

DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED CHANGES IN THE REGULATIONS
Title 3. Food and Agriculture
Division 3. Economics
Chapter 1. Fruit and Vegetable Standardization
Subchapter 4. Fresh Fruits, Nuts and Vegetables
Article 4. Containers
Section 1380.19

INITIAL STATEMENT OF REASONS

In 1915, the Legislature began to establish in statute minimum standards for fresh fruits, nuts, and vegetables by governing such factors as weight compliance, packaging, labeling, ripeness, color, and maturity. The California Department of Food and Agriculture's (Department's) Standardization Program is responsible for enforcing laws and regulations establishing minimum state standards for fruits and vegetables. It is accomplished by supervising county agricultural commissioners who carry out enforcement at the local level.

Section 14 of the Food and Agricultural Code authorizes the Department to adopt rules and regulations in accordance with the Administrative Procedure Act. Additional authority vested in the Food and Agricultural Code grants the California Department of Food and Agriculture Secretary the authority to amend or repeal rules and regulations.

Section 407 of the Food and Agricultural Code authorizes the Secretary of the Department to adopt such regulations as are reasonably necessary to carry out the provisions of the Food and Agricultural Code which the Secretary is directed or authorized to administer or enforce.

Section 42681 of the Food and Agricultural Code specifies, in part, that the Secretary of the Department may, upon a petition of a person that the Secretary finds has a substantial interest in the growing or handling of the particular fruit, nut, or vegetable involved, establish, modify, or rescind by regulation, which initially took effect January 1, 1971, standard container, lid, marking, sizing requirement for commodities, and packing arrangement for any fruits, nuts, or vegetables, for which specific quality standards have otherwise been provided by law or regulation.

Section 42682 of the Food and Agricultural Code authorizes the CDFA Secretary to establish, modify, or rescind, by regulation, which initially took effect January 1, 1971, standard container, lid, marking, sizing requirements for commodities, and packing arrangements for any fruits, nuts, or vegetables, for which specific quality standards have otherwise been provided by law or regulation.

The [Secretary] shall not, by regulation, adopt any new container or packing requirement, unless the new container or packing requirement has previously been authorized by regulation of the director as an experimental container pack.

Section 42684 of the Food and Agricultural Code establishes the statutory requirements for establishing, modifying, or rescinding, by regulation, quality and maturity standards for any fruits, nuts, or vegetables.

Section 42941 of the Food and Agricultural Code mandates that it is unlawful for any person to prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport, cause to be transported, or sell any fruits, nuts, and vegetables and their containers conform to the provisions of the Standardization Program's division or the regulations promulgated thereunder.

Amend Section 1380.19(p) - The purpose of this regulation is to adopt a new standard container, 44S, for shipping mixed melons. Due to an increased demand for varietal melons, California producers are supplying fruit to a vast and growing population throughout North America. The various shapes of the different varietal melons, the internal pressure, bruising, subjectivity, and skin type all require different packaging to arrive in good condition. These varietal melons are so different in shape that it is very difficult to pack in the current standard containers that are approved for traditional mixed melons. Consequently, in order to mitigate these issues, the Department is proposing to adopt 44S as a new standard container for shipping mixed melons.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS

The Department relied upon the following documents in establishing this proposed rulemaking action:

- A petition from Milas Russell, Jr., President, Sandstone Marketing Inc.
- Letters of support from Couture Farms, Five Crowns Marketing, Fisher Ranch, T&M Farms, and Turlock Fruit Company, Inc.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

This proposed regulatory action would simply make one additional standard container available for producers and packers of varietal melons. No specific technologies, equipment, actions, or procedures would be required under this proposed regulatory action. Consequently, this proposed regulatory action would not result in an economic impact to the regulated industry.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS.

The Department has initially determined that this proposed change to the regulations would result in no added costs to businesses affected by these proposed changes.

REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATIVES

The Department has not identified any reasonable alternatives to the proposed action

and no adverse impacts to small businesses are expected as a result of this proposed action.