The Committee believes that the percentage size regulation has been helpful in reducing the negative effects of size 56 on the domestic market, and that no additional restrictions are needed for the upcoming season.

In addition, the currency and economic problems currently facing the Pacific Rim countries remain a concern. These countries traditionally have been good markets for size 56 grapefruit. Current conditions there could reduce demand for grapefruit, and alternative outlets need to be available. It will be advantageous to have the ability to ship size 56 red seedless grapefruit to the domestic market should problems materialize in the export market.

Based on available information, the Committee unanimously recommended that the minimum size for shipping red seedless grapefruit to the domestic market should be size 56 through November 12, 2000. This rule will have a beneficial impact on producers and handlers since it will permit Florida grapefruit handlers to make available those sizes of fruit needed to meet anticipated market demand for the 1999–2000 season. Additionally, importers will be favorably affected by this change since the relaxation of the minimum size regulation will also apply to imported grapefruit.

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing

order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Since this rule relaxes the minimum size requirement under the domestic handling regulations, a corresponding change to the import regulations is necessary.

Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under § 944.106. This rule relaxes the minimum size requirement for imported red seedless grapefruit to  $3\frac{5}{16}$  inches in diameter (size 56) until November 12, 2000, to reflect the relaxation being made under the order for red seedless grapefruit grown in Florida.

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. Import regulations issued under the Act are based on those established under Federal marketing orders.

There are approximately 80 grapefruit handlers subject to regulation under the order, approximately 11,000 growers of citrus in the regulated area, and about 25 grapefruit importers. Small agricultural service firms, which include handlers and importers, have been defined by the Small Business Administration (SBA) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000 (13 CFR 121.601).

Based on the industry and Committee data for the 1998–99 season, the average annual f.o.b. price for fresh Florida red seedless grapefruit during the 1998–99 season was around \$7.60 per  $\frac{4}{5}$  bushel carton, and total fresh shipments for the 1998–99 season are estimated at 14.6 million cartons of red seedless grapefruit. Approximately 20 percent of all handlers handled 60 percent of Florida grapefruit shipments. In addition, many of these handlers ship other citrus fruit and products which are not included in Committee data but would contribute further to handler

receipts. Using the average f.o.b. price, about 80 percent of the Florida grapefruit handlers could be considered small businesses under the SBA definition and about 20 percent of the handlers could be considered large businesses. The majority of grapefruit handlers, growers, and importers may be classified as small entities.

Handlers in Florida shipped approximately 37,395,000  $\frac{1}{4}$  bushel cartons of grapefruit to the fresh market during the 1998–99 season. Of these cartons, about 22,123,000 were exported. In the past three seasons, domestic shipments of Florida grapefruit averaged about 16,720,000 cartons. During the period 1994 through 1998, imports have averaged about 600,000 cartons a season. Imports account for less than five percent of domestic shipments.

Section 905.52 of the order, in part, authorizes the Committee to recommend minimum grade and size regulations to the Secretary. Section 905.306 specifies minimum grade and size requirements for different varieties of fresh Florida grapefruit. This rule relaxes the minimum size requirement for domestic shipments of red seedless grapefruit from size 48 ( $3\frac{3}{16}$  inches in diameter) to size 56 ( $3\frac{5}{16}$  inches in diameter) through November 12, 2000. No change is being made in the minimum size 56 requirement for export shipments. Absent this rule, the minimum size requirement for domestic shipments would have reverted to size 48 on November 8, 1999. The motion to allow shipments of size 56 red seedless grapefruit through November 12, 2000, was passed by the Committee unanimously. In addition, there is a volume regulation in effect for the first 11 weeks of the 1999–2000 season (September 22 through December 5) that limits the volume of small red seedless grapefruit that can enter the fresh market (64 FR 50419, September 17, 1999).

This rule will have a positive impact on affected entities. This action allows for the continued shipment of size 56 red seedless grapefruit. This change is not expected to increase costs associated with the order requirements, or the grapefruit import regulation.

This rule relaxes the minimum size from size 48 ( $3\frac{3}{16}$  inches in diameter) to size 56 ( $3\frac{5}{16}$  inches in diameter) through November 12, 2000. This change will allow handlers to continue to ship size 56 red seedless grapefruit to the domestic market. This rule will have a beneficial impact on producers and handlers, since it will permit Florida grapefruit handlers to make available those sizes of fruit needed to meet

consumer needs. Matching the sizes that can be shipped with consumer needs is consistent with current and anticipated demand for the 1999–2000 season, and will provide for the maximization of shipments to fresh market channels.

The currency and economic problems currently facing the Pacific Rim countries remain a concern. These countries traditionally have been good markets for size 56 grapefruit. Current conditions there could reduce demand for grapefruit, and alternative outlets need to be available. It will be advantageous to handlers to have the ability to ship size 56 red seedless grapefruit to the domestic market should problems materialize in the export market.

This change will allow for the continued shipment of size 56 red seedless grapefruit. The opportunities and benefits of this rule are expected to be equally available to all grapefruit handlers, growers, and importers regardless of their size of operation.

During the period October 1, 1998, through June 30, 1999, imports of grapefruit totaled 15,500 metric tons (approximately 800,000 cartons). Recent yearly data indicate that imports during July, August, and September are typically negligible. Therefore, the 1998–99 season imports should not vary significantly from 15,500 metric tons. The Bahamas were the principal source, accounting for 95 percent of the total. Remaining imports were supplied by the Dominican Republic and Israel. Most imported grapefruit enters the United States from October through May.

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality and maturity requirements. Because this rule changes the minimum size for domestic red seedless grapefruit shipments, this change must also be applicable to imported grapefruit. This rule relaxes the minimum size for imported grapefruit to size 56. This regulation will benefit importers to the same extent that it benefits Florida grapefruit producers and handlers because it allows shipments of size 56 red seedless grapefruit into U.S. markets through November 12, 2000.

The Committee considered one alternative to this action. The Committee discussed relaxing the minimum size to size 56 on a permanent basis rather than just for a year. Members said that each season is different, and they prefer to consider

this issue on a yearly basis. Therefore, this alternative was rejected.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large red seedless grapefruit handlers or importers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information collection 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. However, red seedless grapefruit must meet the requirements as specified in the U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.750 through 51.784) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

Further, the Committee's meeting was widely publicized throughout the citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the August 31, 1999, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following website: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section of this document.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this interim final rule.

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 a change to the size requirement currently prescribed under the marketing order for Florida citrus and the grapefruit import regulation. 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 action until 30 days after publication in the **Federal Register** because: (1) This rule relaxes the minimum size requirement for red seedless grapefruit grown in Florida and red seedless grapefruit imported into the United States; (2) this action is similar to actions taken in past seasons and grapefruit handlers and importers need no additional time to comply with the relaxed size requirement; (3) Florida grapefruit handlers are aware of this action which was unanimously recommended by the Committee; (4) shipments of the 1999–2000 season Florida red seedless grapefruit crop are underway; and (5) this rule provides a

60-day comment period, and any comments received will be considered prior to any finalization of this interim final rule.

#### List of Subjects

##### 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

##### 7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth above, 7 CFR Parts 905 and 944 are amended as follows:

1. The authority citation for 7 CFR Parts 905 and 944 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

#### **PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA**

2. In § 905.306, Table I in paragraph (a) is amended by revising the entry for “Seedless, red” to read as follows:

#### **§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation.**

(a) \* \* \*

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * *	* * *	* * *	* * *
GRAPEFRUIT			
* * *	* * *	* * *	* * *
Seedless, red .....	11/8/99–11/12/00 On and after 11/13/00 .....	U.S. No. 1 .....	3 <sup>5</sup> / <sub>16</sub>
		U.S. No. 1 .....	3 <sup>9</sup> / <sub>16</sub>
* * *	* * *	* * *	* * *
* * *			

#### **PART 944—FRUITS; IMPORT REGULATIONS**

4. In § 944.106(a), the table is amended by revising the entry for “Seedless, red” to read as follows:

#### **§ 944.106 Grapefruit import regulation.**

(a) \* \* \*

Grapefruit classification	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * *	* * *	* * *	* * *
Seedless, red .....	11/8/99–11/12/00 On and after 11/13/00 .....	U.S. No. 1 .....	3 <sup>5</sup> / <sub>16</sub>
		U.S. No. 1 .....	3 <sup>9</sup> / <sub>16</sub>
* * *	* * *	* * *	* * *

\* \* \* \* \*

Dated: October 25, 1999.

**Eric M. Forman,**

*Acting Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 99-28372 Filed 10-29-99; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 981

[Docket No. FV99-981-4 IFR]

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

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

**ACTION:** Interim final rule with request for comments.

**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 California (Board). The order is funded through the collection of assessments from almond handlers. Under the terms of the order's regulations, handlers may receive credit towards their assessment obligation for certain expenditures for marketing promotion activities, including paid advertising. This rule revises the requirements regarding the activities for which handlers may receive such credit by allowing maximum credit for promoting almond products, under certain conditions. The changes are intended to encourage and support almond product development and thus increase the demand for almonds. The changes also clarify existing regulations.

**DATES:** This interim final rule becomes effective November 2, 1999; comments received by January 3, 2000 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, room 2525-S, P.O. Box 96456, 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 available for public inspection in the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Martin Engeler, Assistant Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, F&V, 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 complying with this regulation 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.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds grown in California, hereinafter referred to as the "order." The marketing order is 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 revises the requirements regarding credit for promotion and advertising activities prescribed under § 981.441 of the administrative rules and regulations of the order. The order is funded through the collection of assessments from almond handlers. Under the terms of the order's regulations, handlers may receive credit towards their assessment obligation for certain expenditures for marketing promotion activities, including paid advertising. This rule revises the requirements regarding the activities for which handlers may receive such credit by allowing maximum credit for promoting almond products, under certain conditions. The changes also clarify existing regulations. The changes are intended to encourage and support almond product development and thus increase the demand for almonds. This rule was unanimously recommended by the Board at a meeting on July 12, 1999, with additional justification approved via facsimile vote during the week of August 30, 1999.

The order provides authority for the Board to incur expenses for administering the order and to collect assessments from handlers to cover these expenses. Section 981.41(a) provides authority for the Board to conduct marketing promotion projects, including projects involving paid advertising. Section 981.41(c) allows the Board to credit a handler's assessment obligation with all or a portion of his or her direct expenditures for marketing promotion, including paid advertising, that promotes the sale of almonds, almond products, or their uses. Section 981.41(e) allows the Board to prescribe rules and regulations regarding such credit for market promotion, including paid advertising activities. Those regulations are prescribed in § 981.441.

The Department implemented several Board-recommended changes to the regulations regarding the criteria that must be met in order for handlers to receive credit for their promotional activities in July 1999 (64 FR 41023, July 29, 1999). However, the Department did not implement one Board recommendation concerning credit for promoting almond products at that time because of concerns regarding the lack of specified criteria to be used in reviewing claims and concerns about the claims review process. The Board and its staff reconsidered the issue, further developed the concept, and submitted a revised recommendation addressing the Department's concerns.