

§ 319.37-5 Special foreign inspection and certification requirements.

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(b) * * *

(2) Species of *Prunus* not immune to plum pox virus (species other than *P. avium*, *P. cerasus*, *P. effusa*, *P. laurocerasus*, *P. mahaleb*, *P. padus*, *P. sargentii*, *P. serotina*, *P. serrula*, *P. serrulata*, *P. subhirtella*, *P. yedoensis*, and *P. virginiana*) and grown in Belgium, France, Germany, Great Britain, or The Netherlands may be certified only from the government operated nurseries (research stations) where the original parent stock is indexed for the appropriate national fruit tree certification program.

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§§ 319.37-6, 319.37-7, 319.37-8, and 319.37-13 [Amended]

3. Footnotes 8 through 12 and their references would be redesignated as footnotes 7 through 11.

§ 319.37-14 [Amended]

4. In § 319.37-14, paragraph (b), under the list of ports of entry in Texas, the asterisk immediately preceding the entry for Laredo would be removed.

Done in Washington, DC, this 7th day of March 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95-6098 Filed 3-10-95; 8:45 am]

BILLING CODE 3410-34-P

Agricultural Marketing Service**7 CFR Part 1230****[No. LS-94-008]****Pork Promotion, Research, and Consumer Information Program—Change in Requirements for Annual Financial Audits**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and termination order.

SUMMARY: This proposed document would terminate the provision of the Pork Promotion, Research, and Consumer Information Order (Order) containing requirements for submission of annual financial reports to the National Pork Board (Board) by organizations that receive less than \$10,000 in annual distributed assessments; and issue new requirements in the regulations to implement the Order provisions. The new requirements would raise the minimum annual revenue requiring a

certified public accountant audit from \$10,000 to \$30,000. The proposed change would facilitate the cost-effective preparation and submission of annual financial reports.

DATES: Comments must be received by April 12, 1995.

ADDRESSES: Send two copies of comments to Ralph L. Tapp, Chief, Marketing Programs Branch, Livestock and Seed Division, Agricultural Marketing Service (AMS), USDA, Room 2624-S, P.O. Box 96456, Washington, DC 20090-6456.

Comments will be available for public inspection during regular business hours at the above office in Room 2624, South USDA Building, 14th and Independence Avenue SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, 202/720-1115.

SUPPLEMENTARY INFORMATION:**Executive Order 12866 and Regulatory Flexibility Act**

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

This proposed action has been reviewed under Executive Order 12778, Civil Justice Reform. This proposal is not intended to have a retroactive effect. The Pork Promotion, Research, and Consumer Information Act (Act) states that the statute is intended to occupy the field of promotion and consumer education involving pork and pork products and of obtaining funds thereof from pork producers and that the regulation of such activity (other than a regulation or requirement relating to a matter of public health or the provision of State or local funds for such activity) that is in addition to or different from the Act may not be imposed by a State.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1625 of the Act, a person subject to an Order may file a petition with the Secretary stating that the Order, a provision of the Order, or an obligation imposed in connection with the Order is not in accordance with law, and requesting a modification of or an exemption from the Order. Petitioners have an opportunity for a hearing on the petition. After the hearing, the Secretary will rule on the petition. The Act provides that the district court of the United States in the district in which a person resides or does business has jurisdiction to review the Secretary's decision, if the petitioner files an appeal not later than 20 days after the date the

petitioner receives notice of that decision.

This action has also been reviewed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.).

This proposed action would allow State Pork Producer Associations (SPPAs) that receive less than \$30,000 in assessments annually to submit unaudited annual financial statements to the Board.

Most SPPAs would be classified as small businesses under the RFA. Raising the minimum dollar amount of distributed annual assessments that would trigger the requirement that a SPPA must submit an audited annual financial statement from \$10,000 to \$30,000, would minimize the cost of preparing annual financial reports for smaller SPPAs. The cost savings would result in increased funds available for financing promotion and research programs.

For these reasons the Administrator of AMS has determined that this proposed action will not have a significant economic effect on a substantial number of small entities.

The Act (7 U.S.C. 4801-4819) approved December 23, 1985, authorized the establishment of a national pork promotion, research, and consumer information program. The program was funded by an initial assessment rate of 0.25 percent of the market value of all porcine animals marketed in the United States and an equivalent amount of assessments on import porcine animals, pork, and pork products. That rate was increased to 0.35 percent effective December 1, 1991 (56 FR 51635). The final Order establishing a pork promotion, research, and consumer information program was published in the September 5, 1986, issue of the **Federal Register** (51 FR 31898; as corrected at 51 FR 36383 and amended at 53 FR 1909, 53 FR 30243, 56 FR 4, and 56 FR 51635) and assessments began on November 1, 1986. The Order is administered by the 15-member Board established pursuant to § 1230.50 of the Order.

Section 1230.74(b) of the Order requires that organizations that receive distributions of funds from the Board shall furnish the Board with an annual report audited by a certified public accountant (CPA) of all funds distributed to them.

There are 45 SPPAs as defined in § 1230.25 who receive a percentage of the annual net assessments collected in their State pursuant to § 1230.72 (a) and (b). However, § 1230.74(c) provides that SPPAs that receive less than \$10,000 in such annual distributions may submit to the Board annual, unaudited financial

statements prepared by State association staff members or individuals who prepare annual financial statements, provided that such statements are certified by two members of the State association. In addition, State associations that receive less than \$10,000 annually must submit to the Board a CPA audited financial statement at least every 5 years. Financial statements of SPPAs that receive less than \$2,000 annually in distributed assessments are audited by the Board.

The annual minimum dollar amounts of distributed assessments of \$10,000 and \$2,000 referenced above were established effective August 11, 1988 (53 FR 30243). These minimum dollar requirements were established to enable the smaller SPPAs that receive relatively smaller amounts of annual assessments to minimize the cost of CPA audits, which could represent a significant proportion of their total assessments.

Since then, the annual amount of assessments distributed by the Board to the SPPAs has increased as a result of an increase in the assessment rate effective December 1, 1991 (56 FR 51635), and some annual increases in domestic hog prices and in the number of hogs marketed. Consequently, it is the Board's view that the minimum dollar amount now is not high enough to enable a sufficient number of the smaller SPPAs to minimize the costs of preparing and submitting annual financial reports and thus have additional funds available to finance promotion and research projects.

The amount of annual assessments distributed to the 45 SPPAs in 1993 ranged from less than \$1,000 to nearly \$1.4 million. Seventeen State associations received less than \$30,000, and four of those State associations received less than \$2,000. To minimize the costs of CPA audits for the 13 State associations whose annual assessments are more than \$2,000, but less than \$30,000, the Board has recommended that the annual minimum dollar amount of distributed assessments that triggers the requirement of an annual CPA audit be increased from \$10,000 to \$30,000. The provision that the Board audits financial statements of SPPAs that receive less than \$2,000 in annual distributed assessments would remain unchanged.

Since the establishment in 1988 of the initial minimum dollar amount of assessments for which a CPA audit is required, neither the Board nor the Department has encountered any problems with SPPAs preparing and submitting financial statements or the safeguarding of assessments. Accordingly, based on the Board's

findings and its recommendations discussed above, we propose that the provisions of § 1230.74(c) of the Order containing the requirements for the SPPA's submission of annual financial audits to the Board be terminated.

Further, we propose that the requirements for submission of annual audits be revised based on the Board's recommendations and published in the rules and regulations implementing the Order. The revised requirements would provide that SPPAs that receive less than \$30,000 in assessments would be required to submit unaudited financial statements to the Board. The other requirements of § 1230.74(c) would remain unchanged.

List of Subjects in 7 CFR Part 1230

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreement, Meat and meat products, Pork and pork products.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 1230 be amended as set forth below:

PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801–4819.

2. In § 1230.74, paragraph (b) is revised to read as follows:

§ 1230.74 [Amended]

* * * * *

(b) Organizations receiving distributions of assessments from the Board shall furnish the Board with annual financial statements audited by a certified public accountant of all funds distributed to such organizations pursuant to this subpart and any other reports as may be required by the Secretary or the Board in order to verify the use of such funds.

* * * * *

3. A new § 1230.115 would be added to Subpart B—Rules and Regulations, to read as follows.

§ 1230.115 Submission of annual financial statements.

State Pork Producer Associations, as defined in § 1230.25, that receive distributions of assessments pursuant to § 1230.72 and that receive less than \$30,000 in assessments annually, may satisfy the requirements of § 1230.74(b) by providing to the Board unaudited annual financial statements prepared by State association staff members or individuals who prepare annual financial statements, provided that two

members of the State association attest to and certify such financial statements. Notwithstanding any provisions of the Order to the contrary, State associations that receive less than \$30,000 in distributed assessments annually and submit unaudited annual financial statements to the Board shall be required to submit an annual financial statement audited by a certified public accountant at least once every 5 years, or more frequently if deemed necessary by the Board or the Secretary. The Board may elect to conduct its own audit of the annual financial statements of State Pork Producer Associations that receive less than \$2,000 in distributed assessments annually, every 5 years in lieu of the required financial statements.

Dated: March 8, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–6096 Filed 3–10–95; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

[Docket No. PRM–20–23]

Steve Gannis, Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM–20–23) from Steve Gannis. The petition is being denied on the basis that the proposed action is not necessary because: current public dose limits adequately protect the health and safety of the public; the requirement that doses are as low as is reasonably achievable (ALARA) provides an ample margin of safety; and the proposed 1 mrem/yr limit is not supported by the recommendations of the International Commission on Radiological Protection (ICRP), the National Council on Radiation Protection and Measurements (NCRP), or Presidential guidance.

ADDRESSES: Copies of the petition for rulemaking, the public comments received, and the NRC's letter to the petitioner are available for public inspection or copying in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charleen T. Raddatz, Office of Nuclear Regulatory Research, U.S. Nuclear