

§916.115

handling takes place (i) on the premises where grown, (ii) at a packing-house or retail stand nearby which is operated by said handler, or (iii) at a certified farmers market in compliance with section 1392 of the regulations of the California Department of Food and Agriculture: *Provided*, That the exemption for certified farmers markets shall not apply to nectarines sorted out by a handler unless the nectarines are packed in containers clearly and legibly marked to show that the nectarines contained therein are only to be sold at certified farmers markets, and the handler complies with regulations established under §§916.41, 916.52(a)(1), 916.55, and 916.60 except that nectarines may be handled to such markets if the nectarines fail to meet the U.S. No. 1 grade only on account of being soft and overripe.

[31 FR 7474, May 24, 1966, as amended at 41 FR 22071, June 1, 1976; 42 FR 23157, May 6, 1977; 47 FR 30452, July 14, 1982; 49 FR 28541, July 13, 1984; 53 FR 15194, Apr. 28, 1988]

§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 marked "CA WELL MAT" or "California Well Matured", 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 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.

[72 FR 18853, Apr. 16, 2007]

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

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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, 2007, an assessment rate of \$0.06 per 25-pound container or container equivalent of nectarines is established for California nectarines.

[72 FR 44728, Aug. 9, 2007]

§916.235 Delinquent assessments.

(a) The Nectarine Administrative Committee shall impose a late payment charge on any assessment that has not been received in the Nectarine Administrative Committee's office, or legibly postmarked by the U.S. Postal Service, within 60 days of the invoice date shown on the handler's assessment statement. The late payment charge shall be 10 percent of the unpaid balance.

(b) In addition to that specified in paragraph (a) of this section, the Nectarine Administrative Committee shall impose an interest charge on any assessment payment that has not been received in the committee's office, or legibly postmarked by the U.S. Postal Service, within 60 days of the invoice date. The interest charge shall be 1.5 percent per month and shall be applied to the unpaid balance and late payment charge for the number of days all or any part of the assessment specified in the handler's assessment statement is delinquent beyond the 60 day payment period.

[72 FR 25947, May 8, 2007]

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 marked "CA WELL MAT" or "California Well Matured" 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."

(3) Each package or container of nectarines bearing the words "California Well Matured" or "CA WELL MAT" shall be 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 (EXCEPT PEENTO TYPE NECTARINES) PACKED IN LOOSE-FILLED OR TIGHT-FILLED CONTAINERS

Column A— Tray pack size designation	Column B— Maximum number of nectarines in a 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	84
84	78
80	75
72	68
70	63
64	57
60	53
56	48
54	45
50	42
48	41
44	36
42	34
40	32
36	29

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TABLE 1—WEIGHT-COUNT STANDARDS FOR ALL VARIETIES OF NECTARINES (EXCEPT PEENTO TYPE NECTARINES) PACKED IN LOOSE-FILLED OR TIGHT-FILLED CONTAINERS—Continued

Column A— Tray pack size designation	Column B— Maximum number of nectarines in a 16-pound sample appli- cable to vari- eties 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
34	27
32	25
30	23

TABLE 2—WEIGHT-COUNT STANDARDS FOR ALL VARIETIES OF NECTARINES (EXCEPT PEENTO TYPE NECTARINES) PACKED IN LOOSE-FILLED OR TIGHT-FILLED CONTAINERS

Column A— Tray pack size designation	Column B— Maximum Number of nectarines in a 16-pound sample appli- cable to vari- eties specified in paragraphs (a)(6)(ii) and (a)(9)(ii) of § 916.356
108	92
96	87
88	80
84	76
80	72
72	65
70	62
64	56
60	53
56	47
54	45
50	42
48	41
44	36
42	34
40	32
36	29
34	27
32	25
30	23

TABLE 3—WEIGHT-COUNT STANDARDS FOR PEENTO TYPE NECTARINES PACKED IN LOOSE-FILLED OR TIGHT-FILLED CONTAINERS

Column A—tray pack size designation	Column B— maximum number of nectarines in a 16-pound sample
80	140
72	128
70	111
64	99
60	93
56	87
54	80
50	77
48	74
44	70
42	68
40	59
36	53
34	50
32	39
30	32

(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 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.

(9) 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 larger,” or “Minimum size 70 and larger,” etc., as applicable.

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

(10) 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 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 $2\frac{3}{8}$ to $7\frac{1}{8} \times 11\frac{1}{2} \times 16\frac{1}{8}$ inches, a No. 22D standard lug box measures $2\frac{7}{8}$ to $7\frac{1}{8} \times 13\frac{1}{2} \times 16\frac{1}{8}$ inches, a No. 22E standard lug box measures $8\frac{3}{4} \times 13\frac{1}{2} \times 16\frac{1}{8}$ inches, a No. 22G standard lug box measures $7\frac{3}{8}$ to $7\frac{1}{2} \times 13\frac{1}{4} \times 15\frac{7}{8}$ inches, a No. 32 standard box measures $5\frac{3}{4}$ to $7\frac{1}{4} \times 12 \times 19\frac{3}{4}$ inches, a No. 35 standard box measures $3\frac{1}{2}$ to $7\frac{15}{16} \times 15\frac{9}{16}$ to $15\frac{13}{16} \times 23\frac{1}{4}$ to $23\frac{3}{4}$ inches, and a No. 36 standard box measures 5 to $6\frac{1}{2} \times 13\frac{1}{4} \times 17\frac{1}{4}$ 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, $12 \times 19\frac{3}{4}$ 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, 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; 70 FR 16389, Mar. 31, 2005; 71 FR 17976, Apr. 10, 2006; 72 FR 18853, Apr. 16, 2007]

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 any package or container of any variety of nectarines marked "CA WELL MAT" or "California Well Matured" except in accordance with the following terms and conditions:

(1) Any lot or package or container of any variety of nectarines shall 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 nectarines of the Peento type shall be permitted blossom end cracking that is well healed and does not exceed the aggregate area of a circle $\frac{3}{8}$ inch in diameter, and/or does not exceed a depth that exposes the pit: *Provided further*, That 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