

TABLE IVb.—ACCEPTANCE NUMBERS FOR FRENCH STYLE FROZEN GREEN BEANS AND WAX BEANS—GRADE C

Sample Units × Sample unit Size. Grams of Product ....	.....	.....	1×200 ×2.5 1500	1.5×200 ×2.5 2750	3×200 ×2.5 1500	6×200 ×2.5 3000	13×200 ×2.5 6500	21×200 ×2.5 10500	29×200 ×2.5 14500
TOL	AQL ³	Quality Factors	Acceptance Numbers						
1.00	0.733	Extraneous Vegetable Material (No. of Pieces).	3	4	8	13	26	40	53
3.00	2.50	Stems (No. of stems).	8	12	21	39	78	122	165
3.75	3.20	Major Blemishes (Grams).	25	38	65	120	245	383	520
10.75	9.80	Total Blemishes [(Grams)Major + Minor].	68	95	178	338	703	1113	1520
17.75	16.60	Color Defectives (Grams).	105	150	285	550	1158	1843	2523
N/A	N/A	Character—"B" (Grams).	N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	Character—"C" (Grams).	N/A	N/A	N/A	N/A	N/A	N/A	N/A
12.50	11.50	Character—"SStd" (Grams).	75	108	205	390	813	1293	1768

¹ For unofficial samples.

² For use with small container sizes only.

³ AQL calculated from tolerance (TOL) at 2600.

§ 52.2329 Sample size.

The sample size used to determine whether the requirements of these standards are met shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1 through 52.83).

§ 52.2330 Quality requirement criteria.

(a) *Lot inspection.* A lot of frozen beans is considered as meeting the requirements for quality if:

(1) The prerequisite requirements specified in § 52.2326 and § 52.2328, Table I, are met; and

(2) None of the allowances for the individual quality factors specified in Tables II, IIa, IIb, III, IIIa, IIIb, IV, IVa, and IVb of § 52.2328, as applicable for the style, are exceeded.

(b) *Single sample unit.* Each unofficial sample unit submitted for quality evaluation will be treated individually and is considered as meeting the requirements for quality if:

(1) The prerequisites requirements specified in § 52.2326 and § 52.2328, Table I, are met; and

(2) The Acceptable Quality Levels in Tables II, IIa, IIb, III, IIIa, IIIb, IV, IVa, and IVb of § 52.2328, as applicable for the style, are not exceeded.

Dated: February 8, 1995.

Lon Hatamiya,

Administrator.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1230

RIN 0581-AB36

[No. LS-94-010]

Pork Promotion, Research, and Consumer Information Act of 1985— Increase in Assessment Rate

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) thereunder, this proposed rule would increase the rate of assessment of 0.35 percent of market value of porcine animals to 0.45 percent; and adjust the amount of assessment per pound due on imported pork and pork products to reflect the proposed 0.10 percent increase in the assessment rate and the decrease in the 1994 average price for domestic barrows and gilts. The proposed assessment increase and the

proposed adjustment in assessments on imported pork and pork products would increase annual funding of the promotion, research, and consumer information program by an estimated \$10 million to \$12 million over a 12-month period.

DATES: Written comments must be received by March 17, 1995.

ADDRESSES: Send two copies of comments to Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Division; Agricultural Marketing Service (AMS), USDA; P.O. Box 96456, Room 2624-S; Washington, DC 20090-6456. Comments will be available for public inspection during regular business hours at the above office in Room 2624 South Agricultural Building, 14th and Independence Avenue SW., Washington, DC.

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

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Regulatory Flexibility Act

The Department is issuing this rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This proposed 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 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 the 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.

Information available to the Department indicates that nearly all of the estimated 278,000 pork producers and many of the estimated 200 importers can be classified as small entities. This proposed rule would increase the rate of the assessment from 0.35 percent of the market value of porcine animals to 0.45 percent, and would increase the cents per pound and per kilogram of assessments on imported pork and pork products subject to assessment. Adjusting the rate of assessment from 0.35 to 0.45 percent and increasing the assessment on imported pork and pork products would result in an estimated increase in assessments of \$10 million to \$12 million over a 12-month period. However, the gross market value of all swine marketed in the United States during 1993 exceeded \$10.6 billion. The economic impact of the proposed assessments will not be a significant part of the total market value of swine.

This proposed rule also would adjust importer assessments to reflect the increase in the assessment rate from 0.35 to 0.45 percent and to reflect a decrease in the 1994 average market price for domestic barrows and gilts. The combined effect of the assessment rate increase and the decrease in the average market price would increase the assessments on imported pork and pork products subject to assessments by two- to four-hundredths of a cent per pound, or as expressed in cents per kilogram, four- to nine-hundredths of a cent per

kilogram. Adjusting the assessments on imported pork and pork products would result in an estimated increase in assessments of \$175,000 over a 12-month period.

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 information collection requirements contained in part 1230, subparts A and B, have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB Control Number 0851-0151.

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 is funded by an assessment rate of 0.35 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. 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 31896; as corrected, at 51 FR 26283, and amended at 53 FR 1909, and 53 FR 30243). Assessments began on December 1, 1986.

The Order requires that producers pay to the Board an assessment of 0.35 percent of the market value of each porcine animal upon sale. However, for purposes of collecting and remitting assessments, porcine animals are divided into three separate categories (1) feeder pigs, (2) slaughter hogs, and (3) breeding stock. The Order specifies that purchasers of feeder pigs, slaughter hogs, and breeding stock shall collect an assessment on these animals if assessments are due. The Order further provides that for the purpose of collecting and remitting assessments persons engaged as a commission merchant, auction market or livestock market in the business of receiving such porcine animals for sale on commission for or on behalf of a producer shall be deemed to be a purchaser.

The Order requires importers of porcine animals to pay the U.S. Customs Service (USCS), upon importation, the assessment of 0.35 percent of the porcine animal's declared value and importers of pork and pork products to pay USCS, upon importation, the assessment of 0.35 percent of the market value of the live porcine animals from which such pork and pork products were produced.

The procedures for collection and remittance of assessments are specified in § 1230.71 of the Order.

Pursuant to section 1620 of the Act, the assessment rate of 0.25 percent of the market value of porcine animals, pork, or pork products sold or imported was established in the initial Order and was changed to 0.35 percent on December 1, 1991. Based on the assessment rate of 0.35 percent, the total annual assessments collected during 1994 were approximately \$42 million. Assessments on imported pork and pork products accounted for about \$1.5 million of the total.

The Act and § 1230.71 of the Order contain provisions for increasing the initial rate of assessment. Section 1620(b)(2) of the Act provides that the rate of the assessment in the initial Order may be increased by not more than 0.1 percent per year upon recommendation of the National Pork Producers Delegate Body whose producer and importer members are appointed annually by the Secretary. The Act further provides that the rate of assessment may be increased by no more than 0.1 percent annually not to exceed 0.5 percent of the market value unless the Delegate Body recommends a greater increase and the increase is approved in a referendum.

The 1994 Delegate Body, at its annual meeting on March 3-5, 1994, in Denver, Colorado, voted overwhelmingly to recommend to the Secretary that the rate of assessment of 0.35 percent be increased to 0.45 percent. There were 170 Delegate Body members appointed by the Secretary in 1994. At the Delegate Body meeting 154 delegates were present during voting and voted 37,226 valid share votes. States and importers are allotted one share per \$1,000 of the aggregated amount of assessment collected. There were 31,089 share votes cast in favor of the 0.1 percent increase.

The following example will illustrate the effect of the 0.1 percent increase on a per head basis. Based on the 1994 annual average five market price of \$39.57 per hundredweight for barrows and gilts with an average weight of 248 pounds as reported in the USDA's publication "Livestock, Meat, and Wool Weekly Summary and Statistics" published in January 1995, the total assessment per head at the assessment rate of 0.45 percent would be 44 cents. At the assessment rate of 0.35 percent, the total per-head assessment would be 34 cents. Based on the Delegate Body's recommendation in accordance with § 1230.71(d) of the Order, it is proposed that regulations be issued increasing the rate of assessments from 0.35 to 0.45 percent.

This proposed rule also would increase the amount of assessment on all of the imported pork and pork products subject to assessment as published in the **Federal Register** as a final rule September 8, 1994, and effective on October 11, 1994 (59 FR 46323). This adjustment would reflect the increase in the assessment rate to 0.45 percent and would be consistent with the decrease in the annual average price of domestic barrows and gilts for calendar year 1994 as reported by USDA, AMS, Livestock and Grain Market News (LGMN) Branch. This adjustment 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 the importer and domestic assessments.

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 USDA Statistical Bulletin No. 616 "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 the USDA, AMS, LGMN Branch. The annual average price, which was based on price data from six major markets, is now based on only five markets as one of the six markets—St. Louis—closed in 1994. This average price is published on a yearly basis during the month of January in the 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 increases in the rate of assessments 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.

Substituting the proposed assessment rate of 0.45 in the formula and using the 1994 average annual five market price for domestic barrows and gilts of \$39.57 per hundredweight would result in an increase in assessments for all the Harmonized Tariff Systems (HTS) numbers in the table in § 1230.110, 59 FR 46323; September 8, 1994, of an amount equal to two- to four-hundredths of a cent per pound, or as expressed in cents per kilogram, four- to nine-hundredths of a cent per kilogram. Based on Department of Commerce, Bureau of Census, data on the volume of imported pork and pork products available for the period January 1, 1994, through September 30, 1994, the proposed increases in the assessment amounts would result in an estimated \$175,000 increase in importer assessments over a 12-month period.

List of Subjects in 7 CFR Part 1230

Administrative practice and procedure, Advertising, Agriculture 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 set forth below:

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—[Amended]

2. Subpart B—Rules and Regulations is amended by revising § 1220.110 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.
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. Assessment

Pork and pork products	Assessment	
	Cents/lb	Cents/kg
0203.11.0000 ....	.25	.551150
0203.12.1010 ....	.25	.551150
0203.12.1020 ....	.25	.551150
0203.12.9010 ....	.25	.551150
0203.12.9020 ....	.25	.551150
0203.19.2010 ....	.30	.661380
0203.19.2090 ....	.30	.661380
0203.19.4010 ....	.25	.551150
0203.19.4090 ....	.25	.551150
0203.21.0000 ....	.25	.551150
0203.22.1000 ....	.25	.551150
0203.22.9000 ....	.25	.551150
0203.29.2000 ....	.30	.661380
0203.29.4000 ....	.25	.551150
0206.30.0000 ....	.25	.551150
0206.41.0000 ....	.25	.551150
0206.49.0000 ....	.25	.551150
0210.11.0010 ....	.25	.551150
0210.11.0020 ....	.25	.551150
0210.12.0020 ....	.25	.551150
0210.12.0040 ....	.25	.551150
0210.19.0010 ....	.30	.661380
0210.19.0090 ....	.30	.661380
1601.00.2010 ....	.35	.771610
1601.00.2090 ....	.35	.771610
1602.41.2020 ....	.38	.837748
1602.41.2040 ....	.38	.837748
1602.41.9000 ....	.25	.551150
1602.42.2020 ....	.38	.837748
1602.42.2040 ....	.38	.837748
1602.42.4000 ....	.25	.551150
1602.49.2000 ....	.35	.771610
1602.49.4000 ....	.30	.661380

3. Subpart B—Rules and Regulations is amended by revising § 1230.1120 to read as follows:

§ 1230.112 Rate of assessment.

In accordance with § 1230.71(d) the rate of assessment shall be 0.45 percent of market value.

Dated: February 9, 1995.

Lon Hatamiya,
Administrator.

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