

might result in bruising or other damage to fruit packed in it, the Stone Fruit Grade and Size Subcommittee voted unanimously to extend the current requirements applicable to RPCs with regard to net weight and well-filled requirements to all five down Euro containers. This would ensure that all five down Euro containers have a uniform net weight and ensure that the fruit in those containers is handled in such a way to minimize damage.

At the December 3, 2002, meeting, the NAC and PCC also unanimously recommended that all five down Euro boxes have an established net weight of 31 pounds, which is to be printed on the end of the container, and that those containers, like the RPCS, be exempt from the well-filled requirement.

Nectarines: For the reasons stated above, paragraphs (a)(1) and (a)(8) of § 916.350 are revised to refer to all five down Euro containers. Such changes will ensure that all five down Euro containers of nectarines are a net weight of 31 pounds and are exempt from the well-filled requirement. The container markings shall be placed on one outside end of the container in plain sight and in plain letters.

Peaches: For the reasons stated above, paragraphs (a)(1) and (a)(9) of § 917.442 are revised to refer to all five down Euro containers. Such changes will ensure that all five down Euro containers of peaches are a net weight of 31 pounds and are exempt from the well-filled requirement. The markings shall be placed on one outside end of the container in plain sight and in plain letters.

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, 2, and 3 of paragraph (a)(5)(iv).

According to the PCC, the Peento type 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 this peach has diminished in the marketplace, and some handlers converted their tray-packed containers of Peento types to volume-filled containers. Prior to the 2002 season, 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 were inappropriate. In an effort to standardize the conversion from tray-packing to volume-filling for Peento type peaches, the committee staff conducted weight-count surveys during the 2001 season to determine the most optimum weight-counts for the varieties at varying fruit sizes.

As a result, a new weight-count table applicable to only the Peento type peaches was added for the 2002 season. However, during the 2002 season, the committee staff continued to conduct further weight-count surveys to ensure that the Peento type peaches packed in volume-filled containers meet the weight-count standards established for tray-packed fruit. During those studies, the committee staff learned that very large Peento type peaches that were not previously converted from tray-packs to volume-filled containers were being packed in volume-filled containers and did not meet the weight-count standards.

For this reason, Table 3 of paragraph (a)(5)(iv) in § 917.442 is being revised to include weight-count standards for two of the larger peach sizes, sizes 32 and 30. Table 3 will also be corrected with regard to the maximum number of fruit in a 16-pound sample for sizes 54 and 50. Also, the maximum number of fruit in a 16-pound sample of size 54 Peento type peaches currently is listed as 77 peaches, and the maximum number of size 50 Peento type peaches is listed as 80 peaches. The maximum numbers of fruit for these sizes were inadvertently reversed, and will be corrected to indicate that the maximum number of fruit in a 16-pound sample of size 54 Peento type peaches is 80, and the maximum number of fruit in a 16-pound sample of size 50 Peento type peaches is 77.

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 2003 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 5.3 percent (1,239,000 containers) during the 2002 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 5.6 percent of all peach shipments (1,231,000 containers) during the 2002 season, but usually represent approximately 4 percent of total peach shipments.

Handlers have also commented that the availability of the "CA Utility" quality option 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 Stone Fruit Grade and Size Subcommittee met on November 6, 2002, and did not make a recommendation to the NAC and PCC to continue shipments of "CA Utility" quality nectarines and peaches. Some subcommittee members raised concerns about "CA Utility" quality fruit, including concerns that growers' returns on "CA Utility" quality fruit are lower. The issue of the authorized tolerance of 40 percent U.S. No. 1 fruit in each container of "CA Utility" quality was raised, and there was some discussion that the tolerance should be reduced so that less U.S. No. 1 fruit would be in a box of "CA Utility" quality fruit. However, ultimately no decisions were made by the subcommittee as the result of these discussions.

Subsequently, however, the NAC and PCC voted unanimously at their