

# Proposed Rules

Federal Register

Vol. 73, No. 101

Friday, May 23, 2008

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. AMS-LS-08-0038; LS-02-15]

#### Pork Promotion, Research, and Consumer Information Program: Submission of Information; Withdrawal of Proposed Rule

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Withdrawal of a proposed rule.

**SUMMARY:** This action withdraws a proposed rule published in the March 13, 2003 [68 FR 11996], issue of the **Federal Register**, which intended to add a section to the regulations implementing the Pork Promotion, Research, and Consumer Information Order (Order) that would 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 they collected assessments.

This information would have been used to establish the total number of pork producers and importers in the United States, from which AMS would determine the number of respondents necessary to meet a threshold requirement of 15 percent to conduct a referendum, as contained in the Pork Promotion, Research, and Consumer Information Act. Based upon further review and consideration, AMS has determined that the most accurate representation of total number of pork producers and importers would result from utilizing the most recent data published by USDA's National Agricultural Statistic Service (NASS) in its February 2008 "Farms, Land in Farms, and Livestock Operations" report to determine the total number of farm operations with hogs and pigs and the U.S. Customs and Border Protection (Customs) to determine the total number

of importers who imported hogs, pigs, pork, or pork products.

**DATES:** This proposed rule is withdrawn as of May 23, 2008.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Payne, Chief, Marketing Programs Branch, Livestock and Seed Program, Agricultural Marketing Service, USDA, Room 2628-S, STOP-0251, 1400 Independence Avenue, SW., Washington, DC 20250-0251; telephone (202) 720-1115; facsimile (202) 720-1125; or e-mail at [kenneth.payne@usda.gov](mailto:kenneth.payne@usda.gov). This document can be viewed at [www.regulations.gov](http://www.regulations.gov).

**SUPPLEMENTARY INFORMATION:** The proposed rule would have added a section to the regulations implementing 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 was deemed necessary in order to obtain the information to conduct a request for referendum for eligible producers and importers to determine if they favor a referendum on the Pork Checkoff Program. The information that would have been collected through this action was going to be used to establish the total number of pork producers and importers who had paid an assessment during a representative period established by USDA and would have been utilized in determining whether the 15 percent threshold requirement contained in the Act for conducting a referendum had been met. Further, that information could have been used in subsequent referenda to determine the number of eligible producers. The Request for Referendum is being conducted as a result of a settlement of a lawsuit entered into February 28, 2001, with USDA and the Michigan Pork Producers Association, Inc., et al. (Plaintiffs). Under the settlement agreement, USDA will conduct a Request for Referendum among eligible pork producers and importers to determine whether 15 percent of eligible producers and importers favor holding a referendum on the Pork Checkoff Program.

AMS requested comments on the proposed rule in the March 13, 2003 [68 FR 11996], issue of the **Federal Register**.

The proposed rule would have required, 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 they collected assessments. Accordingly, a new section would have been added to the regulations that would have required this action in order to assist AMS in its administration and oversight of the Pork Checkoff Program. Ten comments were received on or before May 12, 2003. A full range of comments were received from a cross-section of the industry, with a number of comments suggesting a variety of ways to better identify the number of producers.

Upon further review, AMS determined that the most accurate information collection would result from utilizing the most recent data published by NASS in its February 2008 "Farms, Land in Farms, and Livestock Operations" report to determine the total number of farm operations with hogs and pigs and Customs to determine the total number of importers who imported hogs, pigs, pork, or pork products. Therefore, AMS is withdrawing the proposed rule and will instead publish a Notice of Request for Referendum. In addition, the public will be invited to submit comments on the new information collection.

Accordingly, the proposed rule published in the March 13, 2003 [68 FR 11996], issue of the **Federal Register** is hereby withdrawn.

**Authority:** 7 U.S.C. 4801-4819.

Dated: May 16, 2008.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E8-11555 Filed 5-22-08; 8:45 am]

**BILLING CODE 3410-02-P**