

Act, this rule does not need to be published for notice and comment.

List of Subjects in 7 CFR Parts 400, 401, 403, 405, 406, 409, 414, 415, 416, 422, 425, 430, 433, 435, 437, 441, 443, 445, 446, 447, 450, 451, 454, 455, 456, and 458

Crop Insurance.

Final Rule

Accordingly, under the authority of 7 U.S.C. 1506 (l), 1506(p), the Federal Crop Insurance Corporation hereby amends 7 CFR chapter IV as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

1. The authority citation for part 400 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

Subparts A, B, D, and N—[Removed and Reserved]

2. In part 400, remove and reserve Subparts A, B, D, and N.

Subpart T—[Amended]

3. In part 400, remove and reserve §§ 400.656 and 400.657.

PART 401—[Removed and Reserved]

4. Part 401 is removed and reserved.

PART 403—[Removed and Reserved]

5. Part 403 is removed and reserved.

PART 405—[Removed and Reserved]

6. Part 405 is removed and reserved.

PART 406—[Removed and Reserved]

7. Part 406 is removed and reserved.

PART 409—[Removed and Reserved]

8. Part 409 is removed and reserved.

PART 414—[Removed and Reserved]

9. Part 414 is removed and reserved.

PART 415—[Removed and Reserved]

10. Part 415 is removed and reserved.

PART 416—[Removed and Reserved]

11. Part 416 is removed and reserved.

PART 422—[Removed and Reserved]

12. Part 422 is removed and reserved.

PART 425—[Removed and Reserved]

13. Part 425 is removed and reserved.

PART 430—[Removed and Reserved]

14. Part 430 is removed and reserved.

PART 433—[Removed and Reserved]

15. Part 433 is removed and reserved.

PART 435—[Removed and Reserved]

16. Part 435 is removed and reserved.

PART 437—[Removed and Reserved]

17. Part 437 is removed and reserved.

PART 441—[Removed and Reserved]

18. Part 441 is removed and reserved.

PART 443—[Removed and Reserved]

19. Part 443 is removed and reserved.

PART 445—[Removed and Reserved]

20. Part 445 is removed and reserved.

PART 446—[Removed and Reserved]

21. Part 446 is removed and reserved.

PART 447—[Removed and Reserved]

22. Part 447 is removed and reserved.

PART 450—[Removed and Reserved]

23. Part 450 is removed and reserved.

PART 451—[Removed and Reserved]

24. Part 451 is removed and reserved.

PART 454—[Removed and Reserved]

25. Part 454 is removed and reserved.

PART 455—[Removed and Reserved]

26. Part 455 is removed and reserved.

PART 456—[Removed and Reserved]

27. Part 456 is removed and reserved.

PART 458—[Removed and Reserved]

28. Part 458 is removed and reserved.

Signed in Washington, DC, on March 14, 2002.

Ross J. Davidson, Jr.,

Manager, Federal Crop Insurance Corporation.

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BILLING CODE 3410-08-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV02-916-1 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, container, container marking, and pack requirements for fresh shipments of these fruits, beginning with 2002 season shipments. This rule also continues a modification of the requirements for placement of Federal-State Inspection Service lot stamps for the 2002 season only, adds a new standard container, and establishes weight-count standards for Peento (donut) variety peaches. 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 interests of producers, handlers, and consumers of these fruits.

DATES: Effective April 6, 2002.

Comments received by June 4, 2002, 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, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938, 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, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

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 (559) 487-5901, Fax: (559) 487-5906; or George Kelhart, Technical Advisor, 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 rule is issued under Marketing Agreement 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 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 (USDA) 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 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 in 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.

Under the orders, lot stamping, grade, size, maturity, container, container marking, 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 29, 2001, and unanimously recommended that these handling requirements be revised for the 2002 season, which begins about the first or second week of April. The changes: (1) Continue the lot stamping requirements which were in effect for the 2000 and 2001 seasons; (2) authorize shipments of "CA Utility" quality fruit to continue during the 2002 season; (3) establish weight-count standards for the Peento (donut) variety peaches; (4) require shippers' names and addresses on all containers; (5) add the Euro five-down returnable plastic container as a standard container, establish a net weight for the container, and exempt the container from the "well-filled" requirement; and (6) revise varietal maturity, quality, and size requirements to reflect changes in growing and marketing practices.

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 are encouraged to express their views at these meetings. USDA 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 2002 crop will be similar in size and characteristics to the 2001 crop, which totaled 21,924,566 containers of nectarines and 24,030,282 containers 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 before shipment to show that the fruit has been inspected. These requirements apply except for containers that are loaded directly onto railway cars, 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 inspector's corresponding working papers or field 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 to by the inspector at the time of the inspection.

The lot stamp number has value for the industries, as well. The committees utilize the lot stamp number and date codes to trace fruit in the container back to the orchard where it was 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.

Over the last few years, several new containers have been introduced for use by nectarine and peach handlers. These containers are returnable plastic containers (RPCs). Use of RPCs may represent substantial savings to retailers for storage and disposal, as well as for handlers who do not have to pay for traditional, single-use, containers. Fruit is packed in the containers by the handler, delivered to the retailer, emptied, and returned to a central clearinghouse for cleaning and redistribution to the handler. However, because these containers are designed for reuse, RPCs do not support markings that are permanently affixed to the container. All markings must be printed on cards that slip into tabs on the front or sides of the containers. The cards are easily inserted and removed, and further contribute to the efficient reuse of RPCs.

The cards are a concern for the inspection service and the industries 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 for the 2000 and 2001 seasons, the committees recommended that pallets of inspected fruit in RPCs 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, noted the committees, an audit trail would be created, confirming that the lot stamp number on each container on the pallet corresponds to the lot stamp number on the pallet tag.

The committees and the inspection service presented their concerns to the manufacturers of these types of containers prior to the 2000 season. At that time, one manufacturer indicated a willingness to address the problem by offering an area on the principal display panel where the container markings would adhere to the container. Another possible improvement discussed was for an adhesive for the current style of containers which would securely hold the cards with the lot stamp numbers, yet would be easy for the clearinghouse to remove when the containers are washed. However, the changes were not in effect for the 2000 and 2001 seasons, but were anticipated to be in effect for the 2002 season.

In a meeting of the Returnable Plastic Container Task Force on November 15, 2001, it was determined that given the different styles and configurations of RPCs available, having a standardized display panel or a satisfactory adhesive for placement of the cards may not be realistic.

For those reasons, the task force recommended to the committees that the regulation in effect for the 2000 and 2001 seasons requiring lot stamp numbers on USDA-approved pallet tags, as well as on individual containers on a pallet, be again required for the 2002 season. The committees, in turn, recommended unanimously that such requirement be extended for the 2002 season, as well.

Thus, §§ 916.115 and 917.150 will be amended to require the lot stamp number to be printed on a USDA-approved pallet tag, in addition to the requirement that the lot stamp number be applied to cards on all exposed or outside containers, and not less than 75 percent of the total containers on a pallet, during the 2002 season.

Container and Pack Requirements

Sections 916.52 and 917.41 of the orders authorize establishment of container, pack, and marking

requirements for shipments of nectarines and peaches, respectively. Under this rule, the well-filled requirements, container marking requirements, and list of standard containers are revised in accordance with the recommendations of the NAC and PCC.

Well-Filled Requirements

Under paragraphs (a)(1) of §§ 916.350 and 917.442, all containers of nectarines and peaches, respectively, are required to conform to the requirements of standard pack, and volume-filled containers are further required to be "well-filled." "Well-filled" means that nectarines and peaches in any volume-filled container must be filled to within one inch of the top of the container.

With the addition of the RPCs, handlers are frequently unable to well-fill those containers without either damaging the fruit inside or making the container too heavy. For this reason, applying the requirements of "well-filled" to this container is impractical.

The Returnable Plastic Container Task Force discussed this issue at their meeting on November 15, 2001, and unanimously agreed that the requirement for the Euro five down box to meet the well-filled requirement was difficult for handlers utilizing that RPC, and such requirement should not be applied to that container.

For those reasons, paragraphs (a)(1) of §§ 916.350 and 917.442 will be revised to specify that the Euro five down box is not required to meet the well-filled requirement.

Container Marking Requirements

Sections 916.350 and 917.442 establish certain requirements for marking containers of nectarines and peaches, respectively. Currently, all containers of nectarines and peaches, other than consumer packages mailed directly to consumers, are required to be marked with the name and address of the shipper. While some containers (like bulk containers, master containers of consumer packages, and consumer packages not mailed directly to consumers) are required to have the name and address of the shipper printed on the box, that is not true for other container types.

Requiring the handler to print his or her name and address on each container will ensure that all boxes are properly identified for handler responsibility. Such proper identification will also assist the industry's trace back program by providing additional information for beginning the trace.

The Returnable Plastic Container Task Force discussed this issue at their

meeting on November 15, 2001, and unanimously voted to recommend to the NAC and PCC that the requirement for the name and address of the shipper be extended to all types of containers. When the committees met on November 29, 2001, they unanimously voted to do so.

Addition of a New Standard Container

In the rules and regulations for nectarines at § 916.350, current paragraphs (a)(5) and (a)(6), and for peaches at § 917.442, current paragraphs (a)(6) and (a)(7), standard containers, such as the Nos. 22D, 22E, 22G, and 32, are required to be marked with the net weight. Under paragraph (b) in §§ 916.350 and 917.442, such standard containers are defined. Once the use of a container has become common in the industry, such containers are determined to be standard containers. Standard containers represent container types that are recognized by the industry and adopted by the retail trade. As such, it is a practice of the committees to recommend that such containers be added to the list of standard containers together with container marking requirements.

At the November 29, 2001, meeting, the NAC and PCC, acting upon a recommendation from the Returnable Plastic Container Task Force, unanimously recommended that the Euro five down RPC be added to the list of standard containers and have a net weight of 31 pounds, which is to be printed on the end of the container.

Nectarines: For the reasons stated above, paragraph (a)(4) of § 916.350 is redesignated as paragraph (a)(5), and a new paragraph (a)(4) of § 916.350 is added to require all containers of nectarines to be marked with the name and address of the shipper. The markings shall be placed on one outside end of the container in plain sight and in plain letters. Current paragraphs (a)(5) and (a)(6) are redesignated as (a)(6) and (a)(7), and a new paragraph (a)(8) is added to establish a 31-pound net weight for the Euro five down RPC. The net weight shall be marked on one outside end in plain sight and plain letters. Current paragraphs (a)(7), (a)(8), and (a)(9) are thus redesignated as paragraphs (a)(9), (a)(10) and (a)(11). In a conforming change, the reference in current paragraph (a)(4)(ii) to paragraph (a)(4)(i) should be changed to read "(a)(5)(i)," due to the redesignation of paragraph (a)(4) to (a)(5).

Peaches: For the reasons stated above, paragraph (a)(4) of § 917.442 is redesignated as paragraph (a)(5), and a new paragraph (a)(4) of § 917.442 is added to require all containers of

peaches to be marked with the name and address of the shipper. The markings shall appear on one outside end of the container in plain sight and plain letters. Current paragraphs (a)(5), (a)(6), and (a)(7) are redesignated as (a)(6), (a)(7), and (a)(8). A new paragraph (a)(9) is added to establish a net weight of 31-pounds for the Euro five down RPC. The net weight shall appear on one outside end of the container in plain sight and plain letters. Current paragraphs (a)(8), (a)(9), and (a)(10) are thus redesignated (a)(10), (a)(11), and (a)(12). In a conforming change, the reference in current paragraph (a)(4)(ii) to paragraph (a)(4)(i) should be changed to read "(a)(5)(i)," due to the redesignation of paragraph (a)(4) to (a)(5).

In addition, paragraph (b) of §§ 916.350 and 917.442 will be revised to add the Euro five down container to the list of standard containers. The California Department of Food and Agriculture is expected to assign this container a number, like the 22D or 32 nectarine and peach containers, once the container is added to the California Agricultural Code. At that time, the common name currently used, Euro five down, will be replaced by the assigned number.

Weight-Count Standards for Peaches

Under the requirements of § 917.41 of the order, containers of peaches are required to meet weight-count standards for a maximum number of peaches in a 16-pound sample when such peaches, which may be packed in tray-packed containers, are converted to volume-filled containers. Under § 917.442 of the order's rules and regulations, weight-count standards are established for all varieties of peaches as TABLES 1 and 2 of redesignated paragraph (a)(5)(iv).

According to the PCC, the Peento varieties of donut peaches have traditionally been packed in trays because they have been marketed as a premium variety, which justified the added packing costs.

However, as the volume has increased, the value of the variety has diminished in the marketplace, and some handlers converted their tray-packed containers of Peento varieties to volume-filled containers. Current weight-count standards established for peaches and nectarines were developed for round fruit. Peento type peaches are shaped like donuts, and those weight-count standards are inappropriate. In an effort to standardize the conversion from tray-packing to volume-filling for Peento type peaches, the committee staff conducted weigh-count surveys during the 2001 season to determine the most

optimum weight-counts for the varieties at varying fruit sizes.

As a result, the staff prepared a new weight-count table applicable to only the Peento varieties. The Grade and Size Subcommittee reviewed the weight-counts at their November 15, 2001, meeting and recommended to the PCC that they be implemented for the 2002 season.

The committee staff will continue to conduct further weight-count surveys to ensure that the Peento varieties, which are packed in volume-filled containers, meet the weight-count standards established for tray-packed fruit.

For those reasons, a new Table 3 will be added to redesignated paragraph (a)(5)(iv) of § 917.442, following Tables 1 and 2. In a conforming change, the title of the Tables 1 and 2 will be revised by adding the words "(except Peento variety peaches)" between the words "peaches" and "packed."

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 for 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 2002 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 have been permitted each season since 1996.

Studies conducted by the NAC and PCC in 1996 indicated 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 represented 1.1 percent of all nectarine shipments, or approximately 210,000 containers. Shipments of "CA Utility" nectarines reached a high of 5 percent (1,131,000 containers) during the 2001 season, but usually represent approximately 4 percent of total nectarine shipments. Shipments of "CA

Utility" peaches totaled 1.9 percent of all peach shipments, or approximately 366,000 containers, during the 1996 season. Shipments of "CA Utility" peaches reached a high of 5 percent of all peach shipments (1,031,000 containers) during the 2001 season, but usually represent approximately 4 percent of total peach shipments.

Handlers have also commented that the availability of "CA Utility" lends flexibility to their packing operations. They have noted that they now have the opportunity to remove marginal nectarines and peaches from their U.S. No. 1 containers and place this fruit in containers of "CA Utility." This flexibility, the handlers note, results in better quality U.S. No. 1 packs without sacrificing fruit.

The Grade and Size Subcommittee met on November 15 and did not make a recommendation to the NAC and PCC to continue shipments of "CA Utility" quality nectarines and peaches. Several subcommittee members raised a number of concerns about "CA Utility" quality fruit, including that the fruit is not reaching its intended low income consumer markets and that there are reduced returns to growers on "CA Utility" quality fruit. The authorized tolerance of 40 percent U.S. No. 1 fruit in each container of "CA Utility" quality was raised, and a suggestion was made that the tolerance should be eliminated so that no U.S. No. 1 fruit would be in a box.

At the full committee meeting, committee staff discussed the benefits of having a "CA Utility" quality for nectarines and peaches. Such benefits included improved quality of the fruit itself, improved compliance of marketing order requirements, and increased assessments. Further, elimination of the tolerances for U.S. No. 1 fruit in each container of "CA Utility" quality fruit was discussed. It was noted that this would likely result in higher inspection costs to handlers.

Accordingly, based upon the recommendations, paragraph (d) of §§ 916.350 and 917.442, and paragraph (a)(1) of §§ 916.356 and 917.459 are revised to permit shipments of nectarines and peaches meeting "CA Utility" quality requirements during the 2002 season, on the same basis as the 2000 and 2001 seasons.

Maturity Requirements

In §§ 916.52 and 917.41, authority is provided 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. For most

varieties, "well-matured" determinations for nectarines and peaches 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 upon the most-recent information available on the individual characteristics of each nectarine and peach 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 2002 handling regulations are the same as those that appeared in the 2001 handling regulations 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. This rule revises TABLE 1 of paragraph (a)(1)(iv) of § 916.356 to add maturity guides for ten varieties of nectarines. Specifically, SPI recommended adding maturity guides for the Fire Sweet, Honey Blaze, Ruby Sweet, September Free, and Spring Sweet varieties to be regulated at the J maturity guide; and the Flame Glo, Gran Sun, Prima Diamond XIII, Red Jewel, and Spring Ray to be regulated at the L maturity guide.

The NAC recommended these maturity guide 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 nectarine varieties in production.

Peaches: Requirements for "well-matured" peaches are specified in § 917.459 of the order's rules and regulations. This rule revises TABLE 1 of paragraph (a)(1)(iv) of § 917.459 to add maturity guides for eleven varieties of peaches. Specifically, SPI recommended adding maturity guides for the Spring Delight variety to be regulated at the G maturity guide; the Super Rich variety to be regulated at the H maturity guide, for the 60EF32 variety to be regulated at the I maturity guide; Brittney Lane, Joanna Sweet, Madonna Sun, Morning Lord, Sweet Dream, Sweet Gem, and Sweet Mick varieties to be regulated at the J maturity guide; and the Sprague Last Chance variety to be regulated at the L maturity guide.

In addition, SPI requested that the Sugar Lady variety of peaches be removed from the maturity guide listing

in TABLE 1 of paragraph (a)(1)(iv) of § 917.459. White-fleshed peaches and nectarines would be more accurately assessed by other criteria, including cutting the fruit. The committees unanimously recommended such a change at their meetings.

For those reasons TABLE 1 of paragraph (a)(1)(iv) of § 917.459 will be revised to remove the Sugar Lady variety and its corresponding maturity guide assignment.

The Joanna Sweet peach variety was also recommended to have a one hundred percent surface color requirement for meeting the assigned color chip rather than the current ninety percent. This recommendation is based upon SPI's experience with the maturity characteristics of this variety.

Thus, paragraph (a)(1)(iv) of § 917.459 will be revised to reflect this requirement.

The PCC recommended these maturity guide 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.

Size Requirements: Both orders provide (in §§ 916.52 and 917.41) authority to establish size requirements. Size regulations encourage producers to leave fruit on the tree longer, which improves both size and maturity of the fruit. Acceptable fruit size provides greater consumer satisfaction and promotes repeat purchases; and, therefore, increases returns to producers and handlers. In addition, increased fruit size results in increased numbers of packed containers of nectarines and peaches per acre, also a benefit to producers and handlers.

Varieties recommended for specific size regulations 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 attained by the regulated varieties and those varieties with the potential to become regulated, and determine whether revisions and additions to 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 13 varieties of nectarines, which were produced in commercially-significant quantities of more than 10,000 containers for the first time during the 2001 season. This rule also removes the variety-specific

minimum size requirements for 3 varieties of nectarines whose shipments fell below 5,000 containers during the 2001 season.

For example, one of the varieties recommended for addition to the variety-specific minimum size requirements is the Arctic Ice variety of nectarines, recommended for regulation at a minimum size 80. Studies of the size ranges attained by the Arctic Ice variety revealed that 100 percent of the containers met the minimum size of 80 during the 2001 season. Sizes ranged from size 30 to size 80, with 3 percent of the packages in the 30 sizes, 47 percent of the packages in the 40 sizes, 41 percent of the packages in the 50 sizes, 5.4 percent in the 60 sizes, 3.5 percent in the 70 sizes, and .2 percent at size 80. Due to rounding, these numbers add up to slightly more than 100 percent.

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

Historical 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 the staff receives such comments, either in writing or verbally.

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 Prima Diamond VI and the Prince Jim 1 nectarine varieties; and the introductory text of paragraph (a)(6) of § 916.356 is revised to include the Arctic Ice, Bright Sweet, Grand Sweet, June Lion, Kay Pearl, Prima Diamond XXVIII, Regal Red, September Bright (26P-490), Summer Jewel, Sun Valley Sweet, and Sweet White nectarine varieties.

This rule also revises the introductory text of paragraphs (a)(4) and (a)(6) of § 916.356 to remove 3 varieties from the variety-specific minimum size requirements specified in these paragraphs because less than 5,000 containers of each of these varieties

were produced during the 2001 season. Specifically, the introductory text of paragraph (a)(4) of § 916.356 is revised to remove the Arctic Glo nectarine variety; and the introductory text of paragraph (a)(6) of § 916.356 is revised to remove the Cole Red and Mid Glo nectarine varieties.

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

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 19 peach varieties that were produced in commercially-significant quantities of more than 10,000 containers for the first time during the 2001 season. This rule also removes the variety-specific minimum size requirements for 1 variety of peaches whose shipments fell below 5,000 containers during the 2001 season.

For example, one of the varieties recommended for addition to the variety-specific minimum size requirements is the Bev's Red variety of peaches, which was recommended for regulation at a minimum size 80. Studies of the size ranges attained by the Bev's Red variety revealed that 100 percent of the containers met the minimum size of 80 during the 2001 season. The sizes ranged from the 30 sizes to the 80 sizes, with 3.4 percent of the containers meeting the 30 sizes, 15.9 percent meeting the 40 sizes, 53.8 percent meeting the 50 sizes, 20.4 percent meeting the 60 sizes, 5.5 percent meeting the 70 sizes, and 1.1 percent meeting the size 80.

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

Historical 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 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 PCC and subcommittee meetings when the staff receives such comments, either in writing or verbally.

For reasons similar to those discussed in the preceding paragraph, the introductory text of paragraph (a) (2) of § 917.459 is revised to include the 91002 peach variety; and the introductory text of paragraph (a)(3) of § 917.459 is revised to include the Snow Kist peach variety; the introductory text of paragraph (a)(5) of § 917.459 is revised to include the Bev's Red, May Sweet, and Sunlit Snow (172LE81) peach varieties; and the introductory text of paragraph (a)(6) of § 917.459 is revised to include the Flaming Dragon, Jillie White, Joanna Sweet, July Flame, Prima Peach XXV, Prima Peach XXVII, Princess Gayle, Red Sun, September Flame, Snow Fall, Snow Gem, Spring Gem, Sweet Gem, and 24-SB peach varieties.

This rule also revises the introductory text of paragraph (a)(6) of § 917.459 to remove the Carnival peach variety from the variety-specific minimum size requirements specified in the section because less than 5,000 containers of each of these varieties was produced during the 2001 season.

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

This rule also corrects the spelling of the peach variety "Brittney Lane," incorrectly spelled as "Brittany Lane" in paragraph (a)(5) of § 917.459.

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

This rule reflects the committees' and USDA's appraisal of the need to revise the handling requirements for California nectarines and peaches, as specified. USDA believes that this rule will have a beneficial impact on producers, handlers, and consumers of fresh 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 fruit in the interests of producers, handlers, and consumers.

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 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 by the Small Business Administration [13 CFR 121.201] as those whose annual receipts are less than \$5,000,000. Small agricultural producers are defined by the Small Business Administration as those having annual receipts of less than \$750,000. A majority of these handlers and producers may be classified as small entities.

The committees' staff has estimated that there are less than 20 handlers in the industry who could be defined as other than small entities. In the 2001 season, the average handler price received was \$9.00 per container or container equivalent of nectarines or peaches. A handler would have to ship at least 556,000 containers to have annual receipts of \$5,000,000. Given data on shipments maintained by the committees' staff and the average handler price received during the 2001 season, the committees' staff estimates that small handlers represent approximately 94 percent of all the handlers within the industry.

The committees' staff has also estimated that less than 20 percent of the producers in the industry could be defined as other than small entities. In the 2001 season, the average producer

price received was \$5.50 per container or container equivalent for nectarines, and \$5.25 per container or container equivalent for peaches. A producer would have to produce at least 136,364 containers of nectarines and 142,858 containers of peaches to have annual receipts of \$750,000. Given data maintained by the committees' staff and the average producer price received during the 2001 season, the committees' staff estimates that small producers represent more than 80 percent of the producers within the industry.

Under §§ 916.52 and 917.41 of the orders, grade, size, maturity, container, container marking, and pack requirements are established for fresh shipments of California nectarines and peaches, respectively. Such requirements are in effect on a continuing basis. The NAC and PCC met on November 29, 2001, and unanimously recommended that these handling requirements be revised for the 2002 season. These recommendations had been presented to the committees by various subcommittees, each charged with review and discussion of the changes. The changes: (1) Continue the lot stamping requirements which were in effect for the 2000 and 2001 seasons; (2) authorize shipments of "CA Utility" quality fruit to continue during the 2002 season; (3) establish weight-count standards for Peento (donut) variety peaches; (4) require shippers' names and addresses on all containers; (5) add the Euro five-down returnable plastic container as a standard container, establish a net weight for that container, and exempt that container from the "well-filled" requirement; and (6) revise varietal maturity, quality, and size requirements to reflect changes in growing and marketing practices.

This rule authorizes continuation of the lot stamping requirements for returnable plastic containers under the marketing orders' rules and regulations that were in effect for such containers during the 2001 season for nectarine and peach shipments. The modified requirements of §§ 916.115 and 917.150 mandated that the lot stamp numbers be printed on a USDA-approved pallet tag, in addition to the requirement that the lot stamp number be applied to cards on all exposed or outside containers, and not less than 75 percent of the total containers on a pallet. Continuation of such requirements for the 2002 season would help the inspection service safeguard the identity of inspected and certified containers of nectarines and peaches, and would help the industry by keeping in place the information necessary to facilitate their "trace-back" program.

The Returnable Plastic Container Task Force and Grade and Size Subcommittee met on November 15, 2001, and considered possible alternatives to this action. Other alternatives were rejected because it was determined that given the different styles and configurations of RPCs available, having a standardized display panel or a satisfactory adhesive for placement of the cards may not be realistic, at least for the time being.

For those reasons, the task force recommended to the committees, and the committees voted unanimously, to extend the requirement for the lot stamp number to be printed on the cards on each container and for each pallet to be marked with a USDA-approved pallet tag, also containing the lot stamp number. Such safeguards were put in place to ensure that all the containers on each pallet had been inspected and certified in the event a card on an individual container or containers was removed, misplaced, or lost.

The Returnable Plastic Container Task Force met on November 15 to discuss issues relating to RPCs. At that time, they discussed volume filling of RPCs and its ramifications, specifically of the Euro five down container. They noted that RPCs are favored by many retailers and demanded by others, and that this particular container has become a standard container within the industry. In an effort to meet the demands and preferences for their customers, the Euro five down container has been used in increasing numbers in recent years. However, they noted, to maintain efficient packing operations, some container requirements needed to be reviewed, especially the requirement that all volume-filled RPC containers must be well filled. While the well-filled requirement may work for traditional boxes, the requirement may increase the amount of damage to fruit in RPCs or make the containers unwieldy and heavy. The task force considered leaving the requirement in place. However, given the potential for increased utilization of RPCs, and this container in particular, and the need to provide a quality product to customers, the alternative was rejected.

The Grade and Size Subcommittee met on November 15, 2001, to discuss the container marking requirement, among other things. At that time, it was noted by staff that not all containers are required to have the shipper's name and address printed on them. The subcommittee voted unanimously to recommend to the NAC and PCC that marking requirements be changed to require the shipper's name and address be placed on all containers.

Sections 916.350 and 917.442 establish certain requirements for marking containers of nectarines and peaches, respectively. Currently, all containers of nectarines and peaches, other than consumer packages mailed directly to consumers, are required to be marked with the name and address of the shipper. While some containers (like bulk containers, master containers of consumer packages, and consumer packages not mailed directly to consumers) are required to have the name and address of the shipper printed on the box, that is not true for other container types.

Requiring the handler to print his or her name and address on each container will ensure that all boxes are properly identified for handler responsibility. Such proper identification will also assist the industry's trace back program by providing additional information for beginning the trace.

In addition, the Returnable Plastic Container Task Force also deliberated the issue of making the Euro five down container a standard container and recommending a net weight for that container. It has been the practice of the committees to study the trends in containers used by the industry. Traditionally, corrugated containers have been the shippers container of choice. However, in recent years, the growth of RPCs has increased dramatically. In keeping with that practice, the Task Force determined that the Euro five down container has become an industry standard and may continue to be used by greater numbers of shippers. As such, any other alternative would not be viable.

Coupled with the recommendation to add the Euro five down container to the list of standard containers is the need to recommend an applicable net weight for the container. Assigning an appropriate net weight would foreclose other alternatives.

In 1996, §§ 916.350 and 917.442 were revised to permit shipments of "CA Utility" quality nectarines and peaches as an experiment during the 1996 season only. Such shipments have subsequently been permitted each season. Since 1996, shipments of "CA Utility" have ranged from 1 to 5 percent of total nectarine and peach shipments. This rule authorizes continued shipments of "CA Utility" quality nectarines and peaches during the 2002 season.

The Grade and Size Subcommittee met on November 15, 2001, and considered one alternative to this action. They considered not authorizing continued shipments of "CA Utility" quality nectarines and peaches. The

subcommittee, ultimately, did not make a recommendation to the NAC and PCC to continue shipments of "CA Utility" quality nectarines and peaches.

However, the NAC and PCC unanimously recommended implementation of the authority for continued shipments of "CA Utility" quality nectarines and peaches at their November 29, 2001, meeting. The committees voted to continue all requirements that are currently in effect, and then individually discussed any proposed changes, such as grade and size changes. There was discussion regarding shipments of "CA Utility" quality nectarines and peaches, based upon information from the Grade and Size Subcommittee, but the committees voted to continue such shipments along with all other requirements currently in effect.

Sections 916.350 and 917.442 establish container, pack, and marking requirements for shipments of nectarines and peaches, respectively. This rule makes changes to the pack and container marking requirements of the orders' rules and regulations to exempt RPCs from the well-filled requirement and add the requirement that all types of containers be marked with the shipper's name and address.

Section 917.442 also establishes minimum weight-count standards for containers of peaches. Under these requirements, containers of peaches are required to meet weight-count standards for a maximum number of peaches in a 16-pound sample when such peaches are packed in a tray-packed container. Those same maximum number of peaches are also applicable to volume-filled containers, based upon the tray-packed standard. In other words, the weight-count standard is developed so handlers may convert tray-packed peaches to volume-filled containers and be assured that the fruit in the volume-filled container will meet the maximum number of peaches in the 16-pound sample.

When the Grade and Size Subcommittee met on November 15, 2001, they discussed the recent changes in the packing and marketing of Peento (donut) variety peaches. When these varieties were first introduced and marketed, they were generally tray-packed because they were a novel and premium product. As production has increased, the value of the varieties has diminished in the marketplace, and some handlers have converted their tray-packed containers of Peento varieties to volume-filled containers.

The staff conducted weight-count studies during the 2001 season so that weight-count standards could be

developed, thus ensuring that all handlers are packing a standard maximum number of peaches in a 16-pound sample. Since weight-count standards provide a basis for volume filling of containers of other varieties of peaches, the subcommittee recommended that the NAC and PCC establish such standards for these unique varieties.

Sections 916.356 and 917.459 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 recommended by Shipping Point Inspection. 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 characteristics of nectarines and peaches as experienced over the previous season's inspections. Adjustments in the guides ensure that fruit has met an acceptable level of maturity, ensuring consumer satisfaction while benefiting nectarine and peach producers and handlers.

Currently, in § 916.356 of the nectarine order's rule and regulations, and in § 917.459 of the peach order's rule and regulations, minimum sizes for various varieties of nectarines and peaches, respectively, are established. This rule makes adjustments to the minimum sizes authorized for various varieties of nectarines and peaches for the 2002 season. Minimum size regulations are put in place to encourage producers to leave fruit on the trees for a longer period of time. This increased growing time not only improves maturity, but also increases fruit size. Increased fruit size increases the number of packed containers per acre; and coupled with heightened maturity levels, also provides greater consumer satisfaction, fostering repeat purchases. Such improved consumer satisfaction and repeat purchases benefit both producers and handlers alike. Annual adjustments to minimum sizes of nectarines and peaches, such as these, are recommended by the NAC and PCC based upon historical data, producer and handler information regarding sizes attained by different varieties, and trends in consumer purchases.

An alternative to such action would include not establishing minimum size regulations for these new varieties. Such an action, however, would be a significant departure from the committees' practices and represent a significant change in the regulations as

they currently exist, would ultimately increase the amount of less acceptable fruit being marketed to consumers, and, thus, would be contrary to the long-term interests of producers, handlers, and consumers. For these reasons, this alternative was not recommended.

The committees make recommendations regarding all the revisions in handling and lot stamping requirements after considering all available information, including comments of persons at several subcommittee meetings and comments received by committee staff. Such subcommittees include the Grade and Size Subcommittee, the Inspection and Compliance Subcommittee, the Returnable Plastic Container Task Force, and the Management Services Committee.

At the meetings, the impact of and alternatives to these recommendations are deliberated. These subcommittees and the task force, like the committees themselves, frequently consist of individual producers (and handlers, where authorized) with many years' experience in the industry who are familiar with industry practices. Like all committee meetings, subcommittee meetings are open to the public and comments are widely solicited. In the case of the Returnable Plastic Container Task Force, RPC manufacturers are also invited, as well as those handlers who currently use such boxes. Information from these sources assists the committees, subcommittees, and the task force in thoroughly examining and deliberating the issues that affect the entire industry in a public setting.

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.

USDA 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 CFR 1621 *et seq.*). Standards issued under the Agricultural Marketing Act of 1946 are otherwise voluntary.

In addition, the committees' meetings are widely publicized through the nectarine and peach industries and all interested parties are encouraged to attend 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 29, 2001, meetings were public meetings, and all entities, large and small, were encouraged to express views on these issues. In addition, various subcommittee meetings were held on November 15, 2001, and these regulations were reviewed and discussed. 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 changes 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 be about the first or second week of April; (2) this rule relaxes grade requirements for nectarines and peaches; (3) the committees unanimously recommended these changes at public meetings and interested persons had an opportunity to provide input; and (4) the rule provides a 60-day comment period, and any written comments timely received will be considered prior to any finalization of this interim final rule.

List of Subjects

7 CFR Part 917

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 6, 2002, to October 31, 2002, 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 paragraph (a)(1);

B. Redesignating current paragraphs (a)(7), (a)(8), and (a)(9) as (a)(9), (a)(10), and (a)(11); and adding a new paragraph (a)(8);

C. Redesignating current paragraphs (a)(4), (a)(5), and (a)(6) as (a)(5), (a)(6), and (a)(7); and adding a new paragraph (a)(4);

D. Revising redesignated paragraph (a)(5)(ii);

E. Revising paragraph (b); and

F. Revising paragraph (d) to read as follows:

§ 916.350 California nectarine container and pack regulation.

(a) * * *

(1) Such nectarines, when packed in any closed package or container, except master containers of consumer packages, individual consumer packages, and Euro five down reusable plastic containers, shall conform to the requirements of standard pack: *Provided*, That nectarines in any such volume-filled container need only be

filled to within one-inch of the top of the container.

* * * * *

(4) Each package or container of nectarines shall bear, on one outside end in plain sight and in plain letters, the name and address of the shipper.

* * * * *

(5) * * *

(ii) The size of nectarines in molded forms (tray-packs) in experimental containers, and in the No. 22G standard lug boxes, shall be indicated according to the number of such nectarines when packed in molded forms in the No. 22D standard lug box or the No. 32 standard box, in accordance with the requirements of standard pack, such as “80 size,” “88 size,” etc., along with count requirements in paragraph (a)(5)(i) of this section.

* * * * *

(8) Each Euro five down returnable plastic container of loose-filled nectarines shall bear on one outside end in plain sight and in plain letters the words “31 pounds net weight.”

* * * * *

(b) As used in this section, “standard pack” and “fairly uniform in size” shall have the same meaning as set forth in the U.S. Standards for Grades of Nectarines (Secs. 51.3145 to 51.3160) and all other terms shall have the same meaning as when used in the amended marketing agreement and order. A No. 12B standard fruit box measures 2³/₈ to 7¹/₈×11¹/₂×16¹/₈ inches, No. 22D standard lug box measures 2⁷/₈ to 7¹/₈×13¹/₂×16¹/₈ inches, No. 22E standard lug box measures 8³/₄×13¹/₂×16¹/₈ inches, No. 22G standard lug box measures 7³/₈ to 7¹/₂×13¹/₄×15⁷/₈, No. 32 standard box measures 5³/₄ to 7¹/₄×12×19³/₄ inches, and Euro five down standard box measures 3¹/₂ to 10³/₄×16×24 inches. All dimensions are given in depth (inside dimensions) by width by length (outside dimensions). “Individual consumer packages” means packages holding 15 pounds or less net weight of nectarines. “Tree ripe” means “tree ripened” and fruit shipped and marked as “tree ripe,” “tree ripened,” or any similar terms using the words “tree” and “ripe” must meet the minimum California Well Matured standards.

* * * * *

(d) During the period April 6, 2002, through October 31, 2002, 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 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 all other required markings, in letters at least $\frac{3}{8}$ inch in height.

* * * * *

4. Section 916.356 is amended by:

A. Revising paragraph

(a)(1)introductory text;

B. Revising TABLE 1 of paragraph

(a)(1)(iv); and

C. Revising the introductory text of paragraphs (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 6, 2002, through October 31, 2002, 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 the 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

TABLE 1—Continued

Column A variety	Column B maturity guide
Autumn Delight	L
Autumn Grand	L
Big Jim	J
Diamond Bright	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
Fire Sweet	J
Flame Glo	L
Flamekist	L
Flaming Red	K
Flavortop	J
Grand Diamond	L
Gran Sun	L
Honey Blaze	J
Honey Kist	I
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
Niagra Grand	H
P-R Red	L
Prima Diamond XIII	L
Red Delight	I
Red Diamond	L
Red Fred	J
Red Free	L
Red Glen	J
Red Glo	I
Red Grand	H
Red Jewel	L
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
Ruby Sweet	J
Scarlet Red	K
September Free	J
September Grand	L
September Red	L
Sheri Red	J
Sparkling June	L
Sparkling May	J
Sparkling Red	L
Spring Bright	L
Spring Diamond	L

TABLE 1—Continued

Column A variety	Column B maturity guide
Spring Ray	L
Spring Sweet	J
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
Sunecteight (Super Star)	G
Sun Grand	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.

* * * * *

(4) Any package or container of Arctic Rose, Arctic Star, Diamond Bright, Juneglo, June Pearl, Kay Glo, Kay Sweet, May Diamond, May Grand, Prima Diamond IV, Prima Diamond VI, Prima Diamond XIII, Prince Jim, Prince Jim 1, Red Delight, Red Glo, Rose Diamond, Royal Glo, Scarlet Jewels, Sparkling May, Star Brite, White Sun, or Zee Grand variety nectarines unless:

* * * * *

(6) Any package or container of Alta Red, Arctic Blaze, Arctic Gold, Arctic Ice, Arctic Jay, Arctic Mist, Arctic Pride, Arctic Queen, Arctic Snow (White Jewel), Arctic Sweet, August Glo, August Lion, August Pearl, August Red, August Snow, Big Jim, Bright Pearl, Bright Sweet, Diamond Ray, Early Red Jim, Firebrite, Fire Pearl, Fire Sweet, Flame Glo, Flaming Red, Grand Diamond, Grand Pearl, Grand Sweet, Honey Blaze, Honey Kist, July Pearl, July Red, June Lion, Kay Diamond, Kay Pearl, King Jim, Late Red Jim, P-R Red, Prima Diamond IX, Prima Diamond XVI, Prima Diamond XVIII, Prima Diamond XIX, Prima Diamond XXIV, Prima Diamond XXVIII, Red Diamond, Red Glen, Red Jim, Regal Pearl, Regal Red, Royal Giant, Ruby Diamond, Ruby Pearl, Ruby Sweet, Scarlet Red, September Bright (26P-490), September Free, September Red, Sparkling June, Sparkling Red, Spring Bright, Spring Diamond, Spring Red, Spring Sweet, Summer Beaut, Summer Blush, Summer Bright, Summer Diamond, Summer Fire, Summer Grand, Summer Jewel, Summer Lion, Summer Red, Sunburst, Sun Diamond, Sunecteight (Super Star),

Sunny Red, Sun Valley Sweet, Sweet White, Terra White, 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 6, 2002, through November 23, 2002, 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 paragraph (a)(1);

B. Redesignating current paragraphs (a)(8), (a)(9), and (a)(10) as (a)(10), (a)(11), and (a)(12); and adding a new paragraph (a)(9);

C. Redesignating current paragraphs (a)(4), (a)(5), (a)(6), and (a)(7) as (a)(5), (a)(6), (a)(7), and (a)(8); and adding a new paragraph (a)(4);

D. Revising redesignated paragraph (a)(5)(ii);

E. Revising the title of Tables 1 and 2 in redesignated paragraph (a)(5)(iv);

F. Adding new Table 3 after Tables 1 and 2 in redesignated paragraph (a)(5)(iv);

G. Revising paragraph (b); and

H. Revising paragraph (d) to read as follows:

§ 917.442 California peach container and pack regulation.

(a) * * *

(1) Such peaches, when packed in any closed package or container, except master containers of consumer packages, individual consumer packages, and Euro five down reusable plastic containers, shall conform to the requirements of standard pack: *Provided*, That peaches in any such volume-filled container need only be

filled to within one-inch of the top of the container.

* * * *

(4) Each package or container of peaches shall bear, on one outside end in plain sight and in plain letters, the name and address of the shipper.

(5) * * *

(ii) The size of peaches in molded forms (tray-packs) in experimental containers, and in the No. 22G standard lug boxes, shall be indicated according to the number of such peaches when packed in molded forms in the No. 22D standard lug box or the No. 32 standard box, in accordance with the requirements of standard pack, such as “80 size,” “88 size,” etc., along with count requirements in paragraph (a)(5)(i) of this section.

* * * *

(iv) * * *

Table 1—Weight-Count Standards for All Varieties of Peaches (Except Peento (Donut) Varieties) Packed in Loose-Filled or Tight-Filled Containers

* * * *

Table 2—Weight Count Standards for All Varieties of Peaches (Except Peento (Donut) Varieties) Packed in Loose-Filled or Tight-Filled Containers.

* * * *

TABLE 3—WEIGHT-COUNT STANDARDS FOR PEENTO (DONUT) VARIETIES OF PEACHES PACKED IN LOOSE-FILLED OR TIGHT-FILLED CONTAINERS

Column A—Tray pack size designation	Column B—Maximum number of peaches in a 16-pound sample
80	140
72	128
70	111
64	99
60	93
56	87
54	77
50	80
48	74
44	70
42	68
40	59
36	53
34	50

* * * *

(9) Each Euro five down returnable plastic container of loose-filled peaches shall bear on one outside end in plain sight and in plain letters the words “31 pounds net weight.”

* * * *

(b) As used in this section, “standard pack” and “fairly uniform in size” shall

have the same meaning as set forth in the U.S. Standards for Grades of Peaches (Secs. 51.1210 to 51.1223) and all other terms shall have the same meaning as when used in the amended marketing agreement and order. A No. 12B standard fruit box measures $2\frac{3}{8}$ to $7\frac{1}{8}$ × $11\frac{1}{2}$ × $16\frac{1}{8}$ inches, No. 22D standard lug box measures $2\frac{7}{8}$ to $7\frac{1}{8}$ × $13\frac{1}{2}$ × $16\frac{1}{8}$ inches, No. 22E standard lug box measures $8\frac{3}{4}$ × $13\frac{1}{2}$ × 16 inches, No. 22G standard lug box measures $7\frac{3}{8}$ to $7\frac{1}{2}$ × $13\frac{1}{4}$ × $15\frac{7}{8}$, No. 32 standard box measures $5\frac{3}{4}$ to $7\frac{1}{4}$ × 12 × $19\frac{3}{4}$ inches, and the Euro five down standard box measures $3\frac{1}{2}$ to $10\frac{3}{4}$ × 16 × 24 inches. All dimensions are given in depth (inside dimensions) by width by length (outside dimensions). “Individual consumer packages” means packages holding 15 pounds or less net weight of peaches. “Tree ripe” means “tree ripened” and fruit shipped and marked as “tree ripe,” “tree ripened,” or any similar terms using the words “tree” and “ripe” must meet the minimum California Well Matured standards.

* * * *

(d) During the period April 6, 2002, through November 23, 2002, each container or package when packed with peaches meeting “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 all 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 the introductory text of paragraph (a)(1)(iv);

C. Revising Table 1 of paragraph (a)(1)(iv); and

D. Revising the introductory text of paragraphs (a)(2), (a)(3), (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 6, 2002, through November 23, 2002, 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 requirement 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) The Federal or Federal-State Inspection Service shall make the final determinations on maturity through the use of color chips or other tests as determined appropriate by the inspection agency. The Federal or Federal-State Inspection Service will use the maturity guides listed in Table 1 in making maturity determinations for the specified varieties when inspecting to the "well matured" level of maturity. For these varieties, not less than 90 percent of any lot shall meet the color guide established for the variety, and an aggregate area of not less than 90 percent of the fruit surface shall meet the color guide established for the variety, except that for the Joanna Sweet variety of peaches, not less than an aggregate area of 100 percent of the fruit surface shall meet the color guide established for the variety. For varieties not listed, the Federal or Federal-State Inspection Service will use such tests as it deems proper. A variance for any variety from the application of the maturity guides specified in Table 1 may be granted during the season to reflect changes in crop, weather, or other conditions that would make the specified guides an inappropriate measure of "well matured."

TABLE 1

Column A variety	Column B maturity guide
Angelus	I
August Lady	L
Autumn Flame	J
Autumn Gem	I
Autumn Lady	H
Autumn Rose	H
Blum's Beauty	G
Brittney Lane	J
Cal Red	I
Carnival	I
Cassie	H
Coronet	E
Crimson Lady	J
Crown Princess	J
David Sun	I

TABLE 1—Continued

Column A variety	Column B maturity guide
Diamond Princess	J
Earli Rich	H
Earlitreat	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
Joanna Sweet	J
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
Madonna Sun	J
May Crest	G
May Sun	I
Merrill Gem	G
Merrill Gemfree	J
Morning Lord	J
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
Sierra Lady	I
Sparkle	I
Sprague Last Chance	L
Springcrest	G
Spring Delight	G
Spring Lady	H
Summer Lady	L
Summerset	I
Summer Zee	L
Suncrest	G
Supechfour (Amber Crest)	G

TABLE 1—Continued

Column A variety	Column B maturity guide
Super Rich	H
Sweet Dream	J
Sweet Gem	J
Sweet Mick	J
Sweet Scarlet	J
Topcrest	H
Tra Zee	J
Vista	J
Willie Red	G
Zee Lady	L
60EF32	I

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

* * * * *

(2) Any package or container of Earlitreat or 91002 variety peaches unless:

* * * * *

(3) Any package or container of Snow Kist, Super Rich or Topcrest variety peaches unless:

* * * * *

(5) Any package or container of Babcock, Bev's Red, Brittney Lane, Crimson Lady, Crown Princess, David Sun, Early May Crest, Flavorcrest, June Lady, Kern Sun, Kingscrest, May Crest, May Sun, May Sweet, Pink Rose, Prima Peach IV, Queencrest, Ray Crest, Redtop, Rich May, Rich Mike, Snow Brite, Snow Prince, Springcrest, Spring Lady, Spring Snow, Sugar May, Sunlit Snow (172LE81), Sweet Scarlet, White Dream, Zee Diamond, 012-094, or 172LE White Peach (Crimson Snow/Sunny Snow) variety peaches unless:

* * * * *

(6) Any package or container of August Lady, Autumn Flame, Autumn Red, Autumn Rose, Autumn Snow, Cal Red, Cassie, Champagne, Coral Princess, Country Sweet, Diamond Princess, Earli Rich, Early Elegant Lady, Elegant Lady, Fairtime, Fancy Lady, Fay Elberta, Flamecrest, Flaming Dragon, Full Moon, Garnet Jewel, Ivory Princess, Jillie White, Joanna Sweet, John Henry, July Flame, June Pride, Kaweah, Kings Lady, Klondike, Lacey, Late Ito Red, Madonna Sun, Morning Lord, O'Henry, Pretty Lady, Prima Gattie 8, Prima Peach 13, Prima Peach 20, Prima Peach 23, Prima Peach XXV, Prima Peach XXVII, Princess Gayle, Queen Lady, Red Dancer, Red Sun, Rich Lady, Royal Lady, Ryan Sun, Saturn (Donut), Scarlet Snow, September Flame, September Snow, September Sun, Sierra Gem, Sierra Lady, Snow Blaze, Snow Fall, Snow Gem, Snow Giant, Snow Jewel, Snow King, Sprague Last Chance,

Spring Gem, Sugar Giant, Sugar Lady, Summer Dragon, Summer Lady, Summer Sweet, Summer Zee, Supechfour (Amber Crest), Sweet Dream, Sweet Gem, Sweet Kay, Sweet September, Tra Zee, Vista, White Lady, Zee Lady, or 24-SB variety peaches unless:

* * * * *

Dated: March 28, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

RIN 3150-AG25

Revision of the Skin Dose Limit

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations in 10 CFR part 20 to change the definition and method of calculating Shallow-dose equivalents (SDEs) by specifying that the assigned SDE must be the dose averaged over the 10 square centimeters of skin receiving the highest exposure, rather than 1 square centimeter as stated in the existing regulation. A result of this rulemaking is to make the skin dose limit less restrictive when small areas of skin are irradiated (i.e. more representative of actual health risks) and to address skin and extremity doses from all source geometries under a single limit. This change requires measuring or calculating SDEs from discrete radioactive particles (DRPs) on or off the skin, from very small areas (<1.0 square centimeter) of skin contamination, and from any other source of SDE by averaging the measured or calculated dose over the most highly exposed, contiguous 10 square centimeters for comparison to the skin dose limit of 50 rem (0.5 Sv). The Commission believes that although the less restrictive limit on dose to small areas of the skin might permit more frequent, transient, observable effects such as reddening of the skin, the change nevertheless represents a substantial increase in worker protection because reduced monitoring for DRPs will result in reduced external dose and reduced use of protective clothing will result in

fewer industrial hazards in the workplace.

EFFECTIVE DATE: June 4, 2002.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

With the installation of very sensitive portal monitors in the mid- and late-1980s, many nuclear power plants detected contamination of individuals and their clothing by small, usually microscopic, highly radioactive beta or beta-gamma emitting particles having relatively high specific activity. These particles, known as "discrete radioactive particles" (DRPs) and sometimes "hot particles," most commonly contain ^{60}Co or fission products. DRPs apparently become electrically charged as a result of radioactive decay and, therefore, tend to be fairly mobile. DRP movement in the workplace is unpredictable and, thus, worker contamination is difficult to control. A unique aspect of DRPs on or very near the skin is that very small amounts of tissue can be exposed to large, highly nonuniform doses. These intense, localized irradiations may produce deterministic effects, such as reddening of the skin, transient breaks in the skin or necrosis of small areas of the skin, but the stochastic risk of inducing skin cancer due to a DRP exposure is negligible.

In the late-1990s, a materials licensee reported that workers received DRP exposures while manufacturing radiographic sources. In addition to the DRP concern, several events have occurred involving contamination of very small areas (<1.0 square centimeter) of skin, primarily in the handling of solutions of highly concentrated radiopharmaceuticals. Although these contamination events produce relatively large doses to very small areas of skin, they are known to result in insignificant overall health detriments. Nevertheless, under existing provisions in NRC regulations, several of these contamination events were defined as overexposures, and resulted in enforcement actions, with the result that workers could not be assigned work in radiation areas for the balance of the year. These consequences were not commensurate with the actual health detriment.

The principal stochastic risk associated with irradiation of the skin is non-melanoma skin cancer (that is,

basal cell and squamous cell skin cancer). The risk of skin cancer following irradiation of the skin by DRPs, or from very small areas of contamination, is not comparable to irradiation of extended areas of the skin because of the very small number of cells involved and the greater potential for high local beta particle dose to kill cells rather than cause transformation to a precancerous stage. In Report No. 106, "Limit for Exposure to "Hot Particles" on the Skin" (1989), the Congressionally chartered National Council on Radiation Protection and Measurements (NCRP) conservatively estimated the risk of skin cancer following a DRP dose of 50 rem (0.5 Sv) to an area of 2 mm² to be $7 \times 10^{-7} \text{ Gy}^{-1}$ ($7 \times 10^{-9} \text{ rad}^{-1}$), and the risk of skin cancer mortality to be about $1 \times 10^{-9} \text{ Gy}^{-1}$ ($1 \times 10^{-11} \text{ rad}^{-1}$). Because the risk of stochastic effects (i.e., cancer) from gamma and beta radiation from DRPs has been shown to be negligible for DRP exposures to the skin, induction of skin cancer is of less concern than the potential for deterministic effects.

In 1991, the NRC revised Title 10, part 20 of the Code of Federal Regulations and its occupational dose limit for the skin of the whole body to 50 rem (0.5 Sv) SDE per year to prevent deterministic effects that might result from a lifetime exposure at the dose limit (56 FR 23360; May 21, 1991). This dose limit for the skin is specified in 10 CFR 20.1201(a)(2)(ii), and is intended to prevent damage to areas of the skin that are large relative to areas exposed by DRPs on the skin, and that could compromise skin function or appearance. The NRC noted in that rulemaking that certain issues "are being resolved in other rulemaking proceedings because of either their scope, complexity, or timing." One of the issues that was listed concerned limits and calculational procedures for dealing with the DRP issue. It was recognized that the current skin dose limit was overly conservative for DRP doses and SDEs to very small areas of the skin. The final rule stated that there would be a rulemaking to set limits for skin irradiation by DRPs. This amendment to 10 CFR part 20 responds, in part, to that commitment.

The existing part 20 skin dose limit of 50 rem (0.5 Sv) averaged over 1 square centimeter was intended to apply to a relatively uniform dose to a larger area of skin than that usually exposed by DRPs with the objective of preventing deterministic damage to the skin. Because the NCRP considered this limit to be overly conservative for DRPs on or very near the skin, the NRC announced an interim enforcement discretion