

(Association) comments also objected to the proposed reapportionment.

The Department decision to use the crop production years 1989–1993 was based on section 1969(b)(2)(E) of the Act and § 1220.201 of the Order which provides that at the end of each 3 year period starting on the effective date of the Order (July 9, 1991) the Secretary shall review the volume of production of each State or unit and shall adjust the number of Board members to conform with the volume of production specified in the Act and Order. The Act and Order also state that average annual soybean production shall be determined by using the average of the production for the State or unit over the five previous years, excluding the crops in which production was the highest and lowest.

Accordingly, in July of 1994, at the end of the first 3 year period, the Department reviewed the volume of production for the required 5 years. The five previous years data available in July 1994 were 1989–1993. Since the commenters' assertions are not consistent with the requirements of the Act and Order, no change is being made in this final rule.

The South Carolina Board and the Georgia Commission argue that reapportionment of the Board should have been made effective with the 1994 appointments to the Board. The two State Associations commented in support of this position.

To ensure sufficient time for Departmental clearance and appointment by December, the nomination and selection process for Board appointment has been initiated prior to July each year. Thus, the nominations for 1994 appointments by the Secretary had already been submitted based on the allocation of Board seats established by the initial Order when the reapportionment process began in July of 1994. Also, in order for the appointments to be made under a revised allocation based on reapportionment, a final rule must be promulgated which establishes the new allocation of Board seats. Consequently, the 1995 appointments rather than 1994 appointments are the first appointments which can be made under this reapportionment. Accordingly, no change is being made in this final rule.

#### Effective Date

Pursuant to 5 U.S.C. 553 it is found and determined that good cause exists for not postponing the effective date of the action until 30 days after publication of this rule in the **Federal Register**. This rule adjusts representation on the Board and reduces the required number of meetings of the

Board and should be made effective upon publication in order to begin the 1995 nomination and appointment process and to allow the Board to schedule fiscal year 1995 meetings accordingly.

#### List of Subjects in 7 CFR Part 1220

Agricultural research, Reporting and recordkeeping requirements, Soybeans.

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

#### PART 1220—SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR part 1220 continues to read as follows:

**Authority:** 7 U.S.C. 6301–6311.

2. Section 1220.201 is amended by revising the section heading and paragraph (a), removing paragraph (f), and redesignating paragraph (g) as paragraph (f) as follows:

#### § 1220.201 Membership of board.

(a) For the purposes of nominating and appointing producers to the Board, the United States shall be divided into 30 geographic units and the number of Board members from each unit, subject to paragraphs (d) and (e) of this section shall be as follows:

Unit	No. of members
Illinois .....	4
Iowa .....	4
Minnesota .....	3
Indiana .....	3
Missouri .....	3
Ohio .....	3
Arkansas .....	3
Nebraska .....	3
Mississippi .....	2
Kansas .....	2
Louisiana .....	2
South Dakota .....	2
Tennessee .....	2
North Carolina .....	2
Kentucky .....	2
Michigan .....	2
Virginia .....	2
Maryland .....	2
Wisconsin .....	2
Georgia .....	1
South Carolina .....	1
Alabama .....	1
North Dakota .....	1
Delaware .....	1
Texas .....	1
Pennsylvania .....	1
Oklahoma .....	1
New Jersey .....	1

Unit	No. of members
Eastern Region (New York, Massachusetts, Connecticut, Florida, Rhode Island, Vermont, New Hampshire, Maine, West Virginia, District of Columbia, and Puerto Rico) .....	1
Western Region (Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Washington, Oregon, Nevada, California, Hawaii, and Alaska) .....	1

\* \* \* \* \*

3. In § 1220.212, paragraph (a) is revised to read as follows:

#### § 1220.212 Duties.

\* \* \* \* \*

(a) To meet not less than three times annually, or more often if required for the Board to carry out its responsibilities pursuant to this subpart.

\* \* \* \* \*

Dated: June 1, 1995.

**Lon Hatamiya,**

*Administrator.*

[FR Doc. 95–13921 Filed 6–6–95; 8:45 am]

BILLING CODE 3410–02–P

#### 7 CFR Part 1230

RIN 0581–AB36

[No. LS–94–010]

#### Pork Promotion, Research, and Consumer Information Act of 1985—Increase in Assessment Rate

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

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Pork Promotion, Research, and Consumer Information Act of 1985 (Act) and the Pork Promotion, Research, and Consumer Information Order (Order) thereunder, this final rule increases the rate of assessment of 0.35 percent of market value of porcine animals to 0.45 percent; and adjusts the amount of assessment per pound due on imported pork and pork products to reflect the assessment rate increase of 0.10 percent and the decrease in the 1994 average price for domestic barrows and gilts. The assessment increase and the adjustment in assessments on imported pork and pork products will increase annual funding of the promotion, research, and consumer information program by an estimated \$10 million to \$12 million over a 12-month period.

**EFFECTIVE DATE:** September 3, 1995.

**ADDRESSES:** Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock

and Seed Division; Agricultural Marketing Service (AMS), USDA; P.O. Box 96456, Room 2606-S; Washington, DC 20090-6456.

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

**SUPPLEMENTARY INFORMATION:**

**Executive Orders 12866 and 12778 and Regulatory Flexibility Act**

This rule has been determined to be not significant for purposes of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This final rule is not intended to have a retroactive effect. The 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 section 1625 of the Act, a person subject to an order may file a petition with the Secretary stating that such order, a provision of such order or an obligation imposed in connection with such order is not in accordance with law; and requesting a modification of the order or an exemption from the order. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in the district in which the person resides or does business has jurisdiction to review the Secretary's determination, if a complaint is filed not later than 20 days after the date such person receives notice of such determination.

Information available to the Department indicates that nearly all of the estimated 278,000 pork producers and many of the estimated 200 importers can be classified as small entities. This final rule increases the rate of the assessment from 0.35 percent of the market value of porcine animals to 0.45 percent, and increases the cents per pound and per kilogram of assessments on imported pork and pork products subject to assessment. Adjusting the rate of assessment from 0.35 to 0.45 percent and increasing the

assessment on imported pork and pork products results in an estimated increase in assessments of \$10 million to \$12 million over a 12-month period. However, the gross market value of all swine marketed in the United States during 1993 exceeded \$10.6 billion. The economic impact of the assessments will not be a significant part of the total market value of swine.

This rule also adjusts importer assessments to reflect the increase in the assessment rate from 0.35 to 0.45 percent and to reflect a decrease in the 1994 average market price for domestic barrows and gilts. The combined effect of the assessment rate increase and the decrease in the average market price increases the assessments on imported pork and pork products subject to assessments by two- to four-hundredths of a cent per pound, or as expressed in cents per kilogram, four- to nine-hundredths of a cent per kilogram.

Adjusting the assessments on imported pork and pork products would result in an estimated increase in assessments of \$175,000 over a 12-month period.

Accordingly, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

The information collection requirements contained in part 1230, subparts A and B, have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB Control Number 0851-0151.

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 is funded by an assessment rate of 0.35 percent of the market value of all porcine animals marketed in the United States and an equivalent amount of assessment on imported porcine animals, pork, and pork products. 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). Assessments began on November 1, 1986.

The Order requires that producers pay to the Board an assessment of 0.35 percent of the market value of each porcine animal upon sale. However, for purposes of collecting and remitting assessments, porcine animals are divided into three separate categories (1) feeder pigs, (2) slaughter hogs, and (3) breeding stock. The Order specifies that

purchasers of feeder pigs, slaughter hogs, and breeding stock shall collect an assessment on these animals if assessments are due. The Order further provides that for the purpose of collecting and remitting assessments persons engaged as a commission merchant, auction market or livestock market in the business of receiving such porcine animals for sale on commission for or on behalf of a producer shall be deemed to be a purchaser.

The Order requires importers of porcine animals to pay the U.S. Customs Service (USCS), upon importation, the assessment of 0.35 percent of the porcine animal's declared value and importers of pork and pork products to pay USCS, upon importation, the assessment of 0.35 percent of the market value of the live porcine animals from which such pork and pork products were produced.

The procedures for collection and remittance of assessments are specified in § 1230.71 of the Order.

Pursuant to section 1620 of the Act, the assessment rate of 0.25 percent of the market value of porcine animals, pork, or pork products sold or imported was established in the initial Order and was changed to 0.35 percent on December 1, 1991. Based on the assessment rate of 0.35 percent, the total annual assessments collected during 1994 were approximately \$42 million. Assessments on imported pork and pork products accounted for about \$1.5 million of the total.

The Act and § 1230.71 of the Order contain provisions for increasing the initial rate of assessment. Section 1620(b)(2) of the Act provides that the rate of the assessment in the initial Order may be increased by not more than 0.1 percent per year upon recommendation of the National Pork Producers Delegate Body (Delegate Body) whose producer and importer members are appointed annually by the Secretary. The Act further provides that the rate of assessment may be increased by no more than 0.1 percent annually not to exceed 0.5 percent of the market value unless the Delegate Body recommends a greater increase and the increase is approved in a referendum.

The 1994 Delegate Body, at its annual meeting on March 3-5, 1994, in Kansas City, Missouri, voted overwhelmingly to recommend to the Secretary that the rate of assessment of 0.35 percent be increased to 0.45 percent. There were 170 Delegate Body members appointed by the Secretary in 1994. At the Delegate Body meeting 154 delegates were present during voting and voted 37,226 valid share votes. States and importers are allotted one share per \$1,000 of the

aggregated amount of assessment collected. There were 31,089 share votes cast in favor of the 0.1 percent increase.

On February 15, 1995, AMS published in the **Federal Register** (60 FR 8579) a proposed rule to increase the rate of assessment of 0.35 percent of market value of porcine animals to 0.45 percent; and adjust the amount of assessment per pound due on imported pork and pork products to reflect the assessment rate increase of 0.10 percent and the decrease in the 1994 average price for domestic barrows and gilts. The proposed rule was published with a request for comments by March 17, 1995.

The following example will illustrate the effect of the increase of 0.10 percent on a per head basis. Based on the 1994 annual average five market price of \$39.57 per hundredweight for barrows and gilts with an average weight of 248 pounds as reported in the USDA's publication "Livestock, Meat, and Wool Weekly Summary and Statistics" published in January 1995, the total assessment per head at the assessment rate of 0.45 percent would be 44 cents. At the assessment rate of 0.35 percent, the total per-head assessment would be 34 cents. Based on the Delegate Body's recommendation in accordance with § 1230.71(d) of the Order, this final rule increases the rate of assessment from 0.35 to 0.45 percent, which would increase assessments collected \$10 million to \$12 million over a 12-month period.

This final rule also increases the amount of assessment on all of the imported pork and pork products subject to assessment as published in the **Federal Register** as a final rule September 8, 1994, and effective on October 11, 1994 (59 FR 46323). This adjustment reflects the increase in the assessment rate to 0.45 percent and would be consistent with the decrease in the annual average price of domestic barrows and gilts for calendar year 1994 as reported by USDA, AMS, Livestock and Grain Market News (LGMN) Branch. This adjustment in assessments will make the equivalent market value of the live porcine animal from which the imported pork and pork products were derived reflect the recent decrease in the market value of domestic porcine animals, thereby promoting comparability between the importer and domestic assessments.

The methodology for determining the per-pound amounts for imported pork and pork products was described in the supplementary information accompanying the Order and published in the September 5, 1986, **Federal Register** at 51 FR 31901. The weight of

imported pork and pork products is converted to a carcass weight equivalent by utilizing conversion factors which are published in the USDA Statistical Bulletin No. 616 "Conversion Factors and Weights and Measures." These conversion factors take into account the removal of bone, weight lost in cooking or other processing, and the nonpork components of pork products. Secondly, the carcass weight equivalent is converted to a live animal equivalent weight by dividing the carcass weight equivalent by 70 percent, which is the average dressing percentage of porcine animals in the United States. Thirdly, the equivalent value of the live porcine animal is determined by multiplying the live animal equivalent weight by an annual average market price for barrows and gilts as reported by the USDA, AMS, LGMN Branch. The annual average price, which was based on price data from six major markets, is now based on only five markets as one of the six markets—St. Louis—closed in 1994. This average price is published on a yearly basis during the month of January in the LGMN Branch's publication "Livestock, Meat, and Wool Weekly Summary and Statistics." Finally, the equivalent value is multiplied by the applicable assessment rate of 0.45 percent due on imported pork and pork products. The end result is expressed in an amount per pound for each type of pork or pork product. To determine the amount per kilogram for pork and pork products subject to assessment under the Act and Order, the cent-per-pound assessments are multiplied by a metric conversion factor 2.2046 and carried to the sixth decimal.

The formula in the preamble for the Order at 51 FR 31901 contemplated that it would be necessary to recalculate the equivalent live animal value of imported pork and pork products to reflect increases in the rate of assessments or changes in the annual average price of domestic barrows and gilts to maintain equity of assessments between domestic porcine animals and imported pork and pork products.

Substituting the assessment rate of 0.45 percent in the formula and using the 1994 average annual five market price for domestic barrows and gilts of \$39.57 per hundredweight results in an increase in assessments for all the Harmonized Tariff Systems (HTS) numbers in the table in § 1230.110, 59 FR 46323; September 8, 1994, of an amount equal to two- to four-hundredths of a cent per pound, or as expressed in cents per kilogram, four- to nine-hundredths of a cent per kilogram. Based on Department of Commerce, Bureau of Census, data on the volume

of imported pork and pork products available for the period January 1, 1994, through September 30, 1994, the increase in the assessment amounts would result in an estimated \$175,000 increase in importer assessments over a 12-month period.

The Department's review of the supplementary information revealed that the location of the March 3–5, 1994, Delegate Body meeting was incorrectly listed as Denver, Colorado. The meeting was held in Kansas City, Missouri, and the supplementary information has been corrected.

The Department received 87 comments after the publication of the proposed rule. Thirty-four commenters, including the National Pork Board, the National Pork Producers Council, 23 State pork producer associations representing over 62,000 producers which represents a significant proportion of the estimated State producer association members nationwide, and 9 individuals supported the rate increase stating that it would provide additional opportunities for enhanced returns to pork producers and it is consistent with industry goals and plans. Fifty-one individual commenters did not support the rate increase, citing the decline in live hog prices, disfavor with the program and suggesting that the current rate was high enough or that there should be no assessment at all. Two commenters did not specifically address the proposed assessment rate increase; however they both believed the pork promotion program was successful.

One of the two commenters argued that the comment period of 30 days was not sufficient time for producers to review the proposed rule and submit comments since most pork producers do not receive the **Federal Register**. The Department believes that a 30 day comment period is sufficient to allow for public comment. A press release was issued when the proposed rule was published to facilitate timely notification of interested parties of their opportunity to comment. The press release also indicated that interested persons could request copies of the proposed rule either by the phone or mail and listed the phone number and address. The other commenter expressed concern about the magnitude of the price spread between the wholesale price and retail price for pork.

The Department carefully considered the comments, the recommendation of the Delegate Body and additional information regarding the usefulness of the proposed assessment rate increase. It has been determined that the additional

revenues which will be gained from the increase will be useful in strengthening the position of the pork industry in the marketplace and in maintaining, developing, and expanding markets for pork and pork products.

The increase in total annual assessments, resulting from the increase in the assessment rate from .35 to .45 percent, will enable the pork promotion and research program to continue the funding pattern that has helped keep pork competitive with other meats and poultry since 1987. The increase will also provide the necessary funding to finance the pork industry's long range strategic plan which will address issues and initiatives that pork producers and importers believe will have the most significant economic impact on the future of the industry. These issues include environmental management, odor control, animal care, swine health, and food safety. The increase in annual assessment will provide the additional funding necessary to help producers take full advantage of the enhanced foreign trade opportunities created by NAFTA and GATT. In voting for the assessment rate increase, the National Pork Producers Delegate Body believed that the increase was necessary to make sure all producers have access to the latest research, technology, and information available to help them remain competitive in a rapidly changing industry.

Accordingly, this final rule adopts the increase in the assessment rate from 0.35 percent of market value of porcine animals to 0.45 percent as proposed; and the adjustment in the amount of assessment per pound due on imported pork and pork products to reflect the assessment rate increase of 0.10 percent and the decrease in the 1994 average price for domestic barrows and gilts as proposed.

#### List of Subjects in 7 CFR Part 1230

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

For the reasons set forth in the preamble, 7 CFR part 1230 is 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.

#### Subpart—[Amended]

2. Subpart B—Rules and Regulations is amended by revising § 1220.110 to read as follows:

##### § 1230.110 Assessments on imported pork and pork products.

(a) The following HTS categories of imported live porcine animals are subject to assessment at the rate specified.

Live porcine animals	Assessment
0103.10.0000 .....	0.45 percent Customs Entered Value.
0103.91.0000 .....	0.45 percent Customs Entered Value.
0103.92.0000 .....	0.45 percent Customs Entered Value.

(b) The following HTS categories of imported pork and pork products are subject to assessment at the rates specified.

Pork and pork products	Assessment	
	cents/lb	cents/kg
0203.11.0000 .....	.25	.551150
0203.12.1010 .....	.25	.551150
0203.12.1020 .....	.25	.551150
0203.12.9010 .....	.25	.551150
0203.12.9020 .....	.25	.551150
0203.19.2010 .....	.30	.661380
0203.19.2090 .....	.30	.661380
0203.19.4010 .....	.25	.551150
0203.19.4090 .....	.25	.551150
0203.21.0000 .....	.25	.551150
0203.22.1000 .....	.25	.551150
0203.22.9000 .....	.25	.551150
0203.29.2000 .....	.30	.661380
0203.29.4000 .....	.25	.551150
0206.30.0000 .....	.25	.551150
0206.41.0000 .....	.25	.551150
0206.49.0000 .....	.25	.551150
0210.11.0010 .....	.25	.551150
0210.11.0020 .....	.25	.551150
0210.12.0020 .....	.25	.551150
0210.12.0040 .....	.25	.551150
0210.19.0010 .....	.30	.661380
0210.19.0090 .....	.30	.661380
1601.00.2010 .....	.35	.771610
1601.00.2090 .....	.35	.771610
1602.41.2020 .....	.38	.837748
1602.41.2040 .....	.38	.837748
1602.41.9000 .....	.25	.551150
1602.42.2020 .....	.38	.837748
1602.42.2040 .....	.38	.837748
1602.42.4000 .....	.25	.551150
1602.49.2000 .....	.35	.771610
1602.49.4000 .....	.30	.661380

3. Subpart B—Rules and Regulations is amended by revising § 1230.112 to read as follows:

##### § 1230.112 Rate of assessment.

In accordance with § 1230.71(d) the rate of assessment shall be 0.45 percent of market value.

Dated: June 1, 1995.

**Lon Hatamiya,**  
Administrator.

[FR Doc. 95–13920 Filed 6–6–95; 8:45 am]

BILLING CODE 3410–02–P

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 202

[Regulation B; Docket No. R–0865]

#### Equal Credit Opportunity

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule; official staff interpretation.

**SUMMARY:** The Board is revising its official staff commentary to Regulation B (Equal Credit Opportunity). The commentary applies and interprets the requirements of Regulation B and is a substitute for individual staff interpretations. The revisions to the commentary provide guidance on several issues including disparate treatment, special purpose credit programs, credit scoring systems, and marital status discrimination.

**EFFECTIVE DATE:** June 5, 1995.

**FOR FURTHER INFORMATION CONTACT:** Jane Jensen Gell, Sheilah Goodman, Natalie E. Taylor, or Manley Williams, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412; for the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf, (202) 452–3544.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691–1691f, makes it unlawful for creditors to discriminate in any aspect of a credit transaction on the basis of sex, marital status, age, race, national origin, color, religion, receipt of public assistance, or the exercise of rights under the Consumer Credit Protection Act. The Board's Regulation B (12 CFR Part 202) implements this statute. In addition, the Board's official staff commentary (12 CFR Part 202 (Supp. I)) interprets the regulation. The commentary provides general guidance in applying the regulation to various credit transactions and is updated periodically.