

**DEPARTMENT OF AGRICULTURE****Grain Inspection, Packers and Stockyards Administration****7 CFR Part 810****Request for Public Comment on the United States Standards for Sorghum**

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Grain Inspection, Packers and Stockyards Administration (GIPSA) is initiating a review of the United States Standards for Sorghum. GIPSA invites comments and suggested changes to these standards.

**DATES:** Comments must be received on or before February 17, 2004.

**ADDRESSES:** Written comments must be submitted to Tess Butler at GIPSA, USDA, STOP 3604, 1400 Independence Avenue, SW., Washington, DC 20250-3604; faxed to (202) 690-2755; or e-mailed to [comments.gipsa@usda.gov](mailto:comments.gipsa@usda.gov). Please indicate your comment refers to United States Standards for Sorghum.

All comments received are available for public inspection at Room 1652, South Building, 1400 Independence Avenue, SW., Washington, DC, during regular business hours (7 CFR 1.27 (b)).

**FOR FURTHER INFORMATION CONTACT:** Marianne Plaus, telephone (202) 690-3460 at GIPSA, USDA, Room 2409 North/South Building, 1400 Independence Avenue, SW., Washington, DC 20250-3630; Fax Number (202) 720-1015.

**SUPPLEMENTARY INFORMATION:** On August 14, 1998, GIPSA published an Advance Notice of Proposed Rulemaking in the **Federal Register** (63 FR 43641) requesting views and comments on the sorghum standards. Based on comments received, GIPSA determined that the U.S. Standards for Sorghum were meeting the needs of producers, shippers, and others who handle and market sorghum and that no changes were needed at that time.

Recently, the National Grain Sorghum Producers (NGSP), an association representing U.S. grain sorghum farmers nationwide, has requested that GIPSA initiate a review of the sorghum standards. NGSP would welcome the opportunity to clarify several definitions in the current standards to more accurately reflect advancements in sorghum genetics and better reflect what is relevant to deriving value in the marketplace. GIPSA is seeking all comments that will assist the Agency in making the standards more relevant in

the contemporary market. Accordingly, GIPSA is initiating a review of the United States Standards for Sorghum in Subpart I of 7 CFR part 810 at §§ 810.1401-810.1405.

During this review, GIPSA will assess the need for revisions on the various sections of the United States Standards for Sorghum, the potential for improvements, and language clarity.

GIPSA invites any comments and suggestions concerning these standards, and the benefits and costs of any changes including, but not limited to, those addressing sorghum classification, definitions, and grade limits.

**Authority:** Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71, *et seq.*)

**Donna Reifschneider,**

*Administrator, Grain Inspection, Packers and Stockyards Administration.*

[FR Doc. 03-31092 Filed 12-16-03; 8:45 am]

**BILLING CODE 3410-EN-P**

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

[No. LS-03-08]

**Pork Promotion, Research, and Consumer Information Order—Decrease in Importer Assessments**

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

**ACTION:** Proposed 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 proposed rule would decrease by five-hundredths to seven-hundredths of a cent per pound the amount of the assessment per pound due on imported pork and pork products to reflect a decrease in the 2002 average price for domestic barrows and gilts. This proposed action would bring 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. In addition, this rule deletes two live porcine animal Harmonized Tariff Schedule (HTS) numbers—0103.91.0000 and 0103.92.0000—and adds five new live porcine animal HTS numbers 0103.91.0010, 0103.91.0020, 0103.91.0030, 0103.92.0010, and 0103.92.0090—to the table in § 1230.110(a) in order to update the HTS numbers used for live porcine animals.

**DATES:** Comments must be received by January 16, 2004.

**ADDRESSES:** Send comments to Kenneth R. Payne, Chief; Marketing Programs Branch, Room 2638-S; Livestock and Seed Program; Agricultural Marketing Service (AMS), USDA; STOP 0251; 1400 Independence Avenue, SW., Washington, DC 20250-0251.

Comments may also be submitted electronically to [PorkComments@usda.gov](mailto:PorkComments@usda.gov) or by fax at (202) 720-1125. All comments should reference the document number (LS-03-08), the date, and the page number of this issue of the **Federal Register**. Comments will be available for public inspection via the Internet at <http://www.ams.usda.gov/lsg/mpb/rp-pork.htm> or during regular business hours, 8 a.m. to 4:30 p.m. eastern time, Monday through Friday, at the above address.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Payne, Chief, Marketing Programs Branch, (202) 720-1115.

**SUPPLEMENTARY INFORMATION:****Executive Order 12866**

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

**Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposal 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 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, the Secretary 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 the Secretary's determination, if a complaint is filed not later than 20 days after the date such person receives notice of such determination.

#### Regulatory Flexibility Act

This action also was reviewed under the Regulatory Flexibility Act (RFA) (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 proposed rule would decrease the amount of assessments on imported pork and pork products subject to assessment by five-hundredths to seven-hundredths of a cent per pound, or as expressed in cents per kilogram, eleven-hundredths to fifteen-hundredths of a cent per kilogram. This decrease is consistent with the decrease in the annual average price of domestic barrows and gilts for calendar year 2002. The average annual market price decreased from \$45.87 in 2001 to \$37.09 in 2002, a decrease of about 20 percent. Adjusting the assessments on imported pork and pork products would result in an estimated decrease in assessments of approximately \$562,000 over a 12-month period. Assessments collected on imported hogs, pork, and pork products for 2002 were \$4,250,578. Accordingly, the Administrator of 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), to 0.45 percent effective September 3, 1995 (60 FR 29963), and then decreased to 0.40 percent effective September 30, 2002 (67 FR 58320). 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, 64 FR 44643, 66 FR 67071, and 67 FR 58320) 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 0.40 percent of the animal's declared value and importers of pork and pork products to pay USCS, upon importation, the assessment of 0.40 percent of the market value of the live porcine animals from which such pork and pork products were produced. This proposed rule would decrease the assessments on all imported pork and pork products subject to assessment as published in the **Federal Register** as a final rule September 16, 2002, and effective on September 30, 2002 (67 FR 58320). This decrease is consistent with the decrease in the annual average price of domestic barrows and gilts for calendar year 2002 as calculated by the Department of Agriculture's (Department), AMS, Livestock and Grain Market News (LGMN) Branch. This decrease in assessments would 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 importer and domestic assessments. This proposed rule would not change the current assessment rate of 0.40 percent of the market value.

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 that are published in the Department'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 74 percent, which is the average dressing percentage of porcine animals in the United States as recognized by the industry. Thirdly, the equivalent value of the live porcine animals 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 0.40 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.

Since 2001, there has been a change in the way LGMN Branch reports hog prices. Due to the implementation of the Livestock Mandatory Price Reporting program, LGMN no longer report hogs on a live basis because most of the industry buys hogs on a carcass basis. Therefore, the annual average market price for barrows and gilts is now derived from the National Daily Direct Hog Price Report (Slaughtered). To convert this figure to a live basis it must be multiplied by 74 percent, the average dressing percentage of porcine animals.

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 rate of assessment or changes in the annual average price of domestic barrows and gilts to maintain equity of assessments between domestic and porcine animals and imported pork and pork products.

The average annual market price decreased from \$45.87 per hundredweight in 2001 to \$37.09 per hundredweight in 2002, a decrease of about 20 percent. This decrease would result in a corresponding decrease in assessments for all HTS numbers listed in the table in § 1230.110(b), 67 FR 58320; September 16, 2002, of an amount equal to five-hundredths to seven-hundredths of a cent per pound, or as expressed in cents per kilogram, eleven-hundredths to fifteen-hundredths of a cent per kilogram. Based on the most recent available Department of Commerce, Bureau of Census, data on the volume of imported pork and pork products imported during 2002, the proposed decrease in assessment amounts would result in an estimated \$562,000 decrease 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.

In addition, this rule deletes two live porcine animal Harmonized Tariff Schedule (HTS) numbers—0103.91.0000 and 0103.92.0000—and adds five new

live porcine animal HTS numbers 0103.91.0010, 0103.91.0020, 0103.91.0030, 0103.92.0010, and 0103.92.0090—to the table in § 1230.110(a) to reflect current USCS HTS numbers used for live porcine animals.

This proposed rule provides for a 30-day comment period. This comment period is deemed appropriate because the proposed rule simply provides for a decrease in the per pound assessment levels on imported pork and pork products to reflect changes in live hog prices which occurred during 2002. These live hog prices form the basis for the assessments. This adjustment, if adopted, should be made effective as

soon as possible to bring the equivalent market value of live animals from which such imported pork and pork products were derived in line with the market values of domestic porcine animals.

**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 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	Article description	Assessment
0103.10.0000 .....	Purebred breeding animals .....	0.40 percent Customs Entered Value
0103.91.00 .....	Other: Weighing less than 50 kg each.	
0103.91.0010 .....	Weighing less than 7 kg each .....	0.40 percent Customs Entered Value
0103.91.0020 .....	Weighing 7 kg or more but less than 23 kg each.	0.40 percent Customs Entered Value
0103.91.0030 .....	Weighing 23 kg or more but less than 50 kg each.	0.40 percent each Customs Entered Value
0103.92.00 .....	Weighing 50 kg or more each.	
0103.92.0010 .....	Imported for immediate slaughter .....	0.40 percent Customs Entered Value
0103.92.0090 .....	Other .....	0.40 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	Article description	Assessment	
		cents/lb	cents/kg
0203 .....	Meat of swine, fresh, chilled, or frozen: Fresh or chilled:		
0203.11.0000 .....	Carcasses and half-carcasses .....	.20	.440920
0203.12.1010 .....	Processed hams and cuts thereof, with bone in .....	.20	.440920
0203.12.1020 .....	Processed shoulders and cuts thereof, with bone in .....	.20	.440920
0203.12.9010 .....	Other hams and cuts thereof, with bone in .....	.20	.440920
0203.12.9020 .....	Other shoulders and cuts thereof, with bone in .....	.20	.440920
0203.19.2010 .....	Processed spare ribs .....	.23	.507058
0203.19.2090 .....	Processed other .....	.23	.507058
0203.19.4010 .....	Bellies .....	.20	.440920
0203.19.4090 .....	Other .....	.20	.440920
0203.21.0000 .....	Frozen carcasses and half-carcasses .....	.20	.440920
0203.22.1000 .....	Frozen-processed hams, shoulders, and cuts thereof, with bone in.	.20	.440920
0203.22.9000 .....	Frozen-other hams, shoulders, and cuts thereof, with bone in.	.20	.440920
0203.29.2000 .....	Frozen processed other .....	.23	.507058
0203.29.4000 .....	Frozen other: Other .....	.20	.440920
0206 .....	Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled, or frozen:		
0206.30.0000 .....	Of swine, fresh or chilled .....	.20	.440920
0206.41.0000 .....	Of swine, frozen: Livers .....	.20	.440920
0206.49.0000 .....	Of swine, frozen: Other .....	.20	.440920
0210 .....	Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal:		
0210.11.0010 .....	Meat of swine: Hams and cuts thereof, with bone in .....	.20	.440920
0210.11.0020 .....	Meat of swine: Shoulders and cuts thereof, with bone in .....	.20	.440920
0210.12.0020 .....	Meat of swine: Bellies (streaky) and cuts thereof, Bacon .....	.20	.440920
0210.12.0040 .....	Meat of swine: Bellies (streaky) and cuts thereof, Other .....	.20	.440920
0210.19.0010 .....	Meat of swine: Canadian style bacon .....	.23	.507058
0210.19.0090 .....	Meat of Swine: Other .....	.23	.507058

Pork and pork products	Article description	Assessment	
		cents/lb	cents/kg
1601 .....	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products:	.....	.....
1601.00.2010 .....	Pork canned .....	.28	.617288
1601.00.2090 .....	Pork other .....	.28	.617288
1602 .....	Other prepared or preserved meat, meat offal or blood.	.....	.....
1602.41.2020 .....	Of swine: Boned and cooked and packed in airtight containers holding less than 1 kg.	.30	.661380
1602.41.2040 .....	Of swine: Other boned and cooked and packed in airtight containers.	.30	.661380
1602.41.9000 .....	Of swine: Other .....	.20	.440920
1602.42.2020 .....	Of swine: Shoulders and cuts thereof: Boned and cooked and packed in airtight containers holding less than 1 kg.	.30	.661380
1602.42.2040 .....	Of swine: Shoulders and cuts thereof: Other boned and cooked and packed in airtight containers.	.30	.661380
1602.42.4000 .....	Of swine: Other shoulders and cuts thereof .....	.20	.440920
1602.49.2000 .....	Of swine: Other, including mixtures: Not containing cereals or vegetables: Boned and cooked and packed in airtight containers.	.28	.617288
1602.49.4000 .....	Of swine: Other, including mixtures: Not containing cereals or vegetables: Other.	.23	.507058
1602.49.9000 .....	Of swine: Other, including mixtures: Other .....	.23	.507058

Dated: December 9, 2003.  
**A.J. Yates,**  
*Administrator, Agricultural Marketing Service.*  
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**BILLING CODE 3410-02-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 2003-NM-34-AD]

RIN 2120-AA64

**Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB-135 and -145 series airplanes. This proposal would require modification of the of the mid, aft, and forward upper liners in the baggage compartment. The modification would involve replacing the plastic lens protection grids on all upper liners with new, light metal lens protection grids. This action is necessary to prevent the plastic lens protection grids from breaking away and exposing the lens as a source of fire, which could lead to fire damage to the aircraft systems and

structure, and expose the passengers and crew to hazardous quantities of smoke. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by January 16, 2004.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2003-NM-34-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2003-NM-34-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343-CEP 12.225, Sao Jose dos Campos-SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Todd Thompson, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington

98055-4056; telephone (425) 227-1175; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.