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March 26, 2008

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Mr. Vincent J. Fusaro
Standardization Section
Fresh Products Branch
Fruit & Vegetable Programs
Agricultural Marketing Service
U.S. Department of Agriculture
1400 Independence Ave., S.W., Room 1661
South Building, Stop 0240
Washington, D.C. 20250-0240

Dear Mr. Fusato:

**Re: United States Standards for Grades of Table Grapes
(European or Vinifera Type)
Docket #AMS-FV-07-0140**

Western Growers is an agricultural trade association established in 1926 representing growers, shippers and processors of fruits, vegetables and nuts in Arizona and California. On behalf of our membership that grows and ships table grapes, I am submitting comments in support of the U.S. Department of Agriculture's proposed rule to revise the U.S. Standards for Grades of Table Grapes (European or Vinifera Type) to provide for an allowance of 5% for grape shatter.

In 2003 the Fruit and Vegetable Industry Advisory Committee for U.S. Department of Agriculture unanimously recommended to the Secretary that Agricultural Marketing Service systematically review all U.S. Grade Standards and seek input from industry for appropriateness in conjunction with new variety and packaging. It should also be noted that the USDA grades are voluntary standards to provide industry with the common language and a uniform basis for trading, thus promoting the orderly and effective marketing of fruits and vegetables. These standards must reflect the reality of today's supply chain and therefore be an impartial measurement of any given produce item grade and condition at shipping point and at contract destination. Streamlining these grade standards by recognizing the marketplace facts should be the primary focus for the USDA's consideration. Efforts by any segment in the supply chain to be obstructionists based merely on assertions that are not based on facts, should be dismissed; otherwise, no grade standards would ever be modernized.

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After a complete examination of the current grade standards for table grapes, last substantially changed in 1971, the California Grape and Tree Fruit League and Western Growers Association convened the table grape industry in California. Through a process over the last several years, the industry had a working group that agreed on fundamental areas of consensus. 1) The scoring of shatter was an issue at destination. 2) No change was needed at origin. 3) Through consumer research, a determination would ascertain opinions and the appropriate tolerance would be required. After conducting numerous meetings throughout the State of California as well as surveying the entire table grape shipping community, in November of 2005 the California Grape and Tree Fruit League in conjunction with Western Growers Association filed a petition to request a 10% allowance for shattered berries en route or at destination for grades in consumer containers. This industry petition stated that with the advent of consumer packaging, known as bags or clamshells in which the vast majority of grapes are sold, allows for shattered berries to be fully utilized and sold. In the event a berry that is shattered has any defect, such as wet sticky, decay, etc., it will still score. This tolerance is not to subject consumers to unusable grapes, but coincides with the reality of consumers paying full retail price and eating these grapes today. The only person who is disadvantaged is the grower who must be subjected to unnecessary demands for price concessions because of an antiquated standard.

In January of 2006, a request was published in the Federal Register in which the response to the proposed rule was 12 in support, and 2 in opposition. Because two of the comments were negative, the Department felt that they did not have industry consensus concerning the proposed rule for 10% allowance for shattered berries. Therefore, the proposed rule was withdrawn and on February 26, 2008 a new proposed rule was published in the Federal Register reducing the 10% allowance down to 5% allowance for shattered berries.

Western Growers accepts the USDA/AMS proposed rule of a 5% shattered allowance and considers it to be a compromise which Western Growers supports.

Western Growers strongly supports the fact that berries that are not defective and have superior quality which are just detached from the stem should be provided an allowance of 5%.

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The rationale for having shattered as a defect originally where those grapes which were sold in plain packs (lugs), when the grapes were removed from the lug the grapes that remained at the bottom of the lug were scored as shattered because they had detached from the stem and were discarded because there was no ability to sell individual berries. However, over the past 20 years of improving consumer packaging has made significant improvement in protecting the grape from physical injury. Because of that fact that the berries are no longer discarded this proposed rule change makes common sense from a fairness and equity standpoint.

Seeking an allowance with respect to a defect tolerance by USDA is not a precedent. Bagged apples currently have an allowance (10%) for stem punctures and dry onions for (20%) staining as well as dry roots; therefore the request for a 5% shattered berries allowance on table grapes is not unprecedented.

The California Grape Industry has been debating the U.S Grade Standard for table grapes for years; it is important to point out that the industry has solidarity in the fact that the U.S. Grade Standard at shipping point should not be altered and the industry in California is only requesting at destination an additional 5% allowance for shattered grapes. Shattered grapes at destination which are wet, sticky, decayed or other defects should continue to be scored.

Again, this would only apply in grapes in consumer packages, not for plain packed (lugs) grapes. The consumer will see no difference when purchasing grapes in consumer packages as it relates to shattered berries; consumers are buying these grapes now. The transportation and handling of grapes from shipping point to the wholesale market, and from there to the distribution center, and finally the retailer, will influence grapes to detach from the stem.

The buyer community that is selectively opposed to this proposal for individual reasons has shown no impact of the proposal on consumers at all. As a matter of fact, the debate seems centered around compliance with an FOB contract and ability to renegotiate a sale to extract price concessions from farmers; nothing to do with a consumer.

There has been no significant evidence submitted into record to support the North American Perishable Agricultural Commodities Receivers' (NAPAR) claim that shattered grapes are more susceptible to microbiological growth and reduced shelf life. This is nothing more than a red herring being entered into the record by NAPAR.

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The only reason NAPAR is opposing this common sense 5% allowance on shattered grapes is because they know they can deduct thousands of dollars from table grape shipper's invoices, if the total condition defects exceed 15% which they have been doing for years. This is nothing but a financial detriment to growers by not having a 5% allowance for shattered berries. Western Growers Association is unaware of any retailer opposing this proposed rule. All the oppositions seem to be coming from the wholesale receiver community. In the news release published by the California Table Grape Commission, (dated March 7, 2008 copy attached) they refer to a survey of 1500 U.S. and Canadian customers found that over 80% of shoppers considered grapes with shattered levels up to 10% to be of "excellent, very good, or good" quality. What is most important of this survey was the fact that no significant difference in quality perception of grapes with 3, 7 or 10% shattered berries. The studies have been done and the evidence is clear that consumers are accepting of diminishing shatter. They have a problem with decayed, wet and sticky, and leaky grapes. This proposal does not ask for an allowance for decayed, wet or sticky, or leaky grapes.

Accordingly, the 5% allowance being sought is obviously a compromise from what industry had initially requested and Western Growers believes it to be a fair and equitable compromise and respectfully request that this proposal be implemented immediately.

Very truly yours,



THOMAS R. OLIVERI
Director, Trade Practices & Commodity Services

TRO/tmg

Attachment