

DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service****7 CFR Part 300**

[Docket No. 99-081-2]

Hot Water Treatment for Limes**AGENCY:** Animal and Plant Health Inspection Service, USDA.**ACTION:** Direct final rule; confirmation of effective date.

SUMMARY: On November 8, 2001, the Animal and Plant Health Inspection Service published a direct final rule. (See 66 FR 56427-56428, Docket No. 99-081-1.) The direct final rule notified the public of our intention to amend the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference into the regulations, to allow limes that are found to be infested with mealybugs (*Pseudococcidae*) and other surface pests to be treated with a hot water treatment. We did not receive any written adverse comments or written notice of intent to submit adverse comments in response to the direct final rule.

EFFECTIVE DATE: The effective date of the direct final rule is confirmed as January 7, 2002.

FOR FURTHER INFORMATION CONTACT: Donna L. West, Import Specialist, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236; (301) 734-6799.

Authority: 7 U.S.C. 7701-7772; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 20th day of December 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

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DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 1230**

[No. LS-01-02]

Pork Promotion, Research, and Consumer Information Order—Increase in Importer Assessments**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) issued thereunder, this final rule increases by seven-hundredths to one-tenth of a cent per pound the amount of the assessment per pound due on imported pork and pork products to reflect an increase in the 2000 average price for domestic barrows and gilts. This final action brings the equivalent market value of the live animals from which such imported pork and pork products were derived in line with the market values of domestic porcine animals. These changes will facilitate the continued collection of assessments on imported porcine animals, pork, and pork products.

EFFECTIVE DATE: January 28, 2002.

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

SUPPLEMENTARY INFORMATION:**Executive Orders 12866 and 12988 and Regulatory Flexibility Act**

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This 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 § 1625 of the Act, a person subject to an order may file a petition with the Department of Agriculture (USDA) stating that such order, a provision of such order or an obligation imposed in connection with such order is not in accordance with the 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, USDA would 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 USDA's

determination, if a complaint is filed not later than 20 days after the date such person receives notice of such determination.

This action also was reviewed under the Regulatory Flexibility Act (5 United States Code (U.S.C.) 601 *et seq.*). The effect of the Order upon small entities initially was discussed in the September 5, 1986, issue of the **Federal Register** (51 FR 31898). It was determined at that time that the Order would not have a significant effect upon a substantial number of small entities. Many of the estimated 500 importers may be classified as small entities under the Small Business Administration definition (13 CFR 121.201).

This final rule will increase the amount of assessments on imported pork and pork products subject to assessment by seven-hundredths to one-tenth of a cent per pound, or as expressed in cents per kilogram, fifteen-hundredths to twenty-two-hundredths of a cent per kilogram. This increase is consistent with the increase in the annual average price of domestic barrows and gilts for calendar year 2000. The average annual market price increased from \$31.46 in 1999 to \$42.70 in 2000, an increase of about 36 percent. Adjusting the assessments on imported pork and pork products would result in an estimated increase in assessments of \$713,000 over a 12-month period. Assessments collected on imported hogs, pork, and pork products for 2000 were \$3,384,096. Accordingly, the Administrator of the Agricultural Marketing Service (AMS) has determined that this action would not have a significant economic impact 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 on imported porcine animals with an equivalent assessment on pork and pork products. However, that rate was increased to 0.35 percent in 1991 (56 FR 51635) and to 0.45 percent effective September 3, 1995 (60 FR 29963). 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, 56 FR 51635, 60 FR 29963, 61 FR 29002, 62 FR 26205, 63 FR 45936, and 64 FR