

**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 916.350 is amended by adding a new paragraph (d) to read as follows:

**§ 916.350 California Nectarine Container and Pack Regulation.**

\* \* \* \* \*

(d) During the period April 1 through October 31, 1996, each container or package when packed with nectarines meeting CA Utility requirements, shall bear the words "CA Utility", along with all other required container markings, in letters of 3/4 inch minimum height on the visible display panel. Consumer bags or packages must also be clearly marked on the bag or package as "CA Utility" along with other required markings.

3. Section 916.356 is amended by revising paragraph (a)(1) 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 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 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 during the period April 1 through October 31, 1996, any handler may handle nectarines if such nectarines meet "CA Utility" quality requirements. The term "CA Utility" means that not more than 30 percent of the nectarines in any container meet or exceed the requirements of the U.S. No. 1 grade and that such nectarines are mature and are:

(i) Free from insect injury which has penetrated or damaged the flesh; split

pits which cause an unhealed crack or one or more well healed cracks which, either singly or in the aggregate, are more than 3/8 inch in length; mold, brown rot, and decay which has affected the edible portion; and

(ii) Free from serious damage due to skin breaks, cuts, growth cracks, bruises, or other causes.

(iii) Tolerances. Not more than 10 percent, by count, of the nectarines in any one container may be below the requirements which are prescribed by this subparagraph, including not more than 5 percent, by count, for any one defect, except split pits. An additional tolerance of 10 percent, by count, of the nectarines in any one container or bulk lot may contain nectarines affected with split pits. This means a total tolerance of 20 percent is allowed for all defects, including split pits, but not to exceed 15 percent for split pits alone.

\* \* \* \* \*

**PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA**

3. Section 917.442 is amended by adding a new paragraph (d) to read as follows:

**§ 917.442 California Peach Container and Pack Regulation.**

\* \* \* \* \*

(d) During the period April 1 through November 23, 1996, each container or package when packed with peaches meeting CA Utility requirements, shall bear the words "CA Utility", along with all other required container markings, in letters of 3/4 inch minimum height on the visible display panel. Consumer bags or packages must also be clearly marked on the bag or package as "CA Utility" along with other required markings.

4. Section 917.459 is amended by revising paragraph (a)(1) 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, That during the period April 1 through November 23, 1996, any handler may handle peaches if such peaches meet "CA Utility" quality requirements. The term "CA Utility" means that not more than 30 percent of the peaches in any container meet or exceed the requirements of the U.S. No.

1 grade and that such peaches are mature and are:

(i) Free from insect injury which has penetrated or damaged the flesh; split pits which cause an unhealed crack or one or more healed cracks which, either singly or in the aggregate, are more than 1/2 inch in length; and mold, brown rot, and decay; and

(ii) Free from serious damage due to cuts, skin breaks, growth cracks, bruises, scab, rust, blight, disease, hail or other causes. Damage to any peach is serious when it causes a waste of 10 percent or more, by volume, of the individual peach.

(iii) Tolerances. Not more than 10 percent, by count, of the peaches in any container may be below the requirements prescribed by this subparagraph. Not more than one-half of this tolerance shall be allowed for any one cause. Individual containers in any lot may contain not more than 1 1/2 times the tolerances specified if the percentage of defects of the entire lot averages within the tolerances.

\* \* \* \* \*

Dated: April 25, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96-10758 Filed 4-30-96; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****Office of the Secretary****14 CFR Parts 205 and 323**

[Docket No. OST-96-1269]

RIN 2105-AC46

**Aircraft Accident Liability Insurance; Terminations, Suspensions, and Reductions of Service**

**AGENCY:** Office of the Secretary, Department of Transportation.

**ACTION:** Final rule.

**SUMMARY:** The Department is amending its regulations on aircraft accident liability insurance and on terminations, suspensions, and reductions of essential air service, to remove or update obsolete provisions and organizational and statutory references.

**EFFECTIVE DATE:** The rule shall become effective on May 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Carol A. Woods, Air Carrier Fitness Division, X-56, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9721.

**SUPPLEMENTARY INFORMATION:** In his Regulatory Reinvention Initiative

Memorandum of March 4, 1995, President Clinton directed Federal agencies to conduct a page-by-page review of all of their regulations and to "eliminate or revise those that are outdated or otherwise in need of reform." In response to that directive, the Department has undertaken a review of its aviation economic regulations as contained in 14 CFR Chapter II. This rule is one result of those efforts. Subsequent rulemakings will address other regulations.

In this rulemaking, parts 205 and 323 are being amended to remove or update obsolete provisions and organizational references, and to replace references to the Federal Aviation Act with references to Subtitle VII of Title 49 of the United States Code (Transportation).

#### Executive Order 12866 (Regulatory Planning and Review)

The Department has analyzed the economic and other effects of the amendments and has determined that they are not "significant" within the meaning of Executive Order 12866. The amendment will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. It will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, and it will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Nor does it raise any novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. The rule is considered "nonsignificant" under Executive Order 12688 and was not reviewed by the Office of Management and Budget.

#### DOT Regulatory Policies and Procedures

The amendments are not significant under the Department's Regulatory Policies and Procedures, dated February 26, 1979, because they do not involve important Departmental policies; rather, they are being made solely for the purposes of eliminating obsolete requirements, correcting out-of-date references, and enhancing the organization of the regulations used by the Department to administer its aviation economic regulatory functions. The Department has also determined that issuance of this rule will have no economic impact.

#### Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, the Department has evaluated the effects of this action on small entities. For purposes of its aviation economic regulations, Departmental policy categorizes air carriers operating small aircraft (60 seats or less or 18,000 pounds maximum payload or less) as small entities for purposes of the Regulatory Flexibility Act. Based upon this evaluation, the Department certifies that the amendment would not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12612 (Federalism)

These amendments have been analyzed in accordance with the principles and criteria contained in Executive Order 12612. The Department has determined that the amendments do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The amendments will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

#### National Environmental Policy Act

The Department has also analyzed the amendments for the purpose of the National Environmental Policy Act. The amendments will not have any significant impact on the quality of the human environment.

#### Paperwork Reduction Act

There are no reporting or recordkeeping requirements associated with the amendments.

#### Notice and Opportunity for Public Comment Unnecessary

Under the Administrative Procedure Act (5 U.S.C. 553), the Department determines that notice and an opportunity for public comment are impracticable, unnecessary, and contrary to the public interest. The amendments made in this document are ministerial, removing obsolete and redundant material or making minor technical and terminology changes. These changes will have no substantive impact, and the Department would not anticipate receiving meaningful comments on them. Comment is therefore unnecessary, and it would be contrary to the public interest to delay unnecessarily this effort to eliminate or revise outdated rules.

#### Lists of Subjects

##### 14 CFR Part 205

Air carriers, Insurance, Reporting and recordkeeping requirements.

##### 14 CFR Part 323

Administrative practice and procedure, Air carriers, Reporting and recordkeeping requirements.

#### Final Rule

For the reasons set out in the preamble, Title 14, Chapter II of the Code of Federal Regulations is amended as follows:

#### PART 205—[AMENDED]

1. The authority citation for part 205 is revised to read as follows:

Authority: 49 U.S.C. Chapters 401, 411, 413, 417.

##### § 205.1 [Amended]

2. In § 205.1, remove the punctuation and word ", overseas,".

##### § 205.4 [Amended]

3. In § 205.4(c), remove the words "222 West Seventh Street, Box 27" and add, in their place, the words "801 B Street, Suite 506"; remove the number "99513" and add, in its place, the number "99501-3657".

#### PART 323—[AMENDED]

4. The authority citation for part 323 is revised to read as follows:

Authority: 49 U.S.C. Chapters 401, 411, 417.

##### §§ 323.1, 323.3, 323.4, 323.9 [Amended]

5. In §§ 323.1, 323.3(a)(2), (a)(4) introductory text, (a)(5), (c)(1), (c)(2), (c)(3) introductory text, 323.4(a)(5) introductory text, (a)(5)(ii), 323.9(b)(4), (b)(6), and (c), remove the words "essential air transportation" and add, in their place, the words "essential air service".

##### §§ 323.1, 323.5 [Amended]

6. In §§ 323.1 and 323.5(a)(1), remove the words "section 419 of the Act" and add, in their place, the words "49 U.S.C. 41731-41742".

7. In § 323.2, the definitions *Act*, *Eligible point*, and *Essential air transportation* are removed, the definition *Certificated carrier* is revised, and the definitions *Eligible place*, *Essential air service*, *FAA*, and *Statute* are added in alphabetical order, to read as follows:

##### § 323.2 Definitions.

\* \* \* \* \*

*Certificated carrier* means a direct air carrier holding authority to provide air

transportation granted by the Department of Transportation ("DOT") or the former Civil Aeronautics Board ("CAB") in the form of a certificate of public convenience and necessity under section 41102 of the Title 49 of the United States Code (Transportation) ("the Statute") or an all-cargo air transportation certificate to perform all-cargo air transportation under section 41103 of the Statute.

*Eligible place* means a place in the United States that—

(1) Was an eligible point under section 419 of the Federal Aviation Act of 1958 as in effect before October 1, 1988;

(2) Received scheduled air transportation at any time between January 1, 1990, and November 4, 1990; and

(3) Is not listed in Department of Transportation Orders 89-9-37 and 89-12-52 as a place ineligible for compensation under Subchapter II of Chapter 417 of the Statute. (For availability of Department of Transportation Orders, see 49 CFR part 7, subpart E and appendix A.)

*Essential air service* is that air transportation which the Department has found to be essential under Subchapter II of Chapter 417 of the Statute.

*FAA* means the Federal Aviation Administration, U.S. Department of Transportation.

\* \* \* \* \*

*Statute* means Subtitle VII of Title 49 of the United States Code (Transportation).

\* \* \* \* \*

#### **§ 323.3 [Amended]**

8. In § 323.3(a)(5), remove the words "section 419(a)(2) or section 419(b)(4) of the Act" and add, in their place, the words "section 41731 or section 41733 of the Statute".

#### **§§ 323.3, 323.4 [Amended]**

9. In §§ 323.3(a)(2), (a)(3), (a)(4) introductory text, (a)(4)(iii), (a)(5), (c)(1), (c)(2), (c)(3) introductory text, (c)(3)(iii), and 323.4(a)(5) introductory text, remove the words "CAB or".

#### **§§ 323.3, 323.7 [Amended]**

10. In §§ 323.3(a)(1), (a)(3), (a)(5), (d), and 323.7(a)(1), remove the word "points" and add, in its place, the word "places".

#### **§§ 323.3, 323.4, 323.5, 323.7, 323.9, 323.13, 323.14 [Amended]**

11. In §§ 323.3(a)(1), (a)(2), (a)(3), (a)(4) introductory text, (a)(5), (c)(1), (c)(2), (c)(3) introductory text, (d), 323.4(a)(5)(i), (a)(5)(ii), (a)(6), 323.5(a)(1)

and (a)(2), 323.7(a)(1), 323.9(a), (b)(3), (b)(4), 323.13(b)(1), 323.14(a) and (c), remove the word "point" wherever it occurs and add, in its place, the word "place".

#### **§ 323.6 [Amended]**

11a. In § 323.6(b), remove the word "point(s)" and add, in its place, the word "place(s)".

#### **§ 323.9 [Amended]**

11b. In § 323.9(c), remove the word "point's" and add, in its place, the word "place's".

#### **§ 323.7 [Amended]**

12. In § 323.7(a)(1), remove the words "section 401" wherever they occur, and add, in their place, the words "section 41102".

13. Section 323.8 is revised to read as follows:

#### **§ 323.8 Exemptions.**

Carriers are exempted from paragraphs (a)(1), (a)(3), and (a)(5) of § 323.3 to the extent that those provisions require them to file a notice when terminating or suspending the domestic leg of an international flight (fill-up service).

#### **§§ 323.14, 323.15 [Amended]**

14. In §§ 323.14(d) and 323.15(b), remove the words "Office of Essential Air Service" and add, in their place, the words "Office of Aviation Analysis".

Issued in Washington, DC, on this 15th day of April, 1996.

Charles A. Hunnicutt,

*Assistant Secretary for Aviation and International Affairs.*

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### **14 CFR Part 385**

**[Docket No. OST-96-1268]**

**RIN 2105-AC38**

#### **Staff Assignments and Review of Action Under Assignments**

**AGENCY:** Office of the Secretary, Department of Transportation.

**ACTION:** Final rule.

**SUMMARY:** The Department is amending its regulations on staff assignments and review of action under assignments to remove or update obsolete provisions and organizational references, and reorder the sequence of assignments in a more logical manner and to more closely reflect the Department's staff organization.

**EFFECTIVE DATE:** The rule shall become effective on May 31, 1996.

#### **FOR FURTHER INFORMATION CONTACT:**

Carol A. Woods, Air Carrier Fitness Division, X-56, Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590, (202) 366-9721.

**SUPPLEMENTARY INFORMATION:** In his Regulatory Reinvention Initiative Memorandum of March 4, 1995, President Clinton directed Federal agencies to conduct a page-by-page review of all of their regulations and to "eliminate or revise those that are outdated or otherwise in need of reform." In response to that directive, the Department has undertaken a review of its aviation economic regulations as contained in 14 CFR Chapter II. This rule is one result of those efforts. Subsequent rulemakings will address other regulations.

In this rulemaking part 385 is being amended to remove or update obsolete provisions and organizational references, to replace references to the Federal Aviation Act with references to Subtitle VII of Title 49 of the United States Code (Transportation), and to reorder and renumber the assignments in a more logical manner and to more closely reflect the Department's staff organization.

Current § 385.13—Authority of the Director, Office of International Aviation, and § 385.14—Authority of the Director, Office of Aviation Analysis (new § 385.12), are being revised to eliminate authorities no longer used, to extend the authority for routine procedural decisions to additional cases (e.g., to add authority to dismiss certificate applications for lack of prosecution, to request applicants to provide additional information, to authorize the refund of filing fees due to the withdrawal or dismissal of an application at an early stage without the issuance of the requested authority), and to reorganize and renumber the authorities in a more logical sequence.

Current § 385.27—Authority of the Director, Office of Aviation Information Management, Research and Special Programs Administration (new § 385.19), and § 385.28—Authority of the Director, Office of Administrative Operations (new § 385.21), are being amended to reflect changes in functions and names of organizations. In addition, newly designated § 385.21(b) is being removed since the delegation of authority for this function is now contained in 49 CFR 89.5—Collection of Claims Owed the United States.

Current § 385.30, which contains the authority assigned to the Director, Office of Community and Consumer Affairs, is being removed as unnecessary. As part