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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket Number FV–98–302]

Table Grapes (European or Vinifera Type); Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises the United States Standards for Grades of Table Grapes (European or Vinifera Type). The Agricultural Marketing Service (AMS), in cooperation with industry and other interested parties develops and improves standards of quality, condition, quantity, grade and packaging in order to facilitate commerce by providing buyers, sellers, and quality assurance personnel uniform language criteria for describing various levels of quality and condition as valued in the marketplace. The revision will change the specific varietal reference throughout the standard from the present ''Superior Seedless'' to ''Sugraone.'' This revision will result in a benefit to the table grape industry by providing a uniform, up-to-date reference ensuring proper application of the grade standards.

DATES: This rule is effective March 29, 1999. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of March 29, 1999.

FOR FURTHER INFORMATION CONTACT: Frank O'Sullivan, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Washington D.C. 20090–6456, (202) 720–2185; E-Mail Francis__J.__Osullivan@usda.gov.

SUPPLEMENTARY INFORMATION: The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of the rule.

AMS provides inspection and grading services and issues grade and quality standards for commodities such as grapes. The agency does not determine varietal names for such commodities. However, in February 1998, AMS received a request from Sun World International (Sun World) to replace the varietal reference ''Superior Seedless'' with ''Sugraone'' in the table grape standards in 7 CFR Part 51.880–51.914. Sun World, a grower/shipper with proprietary rights to the term ''Superior Seedless,'' advised AMS that ''Superior Seedless'' was a registered trademark name and no longer the varietal name used for this table grape variety.

Sun World petitioned AMS in February 1998 to revise the United States Standards for Grades of Table Grapes (European or Vinifera Type). Sun World requested that AMS revise the standards by replacing the varietal reference of ''Superior Seedless'' with ''Sugraone.'' This request appeared reasonable to AMS, because the U.S. Standards for Grades of Table Grapes (European or Vinifera Type) lists specific requirements for this variety. Although AMS is not responsible for issuing varietal names, the Agency is responsible for facilitating commerce by providing buyers, sellers, and quality assurance personnel uniform language criteria for describing various levels of quality and condition as valued in the marketplace. Accordingly, descriptions and varietal names should be used that are current and applicable for its users.

A proposed rule was issued to address this change. A proposed rule was published in the **Federal Register** on October 21, 1998 [V. 63, FR 56096]. A comment period of sixty days was issued which closed on December 21, 1998.

Only one comment was received during the comment period. This comment was from the proponent, Sun World, which offered several reasons for making the revision to the standard. These reasons include the fostering of international trade, recognition of ''Sugraone'' as the proper varietal name by appropriate international organizations and consistency with applicable laws and international agreements. The comments noted that on August 9, 1996, the State of California, where 100 percent of the U.S. production of Sugraone originates, revised its regulations identifying Sugraone as a grape varietal name (California Code of Regulations, Title 3, Subchapter 4, Fresh Fruits and Vegetables, Article 25, Table Grapes and Raisins, November 16, 1996).

AMS has considered this comment and based upon available information has determined that the varietal reference should be revised from ''Superior Seedless'' to ''Sugraone.'' As previously stated, AMS provides inspection and grading services and issues grade and quality standards for commodities such as grapes. Even though U.S. grade standards make reference to varieties for some requirements, the agency does not determine varietal names for commodities.

However, according to the Agricultural Marketing Act of 1946 [7 U.S.C. 1621–1627, Sec. 203 (c)], the Secretary of Agriculture is directed and authorized ''to develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.'' This change should encourage uniformity and consistency in commercial practices with regard to marketing this variety of table grape.

Further, users of the standard will be certain how to apply the requirements of the standard, specifically to the Sugraone variety. Ultimately, the changes are merely technical and the actual grade requirements for this variety will remain unchanged. The references are necessary to provide inspection personnel and other parties using the grade standards with clear, concise, up-to-date information. Accordingly, the revision will have no substantive effect in the application of grade standards to regulated domestic and imported grapes under the

Agricultural Marketing Agreement Act of 1937 [7 U.S.C. 601–674], specifically those at 7 CFR part 925, and 7 CFR part 944, or grapes regulated under the Export Grape and Plum Act [7 U.S.C. 591–599].

Accordingly, in Sec. 51.882 U.S. Fancy, paragraph (i)(1)(ii), ''Superior Seedless'' will be changed to ''Sugraone.'' In Sec. 51.884 U.S. No. 1 Table, paragraph (I)(1)(i), which specifies berry size for the U.S. No. 1 Table grade, ''Superior Seedless'' will also be changed to ''Sugraone.'' A similar change will be made to Sec. 51.885 U.S. No. 1 Institutional, paragraph (h)(1)(i), which also references berry size for that particular grade.

In addition, as the maturity requirements specified in the standards incorporate applicable portions of The California Code of Regulations, and the State has revised these regulations by replacing ''Superior Seedless'' with ''Sugraone,'' Sec. 51.888 (a)(2) of the U.S. grade standards will be revised to incorporate the new State regulations by reference to The California Code of Regulations, Title 3, Subchapter 4, Fresh Fruits, Nuts, and Vegetables, Article 25 Table Grapes and Raisins, November 16, 1996.

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

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The United States standards issued pursuant to the Agricultural Marketing Act of 1946, 7 U.S.C. 1621–1627, and issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statues have compatibility.

It is difficult to obtain an exact number of table grape handlers and producers which grow or handle the Sugraone variety or Superior Seedless brand, (primarily due to the fact that a table grape producer or handler normally grows, or handles more than just one variety). However, according to the 1997 USDA National Agricultural Statistics Service reports, there are approximately 800 fresh market table grape growers/shippers in the United States which produced 939,665 short tons of table grapes (all varieties). Of these 800 growers/handlers, approximately 650 are from California and produce approximately 80 percent (750,000 short tons) of the crop. Approximately 10 growers from Arizona produced 2 percent (23,000 short tons) of the 1997 fresh market table grape crop. The bulk of the remaining 18 percent of production was produced by the remaining three of the top five States of table grape production: Georgia, Arkansas, and New York. In 1997, California produced approximately 26,572 short tons of the ''Sugraone'' variety, representing approximately 3 percent of the total U.S. table grape production and 100 percent of the U.S. production of this variety.

Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (SBA) [13 CFR 121.601] as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The table grape industry is characterized by growers and handlers whose farming operations generally involve more than one type (such as fresh market utilization versus processed market utilization) and variety of table grape, and whose income from farming operations in not exclusively dependent on one table grape variety or even one commodity. Typical table grape growers and shippers produce multiple varieties of fresh market table grapes and juice grapes within a single year. Furthermore, table grape handlers also handle not only multiple varieties of fresh market table grapes and juice grapes within a single year, but multiple commodities. Therefore, it is difficult to obtain an exact number of table grape growers and handlers, and, more specifically, ''Sugraone'' table grape growers, handlers and shippers, that can be classified as small entities based on the SBA's definition. However, the majority of the producers do have annual receipts greater than $500,000. Additionally, there are approximately 127 importers that receive an average of $2.8 million in grape revenue. (Table grapes received by these importers are subject to the requirements of Section 8e of the Agricultural Marketing Agreement Act of 1937 referenced above.) Therefore, it is estimated that the majority of table grape growers do not fit the SBA's definition of a small entity while the majority of handlers/importers are small entities.

The benefits of this rule are not expected to be disproportionately greater or smaller for small handlers or producers than for larger entities.

Alternatives were considered for this action. One alternative would be to not issue a final rule. However, as the popularity of this variety increases, and as imports of this variety also increase, the exposure and frequency of this varietal designation will also increase. Since the purpose of these standards is to expedite the marketing of agricultural commodities, not changing this reference could result in confusion in terms of the proper application for the U.S. grade standards.

This action will make the standard more consistent and uniform with marketing trends and commodity characteristics. It will not impose any additional reporting or recordkeeping requirements on either small or large grape producers, handlers, or importers. In addition, other than discussed above, the Department has not identified any Federal rules that duplicate, overlap, or conflict with this rule.

Pursuant to 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of this rule 30 days after publication in the **Federal Register** because: (1) It would be pertinent to have this change in effect by the beginning of the 1999 domestic table grape crop harvest (mid April to May); (2) the changes being made in this final rule only affect growers/handlers of the Sugraone variety of table grape; (3) the proposed rule provided a 60 day comment period during which no comments opposed to this rule were received. Accordingly, AMS amends the United States Standards for Grades of Table Grapes (European or Vinifera Type) as follows.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Trees, Vegetables.

For reasons set forth in the preamble, 7 CFR part 51 is to be amended as follows:

PART 51—[AMENDED]

1. The authority citation for Part 51 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

§ 51.882 [Amended]

2. In § 51.882, paragraph (i)(1)(ii) is amended by removing the words ''Superior Seedless'' and adding in their place the word ''Sugraone.''

§ 51.884 [Amended]

3. In § 51.884, paragraph (i)(1)(i) is amended by removing the words ''Superior Seedless'' and adding in their place the word ''Sugraone.''

§ 51.885 [Amended]

4. In § 51.885, paragraph (h)(1)(i) is amended by removing the words

''Superior Seedless'' and adding in their place the word ''Sugraone.''

§ 51.888 [Amended]

5. In § 51.888, paragraph (a)(2) is amended by removing the date ''February 28, 1992'' and adding in its place the date ''November 16, 1996''.

Dated: March 22, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–7473 Filed 3–25–99; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Part 229

[Regulation CC; Docket No. R–1027]

Availability of Funds and Collection of Checks.

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (the Board) recognizes that banks are currently dedicating their automation resources to addressing Year 2000 and leap year computer problems and may be challenged to make and test other programming changes, including those that may be required to comply with Regulation CC's merger transition provisions, without jeopardizing their Year 2000 or other programming efforts. Therefore, the Board is amending Regulation CC to allow banks that consummate a merger on or after July 1, 1998, and before March 1, 2000, greater time to implement software changes related to the merger.

EFFECTIVE DATE: April 1, 1999.

FOR FURTHER INFORMATION CONTACT: Jean Anderson, Staff Attorney, Legal Division (202/452–3707). For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Diane Jenkins (202/452–3544).

SUPPLEMENTARY INFORMATION: On December 2, 1998, the Board proposed amending Regulation CC to allow banks that consummate merger transactions on or after July 1, 1998, and before June 1, 1999, greater time to implement software changes related to the merger. (63 FR 66499). The proposal did not affect applications under the Bank Merger Act or the Bank Holding Company Act. The Board proposed this amendment because it recognizes that banks are currently dedicating their automation resources to addressing Year 2000 and leap year computer problems and may be challenged to make and test other programming changes, including those that may be required to comply with Regulation CC, without jeopardizing their Year 2000 or other programming efforts.

The Board received 15 comments on the proposed rule from the following types of institutions:

Banks/thrifts—3
Trade associations—3
Federal Reserve Banks—3
Clearinghouses—3
Bank holding companies—3

All of the commenters generally supported the Board's proposal and viewed it as aiding banks' efforts to focus programming resources on renovating and testing software systems to address Year 2000 rollover and leap year computer problems. Nine commenters urged the Board, however, to lengthen the proposed extension of the transition period, and generally recommended that a more liberal transition period be applicable to banks that consummate mergers in 2000.

These commenters stated that adopting an extension into the Year 2000 would enable banks to delay merger programming work so that they may focus greater resources on addressing the Year 2000 computer problem. In particular, it would enable merged banks that were Year 2000 compliant as separate entities to delay merging their systems until after key Year 2000 events (the century rollover and leap year), which would enable them to avoid reprogramming and retesting already Year 2000 compliant systems prior to spring 2000. Finally, one commenter noted that extending the period into the Year 2000 would help ensure that banks have sufficient resources to address unanticipated Year 2000 problems that may arise at the turn of the century.

For these reasons, the Board has decided to further extend the transition period. The final rule allows banks that consummate a merger on or after July 1, 1998, and before March 1, 2000, to be treated as separate banks until March 1, 2001. Beginning in March 2000, banks that merge will be subject to the normal one-year transition period.

Final Regulatory Flexibility Analysis

Two of the three requirements of a final regulatory flexibility analysis (5 U.S.C. 604), (1) a succinct statement of the need for and the objectives of the rule and (2) a summary of the issues raised by the public comments, the agency's assessment of the issues, and a statement of the changes made in the final rule in response to the comments, are discussed above. The third requirement of a final regulatory flexibility analysis is a description of significant alternatives to the rule that would minimize the rule's economic impact on small entities and reasons why the alternatives were rejected.

The final rule will apply to all depository institutions regardless of size. The amendments are intended to provide relief to banks involved in mergers, including small institutions, by reducing required changes to their automation environment during the period surrounding the century rollover, and should not have a negative economic effect on small institutions. Because the amendments should not have a negative economic effect on small institutions there were no significant alternatives that would have minimized the economic impact on those institutions.

List of Subjects in 12 CFR Part 229

Banks, banking, Federal Reserve System, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board proposes to amend Regulation CC, 12 CFR Part 229 as set forth below:

PART 229—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (REGULATION CC)

1. The authority citation for part 229 continues to read as follows:

Authority: 12 U.S.C. 4001 *et seq.*

2. In § 229.19, paragraph (g) is redesignated as paragraph (g)(1), a heading is added for newly designated paragraph (g)(1), and a new paragraph (g)(2) would be added to read as follows:

§ 229.19 Miscellaneous.

* * * * *

(g) *Effect of merger transaction.* (1) *In general.* * * *

(2) *Merger transactions on or after July 1, 1998, and before March 1, 2000.* If banks have consummated a merger transaction on or after July 1, 1998, and before March 1, 2000, the merged banks may be considered separate banks until March 1, 2001.

3. Section 229.40 is redesignated as § 299.40 (a), a heading is added for newly designated paragraph (a), and a new paragraph (b) would be added to read as follows:

§ 229.40 Effect of merger transaction.

(a) *In general.* * * *

(b) *Merger transactions on or after July 1, 1998, and before March 1, 2000.* If banks have consummated a merger transaction on or after July 1, 1998, and