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## **DEPARTMENT OF AGRICULTURE**

### **Agricultural Marketing Service**

#### **7 CFR Part 59**

**[Doc. # AMS-LPS-15-0070]**

**RIN 0581-AD45**

### **Livestock Mandatory Reporting: Reauthorization of Livestock Mandatory Reporting and Revision of Swine and Lamb Reporting Requirements**

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

**ACTION:** 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 September 2010. On September 30, 2015, the Agriculture Reauthorizations Act of 2015 (2015 Reauthorization Act) reauthorized the LMR program for an additional 5 years until September 30, 2020, and directed the Secretary of Agriculture (Secretary) to amend the LMR swine reporting requirements. This final rule incorporates the swine reporting revisions contained within the 2015 Reauthorization Act and a minor revision to the lamb reporting requirements under the Agricultural Marketing Act of 1946, USDA Livestock Mandatory Reporting regulations.

**DATES:** This final rule is effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**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 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, the 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 packers or importers to 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] was enacted; it reauthorized the LMR program for an additional 5 years through September 30, 2020, and amended the reporting requirements for swine purchase types and late afternoon swine purchases. On February 29, 2016, AMS published a proposed rule for these swine reporting changes and for changes to lamb reporting requirements as requested by the lamb industry which included new definitions and requirements for packers to report lambs committed for future delivery to the packer and prices of pelts paid to the producer and an amendment to the definition of packer-owned lambs (81 FR 10132, February 29, 2016). The proposed rule included a 60-day comment period. AMS received 11 timely comments. Nine were substantive and relevant and two were outside the scope of regulation.

This final rule incorporates the swine reporting revisions contained within the 2015 Reauthorization Act and the lamb reporting revision to amend the definition of packer-owned lambs as requested by the lamb industry, under the USDA LMR regulations. Based on the comments received, AMS chose not to incorporate in this final rule the proposed reporting revisions concerning lambs committed for future delivery and prices of pelts paid to producers due to the burden increase on the packers affected by this rule and the possible negative implications on U.S. trade within domestic and international markets.

## II. Comments and Responses

AMS received nine relevant comments from organizations representing livestock producers and meat packers and processors. A review of AMS responses to the comments follows below.

### Swine

Summary of Comments: Two commenters supported reporting negotiated formula purchases and the publication of late afternoon barrow and gilt purchases in reports issued the following day. These commenters noted that these revisions should provide more information about buyer/seller interactions indicating the manner in which swine is marketed and increase the volume of barrow and gilt data able to be published in daily purchase reports.

Agency Response: AMS made no changes.

### Lamb – Lambs Committed

Summary of Comments: Two commenters supported the requirement to report lambs committed, one commenter requested clarification concerning the specificity of the number of animals and the date of delivery reported, and four commenters, representing a majority of the entities affected by this requirement opposed this requirement. The opposing commenters requested AMS reconsider this revision. Of the opposing commenters, two stated that the requirement would be overly burdensome and exceed the scope of the LMR program as it could change the manner in which purchase contracts are written and implemented. One commenter stated that commitments or schedules to deliver lambs vary based on factors including feedlot performance, weather, transportation availability, feed availability, producer management, plant capacity, and

customer demand for lambs and therefore would be difficult to report. This commenter also stated that the reporting requirement would require a significant amount of recordkeeping to maintain compliance. Other commenters noted that the requirement would provide too much market intelligence about the domestic lamb packing industry regarding packer buying positions and would therefore be detrimental to the U.S. lamb industry putting it at a competitive disadvantage to importers of Australian and New Zealand lamb.

Agency Response: AMS recognizes the value of information this requirement could provide for the industry; however, the domestic and international trade implications raise serious concerns. Therefore, AMS has removed the aforementioned provision for the reporting requirement concerning lambs committed from this final rule.

#### Lamb – Pelts

Summary of Comments: Two commenters supported the requirement to report lamb pelts noting voluntary reporting of pelt market interactions between packers and pelt processors has become static and no longer indicative of current marketing practices due to consolidation of the lamb packing and pelt processing industries. Furthermore, these commenters noted that the requirement to report volumes and prices for pelts paid to the producer by the packer, instead of the current voluntary practice of providing market interactions between the packer and pelt processor, would provide producers with market information to better determine the whole value of a slaughter lamb. One commenter requested clarification about whether the requirement would apply to each lot of animals or individual animals. Three commenters, representing a majority of the entities affected by this requirement, were opposed to the requirement, noting the

increase in burden on the reporting entities with little or no benefit to the industry. These opposing commenters acknowledged the importance of reporting market information for pelts and stressed the point that AMS currently reports the pelt market on a voluntary basis; therefore, they suggested that mandatory pelt reporting would be redundant. Commenters opposing this provision noted that grouping pelts into the proposed classification categories within each lot would be difficult and time-consuming because pelts are sorted by a third-party based on quality characteristics inconsistent with the classification categories in the proposed rule. Also, the commenters opposing the revision suggested that compliance with the requirement would be subjective and difficult to verify since there are no standard pelt grades used consistently throughout the industry. Two of the opposing commenters explained that pelts are typically sent to another part of a plant after removal and therefore impossible to match pelt information with specific animals. Another commenter expressed that considering the consolidation of the U.S. pelt processing industry, this provision to require detailed pelt reporting, and thereby increase market transparency, could negatively affect trade by providing a competitive advantage to international buyers of pelts.

Agency Response: AMS recognizes the value of information on the pelt market this provision could provide for the industry. However, the concerns raised by the commenters about the burden and difficulty in meeting this requirement with limited benefit to the industry cannot be overlooked. Therefore, AMS has removed the aforementioned provision for the reporting requirement concerning pelts from this final rule.

Lamb – Packer-owned Lambs

Summary of Comments: One commenter supported the revision of the definition of packer-owned lambs to include animals a packer owns for at least 28 days immediately before slaughter. The commenter noted this revised definition would help address the need to amend current reporting for lambs in order to provide useful market information readily understood by producers and improve AMS market reporting services.

Agency Response: AMS made no changes.

### **III. Final Revisions**

Under the LMR regulations, certain cattle, swine and lamb packers and processors, and lamb importers are required to report purchases of livestock for slaughter and sales of meat products to AMS. This final rule amends the LMR regulations for swine reporting and lamb reporting requirements as described below.

#### **Swine**

The swine reporting requirement revisions within this final rule are authorized through the 2015 Reauthorization Act. This final rule minimally increases the reporting burden for swine packers.

Swine packers are required to report purchase data by four types of purchase: negotiated purchase, other market formula purchase, swine or pork market formula purchase, or other purchase arrangement. A ‘negotiated purchase’ is a cash or spot market purchase by a packer under which the base price for the swine is determined by seller-buyer interaction and agreement on a delivery day; and the swine are scheduled for delivery to the packer not more than 14 days after the date on which the swine are committed to the packer. An ‘other market formula purchase’ is a purchase of swine by a packer in which the pricing mechanism is a formula price based on any market other than

the market for swine, pork, or pork product, and includes a formula purchase in a case where the price formula is based on one or more futures or options contracts. A ‘swine or pork market formula purchase’ is a purchase of swine by a packer in which the pricing mechanism is a formula price based on a market for swine, pork, or pork product, other than a future or option for swine, pork, or pork product. An ‘other purchase arrangement’ is a purchase of swine by a packer that is not a negotiated purchase, swine or pork market formula purchase, or other market formula purchase, and does not involve packer-owned swine.

The 2015 Reauthorization Act amended the swine reporting requirements, subpart C of part 59, by adding an additional purchase type definition for negotiated formula purchases of swine, which requires swine packers to report swine purchased on a negotiated formula basis as a separate purchase type. As defined in § 59.200, the term “negotiated formula” is a swine or pork market formula purchase under which the formula is determined by negotiation on a lot-by-lot basis, and swine are scheduled for delivery to the packer not later than 14 days after the date on which the formula is negotiated and swine are committed to the packer. Packers will be required to report any swine purchased in this manner as a negotiated formula purchase.

Adding a negotiated formula purchase type provides market participants with more specific information about the various purchase methods used in the daily marketing of swine and a better understanding of the marketplace concerning formulated prices and spot negotiated prices.

Packers are required to report purchase data for barrows and gilts for a morning report not later than 10 a.m. Central time and an afternoon report not later than 2 p.m.

Central time. The information to be reported is the same for the morning and afternoon reports and includes an estimate of the total number of barrows and gilts purchased by each type of purchase, the total number of barrows and gilts purchased, the base price paid for all negotiated purchases of barrows and gilts, and the base price paid for each type of purchase of barrows and gilts other than through a negotiated purchase. This information must be submitted for all covered transactions that occur within one-half hour of each specified reporting time. Packers completing transactions during the half-hour prior to the previous reporting time report those transactions at the next prescribed reporting time.

The 2015 Reauthorization Act directed the Secretary to include in the morning and afternoon daily reports for the following day, the purchase information for any barrows and gilts purchased or priced after the afternoon reporting time of the current reporting day. Under this final rule, the required information reported remains the same for the morning and afternoon reports; however, the morning report requirements under § 59.202 now requires packers to report purchase data for barrows and gilts purchased after 1:30 p.m. Central time of the previous reporting day and up to that time of the reporting day for the total number of barrows and gilts purchased, the base price paid for all negotiated purchases of barrows and gilts, and the base price paid for each type of purchase of barrows and gilts other than through a negotiated purchase. Under this final rule, the LMR regulations for the afternoon reporting requirements remain unchanged. The inclusion of the late afternoon swine purchase information in the following day's reports increases the volume of barrows and gilts shown in the daily morning and afternoon purchase reports and better represents the daily market

conditions.

## **Lamb**

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, the Livestock Marketing Information Center, 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.<sup>1</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 better align LMR lamb reporting requirements with current industry marketing practices. These recommendations are the basis for the lamb reporting change as proposed by the lamb industry for this final rule.

The revision to the lamb reporting requirements, subpart D of part 59, is an amended definition under § 59.300 for the term “packer-owned lambs.” This final rule amends the definition for the term “packer-owned lambs” to cover lambs owned by a packer for at least 28 days immediately before slaughter.

## **Appendices**

The last section of this document contains three appendices; the proposed rule

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<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>.

contained four. As explained in section II above, based on the comments received, AMS chose not to incorporate in this final rule the proposed reporting revisions concerning lambs committed for future delivery and prices of pelts paid to producers. Therefore, AMS deleted appendix B in its entirety, removed all references to lamb forms in appendices C and D, and re-lettered appendices C and D as appendices B and C, respectively. Appendix A lists the forms used by swine packers required to report information under the LMR program. Appendix B provides a description of the forms, while appendix C contains the actual reporting forms. These appendices will not appear in the Code of Federal Regulations.

With this final rule, all form and guideline identification numbers associated with the LMR program are updated to reflect the change in the program name from the AMS Livestock and Seed Program (LS) to the AMS Livestock, Poultry, and Seed Program (LPS); therefore, form number designations are changed from LS-XXX to LPS-XXX. This change to the form numbers is included in the request for an extension of a currently approved information collection for OMB 0581-0186 (Commodities Covered by the Livestock Mandatory Reporting Act of 1999); and in the appendices of this final rule.

Amendments to two swine reporting forms, LPS-118 Swine Prior Day Report and LPS-119 Swine Daily Report, were made to include the new purchase type under this final rule, “negotiated formula purchase.” One form for swine reporting, LPS-119 Swine Daily Report, requires an amendment to the description of the form to include the reporting of the late afternoon purchased barrows and gilts from the previous reporting day in the following reporting day’s daily reports, as shown in appendix B.

#### **IV. Classification**

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

This 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 has waived the review process for this action.

## **Regulatory Flexibility Act**

In General. This final rule was 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 final rule does not duplicate market

information reasonably accessible to the USDA.

Objectives and Legal Basis. The objective of this final rule is to improve the price and supply reporting services of the USDA in order to encourage competition in the marketplace for swine and lambs as specifically directed by the 2015 Reauthorization Act and the lamb industry requested revisions as authorized through the 1999 Act and these regulations, as described in detail in the background section.

Estimated Number of Small Businesses. For this regulatory flexibility analysis, AMS utilized the North American Industry Classification System (NAICS), which is 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 meat packing companies to the NAICS standards to determine the percentage of small businesses within the industry affected by this final rule. Under these size standards, meat packing companies with 500 or less employees are considered small business entities.<sup>2</sup>

This final rule amends the reporting requirements for swine packers by adding a new purchase type for negotiated formula purchases of barrows and gilts, and including late afternoon purchases of barrows and gilts from the previous reporting day in the morning and afternoon daily reports of the current reporting day. For swine packers, this final rule applies only to federally inspected swine processing facilities that slaughtered an average of at least 100,000 swine per year during the immediately preceding 5 calendar years and a person that slaughtered an average of at least 200,000 sows, boars, or combination thereof per year during the immediately preceding 5 calendar years. Additionally, in the case of a swine processing plant or person that did not slaughter

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<sup>2</sup> North American Industry Classification System, code 311611 for abattoirs.

swine during the immediately preceding 5 calendar years, it would be considered a packer if the Secretary determines the processing plant or person should be considered a packer under this subpart after considering its capacity.

Approximately 36 individual pork packing companies representing a total of 55 individual plants are required to report information to AMS. Based on the NAICS size standard for meat packing companies with 500 or less employees, AMS estimates that 24 of these 36 pork packing companies would be considered small businesses, representing 27 individual plants that are required to report. The figure of 55 plants required to report represents 8.9 percent of the federally inspected swine plants in the U.S. The remaining 91.1 percent of swine plants, nearly all estimated to qualify as small business, are exempt from mandatory reporting.

To implement the swine reporting changes in this final rule, AMS estimated the total annual burden on each swine packer to be \$108, which includes the annual share of initial startup costs of \$415. There is no annual cost increase associated with electronically submitting data or for the storage and maintenance of electronic files submitted to AMS due to this final rule.

For lamb reporting, this final rule amends the definition of the term “packer-owned lambs” to include lambs owned by a packer for at least 28 days immediately before slaughter.

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.

The LMR regulations require 10 lamb packers to report information, which is less than 2 percent of all federally inspected lamb plants. Therefore, approximately 98 percent of lamb packers are exempt from reporting information by this final rule. Based on the NAICS size standard for meat packing companies with 500 or less employees and its knowledge of the lamb industry, AMS estimates that all lamb packing companies currently required to report under LMR would be considered small businesses. As this final rule amends a definition and does not impose additional burdens, AMS estimates no costs to implement the lamb reporting changes in this final rule. There is no annual cost increase associated with electronically submitting data or for the storage and maintenance of electronic files submitted to AMS due to this final rule.

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 this final rule does 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.

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 two 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.

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 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 final rule requires swine and lamb packing plants 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 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 final rule, AMS considered other means by which the objectives of this final rule could be accomplished, including reporting the required information by telephone, facsimile, and regular mail. 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 regulation.

To respond to the 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 work actively with those small businesses required to report and minimize the burden on them to the maximum extent practicable.

### **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), we included the changes in reporting and recordkeeping requirements for 7 CFR part 59 associated with this action into the program's request for an extension of a currently approved information collection for OMB 0581-0186 (Commodities Covered by the Livestock Mandatory Reporting Act of 1999).

### **Executive Order 12988**

This final rule was reviewed under Executive Order 12988, Civil Justice Reform. This 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 final rule.

### **Civil Rights Review**

AMS reviewed the potential civil rights implications of this 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 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 final rule does not deny any persons or groups the benefits of the program or subject any persons or groups to discrimination.

### **Executive Order 13132**

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

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

Cattle, Hogs, Lamb, Livestock, Sheep, Swine.

For the reasons set forth in the preamble, 7 CFR 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. Amend § 59.200 by:

- a. Adding a definition for “Negotiated formula purchase” in alphabetical order;
- b. Revising the definition of “Other purchase arrangement”; and
- c. Revising paragraphs (3) and (4) and adding paragraph (5) in the definition of “Type of purchase”.

The additions and revisions read as follows:

**§ 59.200 Definitions.**

\* \* \* \* \*

Negotiated formula purchase. The term “negotiated formula purchase” means a swine or pork market formula purchase under which:

- (1) The formula is determined by negotiation on a lot-by-lot basis; and
- (2) The swine are scheduled for delivery to the packer not later than 14 days after the date on which the formula is negotiated and swine are committed to the packer.

\* \* \* \* \*

Other purchase arrangement. The term “other purchase arrangement” means a purchase of swine by a packer that is not a negotiated purchase, swine or pork market formula purchase, negotiated formula purchase, or other market formula purchase; and does not involve packer-owned swine.

\* \* \* \* \*

Type of purchase. \* \* \*

- (3) A swine or pork market formula purchase;
- (4) Other purchase arrangement; and
- (5) A negotiated formula purchase.

\* \* \* \* \*

3. Amend § 59.202 by revising paragraphs (b)(2) through (4) to read as follows:

**§ 59.202 Mandatory daily reporting for barrows and gilts.**

\* \* \* \* \*

(b) \* \* \*

- (2) The total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, purchased since 1:30 p.m. central time of the previous reporting day and up to that time of the reporting day through each type of purchase;

(3) All purchase data for base market hogs purchased since 1:30 p.m. central time of the previous reporting day and up to that time of the reporting day through negotiated purchases;

(4) All purchase data for base market hogs purchased through each type of purchase other than negotiated purchase since 1:30 p.m. central time of the previous reporting day and up to that time of the reporting day, unless such information is unavailable due to pricing that is determined on a delayed basis.

The packer shall report information on such purchases on the first reporting day or scheduled reporting time on a reporting day after the price has been determined.

\* \* \* \* \*

4. Amend § 59.300 by revising the definition for “Packer-owned lambs” to read as follows:

**§ 59.300 Definitions.**

\* \* \* \* \*

Packer-owned lambs. The term “packer-owned lambs” means lambs that a packer owns for at least 28 days immediately before slaughter.

\* \* \* \* \*

**Dated: August 5, 2016**

Elanor Starmer  
Administrator  
Agricultural Marketing Service

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