

**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.*

[FR Doc. 01-31945 Filed 12-27-01; 8:45 am]

**BILLING CODE 3410-34-P**

**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

44643) and assessments began on November 1, 1986.

The Order requires importers of porcine animals to pay U.S. Customs Service (USCS), upon importation, the assessment of 0.45 percent of the animal's declared value and importers of pork and pork products to pay USCS, upon importation, the assessment of 0.45 percent of the market value of the live porcine animals from which such pork and pork products were produced. This final rule will increase the assessments on all of the imported pork and pork products subject to assessment as published in the **Federal Register** as a final rule August 17, 1999, and effective on September 16, 1999 (64 FR 44643). This increase is consistent with the increase in the annual average price of domestic barrows and gilts for calendar year 2000 as calculated by USDA's, AMS, Livestock and Grain Market News (LGMN) Branch. This increase 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 increase in the market value of domestic porcine animals, thereby promoting comparability between importer and domestic assessments. This final rule will not change the current assessment rate of 0.45 percent of the market value.

The methodology for determining the per pound amount of assessments 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 that are published in USDA's Agricultural Handbook No. 697 "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 calculated by LGMN Branch. 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 cents per pound assessments are multiplied by a metric conversion factor 2.2046 and carried to the sixth decimal.

Since 1999 when the last adjustment was made in the amount of the assessment due on live hogs and imported pork and pork products (64 FR 44643), there has been a change in the way LGMN Branch reports hog prices. For calendar year 1998, the annual average price for barrows and gilts was based on the average price for barrows and gilts at five terminal markets. LGMN Branch no longer reports the average price at terminal markets. When the Order was published on September 5, 1986, LGMN Branch reported an annual average price of barrows and gilts based on the seven major markets (East St. Louis, Illinois; Omaha, Nebraska; Peoria, Illinois; St. Joseph, Missouri; South St. Paul, Minnesota; Sioux City, Iowa; and Sioux Falls, South Dakota) and that price was used to calculate the equivalent live animal value of imported pork and pork products. In 1991, one of the seven markets, Peoria, Illinois, closed and LGMN Branch changed its report to include the annual average price from only six markets. Again in 1994, another market, East St. Louis, Illinois, closed and LGMN Branch began reporting the annual average price for barrows and gilts based on five markets. In December 1998, two more of the original seven markets, Sioux City, Iowa, and Omaha, Nebraska, closed and LGMN Branch discontinued reporting market prices based on the three remaining markets because these markets did not have a sufficient volume of sales to accurately reflect a national average price for barrows and gilts.

In 1999, LGMN Branch replaced the five-market report with the Iowa-Southern Minnesota hog report as the source for the national average price for barrows and gilts. This average price, comparable to the former five-market annual average price, was quoted for 49–52 percent lean yield barrows and gilts weighing an average of 240–280 pounds live weight. LGMN Branch reported these prices daily as well as publishing a monthly average price in the "Livestock, Meat and Wool Weekly Summary and Statistics." While LGMN Branch discontinued publishing an annual average price of barrows and gilts in the "Livestock, Meat and Wool Weekly Summary and Statistics," they had calculated the annual average price for barrows and gilts based on the 12 monthly average prices in the Iowa-

Southern Minnesota hog reports. This annual average price was used in the calculations for determining the per pound amount of assessments for imported pork and pork products. Further changes are anticipated in the future due to implementation of the Livestock Mandatory Price Reporting program (65 FR 75464) on April 2, 2001.

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 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.

The last time the cents per pound assessments for imported pork and pork products listed in the table in § 1230.110(b) were adjusted was for calendar year 1998 (64 FR 44643). The equivalent live animal value of imported pork and pork products was recalculated for calendar year 1999 and when compared to the equivalent live animal value for calendar year 1998, no adjustments in the cents per pound assessments were necessary for imported pork and pork products subject to assessment under the Act and Order. In 1999 the average annual price for barrows and gilts was \$31.46 per hundredweight as determined by LGMN Branch based on monthly average prices for barrows and gilts published in the "Livestock, Meat and Wool Weekly Summary and Statistics." The 1998 average price for barrows and gilts was \$31.82 per hundredweight. The cents per pound assessments for calendar year 1999 remained the same as calendar year 1998.

The average annual market price increased from \$31.46 per hundredweight in 1999 to \$42.70 per hundredweight in 2000, an increase of about 36 percent. This increase will result in a corresponding increase in assessments for all Harmonized Tariff Schedule (HTS) numbers listed in the table in § 1230.110(b), 64 FR 44643; August 17, 1999, of an amount equal to 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. Based on the Department of Commerce's, Bureau of Census, data on the volume of pork and pork products imported during 2000, the increase in assessment amounts will result in an estimated \$713,000 increase in assessments over a 12-month period. The assessment rate for imported live hogs is not affected by the change in the

cents per pound assessment rate for imported pork and pork products.

On August 13, 2001, AMS published in the **Federal Register** (66 FR 42469) a proposed rule which would increase the per pound assessment on imported pork and pork products consistent with the increase in the 2000 average price of domestic barrows and gilts to provide comparability between imported and domestic assessments. The proposal was published with a request for comments by September 12, 2001. No comments were received.

Accordingly, this final rule establishes the new per-pound and per-kilogram assessments on imported pork and pork products.

**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, 7 CFR part 1230 is amended as follows:

**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 B—[Amended]**

2. Section 1230.110 is revised to read as follows:

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

(a) The following Harmonized Tariff Schedule (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 .....	.27	.595242
0203.12.1010 .....	.27	.595242
0203.12.1020 .....	.27	.595242
0203.12.9010 .....	.27	.595242
0203.12.9020 .....	.27	.595242
0203.19.2010 .....	.32	.705472
0203.19.2090 .....	.32	.705472
0203.19.4010 .....	.27	.595242
0203.19.4090 .....	.27	.595242
0203.21.0000 .....	.27	.595242
0203.22.1000 .....	.27	.595242
0203.22.9000 .....	.27	.595242
0203.29.2000 .....	.32	.705472
0203.29.4000 .....	.27	.595242
0206.30.0000 .....	.27	.595242
0206.41.0000 .....	.27	.595242
0206.49.0000 .....	.27	.595242
0210.11.0010 .....	.27	.595242
0210.11.0020 .....	.27	.595242
0210.12.0020 .....	.27	.595242
0210.12.0040 .....	.27	.595242
0210.19.0010 .....	.32	.705472
0210.19.0090 .....	.32	.705472
1601.00.2010 .....	.38	.837748
1601.00.2090 .....	.38	.837748
1602.41.2020 .....	.41	.903886
1602.41.2040 .....	.41	.903886
1602.41.9000 .....	.27	.595242
1602.42.2020 .....	.41	.903886
1602.42.2040 .....	.41	.903886
1602.42.4000 .....	.27	.595242
1602.49.2000 .....	.38	.837748
1602.49.4000 .....	.32	.705472

Dated: December 21, 2001.

**A.J. Yates,**  
*Administrator, Agricultural Marketing Service.*

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**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 72**

**RIN 3150–AG83**

**List of Approved Spent Fuel Storage Casks: NAC–UMS Revision; Confirmation of Effective Date**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is confirming the effective date of December 31, 2001, for

the direct final rule that appeared in the **Federal Register** of October 16, 2001 (66 FR 52486). This direct final rule amended the NRC’s regulations by revising the NAC–UMS Universal Storage System listing within the list of approved spent fuel storage casks to include Amendment No. 2 to Certificate of Compliance No. 1015. This document confirms the effective date.

**DATES:** The effective date of December 31, 2001, is confirmed for this direct final rule.

**ADDRESSES:** Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. These same documents may also be viewed and downloaded electronically via the rulemaking Web site (<http://ruleforum.llnl.gov>). For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher (301) 415–5905; e-mail [CAG@nrc.gov](mailto:CAG@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6219 (e-mail: [jmm2@nrc.gov](mailto:jmm2@nrc.gov)).

**SUPPLEMENTARY INFORMATION:** On October 16, 2001 (66 FR 52486), the NRC published in the **Federal Register** a direct final rule amending its regulations in 10 CFR part 72 by revising the NAC–UMS Universal Storage System listing within the list of approved spent fuel storage casks to include Amendment No. 2 to Certificate of Compliance No. 1015. Amendment No. 2 modifies the present cask system design to add miscellaneous spent fuel related components to the approved contents list for the NAC–UMS Universal Storage System and change the required actions in response to a failure of the cask heat removal system. Several other minor administrative changes were made and are discussed in Section 12 of the Safety Evaluation Report. Also, specific changes to were made to Technical Specifications that permit the storage of these components and the other requested changes. Conditions 1b and 6 of the Certificate of Compliance were also changed. In the direct final rule, NRC stated that if no significant adverse comments were