

Rose, Red Boy, Royal Lady, September Snow, and Summer Sweet peach varieties.

This rule also revises § 917.459 to remove two 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 1994 season. In § 917.459 paragraph (a)(4) is revised to remove the Morning Sun peach variety; and paragraph (a)(6) is revised to remove the Golden Lady peach variety. 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 Morning Sun variety from paragraph (a)(4) results in there being no varieties regulated within size 84 for the 1995 season. Since the variety-specific list is subject to change from one season to another, the Department wishes to reserve paragraph number § 916.459 (a)(4) for future regulation of peaches at size 84. The PCC unanimously 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 of fruit. This rule is designed to establish minimum size requirements for fresh peaches consistent with expected crop and market conditions. 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.

The interim final rule concerning this action was published in the March 21, 1995, **Federal Register** (60 FR 14891),

with a 30-day comment period ending April 20, 1995. Two comments were received.

One comment was received from Mr. Jonathan Field, manager of the NAC and PCC, in support of the committees' recommendations. Another comment was received from Chief Counsel for Advocacy of the United States Small Business Administration (SBA). The SBA contended that the Department failed to follow its own procedures for informal rulemaking by not publishing the votes on the committees' recommendations. The SBA further stated that the interim final rule does not relate how the committees determined what the impact of the rule would be on growers, handlers and consumers. SBA further stated that the interim final rule provides no evidence of the impact that these rule changes will have on small businesses.

In response to the SBA concerns, the Department followed its informal rulemaking procedures in reviewing the committees' recommendations. The Department reviewed and considered the information received from the NAC and PCC as it relates to alternative recommendations and the impact of this rule on small businesses (i.e., growers and handlers).

The Department disagrees with SBA's assertion that the interim final rule fails to follow the Department's informal rulemaking procedures and the requirements for the Regulatory Flexibility Act. The SBA's concerns regarding this action have been properly addressed in this document and the interim final rule.

The revision of the handling requirements for fresh peaches and nectarines adopted by this final rule will apply uniformly to all handlers in the industry, whether small or large, and there are no known additional costs incurred by small handlers. The stabilizing effects of the handling regulation impact both small and large handlers positively by helping them maintain their markets by meeting consumer demand.

Based on the above, 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.

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

The interim amendments to 7 CFR part 916 which were published at 60 FR 14891 on March 21, 1995, are adopted as a final rule with the following change:

### § 916.356 [Amended]

2. In § 916.356, paragraph (a)(4) is amended by adding the name "Royal Glo," immediately following the name "Rose Diamond," and paragraph (a)(6) is amended by removing the name "Royal Glo,".

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

The interim amendments to 7 CFR part 917 which were published at 60 FR 14891 on March 21, 1995, are adopted as a final rule with the following change:

### § 917.459 [Corrected]

3. On page 14896, first column, in the amendatory instruction number 5, the reference to paragraph "(a)(2)(ii)" is corrected to "(a)(1)(ii)" and in the second column, under paragraph designated § 917.459, the reference to "(a)(2)(ii)" is corrected to read "(a)(1)(ii)".

Dated: June 6, 1995.

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