

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Parts 925 and 944

[Docket No. AMS-FV-06-0184; FV03-925-1 PR]

#### Grapes Grown in a Designated Area of Southeastern California and Imported Table Grapes; Change in Regulatory Periods

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Reopening of comment period.

**SUMMARY:** Notice is hereby given that the comment period on proposed changes to the regulatory period when minimum grade, size, quality, and maturity requirements apply to southeastern California grapes under Marketing Order No. 925 (order) and to imported grapes under the table grape import regulation is reopened. The original proposed rule regarding this matter was published in the **Federal Register** on May 25, 2005 (70 FR 30001), and cited statistical information through the 2004 shipping season. The Agricultural Marketing Service (AMS) is now considering updated statistical information for the 2005 through 2007 shipping seasons. AMS hereby invites comments on the updated statistical information contained herein, as it pertains to the proposed rule to change the regulatory period.

**DATES:** Comments must be received by November 26, 2007.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments should be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938, or Internet: <http://www.regulations.gov>. All comments should reference the docket number and the date and page number of this issue and the May 25, 2005, issue

of the **Federal Register** and will be available for public inspection in the office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Jennifer Garcia, Marketing Specialist, or Kurt Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; Telephone: (559) 487-5901; Fax: (559) 487-5906, or E-mail:

[Jennifer.Garcia@usda.gov](mailto:Jennifer.Garcia@usda.gov) or

[Kurt.Kimmel@usda.gov](mailto:Kurt.Kimmel@usda.gov).

Small businesses may request information complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** A proposed rule was issued on May 20, 2005, and published in the **Federal Register** on May 25, 2005 (70 FR 30001) that would change the regulatory periods when the minimum grade, size, quality, and maturity requirements apply to southeastern California grapes under the order and to imported grapes under the table grape import regulation. Three notices of extension to the comment period were published in the **Federal Register** on July 25, 2005 (70 FR 42513), September 27, 2005 (70 FR 56378), and July 11, 2006 (71 FR 39019).

Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (AMAA), delineates the requirements whereby the Secretary of Agriculture may extend the regulatory period during which marketing order regulations are in effect for imports. Those requirements have also been included by reference in the proposed rule. One specific requirement is that the Secretary consider "To what extent, during the previous year, imports of a commodity that did not meet the requirements of a marketing order applicable to such commodity were marketed in the United States during the period that such marketing order requirements were in effect for available domestic commodities (or would have been marketed during such time if not

for any additional period established by the Secretary)." That requirement cannot be fulfilled, given the current timeline in this rulemaking process, without the introduction of evidence from "the previous year".

The proposed rule was published using statistical data up through and including the year 2004, which was the most current data available at the time. This rule, in addition to reopening the comment period, provides updated statistical information that fulfills the requirements for the proposed action as required in the Act.

The type and sources of the statistical information contained herein are intended to mirror the statistical evidence cited in the proposed rule. USDA believes that the updated statistical information for the years 2005 through 2007 continue to support the arguments presented in the proposed rule.

#### Imported Grape Statistics

The proposed rule cited U.S. Census Bureau statistics for imported grape for the years 2000-2003. During that period, an average of 60 million 18-pound lugs of grapes were imported into the United States. Using updated data and compiling the average for the years 2000-2006 (January through December), approximately 68 million 18-pound lugs of grapes were imported into the United States. The two main countries exporting to the United States were Chile, with average exports of 51 million 18-pound lugs (76 percent of the total), and Mexico, with 14 million 18-pound lugs (21 percent of the total). The remaining three percent came from various countries.

The proposed rule stated, based on 2000-2004 statistics, that the greatest percentage of imported Chilean table grapes enter the United States through the Port of Philadelphia. This continues to be the case. Information from USDA's Market News Service (Market News) for 2000-2007 shows that the Port of Philadelphia received an average of 20 million 18-pound lugs of imported Chilean grapes during the February 1 to April 19 period, with 30 percent (6 million) of these 20 million 18-pound lugs arriving between April 1 and April 19. Market News import statistics for the 2007 shipping season show that 18.28 million lugs of grapes were imported from Chile into Philadelphia from February 1 to April 19, with 25 percent

(4.55 million) arriving between April 1 and April 19. After the April 20 start of the regulatory period shipments drop off by over 99 percent.

The Market News reports also show that weekly shipments of Chilean grapes imported into Philadelphia in 2007 mirror the pattern of previous years. An average of approximately 3 million 18-pound lugs of grapes were imported each week of the season up to the April 20 start of regulation. Following the April 20 start date of regulation, weekly shipments averaged 70,000 lugs, with shipments ceasing altogether after May 31.

#### Voluntary Inspection Data

Statistics from the AMS, Fresh Products Branch regarding voluntary inspections of imported Chilean grapes were cited in the proposed rule to highlight the high failure rates of imported grape inspections on product imported from April 1 to April 19 during the years 2000–2004. The trend of high failure rates on voluntary inspections continues in subsequent years. Voluntary inspections for the 2005–2007 shipping seasons indicate that, on average, 82 percent of the voluntary inspections conducted on Chilean grapes imported into the Port of Philadelphia from April 1 to April 19 failed, indicating that the product did not meet minimum U.S. quality standards. The voluntary inspections were conducted on an average of 32 percent of the total grapes imported during that period, meaning that, on average, at least 26 percent (82 percent of the 32 percent inspected) of all imports failed to meet minimum quality standards during that time frame. With 68 percent of the imports not subject to any inspection, the percentage of substandard grapes entering the U.S. could be much higher than the 26 percent that is known to have been voluntarily subjected to inspection and subsequently failed.

In 2007 specifically, 28 percent of imported grapes entering the country through the Port of Philadelphia were voluntarily inspected. The failure rate of those voluntary inspections was 81 percent, which mimics the trend highlighted in the proposed rule for years 2000–2004.

#### Wholesale Market Reports

The proposed rule cited Market News reports to show that fair, ordinary, and poor condition imported table grapes were in the market during the month of May in the years 2000–2004 and in June of 2000, 2001 and 2004. A review of recent reports shows that, similar to previous years, fair, ordinary, and poor

condition imported grapes were in the market in May of 2005–2007 as well.

In addition, the proposed rule cited Market News reports to highlight specific incidences where poor quality imported Chilean grapes were present in the Philadelphia, Boston, St. Louis, New York, Chicago, and Detroit wholesale markets at dramatically reduced prices in May of 2002, 2003, and 2004.

In 2007, lower quality imported Chilean grapes continued to be present in various U.S. wholesale markets. Market news reports for the Philadelphia, Boston, Chicago, New York, Baltimore, and Detroit wholesale markets for May of 2007 show that ordinary and poor quality Chilean grapes were present in the market and that they were available at dramatically reduced prices. Those grapes continue to be in direct competition with excellent/good quality domestically produced grapes subject to marketing order regulation at much higher prices.

Specifically, Market News reports for the Philadelphia wholesale market from May 1 to May 23, 2007, show that imported poor condition Chilean Thompson Seedless grapes were present in the market for \$1.00 to \$3.00 a lug. Imported poor condition Chilean Red Seedless grapes were also in the market from May 15 to May 17, 2007 at \$1.00 to \$4.00 a lug. Additionally, poor condition imported Chilean Black Seedless grapes were also selling for \$1.00 a lug from May 21 to May 23, 2007. Good quality Black Seedless grapes from the production area were sold in the same market from May 18 to May 25, 2007 at prices ranging from \$38 to \$40 a lug.

Market News reports for the Boston wholesale market show that poor quality imported Chilean Autumn Royal, Black Seedless, Princess, Red Globe, and Thompson Seedless were present at different dates through the month of May, 2007, at prices that ranged from \$1.00 to \$6.00. Good quality Black Seedless grapes from the production area were present at prices ranging from \$38.00 to \$40.00.

The statistical information from the California Table Grape Commission Market Activity Reports could not be duplicated for 2007 at the time of this rulemaking action.

USDA is reopening the comment period for an additional 30 days to allow interested persons to review and submit written comments on the updated statistical information contained in this rule as it pertains to the proposed rule. All written comments timely received will be considered before a final determination is made on this matter. Comments in

reference to the proposed rule that have been received prior to this action will continue to be considered as well.

**Authority:** 7 U.S.C. 601–674.

Dated: October 18, 2007.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 07–5266 Filed 10–24–07; 8:45 am]

**BILLING CODE 3410–02–M**

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 72

**RIN 3150–AI23**

#### List of Approved Spent Fuel Storage Casks: HI-STORM 100 Revision 4

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage cask regulations by revising the Holtec International (Holtec) HI-STORM 100 cask system listing within the “List of Approved Spent Fuel Storage Casks” to include Amendment No. 4 to Certificate of Compliance (CoC) Number 1014. Amendment No. 4 would modify the CoC by including changes to add site-specific options to the CoC to permit use of a modified HI-STORM 100 cask system at the Indian Point Unit 1 (IP1) Independent Spent Fuel Storage Installation (ISFSI). These options include the shortening of the HI-STORM 100S Version B, Multi-Purpose Canister (MPC)–32 and MPC–32F and the HI-TRAC 100D Canister to accommodate site-specific restrictions. Additional changes address the Technical Specification (TS) definition of transport operations and associated language in the safety analysis report (SAR); the soluble boron requirements for Array/Class 14x14E IP1 fuel; the helium gas backfill requirements for Array/Class 14x14E IP1 fuel; the addition of a fifth damaged fuel container design under the TS definition for damaged fuel container; addition of separate burnup, cooling time, and decay heat limits for Array/Class 14x14 IP1 fuel for loading in an MPC–32 and MPC–32F; addition of antimony-beryllium secondary sources as approved contents; the loading of all IP1 fuel assemblies in damaged fuel containers; the preclusion of loading of IP1 fuel debris in the MPC–32 or MPC–32F; the reduction of the maximum enrichment for Array/Class 14x14E IP1