



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1280

Document No. AMS-LP-19-0093

RIN 0581-AC06

Lamb Promotion, Research, and Information Order; Activity Changes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: AMS solicits comments on proposed amendments to the Lamb Promotion, Research, and Information Order (Order). These amendments would require market agencies (e.g. commission merchant, auction market, livestock market) in the business of receiving lambs to collect and remit on behalf of the producer, feeder, or seedstock producer, the “live-weight” assessment on ovine animals sold and the “price-per-head” assessment owed by the first handler when lambs are sold through these channels. Market agencies would remit the full assessment to the American Lamb Board (Board) when ovine animals are sold. This proposed rule would also make technical amendments to the Order, correcting references to assessment rates that were inadvertently not updated during the previous amendment to the Order.

DATES: Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Pursuant to the Paperwork Reduction Act, comments on the information collection burden must be received by [INSERT

DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments should be posted online at www.regulations.gov. Comments received will be posted without change, including any personal information provided.

All comments should reference the docket number AMS-LP-19-0093, the date of submission, and the page number of this issue of the **Federal Register**. Comments may also be sent to Jason Julian, Agricultural Marketing Specialist; Research and Promotion Division; Livestock and Poultry Program, AMS, USDA; Room 2610-S, STOP 0251, 1400 Independence Avenue SW, Washington, D.C. 20250-0251; or via fax to (202) 720-1125. Comments will be made available for public inspection at the above address during regular business hours or via the Internet at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Jason Julian, Agricultural Marketing Specialist, Research and Promotion Division, Livestock and Poultry Program, AMS, USDA; telephone: (202) 731-2149; fax: (202) 720-1125; or email: jason.julian@usda.gov.

SUPPLEMENTARY INFORMATION:

Background and Proposed Action

Under the Order, which became effective April 11, 2002, the Board administers a nationally coordinated program of research, development, advertising, and promotion activities designed to strengthen the position of, and to develop and expand the markets for, ovine animals and ovine products. The program is financed by producers, feeders, and seedstock producers (i.e., producers) who pay an assessment of seven-tenths of a cent (\$0.007) per pound on all live lambs sold. Additionally, first handlers, primarily packers,

pay \$0.42 per head on ovine animals purchased for slaughter. No rate changes are being proposed.

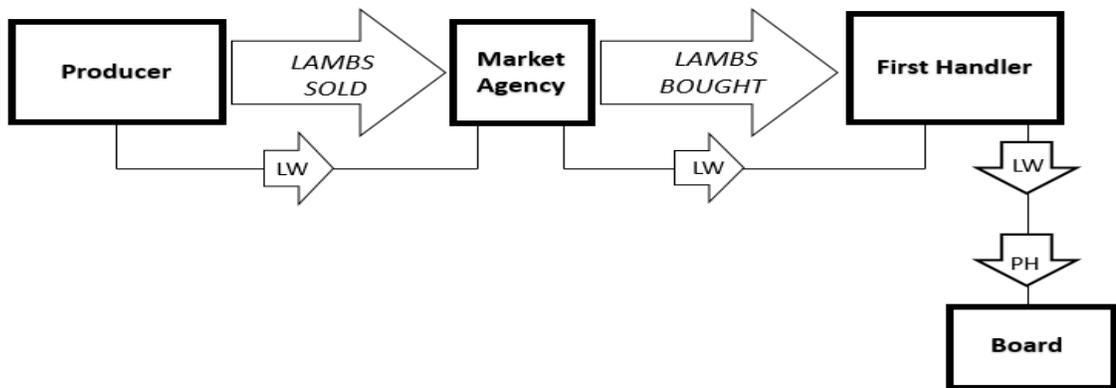
The Order currently mandates that assessments be collected from producers for the sale of live lambs, and that the assessment be forwarded to the subsequent purchaser(s) until remitted by a first handler or exporter. That first handler is responsible for submitting both the producer's assessment and the first handler's assessment and report to the Board. The collection process is known as a "pass-through" assessment. Since the initial Order was established, industry markets have evolved; non-traditional first handlers, such as ethnic processors (butcher shops) and farmer's market processors now participate to a larger degree in the purchasing and processing of lamb and lamb products. However, based on information about lamb sales from market agencies, the Board believes many non-traditional first handlers are not remitting assessments, as required by the Order. The Board, in turn, is not capturing all assessments paid by producers and feeders. Over the years, Board staff has worked to collect the owed lamb assessments from the non-traditional buyers, with limited success.

On January 23, 2019, the Board approved a motion to request the Secretary of Agriculture (Secretary) amend the assessment collection procedures and update corresponding sections of the Order. Proposed revisions to the assessment collection procedures would require market agencies to collect the full assessment, including the first handler assessment portion, for remittance to the Board. The assessment collection change would only impact lambs sold through market agencies. Other modes of sale, such as traditional markets (e.g., first handler purchases from a producer or feeder,

independent of a market agency) would continue to use the pass-through collection process. *Examples 1 and 2* below show the current assessment collection processes:

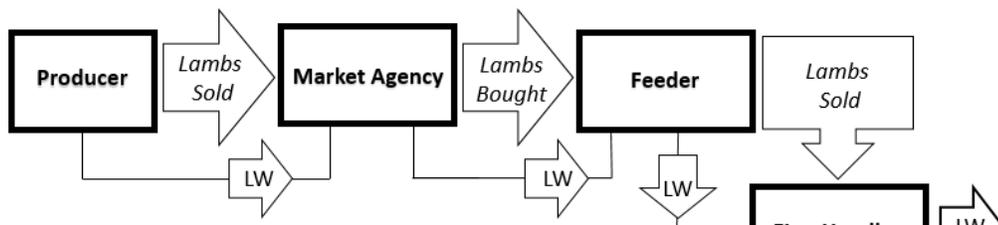
Example 1 – Existing Procedures – Producer sells lambs at market agency to a first handler: The producer pays the assessment to the market agency who passes the assessment through to the first handler. The first handler remits the live-weight (LW) and price-per-head (PH) assessments to the Board along with a Remittance Report form. This example is depicted in Figure 1. This procedure would stay the same under the proposed rule.

Figure 1.



Example 2 – Existing Procedures – Producer sells lambs at market agency to a feeder. At a later date, the feeder sells the same lambs to a first handler (via traditional sales/non-market agency): The producer pays the live-weight assessment (LW) to the market agency, who passes the assessment through to the feeder. At a later date, the feeder sells the same lambs to a first handler, where the LW assessment passes-through to the first handler, who remits the LW assessment and the PH assessment to the Board. This example is depicted in Figure 2.

Figure 2.



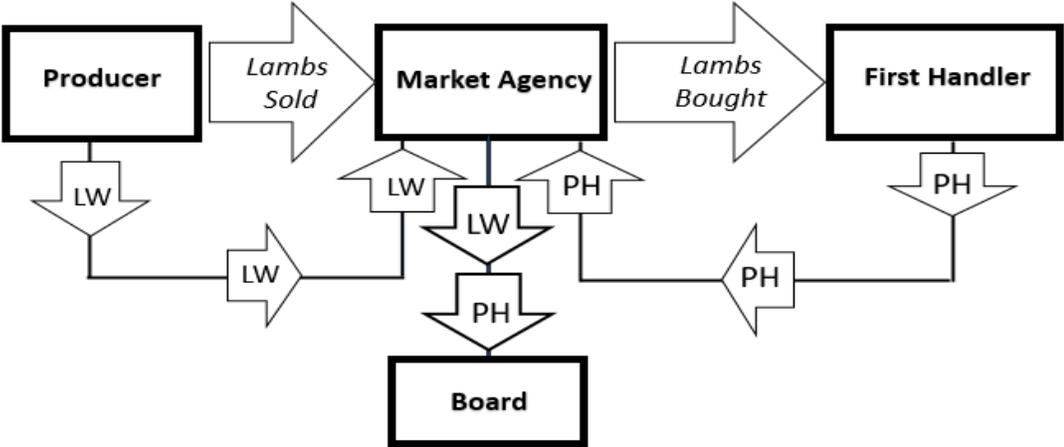
Under the proposed rule, existing procedures in *Example 1* above would stay the same and existing procedures in *Example 2* above, would be replaced as shown in the following three scenarios.

Example 3 – Proposed Procedure – Producer sells lambs at market agency to first handler: Under the proposed rule, the market agency would collect the LW

Under the proposed rule, existing procedures in *Example 1* above would stay the same and existing procedures in *Example 2* above, would be replaced as shown in the following three scenarios.

Example 3 – Proposed Procedure – Producer sells lambs at market agency to first handler: Under the proposed rule, the market agency would collect the LW assessment from the producer and the PH assessment from the first handler and would remit both assessments to the Board. This example is depicted in Figure 3.

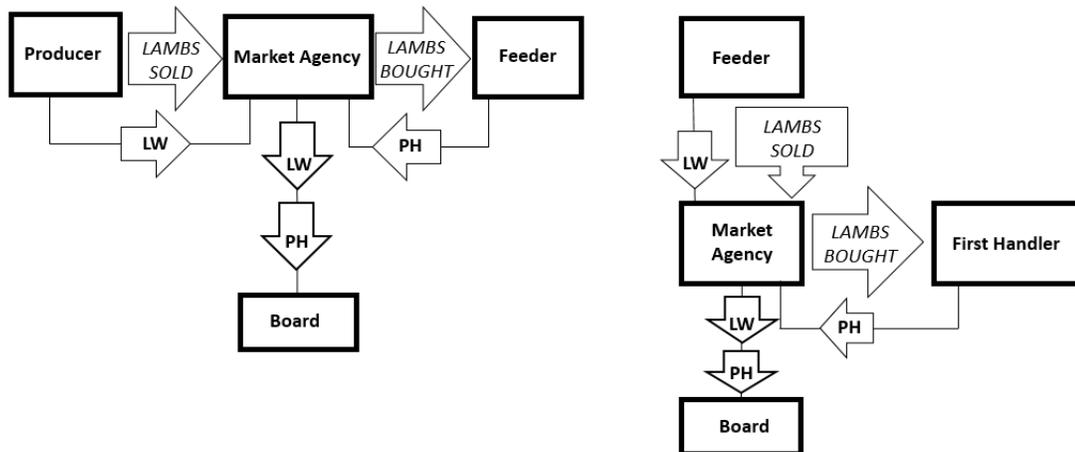
Figure 3.



a first handler: The producer pays the LW assessment to the market agency. The

feeder pays the PH assessment to the market agency, which would remit both assessments to the Board (LW and PH). At a later date, when the feeder sells the same lambs at market agency, the feeder pays the LW assessment to the market agency, and the first handler pays the PH assessment to the market agency, which would remit both assessments to the Board (LW and PH). Since the feeder was initially charged the PH assessment (first handler's assessment) and then paid the total LW assessment (lambs sold at market agency to the first handler), the feeder would be eligible for a refund on the original PH assessment (initial first handler's assessment) and the difference between the total LW assessment and the producer's LW assessment. If the feeder were to exercise this option to recoup the two assessments, the feeder would fill out the Lamb Assessment Refund form (LP-85) and file with the Board to receive a refund. This example is depicted in Figure 4.

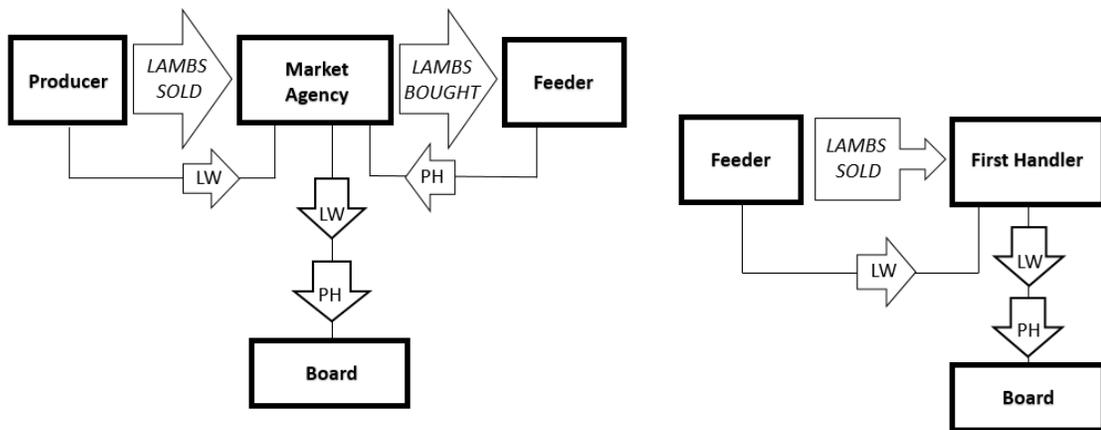
Figure 4.



Example 5 – Proposed Procedure – Producer sells lambs at a market agency to a feeder. At a later date, the feeder sells the lambs to a first handler (via traditional market / non-market agency sale): The producer pays the LW assessment to the

market agency. Additionally, the feeder pays the PH assessment to the market agency, which would remit both assessments to the Board (LW and PH). At a later date, when the feeder sells the lambs to a first handler (via traditional market/non-market agency sale), the feeder would pay the LW assessment to the first handler, who would remit the LW assessment and the PH assessment to the Board. The feeder would be eligible for refunds on the original PH assessment paid (first handler assessment) and the difference between the total LW assessment and the producer's original LW assessment. If the feeder were to exercise this option to recoup the two assessments, the feeder would fill out the Lamb Assessment Refund form (LP-85) and file with the Board to receive a refund. This example is depicted in Figure 5.

Figure 5.



The amended collection process is estimated to generate approximately \$300,000

in new revenue, approximately 20 percent of the Board's annual budget, based on 2019 production levels. The Board's budget is based on the amount of assessments collected on an annual basis, voluntary contributions, and revenue derived from the investment of funds.

This proposed rule would also add a definition for *market agency*. Technical corrections to the regulations would remove references to obsolete assessment rates. Finally, references to Order administration prior to appointment of the Board would be removed.

The Act provides for the creation of, and amendments to, the Order. The Order provides in § 1280.210 that the Board shall have the powers and duties to recommend to the Secretary such amendments to the Order as the Board considers appropriate.

Proposed Revisions

The proposed rule would amend § 1280.101 to consolidate definitions listed in § 1280.101 through § 1280.129 and propose a definition for *market agency*. Sections 1280.102 through 1280.129 would be removed. This change would alphabetize and consolidate the definitions into one section, simplifying any future revisions to the definitions.

The proposed rule would amend § 1280.217(a) to reflect the current assessment rate of seven-tenths of a cent (\$.007) per pound of live lambs sold. This would correct the reference to an obsolete assessment rate. The proposed rule would also incorporate the last three sentences from current § 1280.217(e) into § 1280.217(a), maintaining the right of the Board to raise or lower the assessment rate. Section 1280.217(e) would be removed.

The proposed rule would amend § 1280.217(c) to reflect the current first handler assessment rate and make a conforming change to reflect the elimination of § 1280.217(e). Additionally, a reference in § 1280.217(c) to the assessment rate in § 1280.217(e) would be revised to reference the assessment rate in corrected § 1280.217(a).

The proposed rule would amend section § 1280.217(d) to require market agencies to collect and remit the producer, seedstock producer, feeder, or first handler assessments to the Board. Additionally, § 1280.217(d), would provide that lamb feeder farms who pay assessments twice may request a refund by completing the Lamb Assessment Refund Form (Form LP-85) and submitting it to the Board. The proposed rule would remove § 1280.217(g), as it is no longer applicable, and make conforming changes. Additionally, the proposed rule would redesignate § 1280.217(f) as § 1280.217(e); and § 1280.217(h) as § 1280.217(f).

The proposed rule would amend § 1280.218 to reference the assessment rate established in § 1280.217(a). The proposed rule would amend § 1280.218 to change assessment due dates from time of export to the 15th day of the month following the month in which the lambs were purchased for slaughter and export or live export. This aligns with the current process for the collection of assessments listed in § 1280.220.

The proposed rule would amend § 1280.220(a) to provide that market agencies, as well as first handlers and exporters, are responsible for collecting and remitting assessments to the Board.

The proposed rule would make a conforming change to § 1280.402(b) to require market agencies to collect and remit assessments to the Board, to reflect the revision in § 1280.217(d).

The proposed rule would amend § 1280.402(e)(1) by removing, "...if a first handler markets lambs or lamb products directly to consumers, in order to avoid late payment charges." This phrase, which is not applicable here, was placed in this section inadvertently and should be removed.

Executive Orders 12866, 13563, and 13771

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, reducing costs, harmonizing rules and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled "Interim Guidance Implementing Section 2 of the E.O. of January 30, 2017, titled Reducing Regulation and Controlling Regulatory Costs" (February 2, 2017).

Executive Order 12988

This proposal has been reviewed under E.O. 12988, Civil Justice Reform. It is not intended to have a retroactive effect. Section 524 of the Commodity, Promotion, Research, and Information Act of 1996 (1996 Act) (7 U.S.C. 7423) provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the 1996 Act (7 U.S.C. 7418), a person subject to an order may file a written petition with USDA stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and request a modification of an order or an exemption from an order. Any

petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

Executive Order 13175

This action has been reviewed in accordance with the requirements of E.O. 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments or significant Tribal implications.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes. As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

Initial Regulatory Flexibility Act Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), AMS has performed an initial RFA regarding the impact of the proposed rule on small entities. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be

unduly burdened.

Due to a lack of resources and the time it would take to determine assessment compliance, the Board recommended a change to the collection and remittance process for market agencies. If the proposed rule is implemented, the Board would reduce staff travel expenses and time spent performing onsite audits to determine assessment compliance. The proposal could increase the Board's revenue by approximately \$500,000 per fiscal year, or 20 percent of the Board's annual revenue (based on 2019 budgetary numbers).

The proposed rule would not increase the assessment rates under the Order. No new economic burden would be placed on producers, feeders, seedstock producers, or first handlers for sales that take place outside of market agencies, as that process for paying assessments would not change.

The proposed rule would require market agencies to report and collect assessments from producers, feeders, seedstock producers, and first handlers and remit to the Board. When a sale takes place at a market agency, no new burden would be placed on producers or seedstock producers, regardless of size, as they would continue to pay their assessments to the market agency. No new burden would be placed on first handlers of any size as they would remit assessments to the market agency instead of the Board. The proposed rule would place a burden on feeder farms who pay assessments twice and would have to seek reimbursement for two assessments paid for the same lambs by filling out a Lamb Assessment Refund form.

The North American Industry Classification System (NAICS) code for sheep farms is 112410. The Small Business Association (SBA) size classification for this

industry limits the number of employees for a small business to 100 people. Based on industry response, almost all lamb farms employ fewer than 100 people; in fact, almost all lamb farms employ less than 15 people. The vast majority of lamb farms are considered small businesses.

According to the 2017 Census of Agriculture (AC-17-A-51), there were 60,675 farms that sold sheep and lambs. This number includes sheep and lambs raised for dairy, wool and meat. This proposed rule focuses only on those lambs raised for meat. The census does not break down the data to the level of lamb feeder farms. Therefore, AMS has worked with industry stakeholders to understand the makeup of the industry.

According to lamb industry estimates, of those 60,675 farms, 500 farms are considered feeder farms that raise lambs for meat. Additionally, the lamb industry estimates that of those 500 feeder farms, approximately 10 percent, or 50 of those feeder farms, could potentially purchase/sell their lambs at market agencies. The remainder of the feeder farms sell lambs directly to a first handler. Therefore, the number of feeder farms that raise lambs for meat that would be financially impacted by the proposal would not be considered substantial.

Under the proposed rule, a lamb feeder farm could potentially pay assessments twice in scenarios 4 and 5 described above and would be required to fill out a refund form after selling the lambs through a market agency to recoup the twice-paid assessment. This paperwork burden is described in detail in the Paperwork Reduction Act section of this proposed rule. AMS seeks comments on whether the limited data available is representative of industry lamb numbers and what alternative data sources, if any, are available to further refine this analysis.

The proposed rule would place a new burden on market agencies to collect and remit assessments for the sale of lambs. The North American Industry Classification System (NAICS) code for marketing agencies is 424520. Firms in the 424-sector classification are defined as large or small depending on the number of employees rather than sales values. The Small Business Association (SBA) size classification for this industry, limits the number of employees for a small business to 100.

Data on employee numbers for this industry is available from the U.S. Department of Commerce, Census Bureau. The most recent available data to determine the size of firms in the industry is from the 2012 Economic Census. According to the data, the vast majority of the firms (666 of 668 total firms) are small businesses. According to industry, of the 666 existing firms, approximately 300 market agencies that sell lambs would be impacted by this proposed rule. Currently, 50 full-time market agencies are voluntarily collecting and remitting producer assessments to the Board; however, they are not collecting and remitting first handler assessments. Additionally, 250 seasonal market agencies are not collecting and remitting either of the assessments to the Board.

The Board provided AMS an estimate that all 50 full-time market agencies currently utilize computer software in their information collection and billing processes. Therefore, implementation costs would consist of upgrades to each respondent's existing computer software system and hands-on training to amend the collection and remittance process, at an estimated cost of \$500.00 per respondent. Additionally, the Board has provided an estimate to AMS that a large majority of the 250 seasonal market agencies currently perform their information collection and billing process utilizing computer

software programs. Due to seasonal sales and low sheep volume sales per respondent, AMS anticipates that the seasonal markets would be able to utilize existing computer software systems or existing hard-copy tracking procedures for the new collection and remittance process. If this proposed rule is implemented, the Board would perform educational outreach to the seasonal market agencies to educate them on the new collection and remittance process. The outreach efforts would consist of mailed educational materials and training webinars to limit the burden on auction managers to train personnel, which is estimated will cost \$5.00 per respondent. Once the computer software is installed and the outreach efforts have been completed, the physical submission of the assessments to the Board would be the only burden on market agencies, which would be considered a minor burden. AMS has considered the economic effect of this action on small entities and has determined that this proposed rule, while imposing new administrative burdens on market agencies and some feeder farms would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The information collection and recordkeeping requirements that are imposed by the Order has been approved previously under OMB control number 0581-0093. In accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. Chapter 35, subchapter I).

The existing form (LP-81) would be amended to require data for the total lambs sold/slaughtered, to effectively carry out the requirements of the program, and its use is necessary to fulfill the intent of the Act. The Board would supply such information for data processing software and/or technical expertise to train market agency staff on how to

complete the information collection and remittance process. The lamb information collection and remittance form would be simple, easy to understand, and would place as small a burden as possible on the person required to file the information.

The timing and frequency of collecting the proposed information are intended to meet the needs of the industry while minimizing the amount of work necessary to fill out the required reports. In addition, the information that would be included on this form is not available from other sources because such information relates specifically to individual market agencies who are reporting information subject to the provisions of the Act. There is no practical method for collecting the required information without the use of these forms.

Information collection requirements that are in this proposal include:

Title: LP-81 - Lamb Promotion, Research, and Information Board Remittance Report form.

OMB Number: 0581-0093.

Type of Request: Amended collection.

Abstract: The information collection requirements are essential to carry out this rule.

The Order authorizes the collection of assessments from lamb producers, feeders, seedstock producers, and first handlers. Under this proposed rule, market agencies would be required to collect and remit assessments, while the collection and remittance process would remain unchanged for sales independent of market agencies. This proposal would require assessment-related records, including the Remittance Report form, be retained for at least 2 years beyond the fiscal year of their applicability. This is consistent with the

current recordkeeping requirements of the program. Two-hundred fifty of the 300 market agency respondents operate on a seasonal basis. It is estimated that these market agencies would complete three responses per respondent, as assessments are submitted monthly and a typical season consists of 3 months. The additional 50 market agency respondents operate on a full-time basis. These market agencies would complete an estimated 12 responses per year per respondent, as assessments are submitted monthly.

The design of this form has been carefully reviewed, and every effort has been made to minimize any unnecessary recordkeeping costs or requirements, including efforts to utilize information already submitted under other lamb programs administered by the USDA. The form would be available through the Board or USDA. The information collection would be used only by authorized Board employees and representatives of USDA, including AMS staff.

The request for approval of the amended information collection is as follows:

- (1) Form LP-81, Lamb Promotion, Research, and Information Board Remittance Report form.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per lamb sale or purchase via market agency.

Respondents: Lamb Market Agencies.

Estimated Number of Respondents: 800 (includes 300 new respondents—50 monthly and 250 seasonal)

Estimated Number of Responses per new Respondent per year: 12 (monthly respondents $12 \times 550 = 6,600$ responses; and seasonal respondents $1 \times 250 = 250$ responses).

Estimated Total Annual Burden on Respondents: 6,850 hours (includes 850 new burden hours annually).

The total annual estimated cost for market agencies in providing the information to the Board is \$125,150 (Increase in response total $850 \times \$18.27 = \$15,529.50$; grand total is $6,850 \times \$18.27 = \$125,149.50$). This total has been estimated by multiplying 850 total burden hours by \$18.27, the estimated wage rate of respondents. AMS used the hourly wage of farmworkers, farm, ranch, and aquaculture animals as obtained from the U.S. Bureau of Labor Statistics, Occupational Employment and Wages, published May 2018. This publication can be found at the following website:

https://www.bls.gov/oes/current/oes_nat.htm.

The average hourly wage rate of \$13.87 with an additional 31.7 percent to account for benefits and compensations, for an hourly wage of \$18.27, was used to calculate annual cost. Costs of benefits and compensation guidance were provided by Bureau of Labor Statistics News Release issued December 14, 2018.

To offset startup costs associated with the new collection and remittance process, the Board would allocate approximately \$500.00 per full-time market agency respondent to upgrade their computer software programs and to provide staff training for the new collection and remittance procedures ($50 \text{ full-time market agencies} \times \$500.00 = \$25,000$). Additionally, the Board would provide educational training materials and would host training webinars with seasonal market agency staff on the new collection and remittance process. The Board would allocate approximately \$5.00 for the educational materials and

webinar training costs per seasonal market agency respondent (250 seasonal market agencies x \$5.00 = \$1,250.00).

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology.

The proposed rule also announces that AMS is seeking approval for a new information collection and recordkeeping requirement that would be imposed under the Order. The new information collection has been submitted to OMB for approval.

The proposed "Lamb Feeder Checkoff Refund" form would require the minimum information necessary to effectively carry out the requirements of the program, and its use is necessary to fulfill the intent of the Act. Such information can be supplied without data processing equipment or outside technical expertise. In addition, there are no additional training requirements for individuals filling out reports and requesting a refund from the Board. The form would be simple, easy to understand, and place as small a burden as possible on the person required to file the information.

The timing and frequency of collecting information are intended to meet the needs of the industry while minimizing the amount of work necessary to fill out the required

reports. In addition, the information to be included on this form is not available from other sources because such information relates specifically to individual market agencies who are subject to the provisions of the Act. Therefore, there is no practical method for collecting the required information without the use of these forms.

Information collection requirements that are included in this proposal include:

Title: LP-85 - Lamb Assessment Refund Form.

OMB Number: 0581-NEW.

Type of Request: New collection.

Abstract: The information collection requirements are essential to carry out this proposed rule.

The Order authorizes the collection of assessments from lamb producers, feeders, seedstock producers, and first handlers. Under this proposed rule, market agencies would be required to collect and remit assessments for the purchase and sale of lambs, while the collection and remittance process would remain unchanged when sales occur independent of market agencies. This proposal would require assessment-related records to be retained for at least two years beyond the fiscal year of their applicability. This is consistent with the current recordkeeping requirements of the program. According to the 2017 Census of Agriculture (AC-17-A-51), there were 60,675 farms that sold lambs. The census does not breakdown the data to the level of feeder farms. Therefore, AMS has worked with industry to understand the makeup of the industry. Of those farms, the lamb industry estimated that 500 are considered feeder farms. Additionally, the lamb industry estimates that of those 500 feeder farms, approximately 10 percent, or 50, of those feeder farms purchase or sell lambs at market agencies. The estimated time for each respondent

to complete the Lamb Feeder Checkoff Refund Form is 15 minutes. The estimated total hours for all respondents to complete the form is 90 hours (i.e. 50 respondents multiplied by 15 minutes to complete the form per respondent multiplied by 12 forms being filled out per year, per respondent). The estimated total cost of requesting a refund from the Board, for all respondents, would be \$1,644.30. The total cost has been estimated by multiplying the total hours for respondents to complete the form (90 hours) by \$18.27, which is what AMS used for the hourly wage of farmworkers, farm, ranch, and aquaculture animals, as obtained from the U.S. Bureau of Labor Statistics, Occupational Employment and Wages, published May 2018. This publication can be found at the following website: https://www.bls.gov/oes/current/oes_nat.htm.

Based on the average hourly wage rate of \$13.87 with an additional 31.7 percent to account for benefits and compensations, for an hourly wage of \$18.27 was used to calculate annual cost. Costs of benefits and compensation guidance was provided by Bureau of Labor Statistics News Release issued December 14, 2018.

The design of this form has been carefully reviewed, and every effort has been made to minimize any unnecessary recordkeeping costs or requirements, including efforts to utilize information already submitted under other lamb program administered by the USDA. The form would be available through the Board or USDA. The information collection would be used only by authorized Board employees and representatives of USDA, including AMS staff.

The request for approval of the new information collection is as follows:

- (2) Form LP-85, Lamb Feeder Checkoff Refund Form.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per lamb purchase/sale by a feeder at a market agency.

Respondents: Feeder farms who sell lambs at market agencies.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent per year: 12.

Estimated Total Annual Burden on Respondents: 90 hours.

Total Cost: \$1,644.30

Comments: The period to submit comments on both the revised and the new information collection burden is 60 days. Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology.

A 60-day comment period is provided to allow interested persons to respond to the proposed rule.

List of Subjects in 7 CFR Part 1280

Administrative Practice and Procedure, Advertising, Agricultural Research, Meat and meat Products, Reporting and Recordkeeping Requirements.

For the reasons set forth in the preamble, AMS proposes to amend 7 CFR Part 1280 as follows:

PART 1280 – LAMB PROMOTION, RESEARCH, AND INFORMATION ORDER

1. The authority citation for Part 1280 continues to read as follows:

Authority: 7 U.S.C. 7411-7425 and 7 U.S.C. 7401.

2. Revise § 1280.101 to read as follows:

§ 1280.101 Definitions

Act means the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411–7425; Pub. L. 104– 127; 110 Stat. 1029, as amended), or any amendments thereto.

Board means the Lamb Promotion, Research, and Information Board established pursuant to § 1280.201.

Certified organization means any organization which has been certified by the Secretary pursuant to this part as being eligible to submit nominations for membership on the Board.

Conflict of interest means a situation in which a member or employee of a Board has a direct or indirect financial interest in a person that performs a service for, or enters into a contract with, a Board for anything of economic value.

Department means the United States Department of Agriculture.

Exporter means any person who exports domestic live lambs from the United States.

Feeder means any person who acquires ownership of lambs and feeds such lambs in the U.S. until they reach slaughter weight.

First handler means the packer or other person who buys or takes possession of lambs from a producer or feeder for slaughter, including custom slaughter. If a producer or feeder markets lamb products directly to consumers, the producer or feeder shall be considered to be a first handler with respect to such lambs produced by the producer or feeder.

Fiscal period and marketing year mean the 12 month period ending on December 31 or such other consecutive 12 month period as shall be recommended by the Board and approved by the Secretary.

Information means information and programs that are designed to increase efficiency in producing lambs, to maintain and expand existing markets, and to develop new markets, marketing strategies, increased market efficiency, and activities that are designed to enhance the image of lamb and lamb products on a national or international basis. These include:

(a) Consumer information, which means any action taken to provide information to, and broaden the understanding of, the general public regarding the consumption, use, and nutritional attributes of lamb and lamb products; and

(b) Industry information, which means information and programs that will lead to the development of new markets, new marketing strategies, or increased efficiency for the lamb industry, and activities to enhance the image of lamb.

Lamb means ovine animals of any age, including ewes and rams.

Lamb products means products produced in whole or in part from lamb, including pelts, and excluding wool and wool products.

Market agency means commission merchant, auction market, or livestock market

in the business of receiving lambs or lamb products for sale or purchase on commission for or on behalf of a producer, feeder, seedstock producer, or first handler.

Order means an Order issued by the Secretary under § 514 of the Act that provides for a program of generic promotion, research, and information regarding agricultural commodities authorized under the Act.

Part means the Lamb Promotion, Research, and Information Order and all rules and regulations issued pursuant to the Act and the Order. The Order shall be a subpart of the Part.

Person means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

Producer means any person who owns and produces lambs in the United States for sale.

Producer information means activities designed to provide producers, feeders, and first handlers with information relating to production or marketing efficiencies, development of new markets, program activities, or other information that would facilitate an increase in the demand for lamb or lamb products.

Promotion means any action, including paid advertising and the dissemination of culinary and nutritional information and public relations with emphasis on new marketing strategies, to present a favorable image of U.S. lamb products to the public for the purpose of improving the competitive position of U.S. lamb and lamb products in the marketplace and to stimulate sales.

Referendum means a referendum to be conducted by the Secretary pursuant to the Act whereby producers, feeders, first handlers, and exporters shall be given the

opportunity to vote to determine whether the continuance of this subpart is favored by a majority of eligible persons voting and a majority of volume voting. *Research* means any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of lamb or lamb products.

Secretary means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

Seedstock producer means any lamb producer in the U.S. who engages in the production and sale of breeding replacement lambs or semen or embryos.

State means each of the 50 States and the District of Columbia.

Suspend means to issue a rule under § 553 of title 5, U.S.C., to temporarily prevent the operation of an Order or part thereof during a particular period of time specified in the rule.

Terminate means to issue a rule under § 553 of title 5, U.S.C., to cancel permanently the operation of an Order or part thereof beginning on a date certain specified in the rule.

Unit means each State, group of States, or class designation (producers, feeders, first handlers, or seedstock producers) that is represented on the Board.

United States means collectively the 50 States and the District of Columbia.

Wool means fiber from the fleece of a lamb.

Wool products mean products produced, in whole or in part, from wool and products containing wool fiber, excluding pelts.

§§ 1280.102 through 1280.129 [Removed and Reserved]

3. Remove and reserve §§ 1280.102 through 1280.129.
4. Amend § 1280.217 by:
 - a. Revising paragraphs (a), (c), and (d);
 - b. Removing paragraphs (e) and (g); and
 - c. Redesignating paragraphs (f) and (h) as paragraphs (e) and (f), respectively.

The revisions to read as follows:

§ 1280.217 Lamb purchases.

(a) Except as prescribed by regulations approved by the Secretary, each first handler or exporter making payment to a producer, seedstock producer, or feeder for lambs purchased from such producer, seedstock producer, or feeder shall collect an assessment from the producer, seedstock producer, or feeder. Each producer, seedstock producer, or feeder shall pay such assessment to the first handler or exporter, at the rate of seven-tenths of a cent (\$.007) per pound of live lambs sold. The rate of assessment may be raised or lowered no more than twenty-hundredths of a cent (\$0.002) in any one year. The Board may recommend any change in the assessment rate to the Department. Prior to a change in the assessment rate, the Department will provide notice by publishing in the FEDERAL REGISTER any proposed changes with interested parties allowed to provide comment.

(b) * * *

(c) Each person processing or causing to be processed lambs or lamb products of that person's own production and marketing such lambs or lamb products, shall pay an assessment on such lambs or lamb products on the live weight of the lamb at the time of slaughter at the rate established in paragraph (a) of this section. In addition, pursuant to §

1280.108, such an individual is considered a first handler and is required by § 1280.219 to pay an additional assessment of \$0.42 per head. As the first handler, the individual must remit the total amount of assessments to the Board.

(d) A market agency shall collect an assessment from the producer, seedstock producer, feeder, or first handler and remit the collected assessment to the Board. Any person who pays more than one assessment on the same lamb may be eligible for a refund by submitting a request on a form provided by the Board.

(e) The collection of assessments pursuant to § 1280.217, § 1280.218, and § 1280.219 shall begin with respect to lambs purchased, or lambs or lamb products marketed on or after the effective date established by the Secretary and shall continue until terminated or suspended by the Secretary.

(f) Payment remitted pursuant to this subpart shall be in the form of a negotiable instrument made payable to the Board. Such remittances and the reports specified in § 1280.223 and § 1280.225 shall be mailed to the location designated by the Board.

5. Revise § 1280.218 to read as follows:

§ 1280.218 Exporter.

Each person exporting live lambs or lamb products, including an exporter directly exporting his or her own lambs or lamb products, shall remit to the Board an assessment at the rate established in § 1280.217(a) by the 15th day of the month following the month in which the live lambs were purchased for slaughter and export or live export.

6. In § 1280.220, revise paragraph (a) to read as follows:

§ 1280.220 Collections.

(a) Each first handler, market agency, and exporter responsible for the collection of assessments under this subpart shall remit assessments to the Board by the 15th day of the month following the month in which the lambs were purchased for slaughter or export.

* * * * *

7. In § 1280.402, revise paragraphs (b) and (e) to read as follows:

§ 1280.402 Assessments.

(a) * * *

(b) *Market Agency.* A market agency will be required to collect an assessment from the producer, feeder, seedstock producer or first handler and remit the collected assessment to the Board.

(c) * * *

(d) * * *

(e) Remittance of assessments. (1) Assessments shall be remitted to the Lamb Promotion, Research, and Information Program, c/o the Secretary at USDA, 23029 Network Place, Chicago, Illinois 60673-1230, with a “Monthly Remittance Report” form not later than the 15th day of the following month in which lambs or lamb products were purchased for slaughter or export, or marketed.

* * * * *

Bruce Summers, Administrator,
Agricultural Marketing Service.

[FR Doc. 2020-20523 Filed: 10/2/2020 8:45 am; Publication Date: 10/5/2020]