

§ 82.1

7 CFR Ch. I (1–11 Edition)

SOURCE: 70 FR 67312, Nov. 4, 2005, unless otherwise noted.

§ 82.1 Applicability.

Pursuant to the authority conferred by Section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c) (Section 32), the Agricultural Marketing Service (AMS) will make payment to California growers who divert clingstone peaches by removing trees on which the fruit is produced in accordance with the terms and conditions set forth herein.

§ 82.2 Administration.

The program will be administered under the general direction and supervision of the Deputy Administrator, Fruit and Vegetable Programs, AMS, United States Department of Agriculture (USDA), and will be implemented by the California Canning Peach Association (CCPA). The CCPA, or its authorized representatives, does not have authority to modify or waive any of the provisions of this subpart. The Administrator or delegatee, in the Administrator's or delegatee's sole discretion can modify deadlines to serve the goals of the program. In all cases, payments under this part are subject to the availability of funds.

§ 82.3 Definitions.

(a) *Administrator* means the Administrator of AMS.

(b) *AMS* means the Agricultural Marketing Service of the U.S. Department of Agriculture.

(c) *Application* means "Application for Clingstone Peach Tree Removal Program."

(d) *Calendar year* means the 12-month period beginning January 1 and ending the following December 31.

(e) *CCPA* means the California Canning Peach Association, a grower-owned marketing and bargaining cooperative representing the clingstone peach industry in California.

(f) *Diversion* means the removal of clingstone peach trees after approval of applications by the CCPA.

(g) *Grower* means an individual, partnership, association, or corporation in the State of California who grows clingstone peaches for canning.

(h) *Removal or removed* means that the clingstone peach trees are no longer standing and capable of producing a crop, and the roots of the trees have been removed. The grower can accomplish removal by any means the grower desires. Grafting another type of tree to the rootstock remaining after removing the clingstone peach tree will not qualify as removal under this program.

§ 82.4 Length of program.

This program is effective November 5, 2005, through November 9, 2015. Growers diverting clingstone peaches by removing clingstone peach trees must complete the diversion no later than June 1, 2006.

§ 82.5 General requirements.

(a) To be eligible for this program, the trees to be removed must be fruit-bearing and have been planted after the 1987 and before the 2003 calendar years. Abandoned orchards and dead trees will not qualify. The block of trees for removal must be easily definable by separations from other blocks of eligible trees and contain at least 1,000 eligible trees or an entire orchard. Clingstone peach tree removal shall not take place until the grower has been informed in writing that the grower's application has been approved.

(b) Any grower participating in this program must agree not to replant clingstone peach trees on the land cleared under this program through June 1, 2016. Participants bear responsibility for ensuring that trees are not replanted, whether by themselves, by successors to the land, or by any other person, until after June 1, 2016. If trees are replanted before June 1, 2016, by any persons, participants must refund all USDA payments, with interest, made in connection with this tree removal program.

§ 82.6 Rate of payment; total payments.

(a) Applications will be processed on a first-come, first-served basis. Growers will be paid \$100 per ton based on their actual 2005 deliveries of clingstone peaches to processors from those acres of clingstone peach trees removed under this program, except