§ 319.56–2rr Administrative instructions; conditions governing the importation of untreated grapefruit, sweet oranges, and tangerines from Mexico for processing.

Untreated grapefruit (*Citrus paradisi*), sweet oranges (*Citrus sinensis*), and tangerines (*Citrus reticulata*) may be imported into the United States from Mexico for extracting juice if they originate from production sites in Mexico that are approved by APHIS because they meet the following conditions and any other conditions determined by the Administrator to be necessary to mitigate the pest risk that such fruits pose:

(a) *Application of sterile insect technique.* Production sites, and a surrounding 1.5 mile buffer area, must be administered under an APHIS-approved preventative release program using sterile insect technique for the Mexican fruit fly (*Anastrepha ludens*).

(b) *Fruit fly trapping protocol.* (1) *Trapping densities.* In areas where grapefruit, sweet oranges, and tangerines are produced for export to the United States, APHIS approved traps and lures must be placed in production sites and a surrounding 1.5 mile buffer areas as follows:

(i) For Mexican fruit fly (*Anastrepha ludens*) and sapote fruit fly (*A. serpentina*): One trap per 50 hectares.

(ii) For Mediterranean fruit fly (*Ceratitis capitata*): One to four traps per 250 hectares.

(2) *Fruit fly catches.* Upon trapping of a Mexican fruit fly, sapote fruit fly, or Mediterranean fruit fly in a production site or buffer area, exports from that production site are prohibited until the Administrator determines that the phytosanitary measures taken have been effective to allow the resumption of export from that production site.

(3) *Monitoring.* The trapping program must be monitored under an APHIS-approved quality control program.

(c) *Safeguarding.* Fruit must be safeguarded against fruit fly infestation using methods approved by APHIS from the time of harvest until processing in the United States.

(d) *Phytosanitary certificate.* Each shipment must be accompanied by a phytosanitary certificate issued by Mexico's national plant protection organization that contains additional declarations stating that the requirements of paragraphs (a), (b), and (c) of this section have been met.

(e) *Ports.* The harvested fruit may enter the United States only through a port of entry located in one of the Texas counties listed in § 301.64–3(c) of this chapter.

(f) *Route of transit.* Harvested fruit must travel on the most direct route to the processing plant from its point of entry into the United States as specified in the import permit. Such fruit may not enter or transit areas other than the Texas counties listed in § 301.64–3(c) of this chapter.

(g) *Approved destinations.* Processing plants within the United States must be located within an area in Texas that is under an APHIS-approved preventative release program using sterile insect technique for Mexican fruit fly.

(h) *Compliance agreements.* Processing plants within the United States must enter into a compliance agreement with APHIS in order to handle grapefruit, sweet oranges, and tangerines imported from Mexico in accordance with this section. APHIS will only enter into compliance agreements with facilities that handle and process grapefruit, sweet oranges, and tangerines from Mexico in such a way as to eliminate any risk that exotic fruit flies could be disseminated into the United States, as determined by APHIS.

(Approved by the Office of Management and Budget under control number 0579–0264)

Done in Washington, DC, this 2nd day of June 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–8935 Filed 6–7–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 979

[Docket No. FV06–979–1 FR]

Melons Grown in South Texas; Termination of Marketing Order 979

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule, termination of order.

SUMMARY: This final rule terminates the Federal marketing order for melons grown in South Texas (order) and the rules and regulations issued thereunder. The Department of Agriculture (USDA) has determined the order should be terminated given the declining status of the industry.

DATES: *Effective Date:* June 9, 2006.

FOR FURTHER INFORMATION CONTACT: Martin J. Engeler, Senior Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102–B, Fresno, California 93721; telephone: (559) 487–5110, Fax: (559) 487–5906; or Kathleen M. Finn, Formal Rulemaking Team Leader, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This action is being taken pursuant to § 608c(16)(A) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act'', and § 979.84 of the order.

USDA is issuing this rule in conformance with Executive Order 12866.

This final 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 USDA 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 USDA 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 USDA'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 terminates the Federal marketing order for melons grown in South Texas and the rules and regulations issued thereunder. The order contains authority to regulate the handling of melons grown in South Texas and is administered locally by the South Texas Melon Committee (Committee). At a meeting held on September 7, 2005, the Committee recommended terminating the order.

USDA suspended indefinitely regulations under the order while it considered the Committee's recommendation for termination (70 FR 57995; October 5, 2005). USDA issued a proposed rule soliciting comments on proposed termination of the order on December 22, 2005 (70 FR 75984).

Section 979.84 of the order provides, in pertinent part, that the Secretary shall terminate or suspend any or all provisions of the order when he finds that it does not tend to effectuate the declared policy of the Act. Section 608c(16)(A) of the Act provides that the Secretary shall terminate or suspend the operation of any order whenever the order or provision thereof obstructs or does not tend to effectuate the declared policy of the Act. Section 608c(16)(A) of the Act also requires the Secretary to notify Congress not later than 60 days before the date the order would be terminated.

The order has been in effect since 1979. It contains authority for grade, size, quality, maturity, pack, container, and reporting requirements. It also authorizes production research and marketing research and development activities. Grade, quality, maturity, container, and pack regulations have historically been utilized under the order, as well as mandatory inspection to ensure these requirements were met. Assessments have been collected to fund order operations, including production research and marketing research and promotion activities. Reporting requirements have also been implemented under the order.

The South Texas melon industry has been shrinking in recent seasons due to the inability to provide a dependable supply of good quality fruit, a lack of success in developing new varieties of improved quality melons, and intense domestic and foreign competition. Acreage decreased from a high of 27,463 acres in 1987 to 4,780 acres in 2004. The number of producers and handlers has decreased significantly as well.

Because of the declining status of the industry, on September 16, 2004, the Committee recommended suspending all regulatory and reporting requirements and assessment collections under the order for the 2004–05 season, except one reporting requirement regarding planted acreage. The suspension was recommended for one season with the hope that new melon varieties may be developed to help revive the industry, and to provide a period of time to allow the Committee to evaluate whether it believed the marketing order should be continued. An interim final rule suspending the regulatory and reporting requirements and assessment collections for the 2004–05 season, except for one reporting requirement regarding planted acreage, was published in the **Federal Register** on November 26, 2004 (69 FR 68761), followed by a final rule published on February 23, 2005 (70 FR 8709). The 2004–05 season began on October 1, 2004, and ended on September 30, 2005.

The Committee met on September 7, 2005, to evaluate the industry situation since the regulations were suspended. Planted acreage continued to decline, from 4,780 acres in 2003–04 to 2,364 acres in 2004–05. The number of melon growers and handlers also continued to decline. During the 2003–04 season, there were 29 growers and 16 handlers; in 2004–05 the number of known growers decreased to 13 and handlers decreased to seven. In addition, no new varieties were introduced to improve the quality and make the product more competitive with product from other producing areas. In short, the industry situation continued to worsen. The Committee believed that there was no longer a need for the order, and therefore recommended its termination by unanimous vote.

USDA continued the suspension of regulations, reporting requirements, and assessment collections for an indefinite period, and also suspended the one remaining reporting requirement regarding planted acreage for an indefinite period to allow adequate time to collect additional information in order to determine if terminating the order was warranted. Suspension of regulations, reporting requirements, and assessment collections for an indefinite period was published in the **Federal Register** on October 5, 2005 (70 FR 57995). No comments were received as a result of that publication and a final rule was published in the **Federal Register** on December 7, 2005 (70 FR 72699). The rule continued to relieve handlers of regulatory requirements while USDA evaluated the Committee's recommendation for terminating the order.

In order to solicit input from interested parties regarding termination of the order, USDA issued a proposed termination order on December 22, 2005 (70 FR 75984). A 60-day comment period was provided to allow interested parties the opportunity to comment. No comments were received.

Pursuant to section 8c(16)(A) of the Act and § 979.84 of the order, USDA has determined that the order and all of its provisions should be terminated due to the declining status of the industry and lack of industry support for the program. Section 8c(16)(A) of the Act requires USDA to notify Congress at least 60 days before terminating a Federal marketing order program. Congress was so notified on March 16, 2006. USDA hereby appoints Committee Chairman Fred Schuster and Committee member Jimmy Pawlick as trustees to conclude and liquidate the affairs of the Committee and to continue in such capacity until discharged.

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.

During the 2004–05 marketing year, there were approximately seven handlers of South Texas melons subject to regulation under the marketing order and approximately 13 melon growers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $6,500,000, and small agricultural growers are defined as those having annual receipts of less than $750,000.

Most of the handlers are vertically integrated operations involved in growing, shipping, and marketing melons. For the 2003–04 marketing year, the industry's 16 handlers shipped melons produced on 4,780 acres with the average and median volume handled being 89,012 and 10,655 containers, respectively. In terms of production value, total revenue for the 16 handlers was estimated to be $12,175,919, with the average and median revenues being $760,996 and $91,094, respectively. Complete comparable data is not available for the 2004–05 marketing year, but based on a reduction of acreage from 4,780 acres in 2003–04 to 2,364 acres in 2004–05, and the reduced number of growers and handlers, it follows that the volume handled and the value of production likely declined as well.

The South Texas 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 alternative crops, like onions.

Based on the SBA's definition of small entities, it is estimated that all of the seven handlers regulated by the order would be considered small entities if only their spring melon revenues are considered. However, revenues from other productive enterprises might push a number of these handlers above the $6,500,000 annual receipt threshold. Of the 13 growers within the production area, few have sufficient acreage to generate sales in excess of $750,000; therefore, the majority of growers may be classified as small entities.

The South Texas cantaloupe and honeydew melon industry has been shrinking. South Texas historically had enjoyed a marketing window of approximately six weeks beginning about May 1 each season. That window has steadily eroded in recent years due to strong competition from other melon producing areas, and quality problems with Texas melons. As a result, acreage has decreased dramatically from a high of 27,463 acres in 1987, to 4,780 in 2004, and 2,364 acres in 2005. The number of producers and handlers also has steadily declined.

Because of the declining status of the industry, the Committee recommended suspending all regulatory and reporting requirements and assessment collections under the order for the 2004–05 season, except one reporting requirement regarding planted acreage. The suspension was recommended for one season with the hope that new melon varieties may be developed to help revive the industry, and to provide a period of time to allow the Committee to evaluate whether it believed the marketing order should be continued. An interim final rule suspending the regulatory and reporting requirements and assessment collections for the 2004–05 season, except for one reporting requirement regarding planted acreage, was published in the **Federal Register** on November 26, 2004 (69 FR 68761), followed by a final rule published on February 23, 2005 (70 FR 8709).

Suspending the regulations enabled handlers to ship melons without regard to the minimum grade, quality, maturity, container, pack, inspection, and related requirements for the 2004–05 fiscal period. It decreased industry expenses associated with inspection and payment of assessments. During the 2003–04 season, inspection costs associated with the order were estimated at $46,000 and assessments collected were $102,988. These costs were not incurred during the 2004–05 season as a result of the suspension of regulations and assessment obligations.

The Committee met on September 7, 2005, to evaluate the industry situation since the regulations were suspended. As previously discussed, planted acreage continued to decline and the number of melon growers and handlers also continued to decline during the 2004–05 season. In addition, no new varieties were introduced to improve the quality and make South Texas melons more competitive with other producing areas. The Committee believed that there was no longer a need for the order, and therefore unanimously recommended its termination.

Suspension of regulations, reporting requirements, and assessment collections was continued for an indefinite period, and the one remaining reporting requirement regarding planted acreage was also suspended indefinitely pursuant to publication in the **Federal Register** on October 5, 2005 (70 FR 57995). No comments were received as a result of that publication and a final rule was published in the **Federal Register** on December 7, 2005 (70 FR 72699). The rule continued to relieve handlers of regulatory requirements while USDA evaluated the Committee's recommendation for terminating the order.

In order to solicit input from interested parties regarding termination of the order, USDA issued a proposed termination order on December 22, 2005 (70 FR 75984). A 60-day comment period was provided to allow interested parties the opportunity to comment. No comments were received. After evaluating all available information, USDA has determined that the order should be terminated.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements being terminated by this rule were approved previously by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. Termination of all the reporting requirements under the order is expected to reduce the reporting burden on small or large South Texas melon handlers by 24.90 hours, and should further reduce industry expenses.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *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.

A proposed rule inviting comments on the proposed termination of Marketing Order 979 covering melons grown in South Texas was published in the **Federal Register** on December 22, 2005 (70 FR 75984). Copies of the rule were mailed by the Committee's staff to handlers and growers. In addition, the rule was made available through the Internet by the USDA and the Office of the **Federal Register**. The rule provided a 60-day comment period which ended on February 21, 2006. No comments were received.

As previously discussed, the South Texas melon industry has continually declined. Currently, there are 7 handlers, 13 growers, and a relatively small 2,364 acres. Further, the Committee recommended unanimously to terminate the program, and no comments were received concerning the proposed termination published in the **Federal Register**. Based on the foregoing, and pursuant to § 608c(16)(A) of the Act and § 979.84 of the order, it is hereby found that Federal marketing order 979 covering melons produced in South Texas does not tend to effectuate the declared policy of the Act, and is therefore terminated.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553 because: (1) This action relieves restrictions on handlers by terminating the requirements of the Texas melon marketing order; (2) regulations under the order have been suspended for the past two crop years; (3) the Committee unanimously recommended termination, and all handlers and growers in the industry have been notified and have been provided the opportunity to comment; and (4) no useful purpose would be served by delaying the effective date.

List of Subjects in 7 CFR Part 979

Marketing agreements, Melons, Reporting and recordkeeping requirements.

PART 979—[REMOVED]

■ For the reasons set forth in the preamble, and under the authority of 7 U.S.C. 601–674, 7 CFR part 979 is removed.

Dated: June 2, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–8895 Filed 6–7–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

7 CFR Parts 1980 and 4279

RIN 0570–AA49

Business and Industry Guaranteed Loans—Tangible Balance Sheet Equity

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Final rule.

SUMMARY: In this final rule the Rural Business-Cooperative Service (the Agency) amends existing regulations relating to Business and Industry (B&I) loans made or guaranteed by the Agency by modifying the provisions that address the evaluation of credit quality. Changes to these underwriting provisions were originally proposed on January 16, 2004. The scope of this final rule is more limited than originally proposed but also implements a change not originally discussed in the proposed rule. Specifically, in the case of the refinancing of USDA or other Federal agency debt only, the Agency is modifying the definition of tangible balance sheet equity to include the off balance sheet value of tangible assets to the extent of the difference between the depreciated book value of real property assets and their current market value supported by an appraisal or the original book value, whichever is less. In these limited cases, the adjusted tangible balance sheet equity will also include qualified subordinated debt owed to the owner. As stated above, these adjustments to the equity calculation will apply only in cases where the Agency is asked to guarantee a refinancing of outstanding debt currently owed to or guaranteed by a Federal agency, including the Small Business Administration. The intended effect of this action is to facilitate Agency guarantees of certain refinancing loans that otherwise would not meet the equity requirements because the financial statements prepared in accordance with generally accepted accounting principles do not reflect the current market value of real property assets owned by the borrower. In the case of all direct or guaranteed loan applications, the tangible net equity calculation may include a restricted universe of qualified intellectual property. The Agency is also increasing the equity requirements applicable to energy businesses.

EFFECTIVE DATE: July 10, 2006.

FOR FURTHER INFORMATION CONTACT: Fred Kieferle, Rural Business-Cooperative Service, USDA, Stop 3224, Room 6845, 1400 Independence Ave., SW., Washington, DC 20250–3224, Telephone (202) 720–7818, Fax (202) 720–6003, or E-mail: *fred.kieferle@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Programs Affected

The Catalog of Federal Domestic Assistance Program number assigned to the applicable programs is 10.768, Business and Industry Loans.

Program Administration

These programs are administered through the Business and Industry Division of the Rural Business-Cooperative Service within the Rural Development mission area of USDA and delivered via the USDA Rural Development State Directors.

Executive Order 12372

As stated in the Notice related to 7 CFR part 3015, subpart V, the programs and activities within this rule are subject to E.O. 12372 which requires intergovernmental consultation in the manner delineated in 7 CFR part 3015, subpart V. Accordingly, agency personnel advise all prospective applicants of whether their state has elected to participate in the consultation process by designating a single point of contact and name of that contact point.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the information collection requirements contained in this regulation have been approved by OMB under control numbers 0570–0014 and 0570–0017.

Government Paperwork Elimination Act

The Agency is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Environmental Impact Statement

It is the determination of the Agency that this action is not a major Federal action significantly affecting the environment. Therefore, in accordance with the National Environmental Policy Act of 1969, an Environmental Impact Statement is not required.

Executive Order 12988

This final rule has been reviewed in accordance with E.O. 12988, Civil Justice Reform. In accordance with this rule: (1) All state and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, USDA must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of UMRA generally requires USDA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for state, local, and tribal governments or the private sector. Therefore this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the undersigned has determined and certified by signature of this document