

of nectarines. Therefore, the estimated assessment revenue for the 2002–03 fiscal period as a percentage of total grower revenue could range between 3.17 and 3.45 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the committee's meeting was widely publicized throughout the California nectarine industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the May 1, 2002, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the committee and other available information, it is hereby found that this 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) This assessment rate is lower than the assessment rate currently in effect; (2) the committee needs to have sufficient funds to pay its expenses

which are incurred on a continuous basis; (3) the 2002–03 fiscal period began on March 1, 2002, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable nectarines handled during such fiscal period; (4) handlers are aware of this action which was unanimously recommended by the committee at public meetings and is similar to other assessment rate actions issued in past years; and (5) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 916

Nectarines, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 916 is amended as follows:

PART 916—NECTARINES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 916 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 916.234 is revised to read as follows:

§ 916.234 Assessment rate.

On and after March 1, 2002, an assessment rate of \$0.19 per 25-pound container or container equivalent of nectarines is established for California nectarines.

Dated: June 20, 2002.

A.J. Yates,
Administrator, Agricultural Marketing Service.

[FR Doc. 02–15962 Filed 6–24–02; 8:45 am]
BILLING CODE 3410–02–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

RIN 3038–AB60

Profile Documents for Commodity Pools; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations that were published in the **Federal Register** of October 2, 2000 (65 FR 58648). The regulations related to accommodating National Futures Association's ("NFA") Rule 2–35(d) regarding profile

documents for commodity pools and establishing procedures for the use, amendment and filing of profile documents that are parallel to those applicable to disclosure documents.

DATES: Effective July 25, 2002.

FOR FURTHER INFORMATION CONTACT: Eileen R. Chotiner, Futures Trading Specialist, (202) 418–5467, electronic mail: "echotiner@cftc.gov," Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

Commission regulation 4.26(b), which was adopted in 1995,¹ required a commodity pool operator ("CPO") to attach the most current account statement and annual report for the pool to the disclosure document used to solicit prospective participants. As an alternative to attaching the account statement, the COP was permitted to provide information concerning the performance of the pool that was current within 60 days of the date the disclosure document was distributed.

In July 2000, the Commission proposed changes to its rules to permit CPOs to use a summary or "profile" comment prior to delivery of the pool's disclosure document, in accordance with rules proposed by NFA.² The sole change the Commission proposed to Rule 4.26 was to extend to profile documents the provision requiring correction of a materially inaccurate or incomplete disclosure document. The Commission received only one comment letter on the proposed changes, which supported the amendments. The comment letter did not address the proposed change to Rule 4.26.

The commission adopted final rules that were essentially the same as those proposed.³ Subsequent to publication of these rules, it has come to the Commission's attention that the revised text was inadvertently substituted for section 4.26(b) rather than 4.26(c). Today's amendment restores the text of 4.26(b), which requires that the most recent account statement and annual report be attached to commodity pool disclosure documents, and deletes the text of 4.26(c) that was intended to be replaced.

Section 553(b) of the Administrative Procedure Act ("APA"), 5 U.S.C. 553(b), generally requires that notice of proposed rulemaking be published in the Federal Register and that an opportunity for public comment be

¹ 46 FR 38146 at 38189 (July 25, 1995).

² 65 FR 46122 (July 27, 2000).

³ 65 FR 58648 (October 2, 2000).

provided when an agency promulgates new rules. APA § 553(b)(B) provides an exception to this requirement "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." Commission staff have been advised by National Futures Association, the designated self-regulatory association ("DSRO") for CPOs, that despite the inadvertent amendment of Rule 4.26(b), CPOs have been following the rule as though the requirement for the most current account statement and annual report had not been eliminated. Thus, the Commission has determined that publication of this correction for comment is unnecessary because CPOs, the entities subject to the rule, have been operating as though the rule had been in effect.

Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601-611 (1994), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.⁴ The Commission previously has determined that registered CPOs are not small entities for the purpose of the RFA.⁵ Therefore, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

This rule does not contain information collection requirements. Filing requirements regarding the disclosure document and information that must be distributed with it are included in section 4.21 and 4.22, which are part of an approved paperwork collection [OMB Control No. 3038-0005].

C. Cost-Benefit Analysis

Section 15 of the Commodity Exchange Act, as amended by section 119 of the CFMA, requires the Commission, before promulgating a new regulation under the Act, to consider the costs and benefits of the Commission's

action. Section 15 further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission may, in its discretion, give greater weight to any one of the five enumerated areas of concern and may, in its discretion, determine that, notwithstanding its costs, a particular regulation was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The main area of concern relevant to this rulemaking is the first set forth in the Act, "protection of market participants and the public." The other factors are inapplicable to this rule. The Commission concludes that the benefit to the public of receiving the financial information specified above outweighs the costs of providing the information.

List of Subjects in 17 CFR Part 4

Brokers, Commodity futures Commodity pool operators, Commodity trading advisors.

Accordingly, 17 CFR part 4 is corrected by making the following correcting amendments:

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

1. The authority citation for Part 4 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 4, 6b, 6c, 6l, 6m, 6n, 6o, 12a, and 23.

2. Section 4.26 is amended by removing paragraph (c), redesignating paragraph (b) as paragraph (c), and adding a new paragraph (b) to read as follows:

§ 4.26 Use, amendment and filing of Disclosure Document.

(a) * * *

(b) The commodity pool operator must attach to the Disclosure Document the most current Account Statement and Annual Report for the pool required to be distributed in accordance with § 4.22; provided, however, that in lieu of the most current Account Statement the commodity pool operator may provide performance information for the pool current as of a date not more than sixty days prior to the date on which the Disclosure Document is distributed and covering the period since the most

recent performance information contained in the Disclosure Document.

* * * * *

Issued in Washington, DC on June 19, 2002 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02-15994 Filed 6-24-02; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 122

[T.D. 02-33]

RIN 1515-AD06

Passenger Name Record Information Required for Passengers on Flights in Foreign Air Transportation to or From the United States

AGENCY: Customs Service, Department of the Treasury.

ACTION: Interim rule; solicitation of comments.

SUMMARY: This document amends the Customs Regulations, on an interim basis, in order to implement a provision of the Aviation and Transportation Security Act which requires that air carriers make Passenger Name Record (PNR) information available to Customs upon request. The availability of PNR information to Customs is necessary for purposes of ensuring aviation safety and protecting national security.

Under the interim rule, each air carrier must provide Customs with electronic access to requested PNR information contained in the carrier's automated reservation system and/or departure control system that sets forth the identity and travel plans of any passenger(s) on flights in foreign air transportation either to or from the United States. In order to readily provide Customs with such access to requested PNR data, each air carrier must ensure that its electronic reservation/departure control systems correctly interface with the U.S. Customs Data Center, Customs Headquarters. Any air carrier which has not yet taken steps to properly interface its automated PNR database with the Customs Data Center must do so within 30 days from the date that Customs contacts the carrier and requests that the carrier effect such an interface. However, the Assistant Commissioner, Office of Field Operations (OFO), may allow an air carrier an additional extension of this period for good cause shown.

⁴ 47 FR 18618-18621 (April 30, 1982).

⁵ 47 FR 18619-18620.