

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1230

[No. LS-02-15]

Pork Promotion, Research, and Consumer Information Program: Submission of Information

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 add a section to the regulations that implement the Order to require remitters of pork checkoff assessments, upon request by the Department of Agriculture (USDA), to submit to the Agricultural Marketing Service (AMS) the names, addresses, and any other information deemed necessary to identify persons from whom assessments were collected. This action is necessary in order to obtain the information necessary to conduct a survey of eligible producers and importers no earlier than June 2003 to determine if they favor a referendum on the Pork Checkoff Program. AMS agreed to conduct a survey as part of a settlement of litigation against USDA filed by the Michigan Pork Producers Association (MPPA) and the National Pork Producers Council. The information that would be collected through this action would be used to establish the total number of pork producers and importers that would be utilized in determining whether the 15 percent threshold requirement contained in the Act for conducting a referendum has been met.

DATES: Written comments on this proposed rule must be received by May 12, 2003.

ADDRESSES: Send copies of comments to Kenneth R. Payne, Chief; Marketing Programs Branch, Room 2638-S; Livestock and Seed Program; Agricultural Marketing Service, USDA; STOP-0251; 1400 Independence Avenue, SW.; Washington, DC 20250-0251. Comments may also be sent by e-mail to porkcomments@usda.gov or by fax to 202/720-1125. State that your comments refer to Docket No. LS-02-15. Comments received may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, or on the Internet at www.ams.usda.gov/lsg/mpb/rp-pork.htm.

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35)(PRA), also send comments regarding the merits of the burden estimate, ways to minimize the burden, including through the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information to the above address. Comments concerning the information collection requirements contained in this proposed rule should also be sent to the Offices of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 725, Washington, DC 20503, Attention: Desk Officer for Agriculture.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Payne, Chief, Marketing Programs Branch on 202/720-1115, fax 202/720-1125, or by e-mail at kenneth.payne@usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and 12988 and Regulatory Flexibility Act and the Paperwork Reduction Act

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

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA)(5 U.S.C. 601 *et seq.*), AMS has considered the economic effect of this proposed action on small entities. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened. The National Pork Board (Board), which receives the pork checkoff assessments, estimated that in calendar year 2001, there were approximately 3,173 entities that remitted pork checkoff assessments. Many of these entities which include packers, auction markets, county fairs, and individual pork producers should be classified as small entities under the criteria established by the Small Business Administration (SBA)(13 CFR 121.201). SBA defines small agricultural producers as those having annual receipts of less than \$750,000, small agricultural service firms as those whose annual receipts are less than \$5 million, and small meat packers as those that have less than 500 employees.

This proposed rule would require, upon request by USDA, remitters of pork checkoff assessments to submit to AMS the names, addresses, and any other information deemed necessary to identify persons from whom assessments were collected. This information would be available from existing records. The information collection requirements, as discussed

below, would be minimal. It is anticipated that much of the required information would be able to be submitted electronically and would not be a significant burden. Accordingly, AMS has determined that this proposed rule will not have a significant economic impact on a substantial number of small business entities.

Paperwork Reduction Act

In accordance with the OMB regulation (5 CFR part 1320) that implements the PRA (44 U.S.C. chapter 35), the information collection requirements are being submitted to OMB for approval.

Title: Pork Promotion, Research, and Consumer Information Program: Submission of Information.

OMB Number: 0581-new collection.

Expiration Date of Approval: 3 years from date of approval.

Type of Request: Approval of new information collection.

Abstract: The purpose of this proposed rule is to add a section to the regulations that implement the Order that would require remitters of pork checkoff assessments, upon request by USDA, to submit to AMS the names, addresses, and any other information deemed necessary to identify persons from whom assessments were collected. There is no form to fill out. The necessary information to be submitted either electronically, e-mail, facsimile, or by mail may be done so in any format or style.

Based on estimates provided by the Board, there are approximately 3,173 entities that remitted pork checkoff assessments in calendar year 2001.

It is anticipated that many of these entities maintain their records electronically and have a person on staff to operate and manage their computer system. The only costs that would be incurred by these entities in complying with this request would be the labor hours required to retrieve the pertinent information from the computer system and transmit it electronically to AMS. AMS estimates the time required to complete this task to be 1 hour per respondent at a cost of \$20 per hour.

For those entities that rely on an outside contractor to manage their computer system, there may be a one-time fee incurred for having the contractor retrieve the necessary information from the system and transmit it electronically to AMS. AMS estimates the time required to complete this task to be 2 hours per respondent at a cost of \$50 per hour.

For those entities that do not maintain their records electronically, it is anticipated that such entities would

review their paper records, compile the necessary information, and submit it to AMS via facsimile or mail. AMS estimates the time required to complete this task to be 4 hours per respondent at a cost of \$20 per hour. AMS estimates the total cost in complying with this request would be \$241,320.

In this proposed rule, information collection requirements include the following:

(1) Electronic submission of information by entities that have personnel on staff to operate and manage their computer system.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: Packers, auction markets, county fairs, and individual producer entities.

Estimated Number of Respondents: 271.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 271 hours.

Total Cost: \$5,420.

(2) Electronic submission of information by entities that rely on an outside contractor to manage their computer system.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 2 hours per response.

Respondents: Packers, auction markets, county fairs, and individual producer entities.

Estimated Number of Respondents: 187.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 374 hours.

Total Cost: \$18,700.

(3) Submission of information by those entities that do not maintain their records electronically.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 4 hours per response.

Respondents: Packers, auction markets, county fairs, and individual producer entities.

Estimated Number of Respondents: 2,715.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 10,860 hours.

Total Cost: \$217,200.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information would have

practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

OMB is required to make a decision concerning the collection of information contained in this rule between 30 days and 60 days after publication. Therefore, a comment to OMB is best assured of being considered if OMB receives it within 30 days after publication.

Background

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 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, 67 FR 47474, and 67 FR 58320) and assessments began on November 1, 1986. 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 effective December 1, 1991 (56 FR 51635), to 0.45 percent effective September 3, 1995 (60 FR 29963), and was decreased to 0.40 percent effective September 30, 2002 (67 FR 58320).

Section 1230.80 of the Order requires each person that is responsible for collecting or remitting any assessment under § 1230.71(b) to report the quantity and market value of the animal subject to assessment, the amount of assessment collected, the month the assessment was collected, the State where the animal was produced, and "Such other information as may be required by regulations * * *". Accordingly, to assist AMS in its administration and oversight of the Pork Checkoff Program, particularly in conducting activities such as surveys and referendums, a new section would be added to the

regulations that would require remitters of pork checkoff assessments, upon request by USDA, to submit to AMS the names, addresses, and any other information deemed necessary to identify persons from whom assessments were collected.

As part of a settlement between USDA and MPPA, *et al.*, USDA agreed to conduct a survey of eligible producers and importers (no earlier than June 2003) to determine whether 15 percent of eligible producers and importers favor a referendum on the Pork Checkoff Program. The information that would be collected through this action may be used to establish the total number of pork producers that would be utilized in determining whether the 15 percent threshold requirement contained in the Act for conducting a referendum has been met. Further, the information could be used in subsequent referenda to determine the number of eligible producers.

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.

2. Section 1230.121 would be added to read as follows:

§ 1230.121 Submission of Information.

Pursuant to the provisions of § 1230.80, at the request of the Secretary, each person responsible for collecting and remitting assessments to the Board, shall submit the names, addresses, and any other information deemed necessary to identify persons from whom assessments were collected to the Department.

Dated: March 11, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–6163 Filed 3–11–03; 12:59 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 00–080–2]

Availability of Evaluation Related to Hog Cholera (Classical Swine Fever) Status of East Anglia

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that an evaluation has been prepared by the Animal and Plant Health Inspection Service concerning the hog cholera (classical swine fever) status of East Anglia, a region of England that includes the counties of Essex, Norfolk, and Suffolk, and the related disease risks associated with importing animals and animal products into the United States from East Anglia. This evaluation will be used as a basis for determining whether to relieve certain prohibitions and restrictions on the importation of pork and pork products and swine into the United States from East Anglia. We are making this evaluation available to the public for review and comment.

DATES: We will consider all comments that we receive on or before May 12, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 00–080–2, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 00–080–2. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and “Docket No. 00–080–2” on the subject line.

You may read any comments that we receive on the evaluation in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related

information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Charisse Cleare, Senior Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4928.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States in order to prevent the introduction of various animal diseases, including rinderpest, foot-and-mouth disease, African swine fever, hog cholera (classical swine fever), and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.9 of the regulations restricts the importation into the United States of pork and pork products from regions where hog cholera is known to exist. Section 94.10 of the regulations, with certain exceptions, prohibits the importation of swine that originate in or are shipped from or transit any region in which hog cholera is known to exist. The regulations in §§ 94.9(a) and 94.10(a) provide that hog cholera exists in all regions of the world except for certain regions listed in those sections.

In an interim rule effective August 4, 2000, and published in the **Federal Register** on September 20, 2000 (65 FR 56774–56775, Docket No. 00–080–1), we amended the regulations by removing East Anglia (a region of England that includes Essex, Norfolk, and Suffolk counties) from the lists of regions considered to be free of hog cholera. That action was necessary because hog cholera had been confirmed in this region. The effect of the interim rule was to restrict the importation of pork and pork products and to prohibit the importation of swine into the United States from East Anglia.

Although we removed East Anglia from the list of regions considered to be free of hog cholera, we recognized that Great Britain's Ministry of Agriculture, Fisheries and Food, now part of the Department for Environment, Food, and Rural Affairs, immediately responded to the detection of hog cholera by initiating measures to eradicate the disease. We stated that we intended to reassess the situation in the region at a future date