

which are continuing FEHB Program participation from one contract year to the next.

(i) If OPM and the carrier for a plan that will continue participation have closed negotiations on rates for the upcoming contract year by September 1 of the current contract year, i.e., the determination year, OPM will use the plan's negotiated subscription charges for the upcoming contract year in the determination of the weighted average of subscription charges.

(ii) If OPM and the carrier for a plan that applied to continue participation have not closed rate negotiations for the upcoming contract year by September 1 of the determination year, OPM will make a deemed adjustment to such plan's subscription charges for the current contract year for purposes of counting eligible enrollees of the plan in the determination of weighted average charges for the upcoming contract year. The deemed adjustment will equal any increase or decrease OPM finds in its determination of the weighted average of subscription charges for the upcoming contract year for all plans with which OPM has closed rates on September 1 of the determination year.

(iii) There will be no subsequent adjustment in the weighted average charges applicable to the upcoming contract year to reflect rate negotiations closed after September 1 of the determination year.

(2) Except as otherwise specified in paragraphs (b)(2) (i) and (b)(2)(ii) of this section, the weight OPM gives to each subscription charge for purposes of determining the weighted average of subscription charges for the upcoming contract year will be proportionate to the number of individuals who, as of March 31 of the determination year, are enrolled in the plan or benefits option to which such charge applies and are eligible for a Government health benefits contribution in the upcoming contract year.

(i) When a subscription charge for an upcoming contract year applies to a plan that is the result of a merger of two or more plans which contract separately with OPM during the determination year, or applies to a plan which will cease to offer two benefits options, OPM will combine the self only enrollments and the self and family enrollments from the merging plans, or from a plan's two benefits options, for purposes of weighting subscription charges in effect for the successor plan for the upcoming contract year.

(ii) When a comprehensive medical plan (CMP) varies subscription charges for different portions of the plan's service area and the plan's contract for

the upcoming contract year will reconfigure geographic areas associated with subscription charges, so that there will not be a direct correlation between enrollment in the determination year and rating areas for the upcoming contract year, OPM will estimate what portion of the plan's enrollees on March 31 of the determination year will be subject to each of the plan's subscription rates for the upcoming contract year.

(3) After OPM weights each subscription charge as provided in paragraphs (b)(2), (b)(2)(i), and (b)(2)(ii) of this section, OPM will compute the total of subscription charges associated with self only enrollments, and the total of subscription charges associated with self and family enrollments. OPM will divide each subscription charge total by the total number of enrollments such amount represents to obtain the program-wide weighted average subscription charges for self only and for self and family enrollments, respectively.

\* \* \* \* \*

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BILLING CODE 6325-01-P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1230

[No. LS-98-004]

#### 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 (Act) of 1985 and the Pork Promotion, Research, and Consumer Information Order (Order) issued thereunder, this final rule decreases by one-hundredth 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 1997 five-market average price for domestic barrows and gilts. This 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:** September 28, 1998.

#### 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 and the Paperwork Reduction 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 12988, Civil Justice Reform. This 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 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 such 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.

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 1,000 importers may be classified as small entities under the Small Business Administration definition (13 CFR 121.601).

This final rule decreases the amount of assessments on imported pork and pork products subject to assessment by one-hundredth of a cent per pound, or as expressed in cents per kilogram, two-

hundredths of a cent per kilogram. This decrease is consistent with the decrease in the annual price of domestic barrows and gilts for calendar year 1997.

Adjusting the assessments on imported pork and pork products would result in an estimated decrease in assessments of \$63,000 over a 12-month period.

Assessments collected for 1997 were \$3,369,587. Accordingly, the Administrator of the Agricultural Marketing Service (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 an equivalent amount of assessment on imported porcine animals, 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 29962). 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 29962, 60 FR 33681, and 60 FR 58501) and assessments began on November 1, 1986.

The Order requires importers of porcine animals to pay the 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 decreases the assessments on all of the imported pork and pork products subject to assessment as published in the **Federal Register** as a final rule May 13, 1997, and effective June 12, 1997; (62 FR 26205). This decrease is consistent with the decrease in the annual average price of domestic barrows and gilts for calendar year 1997 as reported by USDA, 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 0.45 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 which are published in the Department's Statistical Bulletin 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 reported by USDA, AMS, LGMN Branch. This average price is published on a yearly basis during the month of January in 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 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 average annual market price decreased from \$52.77 in 1996 to \$51.30 in 1997, a decrease of about 3 percent. This decrease will result in a corresponding decrease in assessments for all HTS numbers listed in the table in § 1230.110, 62 FR 26205; May 13, 1997, of an amount equal to one-hundredth of a cent per pound, or as expressed in cents per kilogram, two-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, the decrease in assessment amounts would result in an estimated \$63,000 decrease in assessments over a 12-month period.

On June 11, 1998, AMS published in the **Federal Register** (63 FR 31942) a proposed rule which would decrease the per pound assessment on imported pork and pork products consistent with decreases in the 1997 average prices of domestic barrows and gilts to provide comparability between imported and domestic assessments. The proposal was published with a request for comments by July 13, 1998. No comments were received.

This final rule provides for a 30-day waiting period. This period is appropriate because the final rule simply provides for an adjustment in the per pound assessment levels on imported pork and pork products to reflect changes in live hog prices which occurred from 1996 to 1997. These live hog prices form the basis for the assessments. These adjustments should be made effective as soon as possible to promote optimum equity.

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 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.

Live porcine animals	Assessment	Live porcine animals	Assessment
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	.33	.727518
0203.12.1010	.33	.727518
0203.12.1020	.33	.727518
0203.12.9010	.33	.727518
0203.12.9020	.33	.727518
0203.19.2010	.38	.837748
0203.19.2090	.38	.837748
0203.19.4010	.33	.727518
0203.19.4090	.33	.727518
0203.21.0000	.33	.727518
0203.22.1000	.33	.727518
0203.22.9000	.33	.727518
0203.29.2000	.38	.837748
0203.29.4000	.33	.727518
0206.30.0000	.33	.727518
0206.41.0000	.33	.727518
0206.49.0000	.33	.727518
0210.11.0010	.33	.727518
0210.11.0020	.33	.727518
0210.12.0020	.33	.727518
0210.12.0040	.33	.727518
0210.19.0010	.38	.837748
0210.19.0090	.38	.837748
1601.00.2010	.46	1.014116
1601.00.2090	.46	1.014116
1602.41.2020	.50	1.102300
1602.41.2040	.50	1.102300
1602.41.9000	.33	.727518
1602.42.2020	.50	1.102300
1602.42.2040	.50	1.102300
1602.42.4000	.33	.727518
1602.49.2000	.46	1.014116
1602.49.4000	.38	.837748

Dated: August 24, 1998.

**Barry L. Carpenter,**

*Deputy Administrator, Livestock and Seed Program.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Airspace Docket No. 98-ASW-24]

#### Revision of Class E Airspace; Intracoastal City, LA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

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

**SUMMARY:** This notice confirms the effective date of a direct final rule which

revises Class E airspace at Intracoastal City, LA.

**EFFECTIVE DATE:** The direct final rule published at 63 FR 31351 is effective 0901 UTC, October 8, 1998.

**FOR FURTHER INFORMATION CONTACT:** Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193-0520, telephone: 817-222-5593.

**SUPPLEMENTARY INFORMATION:** The FAA published this direct final rule with a request for comments in the **Federal Register** on June 9, 1998 (63 FR 31351). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the

regulation would become effective on October 8, 1998. No adverse comments were received, and thus this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX, on August 21, 1998.

**JoEllen Casilio,**

*Assistant Manager, Air Traffic Division, Southwest Region.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Airspace Docket No. 98-ASW-25]

#### Revision of Class E Airspace; Venice, LA

**AGENCY:** Federal Aviation Administration (FAA), DOT.