



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

Karen Ross, Secretary

March 30, 2016

NOTICE OF ISSUANCE
Issued pursuant to Section 59174 of the Food and Agricultural Code
2016 Seasonal Regulation
Price Filing and Posting
Under the Marketing Order for Processing Strawberries

To All California Strawberry Processors:

Upon the recommendation of the Processing Strawberry Advisory Board (PSAB), the California Department of Food and Agriculture (CDFA) has issued and made effective a seasonal regulation pertaining to mandatory price filing and posting for processing strawberries. This regulation will take effect on April 1, 2016.

The provisions for price posting are unchanged from previous years with the exception that price posting will now be done electronically instead via mail and faxes. Under this change, processors will now be able to submit their price postings electronically and posted prices will be accessible to the industry and the public on the PSAB website. These changes to the price posting procedures were recommended by the PSAB Board and were recently implemented via amendments to PSAB's Administrative Rules and Regulations. Attached to this notice is a copy of the updated PSAB Administrative Rules and Regulations that contains all of price posting procedures for the updated electronic price posting system.

If you have any questions about this processing strawberry seasonal regulation or the Marketing Order for Processing Strawberries, please call the PSAB Manager, Gabe Moreno, at 831-724-5454. You may also call Dennis Manderfield of this office at 916-900-5018.

Sincerely,

Robert Maxie, Chief
Marketing Branch

Attachment

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STATE OF CALIFORNIA

DEPARTMENT OF FOOD AND AGRICULTURE

MARKETING BRANCH



**Administrative Rules and Regulations
for
Marketing Order for Processing Strawberries**

Incorporating Amendments through April 1, 2016

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Administrative Rules and Regulations
For the Marketing Order for Processing Strawberries
Last Amended April 1, 2016

I. Business Address

The address of the Processing Strawberry Advisory Board of California and its telephone and fax numbers are as follows:

Processing Strawberry Advisory Board of California
P. O. Box 929
Watsonville, California 95077
Telephone: (831) 724-5454
FAX: (831) 724-0295
Email: psab@redshift.com

II. Filing and Posting of Prices and Price Terms

- A. Each processor shall file with the Processing Strawberry Advisory Board of California (Board) a schedule of, or schedules of, prices and price terms pursuant to which said processor shall offer to purchase, purchase, or otherwise acquire strawberries for processing. Each processor shall file with the Board a copy of, or copies of all agreements, including financing agreements, that provide for the acquisition of strawberries for processing. A separate schedule shall be filed and posted for each receiving station operated by such processor and shall be filed and posted on a form or forms provided by the Board's website - www.psab.us (Website) for that purpose. Each processor shall, prior to offering to purchase, purchasing, or otherwise acquiring strawberries for processing do the following:
1. Complete a schedule of prices and price terms in accordance with the instructions thereon and shall certify that the statements made thereon are true, and
 2. Electronically submit one copy of each such schedule to the Website. Schedules must be received by the Board no later than the effective date of said initial prices, and
 3. Mail and fax, or deliver, one copy of each agreement, including financing agreements, to the Board. In the event the agreement is mailed, it shall be postmarked no later than the day upon which said agreement is made effective provided that, if the agreement is made effective prior to the effective date of any seasonal marketing regulation for price posting, the agreement shall be post marked or delivered prior to the effective date of such seasonal marketing regulation.

4. Post one copy of the schedule at each receiving station, for which such schedule applies, in a conspicuous location accessible to producers who may deliver strawberries to such station, and
 5. Post one copy of each non-exempt agreement, including financing agreements, at each receiving station for which the agreement applies, in a conspicuous location accessible to producers who may deliver strawberries to such station. When posting agreements, including financing agreements, only that portion of the agreement which refers to the acquisition of strawberries and the price or price terms paid for the strawberries shall be posted.
- B. Schedules of prices and price terms which become valid on the first effective date of the price posting and filing regulation must be received by the Board by the effective posting date. Price postings received after the initial posting date shall become effective on the day received provided the posting is delivered by 11:00 a.m. Should a processor file a new or revised schedule of prices and price terms by 11:00 a.m., processors may match the newly filed prices or price terms, effective the same day, by electronically submitting a revised schedule of prices and price terms to the Website by 3:00 p.m. All notifications shall be made on Mondays through Fridays only. Notifications submitted to the Website after 11:00 a.m. on Fridays, unless filed in response to price changes filed by another processor which are effective that day, will take effect the following Monday.
- C. Upon receipt of an initial schedule of prices and price terms from a processor, the Board shall promptly email to all processors a notification of record and a copy of each such schedule received. Schedules of prices received on the effective date of price posting will be summarized and emailed to all processors of record within one working day. A copy of each original schedule received on the effective date of price posting will be available on the Website.
- D. A contract for the purchase of processing strawberries by a processor from a producer with a fixed price per pound for the season as a whole need not be posted, provided:
1. A copy of said contract is delivered to the Board office prior to the effective date of the current price posting regulations.
 2. That the effective date of said contract is not later than the effective date of the current price posting regulations.
 3. That in addition to a fixed price per pound, price terms including any and all considerations, as defined in Article III, between said processor and said growers for the purchase of said strawberries be set forth in the contract.
 4. Upon request from a strawberry processor as to whether or not a particular grower's strawberries are covered by a contract, the Manager of the Board shall reveal to the processor making the request only whether or not said grower's strawberries are covered by a contract.
 5. That when a contract is terminated during the season, such fact be made known to the Board office and the Board office notify all processors of said termination.

III. Prices and Price Terms

- A. As defined herein, changes in prices or price terms means and includes any modifications, amendments, alterations, or revisions of schedules of prices or price terms, and agreements.
- B. As defined herein, Prices or Price Terms means and includes:
 - 1. Any money, or any other consideration of value except a gift or gratuity not in excess of one-hundred dollars (\$100) in value and not paid to the grower as a consideration for strawberries.
 - 2. Any commission in excess of five cents (\$0.05) per crate paid for the acquisition of strawberries.
 - 3. Any hauling allowance paid to a grower.
 - 4. Any rate of interest provided for in a financing agreement that is below the national prime interest rate on the date the agreement is entered.
 - 5. Any and all other terms and conditions of purchases including, but not limited to, prices, discounts, allowances, rebates, handling charges, tare allowances, delivery charges, debt forgiveness, and like factors affecting acquisition costs.
- C.
 - 1. The price posted on price posting schedules and agreements for the purchase of processing strawberries by the processor shall include all payments to the grower of the strawberries converted to a price per pound basis including the payment of any bonus, except that a bonus for quality provided for in paragraph 2 of this Section shall be posted on the bonus line of the price posting schedule.
 - 2. When any fee is paid to an outside firm which receives, or receives and pre-cools, strawberries for the account of the processor, the processor shall list the name of the firm, type of service rendered, and fee paid for the service in cents per crate or cents per pound.
 - 3. The price per pound on the price posting schedule or agreement applies only to the net weight of the processing strawberries after dockage. Payment for dockage is prohibited.

IV. No Recommendation by Board as to Prices or Price Terms

The information regarding prices and price terms provided by the Board to the processors as herein provided is in no way recommended by the Board as suggested prices and price terms at which processors should offer to purchase, purchase, or otherwise acquire strawberries for processing.

V. Filing and Posting of Changes in Prices or Price Terms.

A processor may change its prices and price terms at any time by filing a new schedule of prices and price terms and agreements in accordance with the notification requirements hereinafter set forth.

Notification of such change in the processor's prices and price terms shall be submitted upon a form or forms provided by the Board through the Website for such purpose and must be submitted to the Website prior to 11:00 a.m. of the day the processor elects to change its schedule of prices and price terms and agreements. Should a processor submit a new or revised schedule of prices and price terms by 11:00 a.m., processors may match the newly submitted prices or price terms, effective the same day, by submitting a revised schedule of prices and price terms to the Website by 3:00 p.m. Said changes shall be made on Mondays through Fridays only. Notices of changes received by the Board office after 11:00 a.m. on Fridays, unless filed in response to price changes filed by another processor which are effective that day, will take effect on the following Mondays.

- A. No change in prices or price terms may be made by any processor offering to purchase, purchasing, or otherwise acquiring strawberries for processing until it has submitted to the Website the proposed change or changes, and
- B. The Board, upon receipt of proposed change in the schedule of prices and price terms or non-exempt agreements by any processor, shall promptly notify by email all other processors of record with the Board of the proposed changes and shall post the proposed changes on a summary maintained on the Website. The Board shall notify all processors of the date said notice of change of the schedule of prices and price terms or non-exempt agreement was received by the Board and the date upon which said change is to become effective.

VI. Effective Time

- A. Initial schedules of prices and price terms and agreements which become valid on the first effective date of the price posting and filing regulations shall be made effective in accordance with the regulations specified in Article II, Section B.
- B. All changes of price posting and/or initial price posting made after the first effective date of the price posting and filing regulations shall be made effective in accordance with the regulation specified in Section V, unless the processor filing such schedule of prices and price terms or agreements designates a later date.

VII. Applicability of Price Posting and Filing Regulations

Price posting and filing regulations shall apply to all processors of strawberries within the state of California unless specifically exempted by Section E of Article V of the Marketing Order.

VIII. Annual Review

In any marketing season during which price posting and filing regulations are in effect, the Director shall conduct an annual review of said regulations which may include an analysis of written reports from processors which the Director is authorized to require, an investigation of industry conditions, an audit of processor records required to be maintained pursuant to Chapter 6, Part 3 of Division 21 of the Food and Agricultural Code, and any other actions relating to said Chapter that are deemed necessary by the Director.

IX. Reports

Each processor shall report each week his weekly acquisition of strawberries indicating separately the quantity of such strawberries which meet the grade standards established and the quantity of such strawberries which fail to meet the grade standards and shall also furnish information showing the quantity of USDA Grade A and Grade B, or equivalent, processed strawberries produced from strawberries it received, and the quantity of processed strawberries other than Grade A or Grade B, or equivalent. Each processor shall report the utilization of sugar, syrup, or other additives used in the production of processed strawberries from strawberries it receives in order to enable the Board to calculate the net weight of strawberries utilized for processing. The report shall be filed on a form or forms provided by the Board and shall be certified by the processor submitting it.

X. Grade Regulations for Retail Packed Strawberries

- A. As defined herein, retail packed frozen strawberries means and includes all strawberries processed as sliced or whole frozen strawberries and packed into a container containing two (2) pounds net weight or less.
- B. No processor shall prepare for market nor market retail packed frozen strawberries with less than a total point score of eighty-five (85) as defined in the United States Department of Agriculture Standards for Grades of Frozen Strawberries which are currently in effect.

No processor shall prepare for market or market retail packed frozen strawberries unless such point score meets the following limiting rules of quality factors:

- 1. Color, thirty-four (34) points
- 2. Defects, thirty-four (34) points
- 3. Character, seventeen (17) points

- C. A tolerance is established in accordance with the USDA acceptance schedule. No sample shall be allowed with a score of less than eighty (80) points, subject to the following limitations:

1. Color, twenty-eight (28) points
 2. Defects, twenty-eight (28) points
 3. Character, fourteen (14) points
- D. No processor shall prepare for market nor market retail packed frozen strawberries with a drained weight of strawberry ingredient of less than sixty percent (60%) of the actual net weight of the contents of the container of frozen strawberries at the time of packing.
- E. No processor shall prepare for market nor market retail packed frozen strawberries in violation of these Rules and Regulations.
- F. Each processor shall arrange for and obtain an inspection of all retail packed frozen strawberries by an inspector authorized by the Processing Strawberry Advisory Board of California.

XI. Drained Weight

- A. Whenever a drained weight is specified in these Rules and Regulations, or a seasonal regulation, the drained weight shall:
1. Be determined from samples drawn from the processing line. In the event any plant is operating under USDA lot inspection, samples for determining minimum drained weight shall be drawn by personnel authorized by the Board. Such samples shall be drawn from the processing line and submitted by such plant to the nearest USDA inspection station for the determination of drained weight. Cost for determination of drained weight for any processor utilizing lot inspection shall be borne by the processor submitting such samples for inspection. In the event a processor is using previously processed fruit (other than individually quick frozen) to reprocess into a retail sized pack, the processor shall notify the local USDA office in advance to arrange for inspection in the plant at the time of reprocessing. The inspector shall determine whether all grade regulations and drained weight requirements as specified in the Marketing Order for Processing Strawberries, as Amended, are being met.
 2. Be determined by utilizing a U.S. No. 4 (4 mesh) sieve with a draining time of two (2) minutes. Samples for determining drained weight shall be drawn no less frequently than each half hour, and no lot shall be judged on less than the USDA single sampling plan number. An average of all samples from the lot shall be used to determine the minimum drained weight.

XII. Inspection and Certification

Whenever grade standards are prescribed for processed strawberries, such strawberries shall be inspected and certified by an authorized inspector of the Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Consumer and Marketing Service, United States Department of Agriculture, or by such other inspector or agent authorized by the Board.

XIII. Coding

All primary containers shall be distinctly code marked by the processor, and no code mark shall exceed a single day's production. No code shall fail to meet a minimum total point score and limitations prescribed in the seasonal regulation.

XIV. Substandard Lots

Lots of retail packed frozen strawberries which fail to meet the standards prescribed in the seasonal regulations may be repacked into institutional sized containers (containers containing in excess of two (2) pounds net weight of strawberries), reprocessed as retail packed frozen strawberries, or donated to a charitable organization for its own consumption. Any lot of retail packed frozen strawberries which fails to meet the standards prescribed in seasonal regulations shall be processed under the supervision of an inspector authorized in Article XII above.

XV. Disposition to Charities

In the event any processor wishes to donate a lot of retail packed frozen strawberries which fails to meet the grade prescribed to a charitable organization for its own consumption, such processor shall obtain receipt from such charitable organization on a form provided by the Board upon which such charitable organization shall certify that the lot so donated was received and shall be used for its own consumption.

XVI. Substandard Lots of Retail Packed Frozen Strawberries

- A. An authorized inspector of the inspection service designated in Article XII above shall red tag lots which fail to meet the standards prescribed for retail packed frozen strawberries. No processor shall move nor dispose of such red-tagged lots of retail packed frozen strawberries except as provided below.
 - 1. Any processor may dispose of red-tagged lots; provided that such disposition is made under the supervision of an inspector from an agency designated in Article XII above. In the event of a failed or substandard lot of retail packed frozen strawberries that was packed from previously processed frozen strawberries, the disposition of said failed or substandard lot shall be supervised by an authorized inspector from the USDA as outlined in the USDA instructions for inspection of retail pack frozen strawberries under the Marketing Order for Processing Strawberries, as Amended.
 - 2. Any processor wishing to move or transport red-tagged lots of retail packed frozen strawberries from one location to another shall do so only following written notification to the Board and to the authorized inspector prior to any movement or relocation of such lot.

XVII. Guaranteed Payment of Raw Product Inspection Fees

- A. Prior to the start of each season, any processor who utilizes the inspection service provided by the Board shall post a cash advance or an irrevocable letter of credit in an amount sufficient to cover the inspection costs estimated to be incurred for the season. The estimated costs will be determined by the Manager of the Board.
- B. Any processor who fails to comply with the provisions set forth in Section A above shall be denied the services of a Board-authorized inspector. Subsequently, as prescribed in Article III, Section H, of the Marketing Order for Processing Strawberries, as Amended, no processor shall utilize any fresh strawberries which have not been inspected and certified.

XVIII. Inspection Facilities, Equipment and Supplies

- A. Processors receiving strawberries for processing that are subject to inspection shall provide the necessary facilities, equipment and basic supplies as specified in this Section.
 - 1. LOCATION - The location of the inspection station shall be in close proximity to the fruit being received but out of the way of forklift and truck traffic. The table and scales shall be in a lighted enclosure and be protected from strong winds and inclement weather.
 - 2. INSPECTION TABLE - The inspection table shall be constructed of stainless steel for ease of cleaning and sanitation. Contact the Board office for a drawing of a suggested table.
 - 3. LIGHTING - Lighting may be an Examolite or an Examolite equipped with four foot GE Chroma 75 fluorescent tubes or equivalent. A good quality, four tube, fluorescent fixture is permissible provided it is equipped with GE Chroma 75 fluorescent lights or equivalent. The fixture must be located over the inspection table.
 - 4. SCALE - A scale capable of reading in ounces is required and may be either a hanging or an electronic scale. Faceplate gradations on a hanging scale shall be a minimum of 0.5 ounces. Either type of scale shall be certifiable for its capacity by the County Department of Weights and Measures and shall be certified and sealed prior to the start of inspection for the season. Minimum capacity for either type of scale should be not less than 256 ounces (16 lbs.). The scale shall be maintained in working condition at all times.
 - 5. ELECTRONIC RECORDING PROVISIONS - Each inspection location shall provide the following in order to perform electronic recording:
 - a. Portable computer or notebook with hard-wire and Wi-Fi options.
 - b. High speed internet access (hard-wired or uninterrupted Wi-Fi signal).

6. BASIC TOOLS AND EQUIPMENT - Each processor shall provide each inspection station with the following tools and equipment:
 - a. A potable water source.
 - b. Two buckets for water.
 - c. A sponge or towel for cleaning the inspection table.
 - d. Hand towels (paper is acceptable).
 - e. A mop or squeegee and a waste container.
 7. LAVATORY FACILITIES - The inspectors shall have access at each inspection station to clean rest rooms with hand-washing facilities.
 8. SAFE WORKING ENVIRONMENT - Each processor shall provide a safe working environment for the inspector.
- B. Failure to meet the requirements as provided in this Article may result in withdrawal of inspection services until deficiencies are corrected.

XIX. Establishment of Minimum Mandatory Number of Crates for Inspection

Each year the Board may establish within the seasonal grade regulations a daily minimum number of crates which must be inspected. A processor receiving an amount under the daily minimum number of crates for inspection in any one day will not be required to obtain inspection. However, each processor shall report those crates received which are under the daily minimum, in the manner specified in Section IX of these rules and regulations, in order for those crates to be assessed. Processors receiving a number of crates under the minimum amount established in the regulations may request and receive inspection if so desired.