DEPARTMENT OF AGRICULTURE
Animal and Plant Health Inspection Service

7 CFR Parts 300 and 319

[Docket No. 93–121–4]

Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: We are correcting the inadvertent deletion of regulations regarding the importation of peppers from Israel.


FOR FURTHER INFORMATION CONTACT: Mr. Victor Harabin, Head, Permit Unit, Port Operations, Plant Protection and Quarantine, APHIS, USDA, room 631, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; (301) 436–8645.

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:


2. In FR Doc. 94–19511, page 40796, third column, amendatory instruction number 7 is corrected as follows:

§319.56–2u [Corrected]

7. In §319.56–2u, the heading is amended by removing the phrase “pummelo and” and paragraph (a) is removed and reserved.
121.601] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,000,000. The majority of California almond producers and handlers may be classified as small entities.

The budget of expenses for the 1994–95 crop year was prepared by the Almond Board of California, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Board are producers and handlers of California almonds. They are familiar with the Board’s needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Board was derived by dividing estimated expenses by expected receipts of California almonds. Because that rate will be applied to handlers’ receipts of California almonds, they are familiar with the Board’s needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Board was derived by dividing estimated expenses by expected receipts of California almonds. Because that rate will be applied to handlers’ receipts of California almonds, they are familiar with the Board’s needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The Board met on May 16, 1994, and unanimously recommended a 1994–95 budget of $5,435,262, $1,631,808 more than the previous year. Budget items for 1994–95 which have increased compared to those budgeted for 1993–94 (in parentheses) are: Research, $25,000 ($12,000), office rent, $90,000 ($73,562), Board’s financial audit, $12,500 ($9,900), data processing, $6,000 ($5,000), telephone, $31,000 ($30,000), utilities, $13,500 ($10,000), postage and delivery, $32,000 ($30,000), repairs and maintenance, $12,500 ($9,000), miscellaneous expenses, $10,000 ($5,000), dues, subscriptions, and registration fees $7,500 ($5,000), alliances with other organizations to provide information on almonds to consumers, $20,000 ($5,000), production research, $489,134 ($485,854), promotional activities, $6,575,000 ($5,400,000), crop estimate, $95,600 ($75,000), office equipment, $17,500 ($7,000), and the addition of $35,310 for an acreage survey, $300,000 for reserve replenishment, $150,000 for program accountability analyses to assess the effectiveness of the advertising and market development programs, and $50,000 for new product and issues research, for which no funding was recommended last year. Items which have decreased compared to those budgeted for 1993–94 (in parentheses) are: Salaries, $795,318 ($796,378), travel, $100,000 ($126,500), Board travel, $22,500 ($25,000), meetings, $35,000 ($40,000), equipment rent, $5,000 ($8,000), Board insurance, $40,000 ($45,000), security, $2,500 ($3,000), office supplies, $15,000 ($20,000), printing, $12,000 ($18,000), publications, $3,500 ($3,750), newsletter and releases, $25,000 ($35,000), econometric model and statistical analysis, $40,000 ($75,000), vehicles, $15,000 ($29,500), computers and software, $25,000 ($40,000), and furniture and fixtures, $10,000 ($46,500).

The Board also unanimously recommended an assessment rate of 2.25 cents per pound, the same as last year. The Board further recommended that handlers should be eligible to participate in credit-back for their own market promotion activities for up to 1.00 cent of the 2.25 cents assessment rate, the same as last year. Revenues are expected to be $7,396,250 from administrative assessments ($917,952 shortfall in revenue based on crop estimates of the 1994 crop year. In addition, handlers are required to pay the Board’s budgeted expenses, $10,000 ($5,000), to cover the estimated shortfall, the Board recommended that any additional shortfall be applied against reserve replenishment and that the amount of money for this item be reduced accordingly. The Board also recommended that any additional shortfall be applied against its consumer relations activities, for which no funding was recommended last year. The Board further recommended that the amount of money spent for these activities be reduced accordingly. However, the Board decided not to reduce the total amount for these two items by the amount of the expected shortfall because it expects additional revenue to accrue if the crop is larger than estimated. In the event a larger crop results in revenue in excess of the $7,396,250 budgeted, the Board recommended that consumer promotions be increased up to a total of $540,000, from $650,000.

Unexpended funds from 1994–95 may be carried over to cover expenses during the first four months of the 1995–96 crop year. An interim final rule was published in the Federal Register on July 14, 1994 (59 FR 35847). That interim final rule added § 981.341 to authorize expenses and establish an assessment rate for the Board. That rule provided that interested persons could file comments through August 15, 1994. No comments were received.

This rule will impose an obligation to pay assessments on handlers. The assessments are uniform for all handlers and are the same as those imposed last year. The assessment cost will be offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register (5 U.S.C. 553) because the Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1994–95 crop year began on July 1, 1994. The marketing order requires that the rate of assessment for the crop year apply to all assessable California almonds handled during the crop year. In addition, handlers are aware of this action which was unanimously recommended by the Board at a public meeting and published in the Federal Register as an interim final rule.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 981 which was published at 59 FR 35847 on July 14, 1994, is adopted as a final rule without change.

Dated: September 1, 1994.

Eric M. Forman,
Deputy Director, Fruit and Vegetable Division.
[FR Doc. 94-22041 Filed 9-7-94; 8:45 am]
BILLING CODE 3410-02-P
7 CFR Part 1230
RIN 0581-AB17

[No. L5-94-002]

Pork Promotion and Research

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Pursuant to the Pork Promotion, Research, and Consumer Information Act (Act) of 1985 and the Order issued thereunder, this final rule increases the amount of the assessment per pound due on imported pork and pork products to reflect an increase in the 1993 six 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. This rule also revises the Harmonized Tariff System (HTS) numbers which identify imported live porcine animals, pork, and pork products to conform with recent changes in these numbers made by the United States Customs Service (USCS). These changes will facilitate the continued collection of assessments on imported porcine animals, pork, and pork products.


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

SUPPLEMENTARY INFORMATION: The Department is issuing this final rule in conformance with Executive Order 12866. This final rule has been reviewed under Executive Order 12778, 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 U.S.C. 601 et seq.). The effect of the Order upon small entities was discussed in the September 5, 1986, issue of the Federal Register (51 FR 31898), and it was determined that the Order would not have a significant effect upon a substantial number of small entities. Many importers may be classified as small entities. This final rule increases the amount of assessments on imported pork and pork products subject to assessment by two-hundredths of a cent per pound, or as expressed in cents per kilogram, four-hundredths of a cent per kilogram. Adjusting the assessments on imported pork and pork products would result in an estimated increase in assessments of $143,000 over a 12-month period. 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. This final rule also revises HTS numbers for imported porcine animals, pork, and pork products subject to assessment from 11 digits to 10 digits to conform to a change in those HTS numbers made by USCS. The change in the number of digits in HTS numbers is merely a technical change and will not impose any new requirements on importers.

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 effective December 1, 1991 (56 FR 51635). 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, and 56 FR 51635) and assessments began on November 1, 1986.

The Order requires importers of porcine animals to pay USCS, upon importation, the assessment of 0.35 percent of the 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. This final rule increases the assessments on all of the imported pork and pork products subject to assessment listed in 7 C.F.R. §1230.110 (September 8, 1993; 58 FR 47295). This increase is consistent with the increase in the annual average price of domestic barrows and gilts for calendar year 1993 as reported by USDA, AMS, Livestock and Grain Market News (LGMN) Branch. This increase 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 increase 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 0.35 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 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 nonporcine 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. The annual average price, which was based on price data from seven major markets, is now based on only six markets. One of the seven markets—Kansas City—closed in 1991; and thus the 1992 and 1993 annual average prices are based on price data from only six markets. 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 0.35 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 increased from $42.11 in 1992 to $45.32 in 1993, an increase of about 7 percent. This increase will result in a corresponding increase in assessments for all HTS numbers listed in the table in § 1230.110 of an amount equal to two-hundredths of a cent per pound, or as expressed in cents per kilogram, four-hundredths of a cent per kilogram.

Based on the most recent available Department of Commerce, Bureau of Census, data on the total dollar value of imported porcine and pork products subject to assessment in 1993, the proposed increase in assessment amounts would result in an estimated $143,000 increase in assessments over a 12-month period.

USCS recently revised HTS numbers to conform with changes in importation procedures. The change is only a minor technical change which revises all HTS numbers for live porcine animals, pork, and pork products listed in the table found at § 1230.110 (58 FR 47205) by changing them from 11 digit numbers to 10 digit numbers by dropping the last digit. The live porcine animals, pork, and pork products subject to assessment and HTS article descriptions listed in a chart contained in the Supplementary Information section on page 19514 of the final rule (54 FR 19914) will not change. A comparison of the 11 digit numbers and the proposed 10 digit numbers are listed in the following chart.

This change will permit USCS to continue to collect assessments due on imported live porcine animals, pork, and pork products in conjunction with its regular importation processing and collection system.

On May 13, 1994, AMS published in the Federal Register 59 FR 24971 a proposed rule which would increase the per pound assessment on imported pork and pork products consistent with increases in the 1993 average prices of domestic barrows and gilts to provide comparability between imported and domestic assessments. The proposed rule also would change all HTS numbers for live porcine animals, pork, and pork products from 11 digit numbers to 10 digit numbers to conform with changes in USCS importation procedures. The proposal was published with a request for comments by June 13, 1994. No comments were received. However, a new formula for cents per kilogram assessments for 18 HTS numbers listed in the table in § 1230.110 were incorrect due to a typographical error. The incorrect cents per kilogram for the 18 HTS numbers was .507028. The correct cents per kilogram is .507058. The 18 HTS numbers for which this correction is made are 0203.12.1020, 0203.19.4010, 0203.19.4090, 0203.22.1000, 0203.22.9000, 0203.29.4000, 0206.41.0000, 0206.49.0000, 0210.11.0010, 0210.11.0020, 0210.12.0020, 0210.12.0040, 1602.41.9000, and 1602.42.4000. In this final rule, the cents per kilogram assessments in the table in § 1230.110 for these 18 numbers are correct.

Accordingly, this final rule establishes the per-pound and per-kilogram assessments on imported pork and pork products and the new 10 digit HTS numbers as proposed and corrected herein.

**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 by 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:


Subpart B—[Amended]

2. Subpart B—Rules and Regulations is amended by revising § 1230.110 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.

<table>
<thead>
<tr>
<th>Live porcine animals</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>0103.10.0000 ..</td>
<td>0.35 percent Customs Entered Value.</td>
</tr>
<tr>
<td>0103.91.0000 ..</td>
<td>0.35 percent Customs Entered Value.</td>
</tr>
<tr>
<td>0103.92.0000 ..</td>
<td>0.35 percent Customs Entered Value.</td>
</tr>
</tbody>
</table>

(b) The following HTS categories of imported pork and pork products are subject to assessment at the rates specified.
This final rule is intended to ensure that business concerns owned and controlled by members of minority groups, women and individuals with disabilities are provided the opportunity to participate in the OCC's contracting processes. It also designates the official responsible for implementing the Outreach Program and its oversight. This action, with respect to minority- and women-owned businesses, is required by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), and is necessary to promote participation of minority groups and women in contracting programs. The inclusion of individuals with disabilities is consistent with the intent of the Rehabilitation Act of 1973, as amended.

**EFFECTIVE DATE:** This final rule is effective on October 11, 1994.

**FOR FURTHER INFORMATION CONTACT:**
Mary Ellen Dorsey, Outreach Program Specialist, Acquisitions Branch, (202) 874-5040; Patricia S. Grady, Senior Attorney, Legislative, Regulatory, and International Activities Division, (202) 874-5090, Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:**

**Background**

The OCC, as the Federal financial institution regulatory agency responsible for the supervision of national banks, has, since its inception, engaged in the procurement of goods and services necessary to accomplish its duties. Historically, the OCC has awarded a significant number of contracts to minority- and women-owned businesses. The OCC's Outreach Program promotes the participation of minorities, women and individuals with disabilities in the OCC's contracting activities.

Section 1216(c) of FIRREA (12 U.S.C. 1833(e)) is intended to further the participation of certain designated groups in the OCC's contracting processes. FIRREA requires the OCC and certain other Federal regulatory agencies (e.g., the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and including the Resolution Trust Corporation, and the Federal Housing Finance Board) to prescribe regulations to establish and oversee a minority outreach program within each agency.

The OCC has established its Outreach Program which is intended to ensure inclusion, to the maximum extent possible, of minorities, women and individuals with disabilities and entities owned by minorities, women and individuals with disabilities in all contracts entered into by the agency with such persons or entities, public and private, to perform functions authorized by law.

The OCC is not required by FIRREA to include individuals with disabilities in its Outreach Program. However, the OCC believes that the inclusion of individuals with disabilities is consistent with the intent of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) as amended by the Rehabilitation, Comprehensive Service, and Developmental Disabilities Amendments of 1978 (Pub. L. 95-602), and the Rehabilitation Act Amendments of 1986 (Pub. L. 99-506). The OCC believes that by encouraging participation by individuals with disabilities, it will further the intent of the Rehabilitation Act of 1973, as amended (29 U.S.C. 701 et seq.). The definition of the term "individual with disabilities" is derived from the definition of the term "individual with handicaps" in the Rehabilitation Act of 1973, as amended.

The OCC, in an effort to ensure that the benefits of the Outreach Program accrue to entities owned by minorities, women and individuals with disabilities, is requiring that the participants in the Outreach Program be minorities, women or individuals with disabilities. Further, the participants must unconditionally own the business entities participating in the Outreach Program.

On November 10, 1993, the OCC published a proposed rule to amend its 12 CFR part 4 regulations on Office, Procedures, Public Information to adopt a Minority-, Women- and Individuals with Disabilities-Owned Business Contracting Outreach Program. See 58 FR 59686.

This final rule creates in part 4 a new subpart B and reserves it. It also creates a new subpart C containing information on the Outreach Program and revises the address for the Comptroller of the Currency in § 121.4(a). Certain other changes have been made to the final rule for clarification purposes.

**Comments on Proposed Rule**

The OCC received two comments on the proposed rule. Commenters included a minority-owned compliance management firm and a national bank. One commenter supported the proposal. One commenter recommended that firms owned by recent veterans be included in the Outreach Program. The OCC has not included veterans in this final rule. However, the OCC does include a veterans preference clause in some of its contracts that requires...