

# 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

[Doc. No. AMS–SC–16–0009; SC16–925–2]

#### Grapes Grown in Designated Area of Southeastern California and Imported Table Grapes; Removing Varietal Exemptions; Withdrawal

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

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The U.S. Department of Agriculture withdraws a proposed rule recommended by the California Desert Grape Administrative Committee (Committee) to remove varietal exemptions from the California table grape marketing order and the table grape import regulation as well as to remove administrative exemptions previously granted for certain varieties of imported grapes. After reviewing and considering the comments received, the proposed rule is being withdrawn.

**DATES:** As of October 25, 2019, the proposed rule published on June 23, 2017, at 82 FR 28589, is withdrawn.

**FOR FURTHER INFORMATION CONTACT:** Maria Stobbe, Marketing Specialist, or Terry Vawter, Senior Marketing Specialist, California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: [Maria.Stobbe@ams.usda.gov](mailto:Maria.Stobbe@ams.usda.gov) or [Terry.Vawter@ams.usda.gov](mailto:Terry.Vawter@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This withdrawal is issued under Marketing Order No. 925, as amended (7 CFR part 925), regulating the handling of grapes grown in a designated area of southeastern California. Part 925 (referred to as the “Order”) is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred as the “Act.” The Committee locally administers the Order and is comprised

of producers of California table grapes grown in a designated area of southeastern California, and a public member.

This withdrawal is also issued under section 8e of the Act, which provides that whenever certain specific commodities, including table grapes, are regulated under a Federal marketing order, imports of those commodities into the United States are prohibited unless they meet the same or comparable quality, grade, size, and maturity requirements as those in effect for the domestically produced commodity.

This action withdraws a proposed rule published in the **Federal Register** on June 23, 2017, (82 FR 28589) to remove varietal exemptions from the Order and import regulation as well as to remove administrative exemptions from the import regulation. Specifically, the proposed rule would have removed existing varietal exemptions (Emperor, Calmeria, Almeria, and Ribier) from the Order. As a result, all table grapes, regardless of variety, grown in the production area during the regulatory period (April 10 through July 10 each year) would have been subject to grade, size, quality, maturity, pack, and container requirements of the Order and would have been subject to inspection and certification requirements.

Additionally, the proposed rule would have removed the same varietal exemptions from the import regulation. Accordingly, all table grapes imported into the United States during the regulatory period would have been subject to grade, size, quality, and maturity regulations specified in the import regulation and would have been subject to inspection and certification requirements.

In conjunction with these changes, the proposed rule would have removed administrative exemptions from the import regulation for sixteen imported varieties (Italia Pirovano [Blanca Italia], Christmas Rose, Muscatel, Barlinka, Dauphine, Kyoho, Waltham Cross, Alphonse Lavallee, Bien Donne, Bonnoir [Bonheur], La Rochelle, Queen, Rouge, Sonita, Tokay, and Red Globe).

During the proposed rule’s 60-day comment period, fifteen comments were received. All the comments may be viewed on the internet at <http://www.regulations.gov>. Of the fifteen comments received, one was in support,

thirteen were opposed, and one did not pertain to the issue raised in the proposed rule. The supportive comment was from a California table grape industry association and was in favor of the proposed changes. Each of the thirteen opposing commenters represented an entity involved in the importation or marketing of imported table grapes: Six were from distributors of imported grapes based in Delaware, Pennsylvania, New Jersey, and California; two represented shipping ports; three represented trade associations; one was from an exporters’ association; and one was from a foreign embassy.

The opposing comments noted that the changes would result in job losses as well as a substantive increase in burden and costs to shippers and exporters in handling and storage costs, without adding quality benefits. The commenters stated that this could lead to reduced efficiency and vitality of export operations. Commenters also stated inspection delays and associated costs are not warranted because imported grapes do not compete on a seeded vs seedless basis. Another commenter noted that the changes would represent a major barrier to trade by eliminating exemptions, thereby restricting the flow of table grapes to market, causing economic harm to the shipper and possibly the consumer of table grapes.

Some commenters stated that the proposed rule did not contain quantifiable data that demonstrated support for the removal of all grape varietal exemptions from the Order and that no evidence supported eliminating previously exempted varieties shipped and sold prior to the first availability of the same comparable domestic varieties. In addition, they stated that imported grapes have not been shown to impact prices on any of the domestically produced exempted varieties.

Commenters also contended that the proposed changes are not supported by law or data and that it is not appropriate to deviate from the long-standing agency determination to exempt varieties not domestically produced.

After reviewing and considering the comments received, the Agricultural Marketing Service (AMS) has determined that the proposed rule to remove varietal exemptions from the Order and the table grape import

regulation should not be finalized. AMS intends to conduct outreach with the California table grape industry stakeholders and consider whether changes will be proposed in the future. Accordingly, the proposed rule to remove varietal exemptions from the Order and import regulation published in the **Federal Register** on June 23, 2017, (82 FR 28589) is hereby withdrawn.

#### List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

**Authority:** 7 U.S.C. 601–674.

#### List of Subjects in 7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

**Authority:** 7 U.S.C. 601–674.

Dated: October 21, 2019.

#### Bruce Summers,

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2019–23236 Filed 10–24–19; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Parts 244 and 259

[Docket No. DOT–OST–2019–0144]

RIN 2105–AE47

#### Tarmac Delay Rule

**AGENCY:** Office of the Secretary (OST), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This rulemaking would modify U.S. and foreign air carrier obligations with respect to tarmac delays and conform carrier obligations with respect to departure delays with the changes made to the FAA Extension, Safety, and Security Act of 2016. This rulemaking would also make changes to the notification requirements regarding the status of the tarmac delay and the opportunity to deplane as well as carrier tarmac delay reporting and record retention requirements.

**DATES:** Comments should be filed by December 24, 2019. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:** You may file comments identified by the docket number DOT–OST–2019–9144 by any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.

- **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

- **Hand Delivery or Courier:** West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal Holidays.

- **Fax:** (202) 493–2251.

**Instructions:** You must include the agency name and docket number DOT–OST–2019–0144 or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**Privacy Act:** Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.) You may review DOT’s complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit <http://DocketsInfo.dot.gov>.

**Docket:** For access to the docket to read background documents and comments received, go to <http://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the docket.

**FOR FURTHER INFORMATION CONTACT:** Ryan Patanaphan, Senior Trial Attorney or Blane A. Workie, Assistant General Counsel, Office of Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590, 202–366–9342, 202–366–7152 (fax), [ryan.patanaphan@dot.gov](mailto:ryan.patanaphan@dot.gov) or [blane.workie@dot.gov](mailto:blane.workie@dot.gov) (email).

#### SUPPLEMENTARY INFORMATION:

##### Current Tarmac Delay Requirements

On April 25, 2011, the Department published the “Enhancing Airline Passenger Protections” rule to improve the air travel environment for passengers.<sup>1</sup> Under this rule, carriers are required to adopt and adhere to tarmac delay contingency plans. DOT’s regulations require that these plans contain assurances that covered carriers will not allow aircraft to remain on the tarmac for more than three hours for

domestic flights and four hours for international flights without providing passengers the option to deplane subject to exceptions for safety, security, and Air Traffic Control related reasons.

Carriers’ plans must also contain assurances such as assurances that carriers will provide adequate food and drinking water within two hours of the aircraft being delayed on the tarmac, provide notifications regarding the status of the delay and the opportunity to deplane if the opportunity to deplane exists, maintain operable lavatories and, if necessary, provide medical attention.

#### Need for a Rulemaking

Section 2308 of the FAA Extension, Safety, and Security Act of 2016, Public Law 114–190 (FAA Extension Act) requires the Department to issue regulations and take other actions necessary to carry out the amendments made by Section 2308. These amendments include new language requiring air carriers to begin to return an aircraft to a suitable disembarkation point no later than 3 or 4 hours after the main aircraft door is closed for departure. In response, the Department’s Office of Aviation Enforcement and Proceedings (Enforcement Office) issued an “Enforcement Policy on Extended Tarmac Delays” (Enforcement Policy)<sup>2</sup> on November 22, 2016. The Enforcement Policy states that, as a matter of prosecutorial discretion, the Department will not take enforcement action against U.S. and foreign air carriers with respect to departure delays if U.S. and foreign air carriers begin to return the aircraft to a gate or another suitable disembarkation point no later than three hours for domestic flights and no later than four hours for international flights after the main aircraft door has closed in preparation for departure. The Enforcement Policy further provides that the process of beginning to return to the gate or a suitable disembarkation point varies based on whether the aircraft is in a carrier-controlled part of the airport or a non-carrier-controlled part of the airport. The Enforcement Policy is intended to be a temporary fix until the Department issues a final rule that specifically addresses lengthy tarmac delays pursuant to the FAA Extension Act.

In October 2017, the Department published a Notification of Regulatory Review (82 FR 4570, October 2, 2017), seeking public input on existing rules and other agency actions that are good candidates for repeal, replacement,

<sup>1</sup> Enhancing Airline Passenger Protections Rule, 76 FR 23110, Apr. 25, 2011.

<sup>2</sup> <https://www.transportation.gov/airconsumer/enforcement-policy-extended-tarmac-delays>.