

## Agricultural Marketing Service, USDA

## § 979.50

to be a member of the committee or alternate, he shall account to his successor, the committee, or to the person designated by the Secretary, for all receipts, disbursements, funds and property (including but not limited to books and other records) pertaining to the committee's activities for which he is responsible, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the successor, the committee, or person designated by the Secretary, the right to all such property and funds and all claims vested in such person:

(c) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person to act as a trustee for holding records, funds, or any other committee property during periods of suspension of this part, or during any period or periods when regulations under this part are not in effect, and, if the Secretary determines such action appropriate, he may direct that such person or persons may act as such trustee or trustees.

### § 979.44 Excess funds.

(a) If, at the end of a fiscal period the assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of any such assessments which represent payments by the handler in excess of his pro rata share, shall be credited with such refund against his operations of the following fiscal period or such excess shall be accounted for in accordance with one of the following:

(1) The committee, with the approval of the Secretary, may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in a reserve so established, except funds in the reserve shall not exceed approximately two fiscal periods' expenses. Such reserve funds may be used (i) to defray any expenses authorized under this part, (ii) to defray expenses during any fiscal period prior to the time assessment income is sufficient to cover such expenses, (iii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iv) to defray expenses incurred during any period when any or all provisions of this part are

suspended or are inoperative, and (v) to cover necessary expenses of liquidation in the event of termination of this part. Any funds remaining after termination should be refunded to handlers on a pro rata basis. If it is found impracticable to return such remaining funds to handlers, such funds shall be disposed of in such manner as the Secretary may determine to be appropriate;

(2) If such excess is not retained in a reserve or used to defray necessary expenses of liquidation, as provided for in paragraph (a)(1) of this section, it shall be refunded proportionately to the handlers from whom collected, except any sum paid by any handler in excess of his pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such handler.

(b) [Reserved]

## RESEARCH AND DEVELOPMENT

### § 979.48 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research, and development projects designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of melons. The expenses of such projects shall be paid from funds collected pursuant to § 979.42.

## REGULATIONS

### § 979.50 Marketing policy.

(a) Prior to or at the same time initial recommendations in any fiscal period are made pursuant to § 979.51, and as the Secretary may require, the committee shall prepare a marketing policy statement. Notice of such marketing policy shall be given to producers, handlers, and other interested parties by bulletins, newspapers or other appropriate media, and copies thereof shall be submitted to the Secretary and shall be available at the committee office to all interested parties;

**§ 979.51**

**7 CFR Ch. IX (1-1-05 Edition)**

(b) Marketing policy statements relating to recommendations for regulations shall give appropriate consideration to melon supplies for the remainder of the season, with special consideration to:

- (1) Estimates of total supplies including grade, size, and quality thereof, in the production area;
- (2) Estimates of supplies of melons in competing areas;
- (3) Estimates of supplies of other competing commodities;
- (4) Market prices by grades, sizes, containers, and packs;
- (5) Anticipated marketing problems;
- (6) Level and trend of consumer income; and
- (7) Other relevant factors.

**§ 979.51 Recommendations for regulations.**

Upon complying with requirements of § 979.50, the committee may recommend regulations to the Secretary when it finds that such regulations as are authorized in this order will tend to effectuate the declared policy of the act.

**§ 979.52 Issuance of regulations.**

(a) The Secretary shall limit by regulation the handling of melons when he finds from the recommendations and information submitted by the committee, or from other available information, that such regulations would tend to effectuate the declared policy of the act.

(b) Such regulations may:

- (1) Limit the handling of particular grades, sizes, maturities, qualities, or packs, or any combination thereof, of any or all varieties of melons during any period;
- (2) Limit the handling of particular grades, sizes, maturities, qualities, or packs of melons differently for different varieties, for different markets, for different containers, or any combination of the foregoing, during any period;
- (3) Fix the size, capacity, weight, dimension, or pack of the container, or containers, which may be used in the packaging or handling of melons, including appropriate container markings to identify the contents thereof.

(c) The regulations or any portions of such regulations issued hereunder may be amended, modified, suspended, or terminated by the Secretary whenever it is determined:

- (1) That such action is warranted upon recommendation of the committee or other available information;
- (2) That such action is essential to provide relief from inspection, assessment, or regulations under paragraph (b) of this section for minimum quantities less than customary commercial transactions; or
- (3) That regulations issued hereunder obstruct or no longer tend to effectuate the declared policy of the act.

**§ 979.54 Handling for special purposes.**

Regulations in effect pursuant to §§ 979.42, 979.52, or 979.60 may be modified, suspended, or terminated by the Secretary, upon recommendation of the committee, to facilitate handling of melons for: (a) Relief or charity, (b) experimental purposes, (c) exports, and (d) other special purposes, which may be recommended by the committee and approved by the Secretary.

**§ 979.55 Safeguards.**

The committee, with the approval of the Secretary, may establish through rules and regulations, the requirements with respect to proof that shipments made pursuant to § 979.54 were handled and used for the purpose stated.

**§ 979.56 Notification of regulations.**

The Secretary shall promptly notify the committee of regulations issued and of any modification, suspension, or termination thereof. The committee shall give notice thereof to all handlers of melons in the production area. In addition, the committee shall make the information available to growers through appropriate news releases or such other means as may be available.

**INSPECTION**

**§ 979.60 Inspection and certification.**

(a) Whenever the handling of melons is regulated pursuant to § 979.52 or at other times when recommended by the committee and approved by the Secretary, no handler shall handle melons