

§916.234

November 15, a recapitulation of shipments by that shipper's growers showing: each grower's name, address, telephone number, facsimile number (if applicable), and e-mail address (if applicable), and the total number of packages shipped by container or container equivalents for each grower.

(c) *Destination report.* Each shipper who ships nectarines shall furnish to the manager of the Nectarine Administrative Committee a report of the number of packages of nectarines shipped to each destination, and whether the nectarines were yellow-fleshed or white-fleshed, and whether the nectarines were "CA Utility" quality: *Provided*, That handlers who shipped fewer than 50,000 containers or container equivalents of any combination of nectarines, peaches, and plums during the previous season are exempted from these reporting requirements: *Provided further*, That handlers who begin operation during or after the 2001 season shall be exempted from these reporting requirements during their first season of operation. The destination is defined as nectarine shipments to any domestic or international market. Destination information for domestic market shipments shall include city and state, and zip code, if known. Destination information for international market shipments shall include the country to which shipped. This report shall be submitted by the fifteenth of each month following the month in which nectarine shipments were made.

[39 FR 27116, July 25, 1974, as amended at 63 FR 16039, Apr. 1, 1998; 65 FR 6308, Feb. 9, 2000; 66 FR 39409, July 31, 2001; 69 FR 53793, Sept. 3, 2004]

EDITORIAL NOTE: After January 1, 1979, "Budget of Expenses and Rate of Assessment" regulations (e.g. sections .200 through .299) and "Handling" regulations (e.g. sections .357 through .399) which are in effect for a year or less, will not be carried in the Code of Federal Regulations. For FEDERAL REGISTER citations affecting these regulations, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

Subpart—Assessment Rates

§916.234 Assessment rate.

On and after March 1, 2004, an assessment rate of \$0.195 per 25-pound con-

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tainer or container equivalent of nectarines is established for California nectarines.

[69 FR 50283, Aug. 16, 2004]

Subpart—Container and Pack Regulation

§916.350 California Nectarine Container and Pack Regulation.

(a) During the period beginning April 1 and ending October 31, no handler shall ship any package or container of any variety of nectarines except in accordance with the following terms and conditions:

(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.

(2) Each package or container of nectarines shall bear, on one outside end in plain sight and in plain letters, the word "nectarines" and, except for consumer packages in master containers and consumer packages mailed directly to consumers, the name of the variety, if known, or, when the variety name is not known, the words "unknown variety." A marketing name, trade mark, or brand name may be associated with the variety name, but cannot be substituted for the variety name.

(3) Each package or container of nectarines, except for consumer packages in master containers and consumer packages mailed directly to consumers, shall bear on one outside end clearly and legibly in plain sight and in plain letters the words "U.S. Mature" or "US MAT" if such nectarines are mature as defined in the United States Standards for Grades of Nectarines (7 CFR 51.3145 through 51.3160); or may instead bear on one outside end clearly and legibly in plain sight and in plain letters the words "California Well Matured" or "CA WELL MAT" if such nectarines are well matured as defined in §916.356.

(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) Each package or container of nectarines, except consumer packages mailed directly to consumers, shall bear, on one outside end in plain sight and in plain letters, the following count and/or size description of the nectarines as applicable.

(i) The size of nectarines packed in molded forms (tray-packs) in the No. 22D and the No. 32 standard boxes, or consumer packages; No. 22G standard lug boxes, experimental containers; or the No. 12B fruit (peach) boxes or flats; and the size of wrapped nectarines packed in rows in No. 12B fruit (peach) boxes shall be indicated in accordance with the number of nectarines in each container, such as "80 count," "88 count," etc.

(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.

(iii) The size of nectarines loose-filled or tight-filled in any container shall be indicated according to the number of such nectarines when packed in molded forms in the No. 22D or No. 32 standard lug box in accordance with the requirements of standard pack, such as "80 size," "88 size," etc.

(iv) The size of nectarines, when packed in loose-filled or tight-filled containers, shall be marked in accordance with the following table 1 and table 2 which specify the tray-pack size designation in Column A with the corresponding maximum number of nectarines in a 16-pound sample of each size of the fruit in Column B: *Provided*, That the following procedure shall be used in determining whether nectarines meet the minimum size requirements specified for each size category in this section applying the 16-pound sample. A sample consisting of one-half of the specified number of fruit for a particular size category shall be used, provided such sample

weighs at least eight pounds. When one-half the specified number of fruit in a sample results in a number ending with one-half a fruit, the smaller full number of fruit shall be used to determine the sample weight. If a sample fails with respect to minimum size requirements on the basis of an 8-pound sample, a 16-pound sample shall be used to determine if the fruit meets the minimum size requirements.

TABLE 1—WEIGHT-COUNT STANDARDS FOR ALL VARIETIES OF NECTARINES PACKED IN LOOSE-FILLED OR TIGHT-FILLED CONTAINERS

Column A—Tray pack size designation	Column B—Maximum number of nectarines in 16-pound sample applicable to varieties specified in paragraphs (a)(2)(ii), (a)(3)(ii), (a)(4)(ii), (a)(5)(ii), (a)(7)(ii), and (a)(8)(ii) of §916.356
108	100
96	90
88	83
84	78
80	75
72	68
70	61
64	56
60	50
56	47
54	40
50	39
48	35
44	33
42	31
40	30
36	25
34	23
32	22
30	19

TABLE 2—WEIGHT-COUNT STANDARDS FOR ALL VARIETIES OF NECTARINES PACKED IN LOOSE-FILLED OR TIGHT-FILLED CONTAINERS

Column A—Tray pack size designation	Column B—Maximum number of nectarines in 16-pound sample applicable to varieties specified in paragraphs (a)(6)(ii) and (a)(9)(ii) of §916.356
108	92
96	87
88	78
84	75
80	67
72	61
70	56
64	51
60	46
56	43
54	39

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TABLE 2—WEIGHT-COUNT STANDARDS FOR ALL VARIETIES OF NECTARINES PACKED IN LOOSE-FILLED OR TIGHT-FILLED CONTAINERS—Continued

Column A—Tray pack size designation	Column B—Maximum number of nectarines in 16-pound sample applicable to varieties specified in paragraphs (a)(6)(ii) and (a)(9)(ii) of §916.356
50	37
48	33
44	30
42	28
40	26
36	25
34	23
32	22
30	19

(6) Each No. 22D standard lug box, No. 22G standard lug box, or No. 32 standard box of loose-filled nectarines shall bear on one outside end, in plain sight and in plain letters, the words “25 pounds net weight.”

(7) Each No. 22E standard lug box of loose-filled nectarines shall bear on one outside end, in plain sight and in plain letters, the words *35 pounds net weight*.

(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 “29 pounds net weight.”

(9) Each bulk bin container of loose-filled nectarines shall contain not less than 100 pounds net weight, and bear on one outside panel, in plain sight and in plain letters, the following information:

(i) The name and address (including zip code) of the shipper.

(ii) The net weight.

(10) Each master container when filled with nectarines packed in consumer packages shall bear on one outside end in plain sight and in plain letters the following information:

(i) The number of individual consumer packages, the net weight of each consumer package, and the size description of the contents: *Provided*, That when consumer packages of different sizes of nectarines are contained in a master container, the size description of the contents shall indicate the minimum size contained therein, using the terms “Minimum size 60 and larg-

er,” or “Minimum size 70 and larger,” etc., as applicable.

(ii) The name and address (including zip code) of the shipper.

(11) Each individual consumer package shall bear the name and address, including the zip code, of the shipper and the net weight. When a consumer package is not in a master container, it must also bear the number of nectarines contained in the package, the name of the variety, if known, or if the variety is not known, the words *Unknown Variety*, and be marked as specified in paragraph (a)(3) of this section.

(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 Grade 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, a No. 22D standard lug box measures 2⁷/₈ to 7¹/₈ × 13¹/₂ × 16¹/₈ inches, a No. 22E standard lug box measures 8³/₄ × 13¹/₂ × 16¹/₈ inches, a No. 22G standard lug box measures 7³/₈ to 7¹/₂ × 13¹/₄ × 15⁷/₈ inches, a No. 32 standard box measures 5³/₄ to 7¹/₄ × 12 × 19³/₄ inches, a No. 35 standard box measures 3¹/₂ to 7¹⁵/₁₆ × 15⁹/₁₆ to 15¹³/₁₆ × 23¹/₄ to 23³/₄ inches, and a No. 36 standard box measures 5 to 6¹/₂ × 13¹/₄ × 17¹/₄ inches. All dimensions are given in depth (inside dimensions) by width and 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.

(c) Each container of nectarines in plastic, 12×19³/₄ 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.

(d) During the period April 1 through October 31, 2004, 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

$\frac{3}{8}$ 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.

[50 FR 39074, Sept. 27, 1985, as amended at 54 FR 27860, July 3, 1989; 55 FR 24221, June 15, 1990; 56 FR 40223, 40224, Aug. 14, 1991; 57 FR 20738, May 15, 1992; 59 FR 15838, Apr. 5, 1994; 59 FR 31120, June 17, 1994; 61 FR 13390, Mar. 27, 1996; 61 FR 31391, June 20, 1996; 63 FR 16039, Apr. 1, 1998; 64 FR 19031, Apr. 19, 1999; 65 FR 15212, Mar. 22, 2000; 67 FR 16294, Apr. 5, 2002; 68 FR 17264, Apr. 9, 2003; 68 FR 48255, Aug. 13, 2003; 69 FR 15649, Mar. 25, 2004; 69 FR 19756, Apr. 14, 2004]

Subpart—Grade and Size Regulation

§916.356 California Nectarine Grade and Size Regulation.

(a) During the period beginning April 1 and ending October 31, no handler shall ship:

(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 during the period April 1 through October 31, 2004, 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:

(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 $\frac{3}{8}$ 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. Damage to any nectarine is serious when it causes a waste of 10 percent or more, by volume, of the individual nectarine.

(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 paragraph, 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.

(iv) The Federal or Federal-State Inspection Service shall make final determinations on maturity through the use of color guides or such 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 to paragraph (a)(1)(iv) 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 Tom Grand variety of nectarines, not less than an aggregate area of 80 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 to paragraph (a)(1)(iv) may be granted during the season to reflect changes in crop, weather, or other conditions that