

received will be considered prior to finalization of this rule.

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.

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 shipments of these fruits are expected to begin in early 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 opportunities to provide input at these meetings; 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 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

##### 7 CFR Part 917

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

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

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

Authority: 7 U.S.C. 601–674.

#### PART 916—NECTARINES GROWN IN CALIFORNIA

■ 2. Section 916.115 is revised to read as follows:

##### § 916.115 Lot stamping.

Except when loaded directly into railway cars, exempted under § 916.110, or for nectarines mailed directly to consumers in consumer packages, all exposed or outside containers of nectarines, and not less than 75 percent of the total containers on a pallet, shall be plainly stamped, prior to shipment,

with a Federal-State Inspection Service lot stamp number, assigned by such Service, showing that such fruit has been USDA inspected in accordance with § 916.55: *Provided*, That for the period April 1 to October 31, 2003, 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. Revising paragraph (a)(8); and

■ C. 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 five down Euro 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.

\* \* \* \* \*

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

\* \* \* \* \*

(d) During the period April 1 through October 31, 2003, 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 3/8 inch in height.

■ 4. Section 916.356 is amended by:

■ A. Revising paragraph (a)(1) introductory text;

■ B. Revising Table 1; and

■ C. Revising the introductory text of paragraphs (a)(3), (a)(4), and (a)(6) to read as follows:

##### § 916.356 California nectarine grade and size regulation.

(a) \* \* \*

(1) Any lot or package or container of any variety of nectarines unless such nectarines meet the requirements of U.S. No. 1 grade: *Provided*, That nectarines 2 inches in diameter or smaller, shall not have fairly light-colored, fairly smooth

scars which exceed an aggregate area of a circle 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 all varieties of nectarines which fail to meet the U.S. No. 1 grade only on account of lack of blush or red color due to varietal characteristics shall be considered as meeting the requirements of this subpart: *Provided further*, That during the period April 1 through October 31, 2003, 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
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