



## **Agricultural Marketing Service**

**[Doc. No. AMS-SC-25-0057]**

### **United States Standards for Grades of Orange Juice**

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

**ACTION:** Interim final notice.

**SUMMARY:** The Agricultural Marketing Service (AMS) is revising the U.S. Standards for Grades of Orange Juice (U.S. OJ Standards). This Interim Final Notice (IFN) revises the limits for Grade B Brix allowances in Pasteurized Orange Juice (POJ) under the U.S. OJ Standards to reference the Food and Drug Administration's (FDA) Standard of Identity (SOI) for POJ.

**DATES:** Effective date: This notice is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

Comment date: To be considered, written comments on this interim final notice must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Interested persons are invited to submit written comments to the USDA, Specialty Crops Inspection Division, 100 Riverside Parkway, Suite 101, Fredericksburg, VA 22406; fax: (540) 361-1199; or, at <https://www.regulations.gov>. Comments should reference the date and page number of this issue of the **Federal Register**. Comments will be posted without change, including any personal information provided. All comments received within the comment period will become part of the public record maintained by the Agency and will be made available to the public via <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dana N. White at the address above, by phone (202) 720-5021; fax (540) 361-1199; or email to [Dana.White@usda.gov](mailto:Dana.White@usda.gov).

**SUPPLEMENTARY INFORMATION:** Section 203(c) of the Agricultural Marketing

Act of 1946 (7 U.S.C. 1621-1627), as amended, directs, and authorizes the Secretary of Agriculture “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.”

AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and distributes copies of official standards available upon request. The U.S. Standards for Grades of Fruits and Vegetables that no longer appear in the Code of Federal Regulations are maintained by AMS at: <http://www.ams.usda.gov/grades-standards>. AMS is revising the U.S. OJ Standards using the procedures provided for in part 36 of title 7 of the Code of Federal Regulations (7 CFR part 36). After consideration of the public comments to this IFN, AMS will either conclude that the IFN revisions, as provided for or with minor modifications, should be adopted and publish a description of the changes or actions in a final notice, or if AMS determines the IFN revisions are not warranted, or otherwise are not in the public interest, the agency will either publish in the **Federal Register** a notice withdrawing the IFN, or will revise the IFN and again seek public input.

## **Background**

AMS is revising the U.S. OJ Standards at §52.1557 Requirements for Grades, Table VII—Pasteurized Orange Juice. Specifically, this IFN will remove the existing Brix minimums for Grade B unsweetened and sweetened POJ and insert a reference to the FDA’s SOI regulations for POJ at 21 CFR 146.140(a).

Historically, to maintain consistency in the domestic orange juice industry, AMS has based its Brix allowances for POJ under the U.S. OJ Standards on the FDA’s SOI for POJ. Accordingly, USDA’s current minimum requirements for Grade B Brix allowances in POJ under the U.S. OJ Standards, are based on the FDA’s current SOI requirements. Therefore, for industry consistency, any changes to the FDA’s SOI Brix minimum

requirements would result in corresponding changes to the U.S. OJ Standards.

Additionally, some state regulations, including Florida—the second largest orange juice producer in the United States—require that Florida orange juice meet the U.S. OJ Standards. Generally, the domestic orange juice industry relies on the U.S. OJ Standards for contract requirements related to acceptable POJ standards.

On August 16, 2023, in response to a petition from the Florida Citrus Processors Association and Florida Citrus Mutual, the FDA issued a request for information seeking comment on potentially amending the SOI for POJ by reducing the minimum soluble solids content (i.e., sugar content) from 10.5° to 10° Brix (88 FR 55607). The Florida industry requested this change as they struggle to meet the current requirement due to the devastating effects of citrus greening disease (infected trees produce a lower Brix level). FDA has published a proposed rule that would amend the SOI for POJ by lowering the minimum orange juice soluble solids content from 10.5° to 10° Brix (90 FR 37817). Should FDA finalize its proposed amendment to the SOI for POJ, USDA would need to amend its U.S. OJ Standards accordingly. However, if the USDA changes are not made concurrently with the FDA's changes, Florida producers would be bound by a higher Brix level under the U.S. OJ Standards and not realize the relief granted by FDA's reduced Brix minimums. This inconsistency would likely cause significant disruption to producers, undue economic hardship, and negative impacts on commerce.

Accordingly, this revision to the U.S. OJ Standards, effective immediately, would remove the specific Brix allowances for Grade B POJ, and instead, would incorporate the FDA's POJ SOI regulation to ensure USDA and FDA's Brix allowances for POJ remain consistent. This alignment of the U.S. OJ Standards with FDA's SOI will prevent any future discrepancy between the agencies' respective brix minimums for POJ.

While the revisions to the U.S. standard for POJ will be effective immediately upon publication of this IFN, there will be a 60-day comment period for interested parties

to submit comments to the agency on the revisions. After consideration of the public comments, AMS will either conclude that the IFN revisions to the U.S. OJ Standards, as provided for in this IFN or with minor modifications, should become affirmed and publish a description of the minor changes, if any, through a final notice, or if AMS determines the IFN revisions are not warranted, or otherwise are not in the public interest, the agency will either publish in the **Federal Register** a notice withdrawing the IFN, or will revise the IFN and again seek public input.

The agency finds that it is unnecessary to first seek notice and comment on these revisions prior to making the revisions effective immediately. The revisions are non-controversial and well-supported by industry; they are unlikely to solicit any adverse comments. Further, by allowing for a 60-day comment period prior to finalizing the revisions through a final notice, the delay is likely to cause disruption to the orange juice industry. While the FDA's proposed rulemaking is not final, the FDA has enforcement discretion for its SOIs related to POJ and may exercise such discretion before its rulemaking related to POJ Brix minimums is finalized. Therefore, if USDA does not immediately revise its POJ standards, the orange juice industry may not realize the relief granted by FDA's proposed reduced Brix minimums should FDA exercise its enforcement discretion until after the USDA's 60-day comment period and issuance of a final notice (7 CFR 36.3). For these reasons, USDA is issuing this IFN.

Therefore, AMS is making the following changes:

- §52.1557 Requirements for Grades, Table VII – Pasteurized Orange Juice:

AMS will remove the corresponding minimum Brix values for U.S. Grade B unsweetened and sweetened pasteurized orange juice (10.5 and 10.5) and insert a footnote designated as "Footnote 4." Footnote 4 will read, "See values set forth in 21 CFR 146.140(a)."

**Erin Morris.**

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