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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV95-916-4-FIR]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture is adopting as a final rule, with appropriate modifications, the provisions of an interim final rule which revised the handling requirements for California nectarines and peaches by modifying the grade, size, maturity, container, and pack requirements for fresh shipments of these fruits, beginning with 1996 season shipments. 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.

EFFECTIVE DATE: July 22, 1996.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Marketing Order Nos. 916 and 917 [7 CFR Parts 916 and 917] regulating the handling of nectarines and peaches

grown in California, 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 is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, 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.

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. 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 about 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 producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts from all sources are less than \$5,000,000. A majority of these handlers and producers may be classified as small entities. In recent years, average combined sales of peaches and nectarines per handler have been about \$600,000. Typically, about three-fourths of peach and nectarine handlers have sales of less than the average for the industry.

The Nectarine Administrative Committee (NAC) and the Peach Commodity Committee (PCC) met December 7, 1995, and unanimously recommended that the handling requirements for California nectarines and peaches, respectively, be revised. These committees meet prior to and during each season to review the rules and regulations effective on a continuous basis for California nectarines and peaches under the orders. These 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.

This rule finalizes an interim final rule that revised the handling requirements for nectarines in § 916.350 California Nectarine Container and Pack Regulation (7 CFR 916.350), and in § 916.356 California Nectarine Grade and Size Regulation (7 CFR 916.356); as well as for peaches in § 917.442 California Peach Container and Pack Regulation (7 CFR 917.442) and in § 917.459 California Peach Grade and Size Regulation (7 CFR 917.459). The interim final rule was issued on March 21, 1996, and published in the Federal Register (61 FR 13386, March 27, 1996).

The interim final rule provided a 30-day comment period which ended on April 26, 1996. One comment was received from Gary W. Van Sickle, Field Director for the NAC and the PCC requesting changes in the dimensions and display panel of the new reusable

and recyclable container. He noted that the size of the box was more accurately $12 \times 19 \frac{3}{4}$, rather than 12×20 . He also stated that with regard to some styles of the new reusable and recyclable container, the lid was not the only display panel upon which a label could be affixed. Therefore, he suggested that either the lid or the outside end would be appropriate for the new containers.

Mr. Van Sickle also requested a correction in the size requirement for Nectarine 23, a nectarine variety recommended to be removed from the variety-specific size requirements and placed in the blanket size requirements. Mr. Van Sickle noted that since the December 7, 1995, meeting of the NAC, additional information had been received which indicated that the Nectarine 23 variety should remain in the variety-specific requirements. The NAC, as well as the PCC, has a policy of recommending the deletion of varieties from the variety-specific requirements when shipments of the variety fall below 5,000 packages. After receipt of all information, it was determined that the shipments of the Nectarine 23 variety for the 1995 season totaled 24,104 packages, well above the 5,000 package threshold. For that reason, the Nectarine 23 variety should remain in the variety-specific size requirements for the 1996 season.

The Department finds that Mr. Van Sickle's suggestions are well founded and are incorporated within this rule.

Container and Pack Requirements (Nectarines)

Section 916.350 specifies container and pack requirements for fresh nectarine shipments. Paragraph (a)(4)(iv) of § 916.350 specifies the tray-pack size designations which must be marked on loose-filled or tight-filled containers, depending on the size of the fruit. The size designations specify the maximum number of nectarines in a 16-pound sample for each tray-pack size designation. This rule revises paragraph (a)(4)(iv) of § 916.350 by modifying one size designation for the weight-count standards in Column B of Table 1 for early-season and mid-season nectarine varieties and one size designation for the weight-count standards in Column B of Table 2. Continuing research conducted by the NAC indicate that early-season and mid-season fruit weighs less than late-season fruit and the weight-count standards were, therefore, modified for the past two seasons based on that consideration. Results from the 1995 season suggest that a minor modification of Table 1 and Table 2 is necessary to provide more accurate weight-count standards for

early-season and mid-season nectarines, and late-season nectarines.

The NAC recommended these revised weight-count standards for nectarines after a comprehensive review of the appropriate relationships between the tray-pack containers and loose-filled or tight-filled containers for early-season and mid-season nectarine varieties, as well as late-season varieties. Specifically, the NAC's recommendation provides that the maximum number of nectarines of size 50 in a 16-pound sample of early-season and mid-season fruit is more appropriately 39 rather than 38. Also the maximum number of nectarines of size 50 in a 16-pound sample of late-season fruit is more appropriately 37 rather than 36.

Pack regulations provide for uniform packing practices. In particular, weight-count standards provide for equality between fruit packed in loose-filled or tight-filled containers and fruit packed in tray-pack styles.

According to the NAC, packers occasionally moved fruit from tray-pack styles of pack to loose-filled or tight-filled pack styles. This activity has led to an awareness that fruit which was of proper size when tray-packed exceeded the maximum number of nectarines for the 16-pound sample for corresponding loose-filled or tight-filled pack size. In some instances, these samples required an additional piece of fruit to meet the 16-pound weight requirement, thus causing the pack to be "marked" smaller than its equivalent tray-pack size. When packs are "marked" smaller this causes the container to be sold for a lower price.

Revised and refined weight-count standards should provide for more accurate marking of sizes when packed in loose-filled or tight-filled pack styles compared to equivalent sizes that are tray packed. These regulations provide for uniformly packed containers of nectarines. These regulations also attempt to assure equivalent returns for growers based on style of pack used.

This rule also further clarifies the definition of "tree ripe" added to § 916.350 paragraph (b) for the 1995 season. According to the NAC, "tree ripe" is an optional marking with regard to maturity that is stamped on containers of nectarines. Currently, the definition of tree ripe is based on the California Well Matured maturity requirement and is intended to be used for fruit which has been allowed to ripen naturally by remaining longer on the tree. California Well Matured means that fruit has been picked at a maturity level distinctly more advanced than "mature." The definition of "tree ripe"

was added in 1995 so that its meaning was consistent with other descriptive markings and provided a consistent minimum maturity level throughout the industry to the benefit of consumers. However, during the 1995 season, some handlers marked their boxes of fruit as "tree ripened." It has been recommended by the NAC that the terms "tree ripe", and "tree ripened", and other terms which denote an advanced level of maturity due to the fruit remaining on the tree for a longer period, are interchangeable terms indicative of the enhanced maturity of the fruit inside the box. Requiring containers of nectarines to be at a minimum California Well Matured in order to be marked "tree ripe" or "tree ripened", or other interchangeable terms such as "ripened on the tree", or "ripened on tree" will clarify the current regulation by specifying when the "tree ripe" or some similar marking using the words "tree" and "ripe", can be used and help to ensure that buyer expectations are met.

The NAC also recommended that a new container, that also allows for markings on the lid of the container, be approved for nectarine shipments for the 1996 season only. The NAC will review the impact of the use of this container with shippers prior to the 1997 season.

The marketing order, under § 916.350, requires that all containers be marked with specific information (e.g. handler, grade, size, and variety) and that all such markings on nectarine containers have to be applied to the outside end of the container. This has been defined as any of the four sides of the container, but not on the lid. Currently, there is interest by handlers in containers that are reusable thus creating financial savings for handlers. There is now a reusable and recyclable container, a single layer, plastic, $12 \times 19 \frac{3}{4}$ inch box, that is available for use with nectarines. However, the design of some styles of the container, which has cooling slots in all of its sides, is such that the markings cannot easily be placed on the outside end of the container.

The NAC believes that allowing for markings to be placed on the container lid or on the outside end of the container will facilitate the use of all styles of this plastic, reusable and recyclable container in compliance with marketing order requirements. Authorizing the use of this new container will allow handlers to reduce their container costs through the continued reuse of the container.

Maturity Requirements (Nectarines)

Section 916.356 specifies maturity requirements for fresh nectarines in paragraphs (a)(1) and (a)(1)(i), including Table 1. For fruit being inspected and certified as meeting the maturity requirements for "well matured", determinations are generally in terms of maturity guides (e.g., color chips) specified in Table 1.

This rule revises paragraph (a)(1) by exempting certain nectarine varieties from the requirement that a blush or red color be present on the skin of the nectarines. By their nature, some newer yellow nectarine varieties fail to attain any color other than yellow on the skin of the fruit. The U. S. Standards for Grades of Nectarines requires that a blush or red color be present on the skin of the fruit in order for the fruit to be considered as U. S. No. 1 grade.

This rule also revises Table 1 of paragraph (a)(1)(i) of § 916.356 for nectarines to add the maturity guides for four nectarine varieties. Specifically, an addition to the maturity guides was recommended for Grand Diamond, King Jim, and Spring Brite at a maturity guide of L, and Rose Diamond at a maturity guide of J.

The NAC recommended these maturity requirement changes for these nectarine varieties based on a continuing review by the Shipping Point Inspection Service of their individual maturity characteristics, and the identification of the appropriate color chip corresponding to the "well matured" level of maturity for such variety.

Size Requirements (Nectarines)

Section 916.356 specifies size requirements for fresh nectarines in paragraphs (a)(2) through (a)(9). This rule revises § 916.356 to establish variety-specific size requirements for six nectarine varieties that were produced in commercially significant quantities of more than 10,000 packages for the first time during the 1995 season. This rule also modifies the variety-specific size requirements for two varieties of nectarines by reassigning those varieties.

Size regulations are put in place to improve fruit quality by allowing fruit to stay on the tree for a greater length of time. This increased growing time not only improves maturity and, therefore, the quality of the product, but also the size of the fruit. Increased size results in increases in the number of packed boxes of nectarines per acre. This provides greater consumer satisfaction, more repeat purchases, and, therefore, increases returns to growers. Varieties

recommended for specific size regulation have been reviewed and recommendations are based on the characteristics of the variety to attain minimum size.

Paragraph (a)(3) is revised to include the Johnny's Delight and May Jim varieties; paragraph (a)(4) is revised to include the Arctic Rose variety; and paragraph (a)(6) in § 916.356 is revised to include the Flame Glo, Prima Diamond III, Prima Diamond IV, Prima Diamond VIII, and the White Jewels nectarine varieties.

This rule also revises § 916.356 to remove eleven nectarine varieties from the variety-specific size requirements specified in the section because less than 5,000 packages of each of these varieties were produced during the 1995 season. Paragraph (a)(2) of that section is revised to remove the Royal Delight nectarine variety. Paragraph (a)(4) is revised to remove the Sunfre variety, and paragraph (a)(4) is also revised to delete the May Jim variety. This variety was placed in this paragraph prior to the 1995 season. The variety matures to a smaller-than-average size when compared to other varieties in this paragraph. Based upon its sizing characteristics from the 1995 season, removal of the May Jim variety from this paragraph was recommended. Paragraph (a)(6) is revised to remove the Del Rio Rey, Independence, La Pinta, Late Le Grand, Royal Red, Son Red, Sun Grand, and 181-119 (Sierra Star) nectarine varieties. Paragraph (a)(6) is also revised to remove the Arctic Rose variety. This variety was placed in this paragraph prior to the 1995 season. The variety matures to a smaller-than-average size when compared to other varieties in this paragraph. Based upon its sizing characteristics from the 1995 season, removal of the Arctic Rose variety from this paragraph was recommended.

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.

Container and Pack Requirements (Peaches)

Section 917.442 currently specifies container and pack requirements for

fresh peach shipments. Paragraph (a)(4)(iv) of § 917.442 specifies the tray-pack size designations which must be marked on loose-filled or tight-filled containers, depending on the size of the fruit. The size designations specify the maximum number of peaches in a 16-pound sample for each tray pack size designation. This rule revises paragraph (a)(4)(iv) of § 917.442 by modifying one size designation for the weight-count standards in Column B of Table 1 for early-season and mid-season peach varieties. Research conducted by the PCC indicated that early-season and mid-season fruit weighs less than late-season fruit and the weight-count standards were, therefore, modified for the past two seasons based on that consideration. Results from the 1995 season suggest that a minor modification of Table 1 is necessary to provide more accurate weight-count standards for early-season and mid-season peaches.

The PCC recommended the revised container marking requirement changes for peaches after a comprehensive review of the appropriate relationships between the tray-pack containers and loose-filled or tight-filled containers for early-season and mid-season peach varieties prior to the 1996 season. Specifically, the PCC's recommendation provides that the maximum number of peaches of size 54 in a 16-pound sample of early-season and mid-season fruit is more appropriately 44 rather than 43.

Pack regulations provide for uniform packing practices. In particular, weight-count standards provide for equality between fruit packed in loose-filled or tight-filled containers and fruit packed in tray-pack styles.

According to the PCC, packers occasionally moved fruit from tray-pack styles of pack to loose-filled or tight-filled pack styles. This activity has led to an awareness, especially in regard to early-season varieties, that fruit which was of proper size when tray-packed exceeded the maximum number of peaches for the 16-pound sample for corresponding loose-filled or tight-filled pack size. In some instances, these samples needed an additional piece of fruit to meet the 16-pound weight requirement, thus causing the pack to be "marked" smaller than its equivalent tray-pack size. When packs are "marked" smaller this causes the container to be sold for a lower price. During the 1994 season, new weight-count assignments for early varieties

were in place. Research continued with the purpose of possible refinement of those weight-count assignments.

Revised and refined weight-count standards for early varieties should provide for more accurate marking of size when packed in loose-filled or tight-filled pack styles compared to equivalent sizes that are tray packed. These regulations provide for uniformly packed containers of peaches. These regulations also attempt to assure equivalent returns for growers based on style of pack used.

This rule also further clarifies the definition of "tree ripe" added to § 917.442 paragraph (b) for the 1995 season. According to the PCC, "tree ripe" is an optional marking with regard to maturity that is stamped on containers of peaches. Currently the definition of tree ripe is based on the California Well Matured maturity requirement and is intended to be used for fruit which has been allowed to ripen naturally by remaining longer on the tree. California Well Matured means that fruit has been picked at a maturity level distinctly more advanced than "mature." The definition of "tree ripe" was added in 1995 so that its meaning was consistent with other descriptive markings and provided a consistent minimum maturity level throughout the industry to the benefit of consumers. However, during the 1995 season, some handlers marked their boxes of fruit as "tree ripened." It has been recommended by the PCC that the terms "tree ripe" and "tree ripened" and other terms which denote an advanced level of maturity due to the fruit remaining on the tree for a longer period, are interchangeable terms indicative of the enhanced maturity of the fruit inside the box. Requiring containers of peaches to be at a minimum California Well Matured in order to be marked "tree ripe" or "tree ripened", or other interchangeable terms such as "ripened on the tree", or "ripened on tree" will clarify the current regulation by specifying when the "tree ripe" or some similar marking using the words "tree" and "ripe" can be used and help to ensure that buyer expectations are met.

The PCC also recommended that a new container, that also allows for markings on the container lid, be approved for peach shipments for the 1996 season only. The PCC will review the impact of this container with shippers prior to the 1997 season.

The marketing order, under § 917.442, requires that all containers be marked with specific information (e.g. handler, grade, size, and variety) and that all such markings on peach containers have to be applied to the outside end of the

container. This has been defined as any of the four sides of the container, but not on the lid. Currently, there is interest by handlers in containers that are reusable thus creating financial savings for handlers. There is now a reusable and recyclable container, a single layer, plastic, 12 × 19¾ inch box, that is available for use with peaches. However, the design of some styles of the container, which has cooling slots in all of its sides, is such that the markings cannot easily be placed on the outside end of the container.

The PCC believes that allowing for markings to be placed on the container lid or on the outside end of the container will facilitate the use of all styles of this plastic, reusable and recyclable container in compliance with marketing order requirements. Authorizing the use of this new container will allow handlers to reduce their container costs through the continued reuse of the container.

Maturity Requirements (Peaches)

Section 917.459 specifies maturity requirements for fresh peaches in paragraph (a)(1), including TABLE 1. For fruit being inspected and certified as meeting the maturity requirements for "well matured", maturity determinations are generally in terms of maturity guides (e.g., color chips) specified in Table 1. This rule revises Table 1 of paragraph (a)(1)(ii) of § 917.459 for peaches to change the maturity guide for the Elegant Lady peach variety from a maturity guide M to a maturity guide L. It also adds two peach varieties for which color chips had not been established previously. The Early Delight peach variety has been recommended to be added with a maturity guide H and the May Sun variety has been recommended to be added with a maturity guide I.

The PCC recommended these maturity requirement changes for these peach varieties based on a continuing review by the Shipping Point Inspection Service of their individual maturity characteristics, and the identification of the appropriate color chip corresponding to the "well matured" level of maturity for such varieties.

Size Requirements (Peaches)

Section 917.459 specifies size requirements for fresh peaches in paragraphs (a)(2) through (a)(6), and paragraphs (b) and (c). This rule also revises § 917.459 to establish variety-specific size requirements for six peach varieties that were produced in commercially significant quantities of more than 10,000 packages for the first time during the 1995 season.

Size regulations are put in place to improve fruit quality by allowing fruit to stay on the tree for a greater length of time. This increased growing time not only improves maturity, and, therefore, the quality of the product, but also size of the fruit. Increased size results in increases in the number of packed boxes of peaches per acre. This provides greater consumer satisfaction, more repeat purchases, and, therefore, increases returns to growers. Varieties recommended for specific size regulation have been reviewed and recommendations are based on the characteristics of the variety to attain minimum size.

In § 917.459 paragraph (a)(5) is revised to include the May Sun peach variety; and paragraph (a)(6) is revised to include the July Sun, Kaweah, Snow Giant, Snow King, and Sugar Giant peach varieties.

This rule also revises § 917.459 to remove eleven peach varieties from the variety-specific size requirements specified in that section, because less than 5,000 packages of each of these varieties were produced during the 1995 season. In § 917.459 paragraph (a)(2) of § 917.459 is revised to remove the Flordaprince peach variety; paragraph (a)(5) is revised to remove the First Lady, Merrill Gem, Royal May, Sierra Crest, Summer Crest, and 50-178 peach varieties; and paragraph (a)(6) is revised to remove the Angelus, August Delight, Parade, and Scarlet Lady peach varieties. 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 removal of the Flordaprince variety from paragraph (a)(2) results in there being no varieties regulated within size 96 for the 1996 season. Since the variety-specific list is subject to change from one season to another, the Department wishes to reserve paragraph number (a)(2) for future regulation of peaches at size 96.

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 sizes fruit. This rule is designed to establish minimum size requirements for fresh peaches consistent with expected crop and market conditions.

In addition, this rule revises paragraph (a)(6) of § 917.459 by adding three peach varieties which were inadvertently removed from this paragraph, and deleting three varieties which were left in this paragraph. Those peach varieties which are being added

to paragraph (a)(6) of § 917.459 include the Fancy Lady, Snow Ball, and Sugar Lady peach varieties. Those peach varieties which were inadvertently left in the variety-specific size requirement at paragraph (a)(6) of § 917.459 and are being removed include the July Lady, Red Cal, and Redglobe peach varieties. The Sugar Giant peach variety should also be added to the variety-specific size requirement in paragraph (a)(6) of § 917.459. This variety was recommended to be added by the PCC in 1996 and was inadvertently left out of the interim final rule.

Further, this rule revises paragraph (a)(6) of § 917.459 by changing the name of the peach variety, Red Boy. The exclusive handler of this peach variety changed the name in the 1995 season. For that reason, the name of the Red Boy peach variety is changed to Red Dancer.

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's determination is 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. Therefore, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matters presented, the information and recommendations submitted by the committees, and other information, it is found that the rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

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.

Accordingly, the interim final rule amending 7 CFR parts 916 and 917 which was published at 61 FR 13386 on March 27, 1996, is adopted as a final rule with the following changes:

PART 916—NECTARINES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 916 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 916.350 [Amended]

2. In § 916.350, paragraph (c) is revised to read as follows:

§ 916.350 California Nectarine Container and Pack Regulation.

* * * * *

(c) Each container of nectarines in plastic, 12 × 19¾ inch reusable and recyclable containers shall meet and bear, on the container lid or on the outside end, all applicable marking requirements under the order.

§ 916.356 [Amended]

3. In § 916.356, paragraph (a)(6) is amended by adding the name "Nectarine 23".

PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 917 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 917.442 [Amended]

2. In § 917.442, paragraph (c) is revised to read as follows:

§ 917.442 California Peach Container and Pack Regulation.

* * * * *

(c) Each container of peaches in plastic, 12 × 19¾ inch reusable and recyclable containers shall meet and bear, on the container lid or on the outside end, all applicable marking requirements under the order.

§ 917.459 [Amended]

3. In § 917.459, paragraph (a)(6) is amended by adding the names "Fancy Lady," "Red Dancer," "Snow Ball", "Sugar Giant", and "Sugar Lady", and removing the names "July Lady", "Red Boy", "Red Cal", and "Redglobe".

Dated: June 13, 1996.

Sharon Bomer Lauritsen,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 96–15628 Filed 6–19–96; 8:45 am]

BILLING CODE 3410–02–P

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 94–132–2]

Screening at Privately Owned Bird Quarantine Facilities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations that apply to privately owned quarantine facilities for imported birds to provide for the use of nylon screening and to clarify the meaning of "double screened." These amendments will give facility operators a choice of screening materials and clarify the regulations.

EFFECTIVE DATE: July 22, 1996.

FOR FURTHER INFORMATION CONTACT: Dr. Tracie R. Butler, Staff Veterinarian, Import/Export Animals, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231, (301) 734–5097.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92.100 through 92.107, "Subpart A—Birds" (referred to below as "the regulations"), govern the importation of certain birds to prevent the introduction of communicable diseases of livestock and poultry. As a condition of importation, all imported birds must be quarantined for a minimum of 30 days upon their arrival in the United States. Under § 92.101(c)(2)(ii), certain personal pet birds may remain in the owner's possession during the 30-day quarantine if kept separate from other birds. In all other cases, imported birds must be quarantined in either a U.S. Department of Agriculture quarantine facility or in a privately owned quarantine facility that meets standards set forth in § 92.106(c).

The standards for privately owned quarantine facilities for imported birds include installation of screening over all openings to the outside to prevent the entry of rodents and insects, which could transmit disease. The regulations require that all screening be metal and that all openings to the outside be double-screened (see § 92.106(c)(2)(ii)(A)).

On March 12, 1996, we published in the Federal Register (61 FR 9957–9958, Docket No. 94–132–1) a proposal to amend the regulations by providing for the use of nylon screening and by clarifying the meaning of the term "double screened."