

the provider, including Federal income tax refunds.

(d) *Civil lawsuit.* If necessary to obtain payment of penalties and assessments, the United States may file a civil lawsuit as set forth in 5 U.S.C. 8902(i).

(e) *Crediting payments.* OPM must deposit payments of penalties and assessments into the Employees Health Benefits Fund.

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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: 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 rule will 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 action will 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.

EFFECTIVE DATE: April 2, 2004.

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 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 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 final rule will 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 will 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 will 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 final rule will 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 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 importer and domestic assessments. This final rule will 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 will 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 decrease in assessment amounts will 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.

On December 17, 2003, AMS published in the **Federal Register** (68 FR 70201) a proposed rule which would decrease the per pound assessment on imported pork and pork products consistent with the decrease in the 2002 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 January 16, 2004. No comments were received.

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	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 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
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 air-tight 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: February 27, 2004.

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

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SUMMARY: The NCUA published in the **Federal Register** of February 25, 2004, a document revising its rule concerning maximum borrowing authority. There was an inadvertent error in amendatory language. This document corrects the amendatory language.

DATES: Effective on March 3, 2004.

FOR FURTHER INFORMATION CONTACT: Mary F. Rupp, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518-6540.

SUPPLEMENTARY INFORMATION: The NCUA published a document in the **Federal Register** of February 25, 2004 (69 FR 8545), amending § 741.2. The amendatory language included adding new paragraphs (b), (c) and (d). There is no paragraph (d). This amendment removes the reference to paragraph (d).

By the National Credit Union Administration Board on February 26, 2004.

Becky Baker,
Secretary of the Board.

[FR Doc. 04-4669 Filed 3-2-04; 8:45 am]

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 741

Technical Amendment to Maximum Borrowing Authority Regulation to Delete a Reference From Amendatory Language; Correction

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule; correction.