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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV95-916-3FIR]

Nectarines and Fresh Peaches Grown in California; Expenses and Assessment Rate for the 1995-96 Fiscal Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as final, without change, the provisions of the interim final rule which authorized expenses and established an assessment rate for the Nectarines Administration Committee and the Peach Commodity Committee (Committees) under Marketing Order Nos. 916 and 917 for the 1995-96 fiscal year. Authorization of these budgets enables the Committees to incur expenses that are reasonable and necessary to administer their programs. Funds to administer the program are derived from assessments on handlers.

EFFECTIVE DATE: March 1, 1995, through February 29, 1996.

FOR FURTHER INFORMATION CONTACT: Karen T. Chaney, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone: 202-720-5127; or J. Terry Vawter, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721, telephone: 209-487-5901.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 916 (CFR Part 916) regulating the handling of nectarines grown in California and Marketing Agreement

and Order No. 917 (7 CFR Part 917) regulating the handling of fresh peaches grown in California. The agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

The Department is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, nectarines and peaches grown in California are subject to assessments. It is intended that the assessment rates specified herein will be applicable to all assessable nectarines and peaches handled during the 1995-96 fiscal year, which began March 1, 1995, through February 29, 1996. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 688c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, or any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are

unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 300 handlers of nectarines and peaches regulated under the marketing order each season and approximately 1,800 producers of these fruits in California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of these handlers and producers may be classified as small entities.

The nectarine and peach marketing orders, administered by the Department, require that the assessment rates for particular fiscal year apply to all assessable nectarines and peaches handled from the beginning of such year. Annual budgets of expenses are prepared by the Committees, the agencies responsible for local administration of their respective marketing order, and submitted to the Department for approval. The members of the Committees are nectarine and peach handlers and producers. They are familiar with the Committees' needs and with the cost for goods, services, and personnel in their local area, and are thus in a position to formulate appropriate budgets. The Committees' budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of nectarines and peaches. Because these rates are applied to actual shipments, they must be established at a rate that will provide sufficient income to pay the Committee's expenses.

The Nectarines Administrative Committee met on May 4, 1995, and unanimously recommended total expenses of \$3,683,031 for the 1995-96 fiscal year. In comparison, this is \$161,604 less than \$3,844,635 expenses amount that was recommended for the 1994-95 fiscal year.

The Committee also unanimously recommended an assessment rate of

\$0.1850 per 25-pound container or equivalent for the 1995-96 fiscal year, which is \$0.5 cent higher than the assessment rate that was approved for the 1994-95 fiscal year. The assessment rate, when applied to anticipated shipments of 16,860,000 25-pound containers or equivalent of nectarines would yield \$3,119,100 in assessment income. Adequate funds exists in the Committee's reserve to cover additional expenses.

Major expense categories for the 1995-96 nectarine budget include \$340,025 for salaries and benefits, \$1,534,593 for domestic market development \$99,117 for production and cultural research, and \$855,000 for inspection. Funds in the reserve at the end of the 1995-96 fiscal year's expenses.

The Peach Commodity Committee also met May 4, 1995, and unanimously recommended total expenses of \$3,736,531, for the 1995-96 fiscal year. In comparison, this is \$230,804 less than the \$3,967,335 expenses amount that was recommended for the 1994-95 fiscal year.

The Committee also unanimously recommended an assessment rate of \$0.19 per 25-pound container or equivalent for the 1995-96 fiscal year, which is the same assessment rate that was approved for the previous fiscal year. The assessment rate, when applied to anticipated shipments of \$16,982,000 25-pound containers or equivalent of peaches, would yield \$3,226,580 in assessment income. Adequate funds exist in the Committee's reserve fund to cover additional expenses

Major expense categories for the 1995-96 fiscal period are \$340,024 in salaries and benefits, \$1,534,593 for domestic market development, \$99,117 for research, and \$900,000 for inspection. Funds in the reserve at the end of the 1995-96 fiscal year, estimated at \$335,864, will be within the maximum permitted by the order of on fiscal year's expenses.

An interim final rule concerning this action was published in the August 21, 1995 Federal Register [60 FR 43352], with a 30 day comment period ending September 30, 1995. No comments were received.

While this action will impose some additional costs on handlers, the cost are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing orders. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on

a substantial number of small entities. It is found that the specified expenses for the marketing orders covered in their rule are reasonable and likely to be incurred and that such expenses and the specified assessment rates to cover such expenses will tend to effectuate the declared policy of the Act.

After consideration of all relevant material presented, including the Committee's recommendations, and other available information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because the Committees need to have sufficient funds to pay their expenses which are incurred on a continuous basis. The 1995-96 fiscal year began on March 1, 1995, and the marketing orders require that the rates of assessment for the fiscal year apply to all assessable nectarines and peaches handled during the fiscal year. In addition, handlers are aware of this action which was recommended by the Committees at public meetings. No comments were received concerning the interim final rule that is adopted in this action as a final rule without change.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Pears, Peaches, Reporting and recordkeeping requirements

PART 916—NECTARINES GROWN IN CALIFORNIA

1. Accordingly, the interim final rule amending 7 CFR Part 916 which was published at 60 FR 43350 on August 21, 1995, is adopted as a final rule without change.

PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

2. Accordingly, the interim final rule amending 7 CFR Part 917 which was published at 60 FR 43350 on August 21, 1995, is adopted as a final rule without change.

Dated: September 28, 1995.
Martha B. Ransom,
Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95-24710 Filed 10-4-95; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 208, 212, 214, 236, 242, 245, 248, 274a, and 299

[INS No. 1683-94; A.G. Order No. 1986-95]

RIN 1115-AD86

Entry of Aliens Needed as Witnesses and Informants; Nonimmigrant S Classification

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with respect for comments; Correction.

SUMMARY: On August 25, 1995, the Immigration and Naturalization Service ("the Service") published an interim rule with request for comments in the Federal Register at 60 FR 44260-44271. Although comments were requested, the Service did not provide the public with a deadline date for submitting comments. Accordingly, to ensure that the public has ample opportunity to fully review and comment on the interim rule, the Service is requesting that comments be submitted on or before December 4, 1995.

DATES: This interim rule is effective August 25, 1995. Written comments must be submitted on or before December 4, 1995.

ADDRESSES: Please submit written comments in triplicate to the Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference the INS number 1683-94 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514-3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Katharine Auchincloss-Lorr, Adjudications Officer, Adjudications Division, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536, telephone (202) 514-5014.

Dated: September 28, 1995.
Doris Meissner,
Commissioner, Immigration and Naturalization Service.

[FR Doc. 95-24734 Filed 10-4-95; 8:45 am]

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