



## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 59

[Doc. No. AMS-LPS-15-0071]

RIN 0581-AD46

### Livestock Mandatory Reporting: Revision of Lamb Reporting Requirements

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

**ACTION:** Direct final rule.

**SUMMARY:** On April 2, 2001, the U.S. Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) implemented the Livestock Mandatory Reporting (LMR) program as required by the Livestock Mandatory Reporting Act of 1999 (1999 Act). The LMR program was reauthorized in October 2006 and again in September 2010. On September 30, 2015, the Agriculture Reauthorizations Act of 2015 (2015 Reauthorization Act) reauthorized the LMR program for an additional 5 years and directed the Secretary of Agriculture (Secretary) to amend the LMR lamb reporting requirements by redefining terms within the Code of Federal Regulations not later than 180 days after enactment. This direct final rule incorporates the lamb reporting changes contained within the 2015 Reauthorization Act under the USDA LMR regulations.

**DATES:** *Effective Date:* This rule is effective [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] unless the Agency receives substantive adverse comments on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If any timely substantive adverse comments are received, this direct final rule will be withdrawn in part or in whole by publication of a document in the

Federal Register within 30 days after the comment period ends. Pursuant to the Paperwork Reduction Act, comments on the information collection burden that would result from this direct final rule must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Comments should be submitted electronically at <http://www.regulations.gov>. Comments may also be sent to Michael Lynch, Director; Livestock, Poultry, and Grain Market News Division; Livestock, Poultry, and Seed Program; AMS, USDA, Room 2619-S, STOP 0252; 1400 Independence Avenue, SW.; Washington, D.C. 20250-0251; telephone (202) 720-4868; fax (202) 690-3732; or e-mail to [Michael.Lynch@ams.usda.gov](mailto:Michael.Lynch@ams.usda.gov).

Comments should reference docket number AMS-LPS-15-0071 and the date and page number of this issue of the Federal Register. Submitted comments will be available for public inspection at <http://www.regulations.gov>, or during regular business hours at the above address. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

Comments that specifically pertain to the information collection and recordkeeping requirements of this action should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17<sup>th</sup> Street NW, Room 725, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Michael Lynch, Director; Livestock, Poultry, and Grain Market News Division; Livestock, Poultry, and Seed Program; AMS, USDA, Room 2619-S, STOP 0252; 1400 Independence Avenue, SW.; Washington, D.C. 20250-0251; telephone (202) 720-4868; fax (202) 690-3732; or e-mail to [Michael.Lynch@ams.usda.gov](mailto:Michael.Lynch@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:**

## **I. Background**

The 1999 Act was enacted into law on October 22, 1999, [Pub. L. 106-78; 113 Stat. 1188; 7 U.S.C. 1635-1636(i)] as an amendment to the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*). On April 2, 2001, AMS Livestock, Poultry, and Seed Program's (LPS) Livestock, Poultry, and Grain Market News Division (LPGMN) implemented the LMR program as required by the 1999 Act. The purpose was to establish a program of easily understood information regarding the marketing of cattle, swine, lambs, and livestock products; improve the price and supply reporting services of the USDA; and encourage competition in the marketplace for livestock and livestock products. The LMR regulations (7 CFR part 59) set the requirements for certain packers or importers to electronically submit purchase and sales information of livestock and livestock products to meet this purpose.

The statutory authority for the program lapsed on September 30, 2005. In October 2006, Congress passed the Livestock Mandatory Reporting Reauthorization Act (2006 Reauthorization Act) [Pub. L. 109-296]. The 2006 Reauthorization Act re-established the regulatory authority for the continued operation of LMR through September 30, 2010. On July 15, 2008, the LMR final rule became effective (73 FR 28606, May 16, 2008).

On September 28, 2010, Congress passed the Mandatory Price Reporting Act of 2010 (2010 Reauthorization Act) [Pub. L. 111-239]. The 2010 Reauthorization Act reauthorized LMR for an additional 5 years through September 30, 2015. On January 7, 2013, the LMR final rule became effective (77 FR 50561, August 22, 2012).

On September 30, 2015, the Agriculture Reauthorizations Act of 2015 (2015 Reauthorization Act) [Pub. L. 114-54] reauthorized the LMR program for an additional 5 years and directed the Secretary to revise the LMR lamb reporting requirements by modifying the

definitions of packer and importer within the Code of Federal Regulations not later than 180 days after enactment.

It is found and determined that good cause exists for implementing this direct final rule on [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This rule has been determined to be a “non-significant regulatory action” under section 3(f) of Executive Order 12866; and, AMS finds that under 5 U.S.C. 553(b)(3)(B) and 808(2) good cause exists to publish a direct final rule without prior publication of a notice of proposed rulemaking. The Agriculture Reauthorizations Act of 2015 directed the Secretary to revise the LMR lamb reporting requirements by redefining terms within the *Code of Federal Regulations* not later than 180 days after enactment which was September 30, 2015. This statutory deadline made it impracticable for AMS to publish a proposed rule prior to issuing a direct final rule. Additionally, prior notice and opportunity for comment are unnecessary because the revisions in the direct final rule are based upon lamb industry recommendations and AMS does not expect substantive public comments for this rulemaking due to the minor nature and minimal impact of the revision. The Livestock Marketing Information Center (LMIC), an independent provider of economic analyses concerning the livestock industry, conducted an analysis of the current LMR program for lamb reporting in 2013 at the request of the American Sheep Industry Association, an industry organization representing sheep producers throughout the U.S. The regulatory revisions within this rulemaking are based upon this study.<sup>1</sup>

This direct final rule incorporates the lamb reporting changes contained within the 2015 Reauthorization Act under the USDA LMR regulations. As part of this direct final rule,

---

<sup>1</sup> Hearing to Review Reauthorization of the Livestock Mandatory Reporting Act: Hearing before the Subcommittee on Livestock and Foreign Agriculture of the Committee on Agriculture, House of Representatives, 114th Cong., 1<sup>st</sup> sess. (Serial No. 114-12). (2015). Retrieved from GPO’s Federal Digital System: <https://www.gpo.gov/fdsys/pkg/CHRG-114hhr94372/pdf/CHRG-114hhr94372.pdf>.

interested parties may submit comments by [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. If AMS receives substantive adverse comments on the rule, it will evaluate the comment to determine whether they are sufficiently compelling to warrant reconsideration of the effective date of the rule. Accordingly, this rule will be effective on [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Section 241 of the 1999 Act gives USDA authority to establish a mandatory lamb price reporting program that will: (1) provide timely, accurate, and reliable market information; (2) facilitate more informed marketing decisions; and (3) promote competition in the lamb slaughtering industry. AMS established submission requirements for lamb packers and lamb importers in accordance with this authority based upon its extensive knowledge of the lamb industry gained through a program of voluntary market information reporting of lamb.

Under the current LMR regulation, the term packer includes federally inspected lamb processing plants that slaughtered or processed an average of 75,000 head of lamb during the immediately preceding 5 calendar years. Additionally, a lamb processing plant that did not slaughter or process an average of 75,000 lambs during the immediately preceding 5 calendar years was required to report information if the Secretary determined the processing plant should be considered a packer based on its capacity. According to the regulation, packers are required to report information daily on domestic sales of boxed lamb cuts each reporting day including the price and quantity for each sale, the type of sale, the USDA grade, trim specification, weight range, delivery period, the product state of refrigeration, and any branded product characteristics. USDA reports on domestic boxed lamb cut sales to the public once each reporting day.

For any calendar year, a lamb importer who imported an average of 2,500 metric tons of lamb meat products per year during the immediately preceding 5 calendar years is required to report to USDA weekly the prices received for imported lamb cuts sold on the domestic market. Additionally, the term includes those that did not import an average of 2,500 metric tons of lamb meat products during the immediately preceding 5 calendar years, if USDA determines that the person should be considered an importer based on their volume of lamb imports. In the original rule, this threshold was an average of 5,000 metric tons of lamb meat products during the immediately preceding 5 calendar years, but was subsequently lowered to 2,500 metric tons in a final rule published in 2004 (69 FR 53784, September 2, 2004). Because there are not enough daily sales of imported products to meet the confidentiality guidelines and allow USDA to publish daily reports, lamb importers are required to report information on a weekly basis for sales of imported boxed lamb cuts sold on the domestic market during the prior week including the price and quantity for each sale, the type of sale, the USDA grade, trim specification, weight range, delivery period, the product state of refrigeration, and any branded product characteristics.

Since the implementation of LMR in 2001 and its subsequent revisions, the U.S. lamb industry has become more concentrated at all levels of the production system through consolidation, impacting AMS' ability to publish certain market information in accordance with the confidentiality provisions of the 1999 Act. To help address this issue, LMIC conducted an analysis of the current LMR program for lamb reporting in 2013 at the request of the American Sheep Industry Association.<sup>2</sup> Based on this study, recommendations were proposed to amend the current LMR regulations to improve the price and supply reporting services of AMS and

---

<sup>2</sup> Hearing to Review Reauthorization of the Livestock Mandatory Reporting Act: Hearing before the Subcommittee on Livestock and Foreign Agriculture of the Committee on Agriculture, House of Representatives, 114th Cong., 1<sup>st</sup> sess. (Serial No. 114-12). (2015). Retrieved from GPO's Federal Digital System: <https://www.gpo.gov/fdsys/pkg/CHRG-114hhr94372/pdf/CHRG-114hhr94372.pdf>.

better align LMR lamb reporting requirements with current industry marketing practices. These recommendations are the basis for the lamb reporting changes contained within the 2015 Reauthorization Act under the USDA LMR regulations.

The 2015 Reauthorization Act revised the LMR lamb reporting requirements by modifying the definitions of packer and importer contained within the Code of Federal Regulations. Under the 2015 Reauthorization Act, the term “packer” includes any person with 50 percent or more ownership in a facility that slaughtered or processed an average of 35,000 lambs during the immediately preceding 5 calendar years, or a facility that did not slaughter or process an average of 35,000 lambs during the immediately preceding 5 calendar years if the Secretary determines that the processing plant should be considered a packer after considering its capacity.

In addition, under the 2015 Reauthorization Act, the term “importer” includes any person that imported an average of 1,000 metric tons of lamb meat products per year during the immediately preceding 4 calendar years, or did not import an average 1,000 metric tons of lamb meat products during the immediately preceding 4 calendar years and the Secretary determines that the person should be considered an importer based on their volume of lamb imports.

For consistency, the establishment of the 1,000 metric tons reporting provision on lamb importers will be comparable with the 35,000 head provision defining a lamb packer for purposes of LMR. The 1,000 metric tons provision is equal to approximately 2.2 million pounds of lamb meat product ( $1,000 \text{ metric tons} \times 2,204.6 \text{ pounds} = 2,204,600 \text{ pounds}$ ). The 35,000 head provision is equal to approximately 2.4 million pounds of lamb meat product based upon an average lamb carcass weight of 69 pounds (National Agricultural Statistics Service data for 2014) ( $35,000 \text{ head} \times 69 \text{ pounds} = 2,415,000 \text{ pounds}$ ).

## **II. Requirements**

As required by the 2015 Reauthorization Act, the reporting requirements for lamb are revised by modifying the definitions of packer and importer within the Code of Federal Regulations not later than 180 days after enactment. Subpart D of part 59 lists the requirements of lamb reporting beginning with § 59.300, establishing definitions for terms used throughout the subpart including those of packer and importer, which are the entities required to report under this rule. Therefore, under this direct final rule, the definition of a packer is modified within § 59.300 to include any person with 50 percent or more ownership in a facility that slaughtered or processed an average of 35,000 lambs during the immediately preceding 5 calendar years, or that did not slaughter or process an average of 35,000 lambs during the immediately preceding 5 calendar years if the Secretary determines that the processing plant should be considered a packer after considering its capacity. Additionally, under this direct final rule, the definition of an importer is modified within § 59.300 to include any person that imported an average of 1,000 metric tons of lamb meat products per year during the immediately preceding 4 calendar years, or did not import an average 1,000 metric tons of lamb meat products during the immediately preceding 4 calendar years and the Secretary determines that the person should be considered an importer based on their volume of lamb imports.

For entities that did not slaughter or process an average of 35,000 lambs during the immediately preceding 5 calendar years, AMS will project the plant's annual slaughter or production based upon the plant's estimate of annual slaughter capacity to determine which entities meet the definition of a packer as defined in these regulations.

For importers of lamb meat products, AMS will annually review import lamb volume data obtained from the U.S. Customs and Border Protection to determine which importers are

required to report imported lamb information under these regulations.

### **III. Classification**

#### **Executive Order 12866 and Executive Order 13563**

This direct final rule is being issued by USDA with regard to the LMR program in conformance with Executive Orders 12866 and 13563.

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives, and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This action has been designated as a “non-significant regulatory action” under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has waived the review process for this action.

#### **Regulatory Flexibility Act**

*In General.* This direct final rule has been reviewed under the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612). The purpose of RFA is to consider the economic impact of a rule on small business entities. Alternatives, which would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the marketplace, have been evaluated. Regulatory action should be appropriate to the scale of the businesses subject to the action. The collection of information is necessary for the proper performance of the functions of AMS concerning the mandatory reporting of livestock information. Information is only available directly from those

entities required to report under these regulations and exists nowhere else. Therefore, this direct final rule does not duplicate market information reasonably accessible to the USDA.

*Objectives and Legal Basis.* The objective of this direct final rule is to improve the price and supply reporting services of the USDA to encourage competition in the marketplace for lambs and lamb meat products as specifically directed by the 2015 Reauthorization Act and these regulations, as described in detail in the background section.

*Estimated Number of Small Businesses.* Under the 2015 Reauthorization Act, a lamb packer includes any person with 50 percent or more ownership in a facility that slaughtered or processed an average of 35,000 lambs during the immediately preceding 5 calendar years, or that did not slaughter or process an average of 35,000 lambs during the immediately preceding 5 calendar years if the Secretary determines that the processing plant should be considered a packer after considering its capacity. Additionally, under the 2015 Reauthorization Act, a lamb importer includes any person that imported an average of 1,000 metric tons of lamb meat products per year during the immediately preceding 4 calendar years, or did not import an average of 1,000 metric tons of lamb meat products during the immediately preceding 4 calendar years if the Secretary determines that the person should be considered an importer based on their volume of lamb imports. AMS estimates that approximately 1 additional company operating 1 lamb slaughtering plant and approximately 3 additional firms that import lamb carcasses and/or lamb meat are required to report market information under this final rule.

For this regulatory flexibility analysis, AMS utilized the North American Industry Classification System (NAICS), the standard used by Federal statistical agencies to classify business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. This analysis compares the size of lamb packing

companies and importing firms to the NAICS standards to determine the percentage of small businesses within the industry affected by this rule. Under these size standards, meat packing companies with 500 or less employees are considered small business entities.<sup>3</sup> Based on this size standard and its knowledge of the lamb industry, AMS estimates that all lamb packing companies currently required to report under LMR are considered to be small businesses. As such, the additional company affected by this direct final rule under the 2015 Reauthorization Act is also considered to be a small business. Additionally, the NAICS small business size standard for meat importers is 100 or less employees.<sup>4</sup> Based on its knowledge of the industry and previous experience with LMR, AMS estimates that the additional lamb importers affected by this direct final rule are classified as small businesses under the NAICS standard.

The LMR regulations require lamb slaughter and processing plants and lamb importers of a certain size to report information to the USDA at prescribed times throughout the day and week. The LMR regulations already exempt many small businesses by the establishment of annual slaughter, processing, and import capacity thresholds. Based on figures published by the National Agricultural Statistics Service, there were 522 federally inspected lamb slaughter plants operating in the U.S. at the end of 2014. This LMR regulation requires 16 lamb packers and importers to report information (less than 2 percent of all federally inspected lamb plants and approximately 1 percent of all lamb importers). Therefore, approximately 98 percent of lamb packers and approximately 99 percent of lamb importers are exempt from reporting information by this direct final rule. As previously discussed, this final rule does not change this exemption. With regard to alternatives, if the definitions of a lamb packer and importer are not changed, AMS would continue to be hindered in reporting more accurate and reliable information on

---

<sup>3</sup> North American Industry Classification System, code 311611 for abattoirs.

<sup>4</sup> North American Industry Classification System, code 424470 for meat and meat product merchant wholesalers.

purchases of slaughter lambs and sales of domestic and imported boxed lamb cuts due to information confidentiality requirements of the 1999 Act.

*Projected Reporting.* The LMR regulations require the reporting of specific market information regarding the buying and selling of livestock and livestock products. This information is reported to AMS by electronic means and the adoption of this direct final rule will not affect this requirement. Electronic reporting involves the transfer of data from a packer's or importer's electronic recordkeeping system to a centrally located AMS electronic database. The packer or importer is required to organize the information in an AMS-approved format before electronically transmitting the information to AMS. Once the required information has been entered into the AMS database, it is aggregated and processed into various market reports, which are released according to the daily and weekly time schedule set forth in the LMR regulations. As an alternative, AMS also developed and made available web-based input forms for submitting data online as AMS found that some of the smaller entities covered under mandatory price reporting would benefit from such a web-based submission system. AMS estimates the total annual burden on each lamb packer to be \$7,973, including \$5,406 for annual costs associated with electronically submitting data, \$699 for startup/annual maintenance costs, and \$1,868 for the storage and maintenance of electronic files submitted to AMS. AMS estimates the total annual burden on each importer of lamb to be \$2,682, including \$115 for annual costs associated with electronically submitting data, \$699 for startup/annual maintenance costs, and \$1,868 for the storage and maintenance of electronic files submitted to AMS.

This rule does not substantially change these prior estimates. Adjusting the 75,000 head provision that establishes those lamb packers covered under the LMR regulation to 35,000 head increases the number of lamb packers required to report by 1 company; the estimated cost burden

of \$7,973 per packer remains the same. Likewise, the amended 2,500 metric tons provision that establishes those lamb importers covered under the LMR regulations to 1,000 metric tons increases the number of lamb importers required to report by 3; the estimated annual cost burden of \$2,682 per importer remains the same.

Each packer and importer required to report information to USDA under LMR must maintain such records as are necessary to verify the accuracy of the information provided to AMS. This includes information regarding price, class, head count, weight, quality grade, yield grade, and other factors necessary to adequately describe each transaction. These records are already kept by the industry. Reporting packers and importers are required to maintain and make available the original contracts, agreements, receipts, and other records associated with any transaction relating to the purchase, sale, pricing, transportation, delivery, weighing, slaughter, or carcass characteristics of all livestock, and to maintain these records for a minimum of 2 years. Packers and importers are not required to report any other new or additional information they do not generally have available or maintain. Further, they are not required to keep any information that would prove unduly burdensome to maintain. The paperwork burden imposed on the packers and importers is further discussed in the following section entitled Paperwork Reduction Act.

In addition, AMS has not identified any relevant federal rules currently in effect that duplicate, overlap, or conflict with this rule. Professional skills required for recordkeeping under the LMR regulations are not different than those already employed by the reporting entities. Reporting is accomplished using computers or similar electronic means. This direct final rule does not affect the professional skills required for recordkeeping already employed by the reporting entities. Reporting will be accomplished using computers or similar electronic means.

AMS believes the skills needed to maintain such systems are already in place in those small businesses affected by this rule.

*Alternatives.* This direct final rule requires lamb packing plants and lamb importers of a certain size to report information to the Secretary at prescribed times throughout the day and week. The 1999 Act and these regulations exempt the vast majority of small businesses by the establishment of slaughter, processing, and import capacity thresholds.

AMS recognizes that most of the economic impact of this direct final rule on those small entities required to report involves the manner in which information must be reported to the Secretary. However, in developing this direct final rule, AMS considered other means by which the objectives of this direct final rule could be accomplished, including reporting the required information by telephone, facsimile, and regular mail. AMS believes these alternatives are not capable of meeting the program objectives, especially timely reporting. The LMR regulations prescribe specific times that reporting entities must report to AMS and similarly prescribes specific times for publication of reports by AMS. AMS believes electronic submission to be the only method capable of allowing AMS to collect, review, process, aggregate, and publish reports while complying with the specific time-frames set forth in the 1999 Act and regulations.

To respond to concerns of smaller operations, AMS developed a web-based input form for submitting data online. Based on prior experience, AMS found that some of the smaller entities covered under mandatory price reporting would benefit from such a web-based submission system. Accordingly, AMS developed such a system for program implementation.

Additionally, to further assist small businesses, AMS may provide for an exception to electronic reporting in emergencies, such as power failures or loss of Internet accessibility, or in cases when an alternative is agreeable between AMS and the reporting entity.

Other than these alternatives, there are no other practical and feasible alternatives to the methods of data transmission that are less burdensome to small businesses. AMS will continue to work actively with those small businesses required to report and provide the technical assistance needed, in an effort to minimize the burden on them to the maximum extent practicable.

### **Paperwork Reduction Act**

In accordance with OMB regulations (5 CFR part 1320) that implement the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), the information collection requirements included in 7 CFR part 59 were previously approved by OMB and were assigned control number 0581-0186 Livestock Mandatory Reporting Act of 1999. The purpose of this direct final rule is to amend the LMR regulations to modify the requirement for the submission of information on domestic and imported lamb sales. All other provisions of the LMR regulations remain the same.

Adjusting the 75,000 head provision that establishes those lamb packers covered under the LMR regulation to 35,000 head, increases the number of lamb packers required to report from 7 to 8; likewise, the amended 2,500 metric tons provision that establishes those lamb importers covered under the LMR regulations to 1,000 metric tons increases the number of lamb importers required to report from 5 to 8.<sup>5</sup> This change does not substantially impact the overall total burden hours from the increase of 4 entities and 16 plants (respondents).

The new collective overall burden for this collection is as follows:

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .172 hours per response.

---

<sup>5</sup> The 4 additional entities reporting under the amended requirements own multiple plants, each of which are reflected as individual respondents under the previously approved 0581-0186.

Respondents: Business or other for profit entities, individuals or households, farms, and the Federal Government.

Estimated Number of Respondents: 438 respondents.

Estimated Number Responses: 139,776 responses.

Estimated Number of Responses per Respondent: 319 responses.

Estimated Total Annual Burden on Respondents: 24,055 hours.

New Estimate of Burden: Public reporting burden for this collection of information is estimated to average .23 hours per response.

Respondents: Business or other for profit entities, individuals or households, farms, and the Federal Government.

Estimated Number of Respondents: 16 respondents.

Estimated Number Responses: 1,248 responses.

Estimated Number of Responses per Respondent: 78 responses.

Estimated Total Annual Burden on Respondents: 289 hours.

Upon publication of this direct final rule, AMS will submit a Justification for Change to OMB for approval of an increase in number of respondents and an increase in burden hours for the following forms under the currently approved OMB 0581-0186 Livestock Mandatory Reporting Act of 1999: LS-121 Live Lamb Daily Report – Current Established Prices, LS-123 Live Lamb Weekly Report, LS-124 Live Lamb Weekly Report – Formula Purchases, LS-125 Lamb Premiums and Discounts Weekly Report, LS-128 Boxed Lamb Daily Report, and LS-129 Lamb Carcass Report.

AMS is committed to implementation of the Government Paperwork Elimination Act which provides for the use of information resources to improve the efficiency and effectiveness

of governmental operations, including providing the public with the option of submitting information or transacting business electronically to the extent practicable. AMS believes the burden savings resulting from electronically compiling and submitting a reduced number of sales transactions to be negligible.

It is hereby found that this direct final rule, as hereinafter set forth, is consistent with and will effectuate the declared policy of the Livestock Mandatory Reporting Act of 1999 and the Agriculture Reauthorizations Act of 2015.

### **Executive Order 12988**

This direct final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This direct final rule is not intended to have retroactive effect. Section 259 of the 1999 Act prohibits States or political subdivisions of a State to impose any requirement that is in addition to, or inconsistent with, any requirement of the 1999 Act with respect to the submission or reporting of information, or the publication of such information, on the prices and quantities of livestock or livestock products. In addition, the 1999 Act does not restrict or modify the authority of the Secretary to administer or enforce the Packers and Stockyards Act of 1921 (7 U.S.C. 181 *et seq.*); administer, enforce, or collect voluntary reports under the 1999 Act or any other law; or access documentary evidence as provided under Sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50). There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this direct final rule.

### **Civil Rights Review**

AMS has considered the potential civil rights implications of this direct final rule on minorities, women, or persons with disabilities to ensure that no person or group shall be discriminated against on the basis of race, color, national origin, gender, religion, age, disability,

sexual orientation, marital or family status, political beliefs, parental status, or protected genetic information. This review included persons who are employees of the entities that are subject to this regulation. This direct final rule does not require affected entities to relocate or alter their operations in ways that could adversely affect such persons or groups. Further, this direct final rule will not deny any persons or groups the benefits of the program or subject any persons or groups to discrimination.

### **Executive Order 13132**

This direct final rule has been reviewed under Executive Order 13132, Federalism. This Order directs agencies to construe, in regulations and otherwise, a Federal Statute to preempt State law only when the statute contains an express preemption provision. This direct final rule is required by the 1999 Act. Section 259 of the 1999 Act, Federal Preemption states, “In order to achieve the goals, purposes, and objectives of this title on a nationwide basis and to avoid potentially conflicting State laws that could impede the goals, purposes, or objectives of this title, no State or political subdivision of a State may impose a requirement that is in addition to, or inconsistent with, any requirement of this subtitle with respect to the submission or reporting of information, or the publication of such information, on the prices and quantities of livestock or livestock products.”

Prior to the passage of the 1999 Act, several States enacted legislation mandating, to various degrees, the reporting of market information on transactions of cattle, swine, and lambs conducted within that particular State. However, since the federal LMR program was implemented on April 2, 2001, these State programs are no longer in effect. Therefore, there are no federalism implications associated with this rulemaking.

### **Executive Order 13175**

This direct final rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. AMS has considered the potential implications of this direct final rule to ensure this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

**List of Subjects in 7 CFR Part 59**

Cattle, Hogs, Lamb, Livestock, Sheep.

For the reasons set forth in the preamble, title 7, part 59 is amended as follows:

**PART 59--LIVESTOCK MANDATORY REPORTING**

**1. The authority citation for 7 CFR part 59 continues to read as follows:**

**Authority:** 7 U.S.C. 1635-1636i.

**2. Section 59.300 is amended by revising the definitions for “Importer” and “Packer” to read as follows:**

§ 59.300 Definitions.

\* \* \* \* \*

*Importer.* The term “importer” means any person engaged in the business of importing lamb meat products with the intent to sell or ship in U.S. commerce. For any calendar year, the term includes only those that imported an average of 1,000 metric tons of lamb meat products per year during the immediately preceding 4 calendar years. Additionally, the term includes those that did not import an average 1,000 metric tons of lamb meat products during the immediately preceding 4 calendar years, if the Secretary determines that the person should be considered an importer based on their volume of lamb imports.

*Packer.* The term “packer” means any person with 50 percent or more ownership in a facility

engaged in the business of buying lambs in commerce for purposes of slaughter, of manufacturing or preparing meat products from lambs for sale or shipment in commerce, or of marketing meats or meat products from lambs in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce. For any calendar year, the term includes only a federally inspected lamb processing plant which slaughtered or processed the equivalent of an average of 35,000 head of lambs per year during the immediately preceding 5 calendar years. Additionally, the term includes a lamb processing plant that did not slaughter or process an average of 35,000 lambs during the immediately preceding 5 calendar years if the Secretary determines that the processing plant should be considered a packer after considering its capacity.

\* \* \* \* \*

Dated: February 22, 2016.

Elanor Starmer,  
Acting Administrator,  
Agricultural Marketing Service.

BILLING CODE 3410-02 P

[FR Doc. 2016-04047 Filed: 2/26/2016 8:45 am; Publication Date: 2/29/2016]