

the larger containers, the retailer is able to offer avocados to the consumer in a variety of sizes. The larger containers are ideal for displaying the fruit. Upon receipt of the avocado shipment, the retailer can remove the lid from the larger container and, without removing the fruit from the box, fruit can be offered for consumers to purchase. This is time saving for retailers.

Removing the requirement that avocados packed in 33-pound containers weigh at least 16 ounces will continue to give handlers the flexibility to pack both large and small avocados in one container. Florida avocado handlers would like to continue to remain competitive with other avocado growing areas. For example, California avocado handlers have already adopted the practice of shipping smaller avocados in larger containers with a great deal of success. In order to meet the needs of the customer and remain competitive with other avocado handlers, this rule continues to remove the requirement that avocados packed in 33-pound containers must weigh at least 16 ounces. The avocados must meet all other requirements of the marketing order, including maturity requirements.

In addition, the flexibility to pack both large and small avocados in one container allows handlers to use the smaller avocados to create a tighter pack with less open space inside the containers. The tighter pack restricts movement of the avocados during shipment which prevents damage to the fruit. This continues to save handling costs and provides greater returns to the grower.

Other alternatives to the action were considered by the Committee prior to making the recommendation. One alternative discussed by the Committee was to continue to require that avocados packed in 33-pound containers weigh at least 16 ounces. The Committee believed that this alternative provided little benefit and would still limit flexibility.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large avocado handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the avocado industry and all interested persons were invited to attend the meeting and participate in Committee

deliberations. Like all Committee meetings, the September 8, 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 5 are growers, 4 are handlers, and one is a public member. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small business.

An interim final rule concerning this action was published in the Federal Register on December 13, 1999. Copies of the rule were mailed by the Committee's staff to all Committee members and avocado 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 February 11, 2000. No comments were received.

Changes to the interim final rule have been made to correct some typographical errors. Editorial changes have also been made to make the language easier to understand.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following web site: <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.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, with changes, as published in the **Federal Register** (64 FR 69380, December 13, 1999) will tend to effectuate the declared policy of the Act.

List of Subjects 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

Accordingly, the interim final rule amending 7 CFR part 915 which was published at 64 FR 69380 on December 13, 1999, is adopted as a final rule with the following changes:

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

1. The authority citation for part 915 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In Sec. 915.305, paragraph (a)(1) is revised to read as follows:

§ 915.305 Florida Avocado Container Regulation 5.

(a) * * *

(1) Containers shall not contain less than 33 pounds net weight of avocados, except that for avocados of unnamed varieties, which are avocados that have not been given varietal names, and for Booth 1, Fuchs, and Trapp varieties, such weight shall be not less than 31 pounds. Not more than 10 percent, by count, of the individual containers in any lot may fail to meet the applicable specified weight. No container in any lot may contain a net weight of avocados exceeding 2 pounds less than the specified net weight; or

* * * * *

Dated: March 16, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV00–916–1 IFR]

Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule revises the handling requirements for California nectarines and peaches by modifying the grade, size, maturity, and container marking requirements for fresh shipments of these fruits, beginning with 2000 season shipments. This rule also modifies the requirements for placement of Federal-State Inspection Service lot stamps for the 2000 season only. The marketing orders regulate the handling of nectarines and peaches grown in California and are administered locally by the Nectarine Administrative and Peach Commodity Committees (committees). This rule enables handlers to continue shipping fresh nectarines and peaches meeting consumer needs in the interest of producers, handlers, and consumers of these fruits.

DATES: Effective April 1, 2000; comments received by May 22, 2000, will be considered prior to issuance of any 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 made available for public inspection at the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487-5901, Fax: (209) 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 compliance 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 Agreements Nos. 124 and 85, and Marketing Order Nos. 916 and 917 (7 CFR parts 916 and 917) regulating the handling of nectarines and peaches grown in California, respectively, hereinafter referred to as the "orders." The marketing agreements and orders 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 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.

Under the orders, lot stamping, grade, size, maturity, container, and pack requirements are established for fresh shipments of California nectarines and peaches. Such requirements are in effect on a continuing basis. The Nectarine Administrative Committee (NAC) and the Peach Commodity Committee (PCC), which are responsible for local administration of the orders, met on November 30, 1999, and unanimously recommended that these handling requirements be revised for the 2000 season, which begins April 1. The changes: (1) Revise the lot stamping requirements for the 2000 season only; (2) authorize shipments of "CA Utility" quality fruit to continue during the 2000 season; (3) eliminate the minimum letter height of maturity marking requirements for all containers; (4) provide a tolerance for the "Peento" or "donut" types of peaches for healed, non-serious, blossom-end growth cracks; and (5) revise varietal maturity, quality, and size requirements to reflect recent changes in growing conditions.

The committees meet prior to and during each season to review the rules and regulations effective on a continuing basis for California nectarines and peaches under the orders. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

No official crop estimate was available at the time of the committees' meetings because the nectarine and peach trees were dormant. The committees will recommend a crop estimate at their meetings in early spring. However, preliminary estimates indicate that the 2000 crop will be

similar in size and characteristics to the 1999 crop which totaled 20,405,000 boxes of nectarines and 20,460,000 boxes of peaches.

Lot Stamping Requirements

Sections 916.55 and 917.45 of the orders require inspection and certification of nectarines and peaches, respectively, handled by handlers. Sections 916.115 and 917.150 of the nectarine and peach orders' rules and regulations, respectively, require that all exposed or outside containers of nectarines and peaches, and at least 75 percent of the total containers on a pallet, be stamped with the Federal-State Inspection Service (inspection service) lot stamp number after inspection and prior to shipment to show that the fruit has been inspected. These requirements apply except for containers that are loaded directly onto railway cars, or exempted, or mailed directly to consumers in consumer packages.

Lot stamp numbers are assigned to each handler by the inspection service, and are used to identify the handler and the date on which the container was packed. The lot stamp number is also used by the inspection service to identify and locate the corresponding inspector's working papers or notes. Working papers are the documents each inspector completes while performing an inspection on a lot of nectarines or peaches. Information contained in the working papers supports the grade levels certified by the inspector at the time of inspection.

The lot stamp number has value for the industries, as well. The committees utilize the lot stamp numbers and date codes to trace fruit in the container back to the orchard where harvested. This information is essential in providing quick information for a crisis management program instituted by the industries. Without the lot stamp information on each container, the "trace-back" effort, as it is called, would be jeopardized.

Recently, several new containers have been introduced for use by nectarine and peach handlers. The boxes are returnable plastic containers which retailers send back to a central clearinghouse after use. Use of these boxes may represent substantial savings to retailers for storage and disposal, as well as for handlers who do not have to pay for traditional containers. Fruit is packed in the boxes by the handler, delivered to the retailer, emptied, and returned to the clearinghouse for cleaning and redistribution. However, because they were designed to be reused, these boxes do not support

markings that are permanently affixed to the container. All markings must be printed on cards which slip into tabs on the front or sides of the containers. The cards are easily inserted and removed, and further contribute to the efficient use of the container.

The cards are a concern for the inspection service and the industries, however. Because of their unique portability, there is some concern that the cards on pallets of inspected containers could easily be moved to pallets of uninspected containers, thus permitting a handler to avoid inspection on a lot or lots of nectarines or peaches. This would also jeopardize the use of the lot stamp numbers for the industries' "trace back" program.

To address this concern, the committees have recommended that pallets of inspected fruit be identified with a USDA-approved pallet tag containing the lot stamp number, in addition to the lot stamp number printed on the card on the container. In this way, an audit trail is created, confirming that the lot stamp number on the containers on each pallet correspond to the lot stamp number on the pallet tag.

The inspection service and the committees have presented their concerns to the manufacturers of these types of boxes. One manufacturer has indicated a willingness to address the problem by offering an area on the principle display panel where the container markings will adhere to the box, which will meet the needs of the industries, the inspection service, and the manufacturer. However, the manufacturer believes that this change may not be available in time for the 2000 season. For that reason, the committees further recommended that the proposed modification of the lot stamping requirements be put into place for the 2000 season only.

Thus, §§ 916.115 and 917.150 will be amended to require the lot stamp number to be adhered to a USDA-approved pallet tag, in addition to the requirement that the number be applied to cards on all exposed or outside containers, and not less than 75 percent of the total containers on a pallet.

A conforming change is made to § 917.150 by changing the word "but" to "and," making the language in this section similar to that in § 916.115.

Grade and Quality Requirements

Sections 916.52 and 917.41 of the orders authorize the establishment of grade and quality requirements for nectarines and peaches, respectively. Prior to the 1996 season, § 916.356 required nectarines to meet a modified

U.S. No. 1 grade. Specifically, nectarines were required to meet U.S. No. 1 grade requirements, except there was a slightly tighter requirement for scarring and a more liberal allowance for misshapen fruit. Prior to the 1996 season, § 917.459 required peaches to meet the requirements of a U.S. No. 1 grade, except for a more liberal allowance for open sutures that were not "serious damage."

This rule revises § 916.350, § 916.356, § 917.442, and § 917.459 to permit shipments of nectarines and peaches meeting "CA Utility" quality requirements during the 2000 season. ("CA Utility" fruit is lower in quality than that meeting the modified U.S. No. 1 grade requirements.) Shipments of nectarines and peaches meeting "CA Utility" quality requirements were permitted during the 1996 and 1997 seasons, and also during the 1998 and 1999 seasons with slight modifications.

Studies conducted by the NAC and PCC indicate that some consumers, retailers, and foreign importers found the lower quality fruit acceptable in some markets. When shipments of "CA Utility" nectarines were first permitted in 1996, they only represented 1.1 percent of all nectarine shipments, or approximately 210,000 boxes. Shipments of "CA Utility" peaches represented 1.9 percent of all peach shipments, or 366,000 boxes. By 1998 and 1999, shipments of "CA Utility" nectarines represented 4.5 percent and 4.0 percent, respectively, of all nectarine shipments; or approximately 760,000 boxes and 819,600 boxes, respectively. In 1998 and 1999, shipments of "CA Utility" peaches represented 3.3 percent and 3.4 percent, respectively, of all peach shipments; or approximately 602,000 boxes and 689,800 boxes, respectively.

For these reasons, the committees unanimously recommended that shipments of "CA Utility" quality nectarines and peaches be permitted for the 2000 season with a continuing in-house statistical review. Paragraphs (d) of §§ 916.350 and 917.442, and paragraphs (a)(1) of §§ 916.356 and 917.459 are revised to permit shipments of nectarines and peaches meeting "CA Utility" quality requirements during the 2000 season, on the same basis as last season.

In addition, paragraph (a)(1) of § 917.459 is revised to provide a 10 percent tolerance for healed, non-serious, blossom-end growth cracks for the "Peento" or "donut" varieties of peaches, such as the "Saturn" and "Jupiter" varieties.

These varieties of peaches characteristically suffer blossom-end

(calyx basin) cracks during development. These cracks heal as the growth continues and as the fruit gains size. Generally, the cracks are completely healed by harvest. Peaches with unhealed or serious blossom-end growth cracks at the time of inspection would not be included in U.S. No. 1 or "CA Utility" packages. Such a relaxation will permit handlers of the Peento type of peaches to utilize more of these fruit in boxes of U.S. No. 1 peaches, benefitting both handlers and growers of these varieties.

The PCC unanimously recommended this additional tolerance of 10 percent for healed, non-serious, blossom-end growth cracks for the Peento type of peaches, beginning in the 2000 season.

Container Marking Requirements

Sections 916.52 and 917.41 of the nectarine and peach orders, respectively, authorize container marking requirements. Requirements for container markings are specified in §§ 916.350 and 917.442 of the orders' rules and regulations. Container marking requirements include marking of the commodity and variety (e.g., Fay Elberta peaches), the size of the fruit in the box (e.g., 88 size), the net weight, and the maturity (either U.S. Mature (US MAT) or California Well Matured (CA WELL MAT)), on each container of nectarines or peaches.

As innovative containers enter the marketplace, especially those preferred by retailers, the configuration of display panels changes. This is true for both retail and consumer-size containers. As a result, handlers are forced to make adjustments in their container markings to accommodate the differences in display panels. Some containers, such as those intended for purchase by individual consumers, are smaller and have less display-panel surface area, and meeting all the minimum size labeling requirements is difficult. Some handlers requested a relaxation in the container labeling requirements with regard to the fruit maturity marking, and the committees agreed that a modification would be appropriate. This relaxation will eliminate the minimum lettering height in favor of a requirement that fruit maturity markings be clear and legible. Therefore, paragraphs (a)(3) of §§ 916.350 and 917.442 are so modified.

Maturity Requirements

Both orders provide (in §§ 916.52 and 917.41) authority to establish maturity requirements for nectarines and peaches, respectively. The minimum maturity level currently specified for nectarines and peaches is "mature" as defined in the standards. Additionally,

both orders' rules and regulations provide for a higher, "well matured" classification. For most varieties, "well-matured" fruit determinations are made using maturity guides (e.g., color chips). These maturity guides are reviewed each year by the Shipping Point Inspection Service (SPI) to determine whether they need to be changed based on the most recent information available on the individual characteristics of each variety.

These maturity guides established under the handling regulations of the California tree fruit marketing orders have been codified in the Code of Federal Regulations as TABLE 1 in §§ 916.356 and 917.459, for nectarines and peaches, respectively.

The requirements in the 2000 handling regulation are the same as those that appeared in the 1999 handling regulation with a few exceptions. Those exceptions are explained in this rule.

Nectarines: Requirements for "well-matured" nectarines are specified in § 916.356 of the order's rules and regulations. While SPI made no recommendation with regard to changes to the NAC regarding maturity guides, the committee recommended removal of several varieties of nectarines from the maturity guides.

This rule revises TABLE 1 of paragraph (a)(1)(iv) of § 916.356 to remove 12 nectarine varieties which are no longer in production. The NAC routinely reviews the status of nectarine varieties listed in these maturity guides. The most recent review revealed that 12 of the nectarine varieties currently listed in the maturity guide have not been in production since the 1997 season. Typically, the NAC recommends removing a variety after non-production for three seasons, or if trees of that variety are known to have been pulled out, because a maturity guide for an obsolete variety is no longer needed. The varieties removed include the Apache, Arm King, Bob Grand, Flavor Grand, Flavortop I, Maybelle, Mike Grand, Pacific Star, Son Red, Summer Star, Sunfre, and Tasty Gold nectarine varieties.

Peaches: Section 917.459 of the order's rules and regulations specifies maturity requirements for fresh peaches being inspected and certified as being "well matured."

This rule revises TABLE 1 of paragraph (a)(1)(iv) of § 917.459 to add maturity guides for 2 peach varieties and revise the maturity guide for 1 variety. Specifically, SPI recommended adding the maturity guides for the Earli Rich peach variety to be regulated at the H maturity guide, and the Late Ito Red

peach variety to be regulated at the L maturity guide. SPI also recommended a modification to the current maturity guide for the Autumn Rose peach variety, changing the maturity guide from the I to the H maturity guide.

This rule also corrects the reference to the Ambercrest peach variety listed in TABLE 1 of paragraph (a)(1)(iv). The correct name of the variety is "Amber Crest."

The PCC recommended these maturity requirements based on SPI's continuing review of individual maturity characteristics and identification of the appropriate maturity guide corresponding to the "well-matured" level of maturity for peach varieties in production.

TABLE 1 of paragraph (a)(1)(iv) of § 917.459 is also revised to remove 15 peach varieties which are no longer in production. The PCC routinely reviews the status of peach varieties listed in these maturity guides. The most-recent review revealed that 15 of the peach varieties currently listed in the maturity guide have not been in production since the 1997 season. Typically, the PCC recommends removing a variety after non-production for three seasons, or if trees of that variety are known to have been pulled out, because a maturity guide for an obsolete variety is no longer needed. The varieties removed include the August Sun, Autumn Crest, Belmont(Fairmont), Berenda Sun, Fayette, Golden Crest, Golden Lady, June Sun, Mary Anne, Parade, Pat's Pride, Prima Lady, Red Cal, Scarlet Lady, and Springold peach varieties.

Size Requirements

Both orders provide (in §§ 916.52 and 917.41) authority to establish size requirements. Size regulations cause producers to leave fruit on the tree longer. This increased growing time not only improves the size of the fruit, but also increases its maturity. In addition, increased size results in an increased number of packed boxes of nectarines or peaches per acre. Acceptable size fruit also provides greater consumer satisfaction and more repeat purchases, and, therefore, increases returns to producers and handlers. Varieties recommended for specific size regulation have been reviewed and such recommendations are based on the specific characteristics of each variety. The NAC and PCC conduct studies each season on the range of sizes reached by the regulated varieties and determine whether revisions in the size requirements are appropriate.

Nectarines: Section 916.356 of the order's rules and regulations specifies minimum size requirements for fresh

nectarines in paragraphs (a)(2) through (a)(9). This rule revises § 916.356 to establish variety-specific minimum size requirements for 14 nectarine varieties that were produced in commercially-significant quantities of more than 10,000 packages for the first time during the 1999 season. This rule also removes the variety-specific minimum size requirements for 6 varieties of nectarines whose shipments fell below 5,000 packages during the 1999 season.

For example, one of the varieties recommended for addition to the variety-specific minimum size requirements is the Diamond Jewel nectarine variety. Studies of the size ranges attained by the Diamond Jewel variety revealed all but one box of that variety met minimum sizes 50, 60, 70, and 80 during the 1999 season. The one box reportedly met a minimum size 88. While the size distribution peaked on the size 70, 100 percent of the fruit sized at a minimum of size 88.

A review of other varieties with the same harvesting period indicated that Diamond Jewel was also comparable to those varieties in its size ranges for that time period. Discussions with handlers known to handle the variety confirmed this information regarding minimum size and harvesting period, as well. Thus, the recommendation to place the Diamond Jewel nectarine variety in the variety-specific size regulation at a size 88 is appropriate.

Historical variety data such as this provides the NAC with the information necessary to recommend the appropriate sizes at which to regulate various nectarine varieties. In addition, producers and handlers of the varieties affected are personally invited to comment when such size recommendations are deliberated. Producer and handler comments are also considered at both NAC and subcommittee meetings when such comments are received by the staff.

For reasons similar to those discussed in the preceding paragraph, the introductory text of paragraph (a)(4) of § 916.356 is revised to include the Diamond Jewel, Kay Sweet, and White Sun nectarine varieties; and the introductory text of paragraph (a)(6) in § 916.356 is revised to include the Arctic Blaze, Arctic Gold, Arctic Jay, Cole Red, Fire Sweet, Honey Blaze, Kay Bright, Prima Diamond XVIII, Regal Pearl, Ruby Sweet, and White September nectarine varieties.

This rule also revises the introductory text of paragraph (a)(4) of § 916.356 to remove 2 nectarine varieties from the variety-specific minimum size requirements specified in the section because less than 5,000 packages of each

of these varieties were produced during the 1999 season. Thus, the introductory text of paragraph (a)(4) is revised to remove the Early May and Prima Diamond VI nectarine varieties.

This rule also revises the introductory text of paragraph (a)(6) of § 916.356 to remove 4 nectarine varieties from the variety-specific minimum size requirements specified in the section because less than 5,000 packages of each of these varieties were produced during the 1999 season. Thus, the introductory text of paragraph (a)(6) is revised to remove the Flavortop, Flavortop I, How Red (Sunectnineteen) and the 491-48 nectarine varieties.

The Gran Sun nectarine variety had 1999 shipments of 2,939 packages, but was not recommended for removal from variety-specific size requirements because the variety is expected to increase in commercial significance during the 2000 season. Inclement weather, including the cool spring and frost damage, is considered to be a factor in the decreased production during the 1999 season.

Nectarine varieties removed from the nectarine variety-specific list become subject to the non-listed variety size requirements specified in paragraphs (a)(7), (a)(8), and (a)(9) of § 916.356.

The NAC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these nectarine varieties, and consumer acceptance levels for various sizes of fruit. This rule is designed to establish minimum size requirements for fresh nectarines consistent with expected crop and market conditions.

Peaches: Section 917.459 of the order's rules and regulations specifies minimum size requirements for fresh peaches in paragraphs (a)(2) through (a)(6), and paragraphs (b) and (c). This rule revises § 917.459 to establish variety-specific minimum size requirements for 16 peach varieties that were produced in commercially-significant quantities of more than 10,000 packages for the first time during the 1999 season. This rule also removes the variety-specific minimum size requirements for 4 varieties of peaches whose shipments fell below 5,000 packages during the 1999 season.

One of the varieties recommended for addition to the variety-specific size requirements is the Brittany Lane variety. Studies of the size ranges attained by the Brittany Lane variety revealed that while the size distribution peaked on size 50, all of the boxes of that variety met at least the size 80 requirement.

A review of other varieties of the same harvesting period indicated that Brittany Lane was also comparable to those varieties in its size ranges. Discussions with handlers known to handle the variety confirmed this information regarding minimum size and harvesting period, as well. Thus, the recommendation to place the Brittany Lane variety in the variety-specific size regulation at a size 80 is appropriate.

Historical variety data such as this provides the PCC with the information necessary to recommend the appropriate sizes at which to regulate various peach varieties. In addition, producers of the affected varieties are invited to comment when such size recommendations are deliberated. Producer and handler comments are also considered at both PCC and subcommittee meetings when such comments are received by the staff.

In § 917.459 of the order's rules and regulations, the introductory text of paragraph (a)(5) is revised to include the Brittany Lane, Snow Prince, Zee Diamond, 012-094, and 172LE White Peach (Crimson Snow/Sunny Snow) peach varieties; and the introductory text of paragraph (a)(6) is revised to include the Country Sweet, Earli Rich, Full Moon, Late September Snow, N117, Queen Lady, Red Sun, Sierra Gem, Snow Blaze, Sweet Kay, and Sweet September peach varieties.

This rule also revises § 917.459 to remove 4 peach varieties from the variety-specific size requirements specified in that section, because less than 5,000 packages of this variety were produced during the 1999 season. In § 917.459, the introductory text of paragraph (a)(5) is revised to remove the Golden Crest (Supechthree) peach variety and the introductory text of paragraph (a)(6) of § 917.459 is revised to remove the Snow Diamond, Sparkle, and 1-01-505 peach varieties.

The Super Rich peach variety had 1999 shipments of 3,941 packages, but was not recommended for removal from variety-specific size requirements because the variety is expected to increase in commercial significance during the 2000 season. Inclement weather, including the cool spring and frost damage, is considered to be a factor in the decreased production during the 1999 season.

Peach varieties removed from the variety-specific list become subject to the non-listed variety size requirements specified in paragraphs (b) and (c) of § 917.459.

The PCC recommended these changes in the minimum size requirements based on a continuing review of the

sizing and maturity relationships for these peach varieties, and the consumer acceptance levels for various fruit sizes. This rule is designed to establish minimum size requirements for fresh peaches consistent with expected crop and market conditions.

This rule reflects the committees' and the Department's appraisal of the need to revise the handling requirements for California nectarines and peaches, as specified. The Department has determined that this rule will have a beneficial impact on producers, handlers, and consumers of California nectarines and peaches.

This rule establishes handling requirements for fresh California nectarines and peaches consistent with expected crop and market conditions, and will help ensure that all shipments of these fruits made each season will meet acceptable handling requirements established under each of these orders. This rule will also help the California nectarine and peach industries provide fruit desired by consumers. This rule is designed to establish and maintain orderly marketing conditions for these fruits in the interest of producers, handlers, and consumers.

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 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 approximately 300 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 1,800 producers of these fruits in California. Small agricultural service firms, which includes handlers, are defined as those whose annual receipts are less than \$5,000,000. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.201] as those having annual receipts of less than \$500,000. A majority of these handlers and producers may be classified as small entities.

The committees' staff have estimated that there are less than 20 handlers in the industry who could be defined as

other than small entities. If the average handler price received were \$9.00 per box or box equivalent of nectarines or peaches, a handler would have to ship at least 555,000 boxes to have annual receipts of \$5,000,000. Small handlers represent approximately 94 percent of the handlers within the industry. If the average producer price received were \$6.00 per box or box equivalent for nectarines and \$5.65 per box or box equivalent for peaches, producers would have to produce approximately 84,000 boxes or box equivalents of nectarines and approximately 89,000 boxes or box equivalents of peaches to have annual receipts of \$500,000. Therefore, small producer entities are estimated to represent approximately 78 percent of the producers within the industry. For those reasons, a majority of the handler and producers may be classified as small entities.

Under §§ 916.52 and 917.41 of the orders, lot stamping, grade, size, maturity, and container and pack requirements are established for fresh shipments of California nectarines and peaches, respectively. Such requirements are in effect on a continuing basis. This rule revises current requirements to: (1) Revise the lot stamping requirements for the 2000 season only; (2) authorize shipments of "CA Utility" quality fruit to continue during the 2000 season; (3) eliminate the minimum size of maturity marking requirements for all containers; (4) provide a tolerance for the "Peento" or "donut" types of peaches for healed, non-serious, blossom-end growth cracks; and (5) revise varietal maturity, quality, and size requirements to reflect recent changes in growing conditions.

In §§ 916.115 and 917.150 of the orders' rules and regulations, respectively, handlers are required to stamp containers of nectarines and peaches with the Federal-State Inspection Service lot stamp number after inspection and prior to shipment. New, returnable containers, which do not support permanent markings, utilize printed cards which contain the lot stamp number, date codes, and other container marking requirements. The printed cards are easily inserted into tabs on the front or sides of the containers. The ease of portability of these cards creates problems for both the inspection service and the industries in tracking the containers. Cards on a pallet of inspected fruit could be easily moved to a pallet of uninspected fruit, thus permitting a handler to circumvent inspection requirements. The inspection service and the committees have recommended that each pallet of inspected nectarines and peaches be

marked with a pallet tag containing the lot stamp number, in addition to the lot stamp number provided on the card on the containers.

The committees believe that this recommendation should be limited to the 2000 season only, since at least one manufacturer anticipates the availability of an area on the principle display panel where the container markings will adhere to the box, which will meet the needs of the industries, inspection service, and the manufacturer. However, the manufacturer believes that this change may not be available in time for the 2000 season. For that reason, the committees further recommended that the proposed modification of the lot stamping requirements be put into place for the 2000 season only.

In 1996, §§ 916.350 and 917.442 were revised to permit shipments of lower-quality nectarines and peaches, known as "CA Utility," as an experiment for the 1996 season only. Such authorization was continued during the 1997, 1998, and 1999 seasons. This rule permits the continued use of "CA Utility" quality fruit for the 2000 season with a continued in-house statistical review to be conducted by the NAC and PCC. During the 1996 season, the Department authorized the shipment of nectarines and peaches which were of a lower quality than the minimum permitted for previous seasons. During 1996, there were 210,443 boxes of nectarines and 365,761 boxes of peaches packed as "CA Utility," or 1.1 percent and 1.9 percent of fresh shipments, respectively. During 1997, there were 230,275 boxes of nectarines and 216,562 boxes of peaches packed as "CA Utility," or 1.1 percent and 1.0 percent of fresh shipments, respectively. In 1998, there were 760,000 boxes of nectarines and 602,000 boxes of peaches packed as "CA Utility," or 4.5 percent and 3.3 percent of fresh shipments, respectively. In 1999, there were 819,600 boxes of nectarines and 689,800 boxes of peaches packed as "CA Utility," or 4.0 percent and 3.4 percent of fresh shipments, respectively.

Continued availability of "CA Utility" quality fruit is expected to have a positive impact on producers, handlers, and consumers by permitting more nectarines and peaches to be shipped into fresh market channels, without adversely impacting the market for higher quality fruit.

Sections 916.356 and 917.442 establish minimum maturity levels. This rule makes annual adjustments to the maturity requirements for several varieties of nectarines and peaches. Maturity requirements are based on maturity measurements generally using

maturity guides (e.g., color chips), as reviewed by SPI. Such maturity guides provide producers, handlers, and SPI with objective tools for measuring the maturity of different varieties of nectarines and peaches. Such maturity guides are reviewed annually by SPI to determine the appropriate guide for each nectarine and peach variety. These annual adjustments reflect changes in the maturity patterns of nectarines and peaches as experienced over the previous seasons' inspections. Adjustments in the guides ensure that fruit has met an acceptable level of maturity, thus ensuring consumer satisfaction while benefitting nectarine and peach producers and handlers.

Currently, in § 916.356 of the order's rules and regulations for nectarines and § 917.459 of the order's rules and regulations for peaches, minimum sizes for various varieties of nectarines and peaches are established. This rule makes adjustments to the minimum sizes authorized for various varieties of nectarines and peaches for the 2000 season. Minimum size regulations are put in place to allow fruit to stay on the tree for a greater length of time. This increased growing time not only improves maturity, but also improves fruit size. Increased fruit size increases the number of packed boxes per acre. Increased fruit size and maturity also provide greater consumer satisfaction and, therefore, more repeat purchases by consumers. Repeat purchases and consumer satisfaction benefit producers and handlers alike. Such adjustments to minimum sizes of nectarines and peaches are recommended each year by the NAC and PCC based upon historical data, and producer and handler information regarding sizes which the different varieties attain.

The recommendations with regard to maturity markings on containers, continuation of authority to ship nectarines and peaches which meet the "CA Utility" quality requirements, and an increased tolerance for Peento type of peaches, are relaxations. These regulations are intended to provide increased flexibility for handlers of nectarines and peaches.

The committees made recommendations regarding these revisions in handling requirements after considering all available information, including comments of persons at three subcommittee meetings. The Grade and Size Subcommittee met on November 9, 1999, the Management Services Committee met on November 17, 1999, and the Returnable Plastic Container Task Force met on November 23, 1999. At the meetings, the impact of and

alternatives to these recommendations were discussed.

At the Grade and Size Subcommittee, the members discussed recommendations of SPI with regard to maturity guides, and recommendations of staff with regard to varietal sizing and grades. SPI recommended maturity guides for two varieties of peaches and also recommended a change in maturity guides for an established variety. SPI made no recommendations to add or change any maturity guides for nectarines. The staff made recommendations to remove varieties of nectarines and peaches from the maturity listings which are no longer in commercial production.

The staff also made recommendations to add nectarine and peach varieties to the variety specific size requirements, based upon internal studies of the sizing characteristics of those nectarines and peaches. These nectarine and peach varieties were packed in commercially-significant quantities of 10,000 packages or more during the 1999 season. Also, the staff made recommendations to remove nectarine and peach varieties from the variety specific sizing requirements, based upon information indicating that less than 5,000 packages of those varieties were packed in the 1999 season and that the shipments of those varieties are expected to continue to decline in commercial significance. The committees routinely review their regulations and add varieties of which more than 10,000 packages are packed in a season; or remove varieties of which less than 5,000 packages are packed in a season. The alternative to these requirements would be for the more popular varieties to be subject to the less precise general sizing regulations. This alternative was rejected since it would ultimately increase the amount of less acceptable fruit being marketed to consumers. Such a result would be contrary to the long-term interests of producers, handlers, and consumers.

At the Grade and Size Subcommittee meeting, a handler recommended eliminating the required minimum letter height for maturity markings for all types of containers. The handler noted that some boxes preferred by retailers have limited amounts of space on the display panels, especially consumer boxes. He suggested that the lettering height minimum for the maturity markings be eliminated in favor of clear and legible markings. Any alternatives, he noted, would fall short of the need to provide handlers the necessary maturity marking flexibility. He added that with all the required markings for variety, commodity, etc., very little

room is left on the display panel and markings may nearly overlap. His recommendation and those of SPI and the staff were approved unanimously.

At the Returnable Plastic Container Task Force meeting, the participants discussed the most expedient method to ensure that lot stamp numbers and date codes could be affixed to containers of nectarines and peaches to allow such containers to be adequately tracked, which would meet the needs of the inspection service and the industries. The members also met with a manufacturer of one of the returnable boxes, who expressed a willingness to cooperate with the industries in finding a solution to the problem of the highly-portable cards on the containers.

Alternatives offered included leaving container marking requirements unchanged, eliminating lot stamp numbers as a required marking, and permitting shipments of nectarines and peaches in these containers without restrictions on the cards. By leaving container marking requirements unchanged, handlers would be precluded from providing nectarines and peaches in containers advocated by receiving retailers. Eliminating lot stamp numbers as a required marking is unacceptable to both the inspection service and the industry. Allowing returnable, plastic containers to be shipped with the highly portable cards is also unacceptable since the portability of the cards could enable a handler to evade inspection on a lot or lots of nectarines or peaches by moving the cards to uninspected containers, and could jeopardize the industries' "trace back" program. All of these alternatives were, therefore, rejected.

At the Management Services Committee meeting, the members reviewed all subcommittee recommendations available to them. The members of the Management Services Committee include the chairpersons and vice-chairpersons of the committees, who generally have many years experience working in the industries. They, too, discussed recommendations of subcommittees and were free to make alternative recommendations or revise recommendations to the committees, as they reviewed such recommendations.

Like committee meetings, subcommittee meetings are open to the public and comments are widely solicited.

This rule does not impose any additional reporting and recordkeeping requirements on either small or large handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce

information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. However, as previously stated, nectarines and peaches under the orders have to meet certain requirements set forth in the standards issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*). Standards issued under the Agricultural Marketing Act of 1946 are otherwise voluntary.

In addition, the committees' meetings were widely publicized throughout the nectarine and peach industries and all interested parties were invited to attend the meetings and participate in committee deliberations on all issues. These meetings are held annually during the last week of November or first week of December. Like all committee meetings, the November 30, 1999, meetings were public meetings and all entities, both large and small, were able to express views on these issues. The committees themselves are composed of producers. 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.

After consideration of all relevant matters presented, the information and recommendations submitted by the committees, 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 handling requirements currently prescribed under the marketing orders for California fresh nectarines and peaches. 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 rule until 30 days after publication in the **Federal Register** because: (1) California nectarine and peach producers and handlers should be apprised of this rule as soon as possible,

since early shipments of these fruits are expected to begin about April 1; (2) this rule relaxes grade requirements for nectarines and peaches and size requirements for several nectarine and peach varieties; (3) this rule relaxes container marking requirements for all containers; and (4) the committees unanimously recommended these changes at a public meeting and interested persons had an opportunity to provide input; and (5) the rule provides a 60-day comment period, and any written comments received will be considered prior to any finalization of this interim final rule.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 916 and 917 are amended as follows:

1. The authority citation for 7 CFR parts 916 and 917 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 916—NECTARINES GROWN IN CALIFORNIA

2. Section 916.115 is revised to read as follows:

§ 916.115 Lot stamping.

Except when loaded directly into railway cars, exempted under § 916.110, or for nectarines mailed directly to consumers in consumer packages, all exposed or outside containers of nectarines, and not less than 75 percent of the total containers on a pallet, shall be plainly stamped, prior to shipment, with a Federal-State Inspection Service lot stamp number, assigned by such Service, showing that such fruit has been USDA inspected in accordance with § 916.55: *Provided*, That for the period April 1 to October 31, 2000, pallets of returnable plastic containers shall have the lot stamp numbers affixed to each pallet with a USDA-approved pallet tag, in addition to the lot stamp numbers and other required information on cards on the individual containers.

3. Section 916.350 is amended by:
a. Revising paragraphs (a)(3) and
b. Revising paragraph (d) to read as follows:

§ 916.350 California nectarine container and pack regulation.

(a) * * *

(3) Each package or container of nectarines, except for consumer packages in master containers and consumer packages mailed directly to consumers, shall bear on one outside end clearly and legibly in plain sight and in plain letters the words “U.S. Mature” or “US MAT” if such nectarines are mature as defined in the United States Standards for Grades of Nectarines (7 CFR 51.3145 through 51.3160); or may instead bear on one outside end clearly and legibly in plain sight and in plain letters the words “California Well Matured” or “CA WELL MAT” if such nectarines are well matured as defined in § 916.356.

* * * * *

(d) During the period April 1 through October 31, 2000, each container or package when packed with nectarines meeting the “CA Utility” quality requirements, shall bear the words “CA Utility,” along with all other required container markings, in letters at least $\frac{3}{8}$ inch in height on the visible display panel. Consumer bags or packages must also be clearly marked on the consumer bags or packages as “CA Utility,” along with other required markings, in letters at least $\frac{3}{8}$ inch in height.

* * * * *

4. Section 916.356 is amended by:
a. Revising the introductory text of paragraph (a)(1);
b. Revising TABLE 1 of paragraph (a)(1)(iv); and,
c. Revising the introductory text of paragraphs (a)(3), (a)(4) and (a)(6), to read as follows:

§ 916.356 California nectarine grade and size regulation.

(a) * * *

(1) Any lot or package or container of any variety of nectarines unless such nectarines meet the requirements of U.S. No. 1 grade: *Provided*, That nectarines 2 inches in diameter or smaller, shall not have fairly light-colored, fairly smooth scars which exceed an aggregate area of a circle $\frac{3}{8}$ inch in diameter, and nectarines larger than 2 inches in diameter shall not have fairly light-colored, fairly smooth scars which exceed an aggregate area of a circle $\frac{1}{2}$ inch in diameter: *Provided further*, That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen: *Provided further*, That all varieties of nectarines which fail to meet the U.S. No. 1 grade only on account of lack of blush or red color due to varietal characteristics shall be considered as meeting the requirements of this subpart: *Provided further*, That during the period April 1 through October 31, 2000, any handler may handle nectarines if such nectarines meet “CA

Utility” quality requirements. The term “CA Utility” means that not more than 40 percent of the nectarines in any container meet or exceed the requirements of the U.S. No. 1 grade, except that when more than 30 percent of the nectarines in any container meet or exceed the requirements of U.S. No. 1 grade, the additional 10 percent shall have non-scoreable blemishes as determined when applying the U.S. Standards for Grades of Nectarines; and that such nectarines are mature and are:

* * * * *

(iv) * * *

TABLE 1

Column A variety	Column B maturity guide
Alshir Red	J
April Glo	H
August Glo	L
August Lion	J
August Red	J
Aurelio Grand	F
Autumn Delight	L
Autumn Grand	L
Big Jim	J
Diamond Jewel	L
Diamond Ray	L
Earliglo	I
Early Diamond	J
Early May	F
Early May Grand	H
Early Red Jim	J
Early Sungrand	H
Fairlane	L
Fantasia	J
Firebrite	H
Flamekist	L
Flaming Red	K
Flavortop	J
Grand Diamond	L
Independence	H
July Red	L
June Brite	I
Juneglo	H
Kay Diamond	L
King Jim	L
Kism Grand	J
Late Le Grand	L
Late Red Jim	J
May Diamond	I
May Fire	H
Mayglo	H
May Grand	H
May Jim	I
May Kist	H
May Lion	J
Mid Glo	L
Moon Grand	L
Niagara Grand	H
P-R Red	L
Red Diamond	L
Red Delight	I
Red Fred	J
Red Free	L
Red Glen	J

TABLE 1—Continued

Column A variety	Column B maturity guide
Red Glo	I
Red Grand	H
Red Jim	L
Red May	J
Rio Red	L
Rose Diamond	J
Royal Delight	F
Royal Giant	I
Royal Glo	I
Ruby Diamond	L
Ruby Grand	J
Ruby Sun	J
Scarlet Red	K
September Grand	L
September Red	L
Sheri Red	J
Sparkling June	L
Sparkling May	J
Sparkling Red	L
Spring Bright	L
Spring Diamond	L
Spring Red	H
Star Brite	J
Summer Beaut	H
Summer Blush	J
Summer Bright	J
Summer Diamond	L
Summer Fire	L
Summer Grand	L
Summer Lion	L
Summer Red	L
Sunburst	J
Sun Diamond	I
Sun Grand	G
Super Star	G
Tom Grand	L
Zee Glo	J
Zee Grand	I

Note: Consult with the Federal or Federal-State Inspection Service Supervisor for the maturity guides applicable to the varieties not listed above.

* * * * *

(3) Any package or container of Mayglo variety of nectarines on or after May 6 of each year, or Earliglo, Early Diamond, Johnny's Delight, May Jim, or May Kist variety nectarines unless:

* * * * *

(4) Any package or container of Arctic Glo, Arctic Rose, Arctic Star, Diamond Bright, Diamond Jewel, Juneglo, June Pearl, Kay Glo, Kay Sweet, May Diamond, May Grand, May Lion, Prima Diamond IV, Prima Diamond 13, Prince Jim, Red Delight, Red Glo, Rose Diamond, Royal Glo, Sparkling May, Star Brite, White Sun, or Zee Grand variety nectarines unless:

* * * * *

(6) Any package or container of Alshir Red, Alta Red, Arctic Blaze, Arctic Gold, Arctic Jay, Arctic Pride, Arctic Queen, Arctic Snow (White Jewel), Arctic Sweet, August Glo, August Lion, August Red, August Snow, Autumn Delight, Big

Jim, Brite Pearl, Cole Red, Crystal Rose, Diamond Ray, Early Red Jim, Fairlane, Fantasia, Firebrite, Fire Pearl, Fire Sweet, Flame Glo, Flaming Red, Grand Diamond, Grand Pearl, Honey Blaze, Honey Kist, July Red, Kay Bright, Kay Diamond, King Jim, Late Red Jim, Mid Glo, Niagara Grand, P-R Red, Prima Diamond IX, Prima Diamond XVI, Prima Diamond XVIII, Prima Diamond XIX, Prima Diamond XXIV, Red Diamond, Red Glen, Red Jim, Regal Pearl, Rio Red, Royal Giant, Ruby Diamond, Ruby Pearl, Ruby Sweet, Scarlet Red, September Red, Sparkling June, Sparkling Red, Spring Bright, Spring Diamond, Spring Red, Summer Beaut, Summer Blush, Summer Bright, Summer Diamond, Summer Fire, Summer Grand, Summer Lion, Summer Red, Sunburst, Sun Diamond, Sunny Red, Super Star, Terra White, White September, or Zee Glo variety nectarines unless:

* * * * *

PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

5. Section 917.150 is revised to read as follows:

§ 917.150 Lot stamping.

Except when loaded directly into railway cars, exempted under § 917.143, or for peaches mailed directly to consumers in consumer packages, all exposed or outside containers of peaches, and not less than 75 percent of the total containers on a pallet, shall be plainly stamped, prior to shipment, with a Federal-State Inspection Service lot stamp number, assigned by such Service, showing that such fruit has been USDA inspected in accordance with § 917.45: *Provided:* That for the period April 1 to November 23, 2000, pallets of returnable plastic containers shall have the lot stamp numbers affixed to each pallet with a USDA-approved pallet tag, in addition to the lot stamp numbers and other required information on cards on the individual containers.

6. Section 917.442 is amended by:

- a. Revising paragraphs (a)(3); and
- b. Revising paragraph (d) to read as follows:

§ 917.442 California peach container and pack regulation.

(a) * * *

(3) Each package or container of peaches, except for consumer packages in master containers and consumer packages mailed directly to consumers, shall bear on one outside end clearly and legibly in plain sight and in plain letters the words "U.S. Mature" or "US MAT" if such peaches are mature as defined in the United States Standards

for Grades of Peaches (7 CFR 51.1210 through 51.1223); or may instead bear on one outside end clearly and legibly in plain sight and in plain letters the words "California Well Matured" or "CA WELL MAT" if such peaches are well matured as defined in § 917.459.

* * * * *

(d) During the period April 1 through November 23, 2000, each container or package when packed with peaches meeting the "CA Utility" quality requirements, shall bear the words "CA Utility," along with all other required container markings, in letters at least $\frac{3}{8}$ inch in height on the visible display panel. Consumer bags or packages must also be clearly marked on the consumer bags or packages as "CA Utility," along with other required markings, in letters at least $\frac{3}{8}$ inch in height.

* * * * *

7. Section 917.459 is amended by:

- a. Revising the introductory text of paragraph (a)(1);
- b. Revising TABLE 1 of paragraph (a)(1)(iv); and
- c. Revising the introductory text of paragraphs (a)(5) and (a)(6) to read as follows:

§ 917.459 California peach grade and size regulation.

(a) * * *

(1) Any lot or package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade: *Provided*, That an additional 25 percent tolerance shall be permitted for fruit with open sutures which are damaged, but not seriously damaged: *Provided Further*, That peaches of the Peento type shall be permitted a 10 percent tolerance for healed, non-serious, blossom-end growth cracks: *Provided further*, That during the period April 1 through November 23, 2000, any handler may handle peaches if such peaches meet "CA Utility" quality requirements. The term "CA Utility" means that not more than 40 percent of the peaches in any container meet or exceed the requirements of the U.S. No. 1 grade, except that when more than 30 percent of the peaches in any container meet or exceed the requirements of U.S. No. 1 grade, the additional 10 percent shall have non-scoreable blemishes as determined when applying the U.S. Standards for Grades of Peaches; and that such peaches are mature and are:

* * * * *

(iv) * * *

TABLE 1

Column A variety	Column B maturity guide
Amber Crest	G
Angelus	I
August Lady	L
Autumn Gem	I
Autumn Lady	H
Autumn Rose	H
Blum's Beauty	G
Cal Red	I
Carnival	I
Cassie	H
Coronet	E
Crimson Lady	J
Crown Princess	J
David Sun	I
Diamond Princess	J
Earli Rich	H
Early Delight	H
Early Elegant Lady	L
Early May Crest	H
Early O'Henry	I
Early Top	G
Elberta	B
Elegant Lady	L
Fairtime	G
Fancy Lady	J
Fay Elberta	C
Fire Red	I
First Lady	D
Flamecrest	I
Flavorcrest	G
Flavor Queen	H
Flavor Red	G
Franciscan	G
Goldcrest	H
Honey Red	G
John Henry	J
July Elberta	C
June Lady	G
June Pride	J
Kern Sun	H
Kingscrest	H
Kings Lady	I
Kings Red	I
Lacey	I
Lady Sue	L
Late Ito Red	L
May Crest	G
May Sun	I
Merrill Gem	G
Merrill Gemfree	G
O'Henry	I
Pacifica	G
Prima Gattie 8	L
Queencrest	G
Ray Crest	G
Red Dancer (Red Boy)	I
Redhaven	G
Red Lady	G
Redtop	G
Regina	G
Rich Lady	J
Rich May	H
Rich Mike	H
Rio Oso Gem	I
Royal Lady	J
Royal May	G
Ruby May	H
Ryan Sun	I
September Sun	I
Sierra Crest	H

TABLE 1—Continued

Column A variety	Column B maturity guide
Sierra Lady	I
Sparkle	I
Springcrest	G
Spring Lady	H
Sugar Lady	J
Summer Lady	L
Summerset	I
Suncrest	G
Sweet Scarlet	J
Topcrest	H
Tra Zee	J
Willie Red	G
Zee Lady	L

Note: Consult with the Federal or Federal-State Inspection Service Supervisor for the maturity guides applicable to the varieties not listed above.

* * * * *

(5) Any package or container of Babcock, Brittany Lane, Crimson Lady, Crown Princess, David Sun, Early May Crest, Flavorcrest, June Lady, Kern Sun, May Crest, May Sun, Merrill Gemfree, Pink Rose, Prima Peach IV, Queencrest, Ray Crest, Redtop, Rich May, Rich Mike, Snow Brite, Snow Prince, Springcrest, Spring Lady, Spring Snow, Sugar May, Sweet Scarlet, White Dream, Zee Diamond, 012-094, or 172LE White Peach (Crimson Snow/Sunny Snow) variety of peaches unless:

* * * * *

(6) Any package or container of Amber Crest, August Lady, Autumn Flame, Autumn Lady, Autumn Rose, Cal Red, Carnival, Cassie, Champagne, Country Sweet, Diamond Princess, Earli Rich, Early Elegant Lady, Early O'Henry, Elegant Lady, Fairtime, Fancy Lady, Fay Elberta, Flamecrest, Full Moon, John Henry, June Pride, Kaweah, Kings Lady, Lacey, Late Ito Red, Late September Snow, Madonna Sun, Morning Lord, N117, O'Henry, Prima Gattie, Prima Peach 13, Prima Peach 20, Prima Peach 23, Queen Lady, Red Dancer, Red Sun, Rich Lady, Royal Lady, Ryan Sun, Saturn (Donut), Scarlet Snow, September Snow, September Sun, Sierra Gem, Sierra Lady, Snow Blaze, Snow Giant, Snow King, Sprague Last Chance, Sugar Giant, Sugar Lady, Summer Lady, Summer Sweet, Summer Zee, Suncrest, Sweet Kay, Sweet September, Tra Zee, Vista, White Lady, Yukon King, or Zee Lady variety of peaches unless:

* * * * *

Dated: March 16, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00-7086 Filed 3-21-00; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV00-989-1 FR]

Raisins Produced From Grapes Grown in California; Changes in Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule changes the reporting requirements specified under the administrative rules and regulations of the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (Committee). This rule makes minor changes to two reports submitted by handlers regarding the receipt and disposition of non-California raisins (raisins produced from grapes grown outside California). These changes will reduce the reporting burden on handlers and provide the Committee with better information on non-California raisins.

EFFECTIVE DATE: August 1, 2000.

FOR FURTHER INFORMATION CONTACT:

Maureen T. Pello, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, 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, or 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.