

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 Part 51

[Docket Number FV-95-302]

Peaches; Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would revise the United States Standards for Grades of Peaches. The recommended revision would bring the standards into conformity with current cultural, harvesting and marketing practices by revising the method in which peaches are sized. This would be accomplished by changing the definition of "diameter" from the shortest distance to the greatest distance. 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 and criteria for describing various levels of quality and condition as valued in the marketplace.

DATES: Comments must be postmarked or courier dated on or before May 2, 1995.

ADDRESSES: Interested parties are invited to submit written comments concerning this proposal. Comments must be sent to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 2056 South Building, Washington, DC 20090-6456. FAX number (202) 720-8871. Comments should make reference to the date and page number of this issue of the Federal Register and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank O'Sullivan, at the above address or call (202) 720-2185.

SUPPLEMENTARY INFORMATION: The U.S. Department of Agriculture is issuing this proposed rule in conformance with Executive Order 12866.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Administrator of the Agricultural Marketing Service (AMS) has determined that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule for the revision of U.S. Standards for Grades of Peaches will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses. In addition, under the Agricultural Marketing Act of 1946, the use of these standards is voluntary.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This proposed 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.

Agencies periodically review existing regulations. An objective of the review is to ensure that the grade standards are serving their intended purpose, the language is clear, and the standards are consistent with AMS policy and authority.

The United States Standards for Grades of Peaches were last revised in June 1952. The National Peach Council (NPC), with the support of the Georgia Peach Council, New Jersey Peach Promotion Council, Inc., and the South Carolina Peach Council and Promotion Board, Inc., requested that the standards be revised in order to bring them into conformity with current cultural, harvesting and marketing practices. The NPC contends that due to new improved varieties, that changes to the current standards are necessary.

Specifically, the NPC requested that the standards be revised in regard to the method of sizing peaches. Peaches are currently sized based on the shortest

diameter, which requires the use of a caliper or slotted sizing ring. This method was adopted several years ago when most peaches were oblong and heavily sutured. Industry research has demonstrated that today's varieties are generally much more round and more uniform in shape than older varieties. The shape of peaches is similar to the shape of nectarines. Nectarines are sized by using the greatest diameter of the nectarine, which allows fruit to be sized using a sizing ring. Therefore, peaches should be sized on the same basis as nectarines (greatest dimension measured at right angles to a line from stem to blossom end of the fruit, using a sizing ring) in order to create uniformity in the marketplace.

The proposed revision would affect peaches that are sized to a minimum diameter, which are mostly grown on the east coast and some in the Midwest. This should not affect peaches grown on the west coast as they are sized based on the marketing order 917, consisting of a weight-count system.

List of Subjects in 7 CFR Part 51

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

For reasons set forth in the preamble, it is proposed that 7 CFR Part 51 be amended as follows:

PART 51—[AMENDED]

1. The authority citation for 7 CFR Part 51 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624.

2. In Part 51, Subpart—United States Standards for Peaches is revised to read as follows:

Subpart—United States Standards for Grades of Peaches

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3. In § 51.1216, paragraph (c) is revised to read as follows:

§ 51.1216 Size requirements.

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(c) *Diameter* means the greatest dimension measured at right angles to a line from stem to blossom end of the fruit.

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Dated: February 24, 1995.
 Kenneth C. Clayton,
Acting Administrator.
 [FR Doc. 95-5296 Filed 3-2-95; 8:45 am]
 BILLING CODE 3410-02-P

7 CFR Part 58

[DA-91-010B]

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; United States Standards for Grades of Monterey (Monterey Jack) Cheese

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to revise the United States Standards for Grades of Monterey (Monterey Jack) Cheese. The proposed changes would revise the standards to recognize differences in cheese characteristics resulting from technological changes in manufacturing practices and to more accurately describe consumer-acceptable product. The proposal would expand the permissible range of open body characteristics to include monterey (monterey jack) cheese manufactured using automated equipment. The proposal was initiated at the request of the National Cheese Institute (NCI) and was developed in cooperation with NCI and other dairy trade associations.

DATES: Comments should be filed by May 2, 1995.

ADDRESSES: Comments should be sent to: Director, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2968-S, P.O. Box 96456, Washington, DC 20090-6456. They will be available for public inspection at the Dairy Division in Room 2750-S during regular business hours.

FOR FURTHER INFORMATION CONTACT: Roland S. Golden, Dairy Products Marketing Specialist, Dairy Standardization Branch, USDA/AMS/Dairy Division, Room 2750-S, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-9383.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule would 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 this rule.

The proposed rule also has been reviewed in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The Administrator, Agricultural Marketing Service, has determined that the proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities because use of the standards is voluntary and the revisions would not increase costs to those utilizing the standards.

The Department is issuing this rule in conformance with Executive Order 12866.

To recognize differences in cheese characteristics resulting from technological changes in the manufacture of monterey (monterey jack) cheese and to permit the assignment of U.S. grade to cheese manufactured utilizing this technology, USDA is proposing the following changes in the U.S. Standards for Grades of Monterey (Monterey Jack) Cheese.

1. Expand Body and Texture Criteria To Permit U.S. Grade Assignment to Monterey (Monterey Jack) Cheese That Contains Less Than Numerous Mechanical Openings

The current U.S. Standards for Grades of Monterey (Monterey Jack) Cheese became effective in 1973. When these standards were established, production procedures encouraged the formation of numerous small mechanical openings evenly distributed throughout the cheese. Since then, automated manufacturing processes have been developed which have altered traditional body characteristics. Monterey (Monterey jack) cheese that is produced using automated production technology has resulted in cheese that no longer exhibits numerous mechanical openings. Cheese produced in this manner is readily available and is capturing an increasing share of the monterey cheese market. Changes in body characteristics have not altered the flavor or reduced the useability of the cheese.

Changes in the standards would provide for the assignment of U.S. grades to monterey (monterey jack) cheese that contains less than numerous mechanical openings or that may be completely devoid of mechanical openings. These changes do not disallow mechanical openings in cheese produced using traditional production methods.

2. Modify the Body Characteristics by Allowing "Very Slight Weak" in U.S. Grade AA Monterey (Monterey Jack) Cheese

Compositional standards permit monterey (monterey jack) cheese to contain up to 44 percent moisture. Cheese that contains this moisture content is classified as a semisoft cheese. A very slight weak body is an acceptable characteristic in this class of cheese. The proposal would add "very slight weak" to the list of permissible body characteristics for U.S. Grade AA Monterey (Monterey Jack) Cheese.

3. Increase the Minimum Aging Period Before Monterey (Monterey Jack) Cheese Can Be Graded From 5 to 10 Days

In order to accurately evaluate cheese quality, the cheese must have completed an aging period during which quality characteristics develop. With the exception of the U.S. grade standards for monterey (monterey jack) cheese, which stipulate a minimum 5-day aging period, all other U.S. grade standards for various varieties of cheese require this aging period to be at least 10 days. Changes proposed herein would increase the accuracy in determining U.S. grade by allowing cheese quality characteristics to develop to a greater extent. Also, this change would provide consistency with the age requirements prescribed for other types of cheese.

4. Permit the Use of Safe and Suitable Antimicrobials on the Surface of Monterey (Monterey Jack) Cheese, as Sanctioned by the Food and Drug Administration

The Food and Drug Administration (FDA) has amended the Standards of Identity for Monterey (Monterey Jack) Cheese (21 CFR Part 133, Cheese and Related Cheese Products," as issued by the Food and Drug Administration) to permit the use of antimicrobials on the surface of the cheese. The National Cheese Institute, a trade association representing U.S. cheese manufacturers, had petitioned FDA to permit the broader use of safe and suitable antimicrobials. Previously, use was permitted only on cuts and slices in consumer-size packages for a number of standardized cheeses.

Provision for the use of antimicrobials would be beneficial in preventing or inhibiting mold development on the surface of monterey (monterey jack) cheese.

5. Redefine Packaging Requirements

Proposed changes in packaging requirements would provide greater clarity and expand the types of