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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Doc. No. AMS–SC–21–0039]

U.S. Grade Standards for Pecans in the Shell and Shelled Pecans

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is revising the U.S. Standards for Grades of Pecans in the Shell and the U.S. Standards for Grades of Shelled Pecans by replacing the current grades with U.S. Extra Fancy, U.S. Fancy, U.S. Choice, and U.S. Standard grades. In addition, AMS is updating terminology, definitions, and defect scoring guides.

DATES: Effective July 26, 2024.

FOR FURTHER INFORMATION CONTACT: Olivia L. Banks, USDA, Specialty Crops Inspection Division, 100 Riverside Parkway, Suite 101, Fredericksburg, VA 22406; by phone (540) 361–1120; fax (540) 361–1199; or, email SCISStandards@usda.gov. Copies of the revised U.S. Standards for Grades for Pecans in the Shell and U.S. Standards for Grades of Shelled Pecans are available at <http://www.ams.usda.gov/nuts>.

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations at 7 CFR part 51 issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), as amended. These revisions do not affect the Federal marketing order, 7 CFR part 986, (Marketing Order 986) issued under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601–674) or applicable imports.

Executive Orders 12866, 13563, and 14094

AMS is issuing this rule in conformance with Executive Orders 12866, 13563, and 14094. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 reaffirms, supplements, and updates Executive Order 12866 and further directs agencies to solicit and consider input from a wide range of affected and interested parties through a variety of means. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) has exempted from review under Executive Order 12866.

Executive Order 13175

This rule has been reviewed under Executive Order 13175—Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions would have Tribal implications.

AMS has determined that this rule is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Executive Order 12988

This rule has been reviewed under Executive Order 12988—Civil Justice Reform. This action is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Background

AMS continually reviews fruit and vegetable grade standards to ensure their effectiveness in the industry and to modernize language.

On June 12, 2020, the American Pecan Council (APC) petitioned AMS to revise the U.S. Standards for Grades of Pecans

in the Shell and the U.S. Standards for Grades of Shelled Pecans (standards). The APC was established by, and is regulated under, the Federal marketing order for the pecan industry, Marketing Order 986, and represents all 15 major U.S. pecan-growing states.

The APC noted that the pecan standards have not been substantially updated since 1969 and the terminology of the standards no longer reflect current industry descriptions and practices. The National Pecan Shellers Association (NPSA) directed the initiative to update the standards for the APC. The APC voted unanimously to submit their proposed revisions to the AMS. AMS and the APC have since collaborated to refine the revisions.

The changes to the standards will replace current grades with new ones, revise scoring guides for defects, create new sizes, and revise definitions. AMS revised the U.S. Standards for Grades of Pecans in the Shell and the U.S. Standards for Grades of Shelled Pecans by replacing the current grades with U.S. Extra Fancy, U.S. Fancy, U.S. Choice, and U.S. Standard grades. These changes represent current industry descriptions and practices.

These revisions do not affect Marketing Order 986 or applicable imports since there are no grade, size, or quality standards currently applied under the marketing order.

The first proposed rule was published in the **Federal Register** of June 1, 2022, (87 FR 33064) inviting comments on the proposed revisions to the U.S. Standards for Grades of Pecans in the Shell and the U.S. Standards for Grades of Shelled Pecans. The public was invited to review and comment on the proposed rule, which was to be accompanied by copies of the proposed standards on <https://www.regulations.gov>.

On June 28, 2022, AMS noted that the proposed U.S. Standards for Grades of Pecans in the Shell and the U.S. Standards for Grades of Shelled Pecans failed to upload to <https://www.regulations.gov>, however, the supporting documents were uploaded to <https://www.regulations.gov> on that date. To provide all interested persons a full 60-day comment period to view copies of the proposed standards and facilitate review of the proposed rule, AMS extended the public comment period by 30 days (87 FR 48091) to

September 7, 2022. To pursue clarification and based on the feedback AMS received during the comment period, Specialty Crop Inspection Division (SCI) invited interested parties to meet on February 28, 2023, and May 2, 2023, to provide an opportunity to clarify language and discuss specific sections of the proposed standards to ensure there are no misinterpretations on how any proposed language would be applied before moving forward with this rulemaking. Based on comments received, SCI refined the language in the standards.

A second proposed rule was published in the **Federal Register** on October 11, 2023, (88 FR 70379) providing a 60-day comment period on these changes to the proposed revisions to the U.S. Standards for Grades of Pecans in the Shell and the U.S. Standards for Grades of Shelled Pecans. The public was invited to review and comment on the proposed rule, which was accompanied by copies of the proposed standards on <https://www.regulations.gov>.

Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be unduly or disproportionately burdened.

The Small Business Administration (SBA) defines small growers engaging in tree nut farming as those having annual receipts of no more than \$3.75 million (NAICS Code 111335)(13 CFR 121.201). Handlers, which can be defined as those engaging in postharvest crop activities (except cotton-ginning), have a small business size standard of annual receipts not exceeding \$34 million (NAICS Code 115114)(13 CFR 121.201).¹

In the 2017 Census of Agriculture, the most recent to date, the National Agricultural Statistics Service (NASS) reports that of the 19,008 pecan farms counted nationwide, 440 of them had annual sales valued at \$1 million or more. This means that 18,568 pecan farms, or 98 percent of the census, had annual receipts of less than \$1 million. As the threshold for meeting the definition of a small business, per the SBA, is \$3.75 million, nearly four-times the \$1 million maximum reported by NASS, the portion of pecan farms that

may be considered small by the SBA standard is likely even higher than 98 percent.

According to the Census Bureau, there were 910 firms classified as those engaging in postharvest crop activities (except cotton-ginning) in 2017. Total sales for all 910 firms were valued at more than \$6.4 billion. The Census Bureau survey² which yielded these results for 2017 is the most recent to date. The APC estimates that there are 115 handlers subject to regulation under Marketing Order 986. Of these, the APC estimates that nine handlers have annual sales exceeding \$34 million, thus surpassing the threshold of a small business as defined by the SBA. This means that 106 handlers, or 92 percent of the total, had annual receipts not exceeding \$34 million and would, therefore, be designated as small per the SBA definition.

Food grading standards provide important quality information to buyers and sellers that contribute to the efficient marketing of agricultural commodities. Because the revisions of the grade standards represent current industry grading practices, these changes will not require any significant changes in grower or handler business operations nor any significant industry educational effort. As the standards are voluntary, handlers are not required to use the new terms or make any changes. Neither large nor small handlers will incur additional costs. No small businesses will be unduly or disproportionately burdened.

Comments

AMS received seven comments on the proposed changes. Of the seven, three of the comments were from the National Pecan Shellers Association, the American Pecan Council, and one pecan grower. All commented with strong support for the changes to the standards as written. AMS acknowledges these comments.

One commentor supported the changes and would like to see the United States Department of Agriculture and other agencies work toward a lower threshold for aflatoxin in the standards that apply to pecans. AMS acknowledges this comment and recognizes that the United States Food and Drug Administration (FDA) regulates levels of contaminants in human food and animal feed.

One commentor stated that as a consumer the new standards are

confusing, and terms like “fancy” and “extra fancy” may be industry jargon but are relative and otherwise meaningless. AMS acknowledges this comment and maintains that the changes to descriptive language are based on the APC petition which sought to revise the standards to reflect current industry descriptions and practices. AMS believes that standardized language used across various commodity industries leads to the uniform description of commodities intended for consumers.

One commentor supported the changes as a welcome improvement which will provide more clarity, flexibility, and specificity, but preferred letter grades or numbers to allow consumers to more readily understand what quality of product they are buying. AMS acknowledges this comment and believes the revisions provide uniform descriptions of quality and reflect current industry practices.

One commentor stated that AMS may not have considered all the relevant factors that Congress intended it to in the proposed rule because it did not carefully estimate the likely impact of the promulgation of this new voluntary labeling standard on the market. AMS acknowledges this comment and clarifies that the revisions discussed in this final rule are to the U.S. Standards for Grades of Pecans in the Shell and the U.S. Standards for Grades of Shelled Pecans and not to a labeling standard.

Regarding the likely impact of the promulgation of these revised grade standards on the market, AMS acted on a petition from the APC, which represents all 15 major U.S. pecan-growing states, to revise the grade standards to represent current industry descriptions and practices. Uniformity in these descriptions and practices provides consumers stability in the marketplace. AMS also provided open public comment periods throughout the entirety of the revision process. AMS did not make any changes to the October 11, 2023 (88 FR 70379) proposed rule in this final rule. Additionally, AMS provided the Regulatory Flexibility Analysis which determined neither large nor small handlers will incur additional costs. No small businesses will be unduly or disproportionately burdened based on the economic impact of this final rule on small entities. These actions are standard processes performed by AMS during the revision of any grade standards.

AMS has determined that this rule is consistent with and will effectuate the purpose of the Agricultural Marketing Act of 1946. Therefore, AMS is revising

² Economic Surveys Annual Business Survey: Statistics for Employer Firms by Industry, Sex, Ethnicity, Race, and Veteran Status for the U.S., State, Metro Areas, Counties, and Places: 2017.

¹ Version December 2022 size standards.

the voluntary U.S. Standards for Grades of Pecans in the Shell and the U.S. Standards for Shelled Pecans issued under the Agricultural Marketing Act of 1946.

List of Subjects in 7 CFR Part 51

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

For reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR part 51 as follows:

PART 51—FRESH FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

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

Authority: 7 U.S.C. 1621–1627.

■ 2. Subpart M is revised to read as follows:

Subpart M—United States Standards for Grades of Pecans in the Shell

Sec.

Grades

- 51.1400 U.S. Extra Fancy.
- 51.1401 U.S. Fancy.
- 51.1402 U.S. Choice.
- 51.1403 U.S. Standard.

Size Classification

- 51.1404 Size classification.

Kernel Color Classification

- 51.1405 Kernel color classification.

Tolerances

- 51.1406 Tolerances.

Application of Tolerances

- 51.1407 Application of tolerances.

Sample for Grade or Size Determination

- 51.1408 Sample for grade or size determination.

Definitions

- 51.1409 Loose extraneous or foreign material.
- 51.1410 Well cured.
- 51.1411 Well developed.
- 51.1412 Fairly well developed.

- 51.1413 Poorly developed.
- 51.1414 Uniform in color.
- 51.1415 Fairly uniform in color.
- 51.1416 Damage.
- 51.1417 Serious damage.
- 51.1418 Inedible kernels.

Subpart M—United States Standards for Grades of Pecans in the Shell

Grades

§ 51.1400 U.S. Extra Fancy.

“U.S. Extra Fancy” consists of pecans in the shell which meet the following requirements:

- (a) Free from loose extraneous or foreign material.
- (b) Shells are:
 - (1) Uniform in color; and
 - (2) Free from damage by any cause.
- (c) Kernels are:
 - (1) Well developed;
 - (2) Well cured;
 - (3) Moisture content shall be not more than 6 percent, unless otherwise specified;
 - (4) Uniform in color and not darker than “light;” and
 - (5) Free from damage by any cause.
- (d) For tolerances see § 51.1406.

§ 51.1401 U.S. Fancy.

“U.S. Fancy” consists of pecans in the shell which meet the following requirements:

- (a) Free from loose extraneous or foreign material.
- (b) Shells are:
 - (1) Uniform in color; and
 - (2) Free from damage by any cause.
- (c) Kernels are:
 - (1) Fairly well developed;
 - (2) Well cured;
 - (3) Moisture content shall be not more than 6 percent, unless otherwise specified;
 - (4) Uniform in color;
 - (5) Not darker than “light amber,” unless specified to a lighter color classification; and
 - (6) Free from damage by any cause.
- (d) For tolerances see § 51.1406.

§ 51.1402 U.S. Choice.

“U.S. Choice” consists of pecans in the shell which meet the following requirements:

- (a) Free from loose extraneous or foreign material.
- (b) Shells are:
 - (1) Fairly uniform in color; and
 - (2) Free from damage by any cause.
- (c) Kernels are:
 - (1) Not poorly developed;
 - (2) Well cured;
 - (3) Moisture content shall be not more than 6 percent, unless otherwise specified;
 - (4) Fairly uniform in color;
 - (5) Not darker than “amber,” unless specified to a lighter color classification; and
 - (6) Free from damage by any cause.
- (d) For tolerances see § 51.1406.

§ 51.1403 U.S. Standard.

“U.S. Standard” consists of pecans in the shell which meet the following requirements:

- (a) Free from loose extraneous or foreign material;
- (b) Kernels well cured;
- (c) Moisture content shall be not more than 6 percent, unless otherwise specified;
- (d) No requirement for fullness of kernel;
- (e) No requirement for uniformity of color of shells or kernels;
- (f) May contain kernels that are “dark amber” or darker, unless specified to a lighter color classification; and
- (g) Shells and kernels are free from damage by any cause.
- (h) For tolerances see § 51.1406.

Size Classification

§ 51.1404 Size classification.

Size of pecans may be specified in connection with the grade in accordance with one of the following classifications. To meet the requirements for any one of the classifications in Table 1 to this section, the lot must conform to both the specified number of nuts per pound and the weight of the 10 smallest nuts per 100-nut sample.

TABLE 1 TO § 51.1404

Size classification	Number of nuts per pound	Minimum weight of the 10 smallest nuts per 100-nut sample
Jumbo	55 or less	In each classification, the 10 smallest nuts per 100 must weigh at least 7% of the total weight of the 100-nut sample.
Extra Large	56 to 63	
Large	64 to 77	
Medium	78 to 100	
Small	101 or more	

Kernel Color Classification

§ 51.1405 Kernel color classification.

(a) The skin color of the pecan kernels are described in terms of the color classifications provided in this section. When specified to a lighter color classification, that color may be used to describe the lot in connection with the grade.

(1) Light means that the kernel is mostly golden color or lighter, with not more than 25 percent of the surface darker than golden, and none of the surface darker than light brown.

(2) Light amber means that more than 25 percent of the kernel is light brown, with not more than 25 percent of the surface darker than light brown, none of which is darker than medium brown.

(3) Amber means that more than 25 percent of the kernel is medium brown, with not more than 25 percent of the surface darker than medium brown, none of which is darker than dark brown (very dark brown or blackish-brown discoloration).

(4) Dark amber means that more than 25 percent of the kernel is dark brown, with not more than 25 percent of the surface darker than dark brown (very dark brown or blackish-brown discoloration).

(b) U.S. Department of Agriculture kernel color standards, PEC-MC-1, illustrate the color intensities implied by the terms “golden,” “light brown,” “medium brown,” and “dark brown” referred to in paragraph (a) of this section. The color standards are available at <https://www.ams.usda.gov/grades-standards>.

Tolerances

§ 51.1406 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances are provided as specified:

(a) *U.S. Extra Fancy, U.S. Fancy, and U.S. Choice grades.* (1) For shell defects, by count: 5 percent for pecans with damaged shells, including therein not more than 2 percent for shells which are seriously damaged.

(2) For kernel defects, by count: 12 percent for pecans with kernels which fail to meet the requirements for the grade or any specified color classification, including therein not more than 7 percent for kernels which are seriously damaged: *Provided*, That not more than 6 percent shall be allowed for kernels which are rancid, moldy, decayed, or injured by insects: *Provided further*, That included in this 6 percent tolerance not more than 0.5 percent (one-half of 1 percent) shall be

allowed for pecans with live insects inside the shell.

(3) For loose extraneous or foreign material, by weight: 0.5 percent (one-half of 1 percent).

(b) *U.S. Standard grade.* (1) For shell defects, by count: 10 percent for pecans with damaged shells, including therein not more than 3 percent for shells which are seriously damaged.

(2) For kernel defects, by count: 30 percent for pecans with kernels which fail to meet the requirements for the grade or any specified color classification, including therein not more than 10 percent for kernels which are seriously damaged: *Provided*, That not more than 7 percent shall be allowed for kernels which are rancid, moldy, decayed, or injured by insects: *Provided further*, That included in this 7 percent tolerance not more than 0.5 percent (one-half of 1 percent) shall be allowed for pecans with live insects inside the shell.

(3) For loose extraneous or foreign material, by weight: 0.5 percent (one-half of 1 percent).

Application of Tolerances

§ 51.1407 Application of tolerances.

Individual 100-count samples shall have not more than one and one-half times a specified tolerance of 5 percent or more and not more than double a tolerance of less than 5 percent, except that at least one pecan which is seriously damaged by live insects inside the shell is permitted: *Provided*, That the averages for the entire lot are within the tolerances specified for the grade.

Sample for Grade or Size Determination

§ 51.1408 Sample for grade or size determination.

Each sample shall consist of 100 pecans. The individual sample shall be drawn at random from a sufficient number of packages to form a 100-count composite sample. The number of such individual 100-count samples drawn for grade or size determination will vary with the size of the lot. When practicable, at point of packaging the sample may be obtained from the grading belt after sorting has been completed.

Definitions

§ 51.1409 Loose extraneous or foreign material.

Loose extraneous or foreign material means loose hulls, empty broken shells, rocks, wood, glass, plastic, or any substance other than pecans in the shell or pecan kernels.

§ 51.1410 Well cured.

Well cured means the kernel separates freely from the shell, breaks cleanly when bent without splintering, shattering, or loosening the skin; and the kernel appears to be in good shipping or storage condition as to moisture content.

§ 51.1411 Well developed.

Well developed means that the kernel is full-meated throughout its width and length.

§ 51.1412 Fairly well developed.

Fairly well developed means that the kernel is full-meated in over 50 percent of its width and length.

§ 51.1413 Poorly developed.

Poorly developed means that the kernel is full-meated in less than 25 percent of its width and length.

§ 51.1414 Uniform in color.

Uniform in color means that the shells do not show sufficient variation in color to detract from the general appearance of the lot and that 95 percent or more of the kernels in the lot have skin color within the range of one or two color classifications.

§ 51.1415 Fairly uniform in color.

Fairly uniform in color means that the shells do not show sufficient variation in color to materially detract from the general appearance of the lot and that 85 percent or more of the kernels in the lot have skin color within the range of one or two color classifications.

§ 51.1416 Damage.

Damage means any specific defect described in this section; or an equally objectionable variation of any one of these defects, or any other defect, or any combination of defects, which materially detracts from the appearance or the edible or marketing quality of the individual pecan or the general appearance of the pecans in the lot. The following defects shall be considered as damage:

(a) Adhering hull material or dark stains affecting an aggregate of more than 5 percent of the surface of the individual shell;

(b) Adhering material from inside the shell when firmly attached to more than one-third of the outer surface of the kernel and contrasting in color with the skin of the kernel;

(c) Broken shells when any portion of the shell is missing;

(d) Internal flesh discoloration of a medium shade of gray or brown extending more than one-fourth inch lengthwise beneath the center ridge, or any equally objectionable amount in

other portions of the kernel; or lesser areas of dark discoloration affecting the appearance to an equal or greater extent;

(e) Kernels which are dark amber in color;

(f) Kernels which are not well cured;

(g) Kernel spots when more than one dark spot is present on either half of the kernel, or when any such spot is more than one-eighth inch in greatest dimension;

(h) Poorly developed kernels;

(i) Shriveling when the surface of the kernel is very conspicuously wrinkled; and

(j) Split or cracked shells when the shell is spread apart or will spread upon application of slight pressure.

§ 51.1417 Serious damage.

Serious damage means any specific defect described in this section; or an equally objectionable variation of any one of these defects, or any other defect, or any combination of defects, which seriously detracts from the appearance or the edible or marketing quality of the individual pecan. The following defects shall be considered as serious damage:

(a) Adhering hull material or dark stains affecting an aggregate of more than 20 percent of the individual shell;

(b) Broken shells when the missing portion of shell is greater in area than a circle one-fourth inch in diameter;

(c) Dark discoloration of the skin which is darker than dark amber over more than 25 percent of the surface of the kernel;

(d) Decay affecting any portion of the kernel;

(e) Insects, web, frass, or the kernel shows distinct evidence of insect feeding on the kernel;

(f) Internal flesh discoloration of a dark shade extending more than one-third the length of the kernel beneath the ridge, or an equally objectionable amount of dark discoloration in other portions of the kernel;

(g) Kernel spots when more than three dark spots on either half of the kernel, or when any spot or the aggregate of two or more spots on one of the halves of the kernel affects more than 10 percent of the surface;

(h) Mold, on the surface or inside the kernel, which is plainly visible without magnification;

(i) Rancidity when the kernel is distinctly rancid to the taste. Staleness of flavor shall not be classed as rancidity;

Note 1 to § 51.1417(i): Rancidity refers to the tendency of the oil in a pecan kernel to become tainted as a result of oxidation or hydrolysis. Industry measures to determine the tendency of a kernel to become rancid include testing the kernel's peroxide and free

fatty acid values. Peroxide values should be less than 5 mEq/kg and free fatty acids acid value should be less than 1 percent. These analyses are not performed in determination of grade.

(j) Undeveloped kernels which are blank (complete shell containing no kernel); and

(k) Worm holes when penetrating the shell.

§ 51.1418 Inedible kernels.

Inedible kernels means that the kernel or pieces of kernels are rancid, moldy, decayed, injured by insects or otherwise unsuitable for human consumption.

■ 3. Subpart N is revised to read as follows:

Subpart N—United States Standards for Grades of Shelled Pecans

Grades

Sec.

51.1430 U.S. Extra Fancy.

51.1431 U.S. Fancy.

51.1432 U.S. Choice.

51.1433 U.S. Standard.

Color Classifications

51.1434 Color classifications.

Size Classifications

51.1435 Size classifications for halves.

51.1436 Size classifications for pieces.

Tolerances for Defects

51.1437 Tolerances for defects.

Applications of Standards

51.1438 Application of standards.

Definitions

51.1439 Premier half-kernel (Premier halves).

51.1440 Half-kernel (Halves).

51.1441 Piece.

51.1442 Meal and flour.

51.1443 Well dried.

51.1444 Well developed.

51.1445 Fairly well developed.

51.1446 Poorly developed.

51.1447 Uniform in color.

51.1448 Fairly uniform in color.

51.1449 Uniform in size.

51.1450 Fairly uniform in size.

51.1451 Foreign material.

51.1452 Damage.

51.1453 Serious damage.

Subpart N—United States Standards for Grades of Shelled Pecans

Grades

§ 51.1430 U.S. Extra Fancy.

“U.S. Extra Fancy” consists of pecan kernels which meet the following requirements:

(a) For quality:

(1) Well dried;

(2) Moisture content shall not be more than 4.5 percent, unless otherwise specified;

(3) Well developed;

(4) Uniform in color;

(5) Not darker than “light;”

(6) Free from damage by any cause; and

(7) Comply with tolerances for defects (see § 51.1437).

(b) For size:

(1) Uniform in size; and

(2) Conform to size classification or count specified.

§ 51.1431 U.S. Fancy.

“U.S. Fancy” consists of pecan kernels which meet the following requirements:

(a) For quality:

(1) Well dried;

(2) Moisture content shall not be more than 4.5 percent, unless otherwise specified;

(3) Fairly well developed;

(4) Uniform in color;

(5) Not darker than “light amber,” unless specified to a lighter color classification;

(6) Free from damage by any cause; and

(7) Comply with tolerances for defects (see § 51.1437).

(b) For size:

(1) Uniform in size; and

(2) Conform to size classification or count specified.

§ 51.1432 U.S. Choice.

“U.S. Choice” consists of pecan kernels which meet the following requirements:

(a) For quality:

(1) Well dried;

(2) Moisture content shall not be more than 4.5 percent, unless otherwise specified;

(3) Not poorly developed;

(4) Fairly uniform in color;

(5) Not darker than “amber,” unless specified to a lighter color classification;

(6) Free from damage by any cause; and

(7) Comply with tolerances for defects (see § 51.1437).

(b) For size:

(1) Fairly uniform in size; and

(2) Conform to size classification or count specified.

§ 51.1433 U.S. Standard.

“U.S. Standard” consists of pecan kernels which meet the following requirements:

(a) For quality:

(1) Well dried;

(2) Moisture content shall not be more than 4.5 percent, unless otherwise specified;

(3) No requirement for fullness of kernel;

(4) No requirement for uniformity of color;

(5) May contain kernels “dark amber” or darker, unless specified to a lighter color classification;

(6) Free from damage by any cause; and

(7) Comply with tolerances for defects (see § 51.1437).

(b) For size:

(1) No uniformity in size; and

(2) Conform to size classification or count specified.

Color Classifications

§ 51.1434 Color classifications.

(a) The skin color of pecan kernels is described in terms of the color classifications provided in this section. When specified to a lighter color classification, that color may be used to describe the lot in connection with the grade.

(1) Light means that the kernel is mostly golden color or lighter, with not more than 25 percent of the surface darker than golden, and none of the surface darker than light brown.

(2) Light amber means that the kernel has more than 25 percent of the surface light brown, but not more than 25 percent of surface darker than light

brown, and none of the surface darker than medium brown.

(3) Amber means that the kernel has more than 25 percent of the surface medium brown, but not more than 25 percent of surface darker than medium brown, and none of the surface darker than dark brown (very dark brown or blackish-brown discoloration).

(4) Dark amber means that the kernel has more than 25 percent of the surface dark brown, but not more than 25 percent of surface darker than dark brown (very dark brown or blackish-brown discoloration).

(b) U.S. Department of Agriculture kernel color standards, PEC-MC-1, illustrate the color intensities implied by the terms “golden,” “light brown,” “medium brown,” and “dark brown” referred to in paragraph (a) of this section. The color standards are available at: <https://www.ams.usda.gov/grades-standards>.

Size Classifications

§ 51.1435 Size classifications for halves.

The size of pecan halves in a lot may be specified in accordance with one of

the size classifications shown in table 1 to this section.

(a) *Halves per pound.* The number of halves per pound shall be based upon the weight of half-kernels after all pieces, meal and flour, shell, center wall, and foreign material have been removed.

(b) *Tolerance for count per pound.* In order to allow for variations incident to proper sizing, a tolerance shall be permitted as follows:

(1) When an exact number of halves per pound is specified, the actual count per pound may vary not more than 5 percent from the specified number, and

(2) When any size classification shown in table 1 to this section or a range in count per pound is specified, no tolerance shall be allowed for counts outside of the specified range.

(c) *Tolerances for pieces, meal, and flour.* In order to allow for variations incident to proper sizing and handling, tolerances are provided for pieces, meal, and flour in any lot of halves. The tolerances, by weight, are as shown in table 2 to this section.

TABLE 1 TO § 51.1435

Size classification for halves	Number of halves @per pound
Mammoth	250 or less.
Junior Mammoth	251–350.
Jumbo	351–450.
Large	451–550.
Medium	551–650.
Topper	651–750.
King Topper	751 or more.

In lieu of the size classifications in this table, the size of pecan halves in a lot may be specified in terms of the number of halves or a range of number of halves per pound. For example, “400” or “600–700.”

TABLE 2 TO § 51.1435

Tolerances for pieces, meal, and flour	U.S. extra fancy premier halves (%)	U.S. extra fancy halves (%)	U.S. fancy halves (%)	U.S. choice halves (%)	U.S. standard halves (%)
A. Less than 7/8 half-kernel	10
B. Less than 3/4 half-kernel	10	15	20	20
C. Less than 1/2 half-kernel (included in A.—U.S. Extra Fancy Premier Halves) (included in B.—U.S. Extra Fancy Halves, U.S. Fancy Halves, U.S. Choice Halves, and U.S. Standard Halves)	3	3	5	5	5
D. Less than 1/4 half-kernel (included in C.)	1	1	1	1	1

§ 51.1436 Size classifications for pieces.

The size of pecan pieces in a lot may be specified in accordance with one of the size classifications shown in table 1 to this section. Sizes are measured using a round-hole screen.

(a) *Tolerances for size of pieces.* In order to allow for variations incident to proper sizing, tolerances are provided

for pieces in a lot which fail to meet the requirements of any size specified. The tolerances, by weight, are as follows:

(1) *U.S. Extra Fancy pieces and U.S. Fancy pieces.* Not more than 15 percent of the lot may fall outside of the size range in Table 1 to this section. Further, not more than 1 percent of the pieces, excluding Topping Pieces and Granules,

may pass through an eight sixty-fourths of an inch round hole screen.

(2) *U.S. Choice pieces.* Not more than 20 percent of the lot may fall outside of the size range in Table 1 to this section. Further, not more than 2 percent of the pieces, excluding Topping Pieces and Granules, may pass through an eight

sixty-fourths of an inch round hole screen.
 (3) *U.S. Standard pieces.* Not more than 25 percent of the lot may fall

outside of the size range in table 1 to this section. Further, not more than 2 percent of the pieces, excluding Topping Pieces and Granules, may pass

through an eight sixty-fourths of an inch round hole screen.
 (b) [Reserved]

TABLE 1 TO § 51.1436

Size classification	Maximum diameter (will pass through round opening of the following diameter)	Minimum diameter (will not pass through round opening of the following diameter)
Extra-Large Pieces	No limitation	32/64 inch.
Large Pieces	32/64 inch	24/64 inch.
Halves and Pieces	No limitation	20/64 inch.
Medium Pieces	24/64 inch	16/64 inch.
Small Pieces	19/64 inch	12/64 inch.
Topping Pieces	12/64 inch	8/64 inch.
Granules	8/64 inch	4/64 inch.

In lieu of the size classifications in this table, the size of pieces in a lot may be specified in terms of minimum diameter, or as a range described in terms of minimum and maximum diameters expressed in sixty-fourths of an inch.

Tolerances for Defects

§ 51.1437 Tolerances for defects.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by weight, are as follows:

- (a) U.S. Extra Fancy grade:
 - (1) No foreign material;
 - (2) 0.01 percent for shell, and center wall;
 - (3) Zero tolerance is provided for pecan weevil larvae;
 - (4) 3 percent for portions of kernels which are “light amber” or darker color, or darker than any specified lighter color classification, but which are not otherwise defective; and
 - (5) 3 percent for portions of kernels which fail to meet the remaining requirements of the grade, including therein not more than 0.50 percent (one-half of 1 percent) for defects causing serious damage: *Provided*, That any unused portion of this tolerance may be applied to increase the tolerance for kernels which are “light amber” or darker color, or darker than any specified lighter color classification.
- (b) U.S. Fancy grade:
 - (1) No foreign material;
 - (2) 0.01 percent for shell and center wall;
 - (3) No more than 2 pecan weevil larvae;
 - (4) 5 percent for portions of kernels which are “amber” or darker color, or darker than any specified lighter color classification, but which are not otherwise defective; and
 - (5) 5 percent for portions of kernels which fail to meet the remaining requirements of the grade, including therein not more than 0.50 percent (one-half of 1 percent) for defects causing serious damage, including pecan weevil larvae: *Provided*, That any unused

portion of this tolerance may be applied to increase the tolerance for kernels which are “amber” or darker color, or darker than any specified lighter color classification.

- (c) U.S. Choice grade:
 - (1) No foreign material;
 - (2) 0.01 percent for shell and center wall;
 - (3) No more than 5 pecan weevil larvae;
 - (4) 15 percent for portions of kernels which are “dark amber” or darker color, or darker than any specified lighter color classification, but which are not otherwise defective; and
 - (5) 8 percent for portions of kernels which fail to meet the remaining requirements of the grade, including therein not more than 1 percent for defects causing serious damage, including pecan weevil larvae.
- (d) U.S. Standard grade:
 - (1) No foreign material;
 - (2) 0.01 percent for shell and center wall;
 - (3) 25 percent for portions of kernels which are darker than a specified color classification, but which are not otherwise defective; and
 - (4) 15 percent for portions of kernels which fail to meet the remaining requirements of the grade, including therein not more than 1 percent for defects causing serious damage, including pecan weevil larvae.

Application of Standards

§ 51.1438 Application of standards.

The grade of a lot of shelled pecans shall be determined on the basis of a composite sample drawn at random from containers in various locations in the lot. However, any identifiable container or number of containers in which the pecans are obviously of a quality or size materially different from

that in the majority of containers, shall be considered as a separate lot, and shall be sampled and graded separately.

Definitions

§ 51.1439 Premier half-kernel (Premier halves).

Premier half-kernel (Premier halves) means one of the separated halves of an entire pecan kernel with not more than one-eighth of its original volume missing, exclusive of the portion which formerly connected the two halves of the kernel.

§ 51.1440 Half-kernel (Halves).

Half-kernel (Halves) means one of the separated halves of an entire pecan kernel with not more than one-fourth of its original volume missing, exclusive of the portion which formerly connected the two halves of the kernel.

§ 51.1441 Piece.

Piece means a portion of a kernel which is less than three-fourths of a half-kernel, but which will not pass through a round opening four sixty-fourths (4/64) of an inch in diameter.

§ 51.1442 Meal and flour.

Meal and flour means fragments of kernels which will pass through a round opening four sixty-fourths (4/64) of an inch in diameter.

§ 51.1443 Well dried.

Well dried means that the portion of kernel is firm and crisp, not pliable, or leathery.

§ 51.1444 Well developed.

Well developed means that the kernel is full-meated through its width and length.

§ 51.1445 Fairly well developed.

Fairly well developed means that the kernel is full-meated in over 50 percent of its width and length.

§ 51.1446 Poorly developed.

Poorly developed means that the kernel is full-meated in less than 25 percent of its width and length.

§ 51.1447 Uniform in color.

Uniform in color means that 95 percent or more of the kernels in the lot have skin color within the range of one or two color classifications.

§ 51.1448 Fairly uniform in color.

Fairly uniform in color means that 85 percent or more of the kernels in the lot have skin color within the range of one or two color classifications.

§ 51.1449 Uniform in size.

Uniform in size means that, in a representative sample of 100 halves, the 10 smallest halves weigh not less than 25 percent as much as the 10 largest halves.

§ 51.1450 Fairly uniform in size.

Fairly uniform in size means that, in a representative sample of 100 halves, the 10 smallest halves weigh not less than 50 percent as much as the 10 largest halves.

§ 51.1451 Foreign material.

Foreign material includes rocks, wood, glass, plastic, or any similar material. It does not include hard shell, center wall, or pecan weevil larvae.

§ 51.1452 Damage.

Damage means any specific defect described in this section; or an equally objectionable variation of any one of these defects, or any other defect, or any combination of defects, which materially detracts from the appearance or the edible or marketing quality of the individual portion of the kernel or of the lot as a whole. The following defects shall be considered as damage:

(a) Adhering material from inside the shell when attached to more than one-fourth of the surface on one side of the half-kernel or piece;

(b) Dust or dirt adhering to the kernel when conspicuous;

(c) Internal flesh discoloration of a medium shade of gray or brown extending more than one-fourth the length of the half-kernel or piece, or lesser areas of dark discoloration affecting the appearance to an equal or greater extent;

(d) Kernel which is not well dried;

(e) Kernel which is "dark amber" or darker color;

(f) Kernel having more than one dark kernel spot, or one dark kernel spot

more than one-eighth inch in greatest dimension;

(g) Poorly developed kernel; and

(h) Shriveling when the surface of the kernel is very conspicuously wrinkled.

§ 51.1453 Serious damage.

Serious damage means any specific defect described in this section; or an equally objectionable variation of any one of these defects, or any other defect, or any combination of defects, which seriously detracts from the appearance or the edible or marketing quality of the individual portion of kernel or of the lot as a whole. The following defects shall be considered as serious damage:

(a) Adhering material from inside the shell when attached to more than one-half of the surface on one side of the half-kernel or piece;

(b) Any plainly visible mold;

(c) Dark kernel spots when more than three are on the kernel, or when any dark kernel spot or the aggregate of two or more spots affect an area of more than 10 percent of the surface of the half-kernel or piece;

(d) Dark skin discoloration, darker than "dark brown," when covering more than one-fourth of the surface of the half-kernel or piece;

(e) Decay affecting any portion of the kernel;

(f) Insects, web, or frass or any distinct evidence of insect feeding on the kernel;

(g) Internal discoloration, which is dark gray, dark brown, or black and extends more than one-third the length of the half-kernel or piece; and

(h) Rancidity when the kernel is distinctly rancid to taste. Staleness of flavor shall not be classed as rancidity.

Note 1 to § 1453(h): Rancidity refers to the tendency of the oil in a pecan kernel to become tainted as a result of oxidation or hydrolysis. Industry measures to determine the tendency of a kernel to become rancid include testing the kernel's peroxide and free fatty acid values. Peroxide values should be less than 5 mEq/kg and free fatty acids acid value should be less than 1 percent. These analyses are not performed in determination of grade.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

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BILLING CODE P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2024-1688; Project Identifier MCAI-2024-00299-T; Amendment 39-22772; AD 2024-12-08]

RIN 2120-AA64

Airworthiness Directives; Embraer S.A. (Type Certificate Previously Held by Yaborá Indústria Aeronáutica S.A.; Embraer S.A.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Embraer S.A. Model ERJ 170 airplanes. This AD was prompted by a report of a landing gear not locked indication during the final approach, which led the flight crew to declare an emergency. This AD requires reviewing maintenance records of the main landing gear (MLG) assemblies to determine whether the MLG was modified according to a certain service bulletin or restored during overhaul maintenance; inspecting the left and right MLG locking-stay bracket assemblies to verify that the correct attaching hardware is correctly installed on the brackets; replacing nuts having certain part numbers (P/Ns); replacing the locking-stay bracket assembly, if necessary; and prohibits the installation of affected parts on the MLG locking-stay bracket assembly; as specified in an Agência Nacional de Aviação Civil (ANAC) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 11, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 11, 2024.

The FAA must receive comments on this AD by August 12, 2024.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of

Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.