

the Regulatory Flexibility Act, full consideration has been given to the potential economic impact upon small business. Most tobacco producers and many tobacco warehouses are small businesses as defined in the Regulatory Flexibility Act. This action will not substantially affect the normal movement of the commodity in the marketplace. The Administrator has determined that this action will not have a significant economic impact on a substantial number of small entities.

For the reasons set forth in the preamble, 7 CFR part 29, subpart D, is amended as follows:

PART 29—[AMENDED]

Subpart D—Order of Designation of Tobacco Markets.

1. The authority citation for 7 CFR Part 29, Subpart D, continues to read as follows:

Authority: Sec. 5, 49 Stat. 732, as amended by sec. 157(a) (1), 95 Stat. 374 (7 U.S.C. 511d).

29.8001 [Amended]

2. In § 29.8001, the table is amended by adding a new entry (kkk) to read as follows:

Territory	Types of tobacco	Auction markets	Order of designation	Citation
*(kkk) North Carolina	* flue-cured	* Fairmont-Fair Bluff	*	* April 6, 1995.

Dated: March 1, 1995.
 Lon Hatamiya,
 Administrator.
 [FR Doc. 95-5537 Filed 3-6-95; 8:45 am]
 BILLING CODE 3410-02-P

7 CFR Part 56
[Docket No. PY-92-004]
RIN 0581-AA60

Voluntary Shell Egg Grading

AGENCY: Agricultural Marketing Service, USDA.
ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is issuing amendments to the voluntary shell egg grading regulations and standards in response to new technology and current practices in the shell egg industry and to conform to statutory requirements. The amended regulations define washed ungraded eggs and clarify the definition of a quality assurance inspector; add age and disability as types of prohibited discrimination in providing grading services; clarify the type of facilities and equipment to be supplied to a grader and the method by which cartons of eggs are to be identified; update grading room requirements to include mechanized shell egg operations and to require rinse water to be at least as warm as wash water; harmonize the standards for quality of individual shell eggs for B quality in U.S. Nest-Run grades with the U.S. Standards for Quality of Individual Shell Eggs for B quality; and delete wholesale shell egg grades and weight classes.

EFFECTIVE DATE: April 6, 1995.

FOR FURTHER INFORMATION CONTACT: Larry W. Robinson, Chief, Grading Branch, 202-720-3271.

SUPPLEMENTARY INFORMATION:

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

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It 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 AMS Administrator has determined that this rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because the revisions reflect current industry production and marketing practices.

The information collection requirements that appear in § 56.17(b) and § 56.37 to be amended by the rule have been previously approved by the Office of Management and Budget and assigned OMB Control No. 0581-0128, under the Paperwork Reduction Act of 1980.

Background

Periodically the Poultry Division of AMS reviews its existing regulations. As a result of a review, it was determined that several revisions were necessary to make the shell egg standards and regulations for grading shell eggs more useful and efficient.

The grading of shell eggs by the AMS is a voluntary program, provided under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), and is offered on a fee-for-service basis. The grading program is designed to assist orderly marketing of shell eggs.

Therefore, the standards must keep abreast of new technology and advancements in production and marketing practices.

Accordingly, AMS is amending the voluntary shell egg grading regulations to redefine "quality assurance inspector" to exclude from this designation a plant owner, manager, foreman, or supervisor and to clarify that the quality assurance inspector is authorized to examine product.

The amendments also define the term "washed ungraded eggs" to mean shell eggs which have been washed but not subject to any grading or segregation for quality.

The amendments update the regulations to comply with current statutory requirements regarding providing grading services and licensing graders without discrimination due to age or disabilities.

The facilities and equipment which the applicant furnishes the graders are expanded to include other facilities and equipment as may otherwise be required.

The amendments revise the regulations to comply with the Nutrition Labeling and Education Act of 1990.

Also revised are the existing methods of identifying cartons to require that each officially identified carton of shell eggs be lot numbered on either the carton or the consumer package.

The amendments revise the minimum facility and operating requirements for shell egg grading and packing plants by updating grading room requirements.

Shell egg cleaning operations also are revised to require that the temperature of the water used to spray rinse shell eggs be at least as warm as the water used to wash the shell eggs. Additionally, the National Supervisor is specifically authorized to approve

methods of sanitizing shell eggs other than the normal spray rinse method.

The amendments delete U.S. Wholesale Grades and Weight Classes for Shell Eggs.

The standards for B quality in U.S. Nest-Run Grades for shell eggs are amended to allow shell eggs with pronounced ridges and thin spots to be included in the maximum percentage tolerance permitted for B quality.

Comments

AMS published proposed revisions in the Federal Register (59 FR 15866) on April 5, 1994, to the Regulations Governing the Grading of Shell Eggs and U.S. Standards, Grades, and Weight Classes for Shell Eggs in 7 CFR part 56. A 60-day comment period was provided.

Three comments were received, two from State government representatives and one from a shell egg processor.

Two commenters expressed overall support of the proposal. One commenter recommended including in 7 CFR 56.37 a sentence to read that consumer packaging material for eggs

manufactured prior to May 8, 1994, be excluded from the nutrition labeling requirements, defining a "lot" in 7 CFR 56.37, and requiring in 7 CFR part 56.76 that eggs be spray rinsed with fresh water ten degrees higher than the temperature of the wash water. AMS did not adopt these recommendations. AMS does not have the authority to authorize the use of cartons which do not conform to the Food and Drug Administration's rules and regulations. Such approval is beyond the scope of the shell egg grading regulation's authority. A "lot" is clearly defined in the current regulations as the consecutive day of the year in which the eggs were packed or other systems as may be approved by the Administrator. Rinse water that is at least as warm as wash water will help to reduce bacterial contamination of shell eggs without causing excessive thermal breakage. Firms always have the option to utilize a rinse water that is warmer than the wash water to the extent that their own processing operations will allow. The commenter also recommended using fresh water for the spray rinse. It was not clear what was meant by "fresh" water. However, all shell egg plants which utilize the Department's voluntary shell egg grading service are required to provide to AMS certification that the water used in its grading processes is potable.

The proposed method of sealing cases of eggs provided in the proposed rule specified that approximately 2-3 inch plastic or gummed tape be used to cover all seams. No comments were received

on this provision. However, AMS evaluated this requirement further during the comment period and ascertained that a specific tape measurement was not necessary so long as cases were securely closed. Accordingly, AMS is making this change without an additional opportunity for comments because the change will eliminate burden and provide the flexibility to adapt to future changes in packaging material technology.

With the exception of the above change, the regulatory text contained in the proposed rule is hereby adopted.

List of Subjects 7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, 7 CFR part 56 is amended as follows:

PART 56—GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

1. The authority citation for Part 56 is revised to read as follows:

Authority: 7 U.S.C. 1621-1627.

2. Section 56.1 is amended by revising the term "quality assurance inspector" and adding alphabetically the new term "washed ungraded eggs" to read as follows:

§ 56.1 Meaning of words and terms defined.

* * * * *

Quality assurance inspector means any designated company employee other than the plant owner, manager, foreman, or supervisor, authorized by the Secretary to examine product and to supervise the labeling, dating, and lotting of officially graded shell eggs and to assure that such product is packaged under sanitary conditions, graded by authorized personnel, and maintained under proper inventory control until released by an employee of the Department.

* * * * *

Washed ungraded eggs means eggs which have been washed but not sized or segregated for quality.

3. Section 56.3 is amended by revising paragraph (b) to read as follows:

§ 56.3 Administration.

* * * * *

(b) The conduct of all services and the licensing of graders under these regulations shall be accomplished without discrimination as to race, color, national origin, religion, age, sex, or disability.

* * * * *

4. Section 56.17 is amended by revising the first sentence of paragraph (b) to read as follows:

§ 56.17 Facilities and equipment for graders.

* * * * *

(b) Furnished office space, a desk and file or storage cabinets (equipped with a satisfactory locking device), suitable for the security and storage of official stamps and supplies, and other facilities and equipment as may otherwise be required. * * *

* * * * *

5. Section 56.35 is amended by revising paragraph (c) to read as follows:

§ 56.35 Authority to use, and approval of official identification.

* * * * *

(c) *Nutritional labeling.* Nutrition information must be included with the labeling on each unit container of consumer packaged shell eggs in accordance with the provisions of Title 21, Chapter I, Part 101, Regulations for the Enforcement of the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act. The nutrition information included on labels is subject to review by the Food and Drug Administration prior to approval by the Department.

6. Section 56.36 is amended by revising the last sentence of paragraph (b)(2) to read as follows:

§ 56.36 Information required on and form of grademark.

* * * * *

(b) * * *
(2) * * * The grademark shall be printed on the carton.

7. Section 56.37 is amended by revising the first sentence to read as follows:

§ 56.37 Lot marking of officially identified product.

Each carton identified with the grademarks shown in Figures 2, 3, or 4 of § 56.36 shall be legibly lot numbered on either the carton or the consumer package. * * *

* * * * *

8. Section 56.76 is amended by revising paragraphs (b) and (e)(10), to read as follows:

§ 56.76 Minimum facility and operating requirements for shell egg grading and packing plants.

* * * * *

(b) *Grading room requirements.* (1) The egg grading or candling area shall be adequately darkened to make possible the accurate quality determination of the candled appearance of eggs. There shall be no

other light source or reflections of light that interfere with, or prohibit the accurate quality determination of eggs in the grading or candling area.

(2) The grading and candling equipment shall provide adequate light to facilitate quality determinations. Other light sources and equipment or facilities shall be provided to permit the detection and removal of stained and dirty eggs or other undergrade eggs.

(3) Adequate facilities, equipment, and light sources shall be provided to determine the condition of packing material.

(4) Egg weighing equipment shall be provided. The egg weighing equipment shall be constructed to permit cleaning; operation in a clean, sanitary manner; and shall be capable of ready adjustment.

(5) Adequate ventilation shall be provided.

* * * * *

(e) * * *

(10) Washed eggs shall be spray-rinsed with water having a temperature equal to, or warmer than, the temperature of the wash water and contain an approved sanitizer of not less than 50 p/m nor more than 200 p/m of available chlorine or its equivalent. Alternate procedures, in lieu of a sanitizer rinse, may be approved by the National Supervisor.

* * * * *

§§ 56.226, 56.227, and 56.228 [Removed and Reserved]

9. Sections 56.226, 56.227, and 56.228 are removed and reserved.

10. Section 56.230 is revised to read as follows:

§ 56.230 Grade.

“U.S. Nest-Run ____% AA Quality” shall consist of eggs of current production of which at least 20 percent are AA quality; and the actual percentage of AA quality eggs shall be stated in the grade name. Within the

maximum of 15 percent which may be below A quality, not more than 10 percent may be B quality for shell shape, pronounced ridges or thin spots, interior quality (including meat or blood spots), or due to rusty or blackish-appearing cage marks or blood stains, not more than 5 percent may have adhering dirt or foreign material on the shell 1/2 inch or larger in diameter, not more than 6 percent may be Checks, and not more than 3 percent may be Loss. Marks which are slightly gray in appearance and adhering dirt or foreign material on the shell less than 1/2 inch in diameter are not considered quality factors. The eggs shall be officially graded for all other quality factors. No case may contain less than 75 percent A quality and AA quality eggs in any combination.

11. Section 56.231 is amended by revising Table 1 to read as follows:

§ 56.231 Summary of grade.

* * * * *

	Nest-run grade, description ¹	U.S. nest-run ____ percent AA quality ²
Minimum percentage of quality required (lot average) ³	AA quality ⁴	20
Maximum percentage tolerance permitted (15 percent lot average) ³	A quality or better ⁵	85
	B quality for shell shape, pronounced ridges or thin spots, interior quality (including blood & meat spots) or cage marks ⁶ and blood stains.	10
	Checks	6
	Loss	3
	Adhering dirt or foreign material 1/2 inch or larger in diameter	5

¹ Stains (other than rusty or blackish appearing cage marks or blood stains), and adhering dirt and foreign material on the shell less than 1/2 inch in diameter shall not be considered as quality factors in determining the grade designation.

² The actual total percentage must be stated in the grade name.

³ Substitution of eggs of higher qualities for lower specified qualities is permitted.

⁴ No case may contain less than 10 percent AA quality.

⁵ No case may contain less than 75 percent A quality and AA quality eggs in any combination.

⁶ Cage marks which are rusty or blackish in appearance shall be considered as quality factors. Marks which are slightly gray in appearance are not considered as quality factors.

12. Section 56.234 is amended by revising paragraph (c) to read as follows:

§ 56.234 Packaging material.

* * * * *

(c) Sealing: The tops of all cases must be securely closed, so they will not open during transportation, by applying paper gummed, plastic, or other suitable tape or by methods that would secure seams made by the closing of the top of the case. The tape shall extend down the sides and/or ends of the case a sufficient length to preclude the top flaps from opening while permitting the official identification of the case, as applicable.

Dated: March 1, 1995.

Lon Hatamiya,

Administrator.

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7 CFR Part 989

[FV95-989-11FR]

Raisins Produced From Grapes Grown In California; Final Free and Reserve Percentages for the 1994-95 Crop Year for Zante Currant and Other Seedless Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule invites comments on the establishment of final free and reserve percentages for 1994 crop Zante Currant and Other Seedless raisins. The percentages are 40 percent free and 60 percent reserve for each of these varietal types. These percentages are intended to stabilize supplies and prices and to help counter the destabilizing effects of the burdensome oversupply situation facing the raisin industry. This rule was recommended by the Raisin Administrative Committee (Committee), the body which locally administers the marketing order.