

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 59**

[No. LS-99-18]

RIN 0581-AB64

**Livestock and Grain Market News  
Branch: Livestock Mandatory  
Reporting****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Final rule.

**SUMMARY:** This final rule will establish a mandatory program of reporting information regarding the marketing of cattle, swine, lambs, and products of such livestock under the "Livestock Mandatory Reporting Act of 1999." This rule requires the reporting of market information by certain livestock packers, and livestock product processors and importers. This program is intended to provide information on pricing, contracting for purchase, and supply and demand conditions for livestock, livestock production, and livestock products, that can be readily understood by producers, packers, and other market participants.

**EFFECTIVE DATE:** This final rule is effective January 30, 2001.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about the regulations, please call John E. Van Dyke, Chief, Livestock and Grain Market News Branch at (202) 720-6231, fax (202) 690-3732, or e-mail us at john.vandyke@usda.gov.

Information about these new regulations will be posted on the AMS web site: <http://www.ams.usda.gov/lsg/price.htm> as it becomes available.

**SUPPLEMENTARY INFORMATION:** The information that follows has been divided into three sections. The first one provides background information including questions and answers about this final rule, a short narrative introducing the Agency, and a summary of the history of this rulemaking process including an overview of the Livestock Mandatory Reporting Act of 1999 (Act) (Pub. L. 106-78; 113 Stat. 1188; 7 U.S.C. 1635-1636h) and of these final regulations. The second section provides a summary of the comments received in response to the proposed rule published in the **Federal Register** on March 17, 2000, and the Agency's responses to these comments including changes made in this final rule as a result of the comments. The last section provides the impact analysis section that addresses various legal

requirements including the Regulatory Flexibility Act, the Paperwork Reduction Act, Civil Rights Review, and the relevant Executive Orders.

**I. Background***Questions and Answers About This Final Rule***What Is USDA Market News?**

USDA market news is a Federal program that collects and disseminates information on prices and quantities for commercial transactions involving a wide array of agricultural products. USDA market news provides all market participants with the information necessary to make intelligent and informed marketing decisions.

**Who Uses USDA Market News?**

Each day, the agricultural industry uses USDA market news reports in conducting their business. Further, a wide range of users outside of and peripheral to the agricultural industry depend on the information provided in these reports, including Federal and State governmental agencies, foreign governmental agencies, academia, analysts, and news media. Currently, there are a total of 800 individual reports that are released by market news. These reports are issued on a daily, weekly, monthly, and annual basis.

**Why Is This Final Rule Being Published?**

Currently, meat packers, processors and importers are not *required* to report prices or the terms of sale for the animals they buy from producers. Rather, under the current market news program, USDA collects information on daily sales and price information from packers and others on a *voluntary* basis. However, in recent years more animals are being bought and sold under marketing arrangements where neither the arrangements nor the final purchase prices are publicly disclosed. Likewise, much of the information regarding the imports of lamb cuts is not being captured by the current market news reporting program. Because of this void in information available to producers, Congress passed the Livestock Mandatory Reporting Act of 1999 (Act) that requires development of this mandatory reporting program for livestock and certain products of livestock.

**Why Is Livestock Mandatory Reporting Needed?**

USDA estimates that under the current market news reporting program, 35-40 percent of cattle transactions, 75

percent of hog transactions and 40 percent of lamb transactions are not being reported. With fewer publicly reported marketing arrangements, it has become more difficult for producers to determine the actual prevailing purchase prices of livestock. By making the reporting of market information mandatory, USDA will facilitate price discovery, make the market more open and provide all market participants with market information that can be easily understood.

**Do I Have an Opportunity To Comment on This Document?**

No. This is the final rule. The public was able to submit comments on the proposed rule in both written and electronic form for 30 days after it was published in the **Federal Register** on March 17, 2000. USDA has reviewed the comments received and has made any necessary revisions to the rule. A discussion of public comments, including AMS's responses, is included in this final rule.

**What Segments of the Livestock and Meat Industry Are Required To Report Under This Final Rule?**

This final rule requires the reporting of market information by certain livestock packers, and livestock product processors and importers who annually slaughter an average of 125,000 cattle or 100,000 swine, or slaughter or process an average of 75,000 lambs. Importers who annually import an average of 5,000 metric tons of lamb meat are also required to report.

**What Market Information Does This Rule Require Packers and Importers To Report?**

Packers subject to this final rule are required to report the details of all transactions involving purchases of livestock (cattle, swine, and lambs), and the details of all transactions involving domestic and export sales of boxed beef cuts including applicable branded product, sales of boxed lamb cuts, including applicable branded product, and sales of lamb carcasses to the Agricultural Marketing Service (AMS). Importers are required to report information concerning the sales of imported boxed lamb cuts.

**How Often Will Packers and Importers Be Required To Report Information?**

These regulations specify that purchases of swine are to be reported three times each day, purchases of cattle reported twice each day, purchases of lambs reported once daily, domestic and export sales of boxed beef cuts, including applicable branded boxed

beef cuts, reported twice each day, sales of lamb carcasses and boxed lamb cuts, including applicable branded boxed lamb cuts, reported once daily, and sales of imported lamb cuts once weekly.

**Will AMS Publish Regional and Statewide Reports?**

Initially, the mandatory information of national importance will be provided in market news reports. AMS will start with the issuance of reports of national importance to ensure that confidentiality is preserved regarding the identity of persons, including parties to a contract, and proprietary business information. In time, when and where possible, these reports may be further refined and subdivided to reflect regional and, possibly, statewide markets.

**Will Guidance Be Provided To Assist Users in the Use of These New Mandatory Reports?**

The new mandatory reports are intended to accurately convey the information in the most understandable manner to producers and other market participants. An educational and outreach effort will be undertaken by AMS to facilitate the transition from voluntary market news reporting to mandatory market news reporting.

**What New Information Will This Reporting Provide to the Livestock and Meat Industry?**

In many instances, mandatory reporting will provide new information that has not been previously reported under the existing voluntary reporting program. USDA anticipates that this information will provide the basis for newly published market news reports, including reports covering the prior day swine market; forward contract and formula marketing arrangement cattle purchases; packer-owned cattle and sheep information; sales of imported boxed lamb cuts; and live lamb premiums and discounts.

**What Information Would Mandatory Reporting Cover That Is Already Being Reported Under the Voluntary Program?**

This would include negotiated, or cash, livestock purchases, sales of boxed beef and lamb cuts, and sales of lamb carcasses.

**Will the Mandatory Livestock Reports Duplicate Information in the Voluntary Reports?**

USDA anticipates that where duplication occurs, the market reports reflecting this information will continue to be published but the basis of the

market reports will become mandatory information.

**What Information Currently Being Reported for Livestock and Meat Will Not Be Affected by Mandatory Reporting?**

Many voluntary-based market news reports will not be affected by mandatory reporting, including reports covering livestock auction sales and packer sales of pork cuts and by-products, feeder cattle sales, feeder pig sales, and grain trading.

**How Will This Program Affect Those States That Have Mandatory Market News Laws?**

Several States have enacted legislation mandating, to various degrees, the reporting of market information on transactions of cattle, swine, and lambs conducted within a particular State. Currently, this includes the States of Iowa, Minnesota, Missouri, Nebraska, and South Dakota. Of these, only Minnesota and South Dakota are collecting mandated market information.

When USDA's Livestock Mandatory Reporting Program becomes effective, States are preempted from imposing mandatory reporting requirements that are in addition to or inconsistent with any requirement of the Act with respect to the submission, reporting or publication of information on the prices and quantities of livestock and livestock products. This preemption clause would affect all mandatory reporting programs currently in effect by the States and the implementation of any mandatory reporting programs currently developed, in the process of being developed, or that may be developed at a later date.

**How Will the Security of the Information Collected Be Ensured?**

The program developed to collect and manage data received from those entities required to report will ensure security of data transmission and storage, and confidentiality of information that is maintained by USDA. During program development, USDA will include industry participants, as well as technical experts, in discussions regarding issues surrounding data security and confidentiality.

**Does This Final Rule Implement All of the Requirements of the Livestock Mandatory Reporting Act of 1999?**

No. There are other sections of the Act that are not provided for in this final rule. Other sections of the Act pertaining to such areas as retail price reporting of beef, pork, lamb, chicken,

turkey and veal and export certificates will be announced in separate USDA initiatives.

**What Penalties Are Included for Violations of the Act?**

The Act specifies what constitutes violations, such as failure to report the required information on time or failure to report accurate information. The section on enforcement establishes a civil penalty—\$10,000—for each violation and provides for the Secretary's issuance of cease and desist orders. This section also provides for notice and hearing of violations before the Secretary, judicial review, issuance of an injunction or restraining order, and establishes a civil penalty for failure to obey a cease and desist order.

**What Changes Have Been Made From the Proposed Rule?**

Based on comments submitted and upon further review by AMS, the following changes and clarifications have been made in the final rule from the proposal.

*Codification in the Code of Federal Regulations.* This rule will establish and add a new Part 59 to Title 7 of the Code of Federal Regulations (CFR). Although the proposed rule referenced the establishment and addition of a new Part 57, upon further inspection by the Agency, it was determined that Part 59 of 7 CFR would be the appropriate codification of the final regulations.

*Boxed Beef and Lamb and Lamb Carcasses.* When reporting sales of boxed beef and lamb cuts and lamb carcasses, packers will not be required to report sales of product not sold at a carlot-based price (distributive trade), frozen boxed beef cuts (excluding beef trimmings, boneless processing beef, and cow product), distressed product, cuts in portion cut form (e.g. chops, steaks, etc.), and branded boxed beef and lamb cuts where the brand is based upon unique characteristics such as cutting style or packaging.

For sales of boxed beef cuts, the reporting requirements for "cut date", "buyer", and "destination" have been eliminated.

For sales of lamb carcasses and lamb cuts, the requirements for "cut date", "buyer", and "destination" have been eliminated. For sales of boxed lamb cuts, packers will now be required to report product "state of refrigeration".

*Imported Lamb Carcasses and Cuts.* Importers are not required to report market information on purchases of imported lamb carcasses and imported boxed lamb cuts or of purchases and sales of imported boxed lamb cuts in portion cut form (e.g. chops, steaks,

etc.). For the weekly boxed lamb sales reports, importers will not be required to report product 'nation of origin', but will now be required to report product 'state of refrigeration'.

*Live Cattle and Lambs.* Packers will not be required to report purchases from auction markets made either by a salaried employee of the packer or a person that buys on commission for a packer.

For cattle purchases, the requirement for reporting 'slaughter date' has been deleted.

The twice-daily requirement for the reporting of all purchases of live lambs in the proposed rule has been reduced to once daily reporting at 2:00 p.m. Central Time. The regulations were clarified to require that packers are required to report 'class of lamb' and 'pelt type' for live lamb purchases. Additionally, the weekly reporting of lambs that were slaughtered will no longer require packers to report 'shrink factor' and the reporting time for this report has been moved from the first reporting day to the second reporting day of the week.

*Live Swine.* For the daily reporting of swine that were slaughtered, packers will now be required to report 'average loin depth' on the 'prior day report'.

*Other Changes.* Other miscellaneous changes were made to the regulatory text in response to the comments received and upon further review by AMS, including the addition of several new definitions to clarify the meaning of terms used in the regulations.

## Overview

### Market News

The current voluntary market news program of the United States Department of Agriculture (USDA) Agricultural Marketing Service (AMS) for livestock and livestock products is authorized under the provisions of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*). In the Agricultural Marketing Act of 1946, Congress declared that a sound, efficient, and privately operated system for distributing and marketing agricultural products is essential. Furthermore, it is indispensable to the maintenance of full employment and to the welfare, prosperity, and health of the Nation. Agricultural products, capable of being produced in great abundance, must be marketed in an orderly manner and efficiently distributed. Some of the objectives of the Agricultural Marketing Act of 1946 are to improve marketing methods, reduce distribution costs, and narrow the price spread between the producer

and consumer. Under the Agricultural Marketing Act of 1946, the Market News Program provides for the collection and dissemination of information to facilitate the orderly and efficient marketing of agricultural products while aiding in the maintenance of farm income. Market News provides all market participants with the information necessary to make intelligent and informed marketing decisions.

Market News relies upon voluntary cooperation from the livestock, red meat, grain, and wool industry. In addition, Market News maintains voluntary working agreements with many States to cooperatively collect and disseminate market information. Market News reporters collect information daily by telephone, including talking directly with producers, packers, feedlot operators, retailers, distributors, brokers, and other industry participants. Reporters are on site at major livestock markets, gathering market information first hand. Regular trips are made to observe livestock in feedlots, on farms, ranches, and in packer holding pens. Meat packing and processing facilities are visited to observe current industry practices and conditions. Reporters attend industry meetings, seminars, and trade shows to keep abreast of the latest information. The information collected by reporters is included in reports that are available to all interested parties. These reports provide data on cattle, hog, sheep, and lamb sales, carlot meat sales of boxed beef, lamb, veal, and pork cuts, weekly wool and mohair sales, and grain and feed sales. Currently, there are a total of 800 individual reports that are released by Market News. Each day, the livestock and red meat industry uses these reports in conducting their business. Further, a wide range of users outside of and peripheral to the livestock and red meat industry depend on the information provided in these reports, including Federal and State governmental agencies, foreign governmental agencies, academia, analysts, and news media.

The Livestock Mandatory Act of 1999 (Act) was enacted into law on October 22, 1999 (Pub. L. 106-78; 113 Stat. 1188; 7 U.S.C. 1635-1636(h)) as an amendment to the Agricultural Marketing Act of 1946. The Act provides for the mandatory reporting of market information by federally inspected livestock processing plants which have slaughtered an average number of livestock during the immediately preceding 5 calendar years (125,000 for cattle and 100,000 for swine), including any processing plant that did not slaughter during the

immediately preceding 5 calendar years if the Secretary determines that the plant should be considered a packer based on the plant's capacity. For entities that did not slaughter during the immediately preceding 5 calendar years, such as a new plant or existing plant that begins operations, the 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.

The Act gives the Secretary the latitude to provide for the reporting of lamb information. AMS is requiring the reporting of market information by federally inspected lamb processing plants who have slaughtered an average of 75,000 head of lambs or processed an average of 75,000 lamb carcasses during the immediately preceding 5 calendar years. Additionally, a lamb processing plant that did not slaughter an average of 75,000 lambs or process an average of 75,000 lamb carcasses during the immediately preceding 5 calendar years will be required to report information if the Secretary determines the processing plant should be considered a packer based on its capacity. An importer of lamb that, for any calendar year, imported an average of 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years must report such lamb information as specified in these regulations. Additionally, an importer that did not import an average of 5,000 metric tons of lamb meat products during the immediately preceding 5 calendar years will be required to report information if the Secretary determines that the person should be considered an importer based on their volume of lamb imports.

These packers are required to report the details of all transactions involving purchases of livestock (cattle, swine, and lambs), and the details of all transactions involving domestic and export sales of boxed beef cuts, including applicable branded product, sales boxed lamb cuts, including applicable branded product, and sales of lamb carcasses. These importers are required to report the details of all transactions involving the sales of imported boxed lamb cuts. This information will be reported to AMS according to the schedule established by the Act and these regulations with purchases of swine reported three times each day, purchases of cattle and lambs reported twice each day, domestic and export sales of boxed beef cuts including applicable branded boxed beef cuts reported twice each day, sales

of lamb carcasses and boxed lamb cuts, including applicable branded boxed lamb cuts, to be reported once daily, and sales of imported lamb cuts once weekly.

In some instances, mandatory reporting will provide new information that has never been reported under the existing voluntary reporting program. AMS anticipates that this information will provide the basis for newly published market news reports not previously provided for under voluntary reporting, including reports covering the prior day swine market, forward contract and formula marketing arrangement cattle purchases, packer-owned cattle and sheep information, sales of imported boxed lamb cuts; and live lamb premiums and discounts. In other instances, mandatory reporting will provide information that is already being provided under voluntary reporting. This includes packer direct purchases of slaughter cattle, packer sales of boxed beef and lamb cuts including applicable branded boxed cuts, packer sales of lamb carcasses, and packer negotiated purchases of swine. In such cases the market reports reflecting this information will continue to be published but the basis of the market reports will become mandatory information. Lastly, many voluntary-based market news reports will not be affected by mandatory reporting, including reports covering livestock auction sales, packer sales of pork cuts and by-products, and grain trading.

Initially, the mandatory information will be reflected in market news reports of national importance. AMS will start with the issuance of reports of national importance to ensure the confidentiality is preserved regarding the identity of persons, including parties to a contract, and proprietary business information. In time, when and where possible, these reports may be further refined and subdivided to reflect regional and, possibly, statewide markets. Again, refinement and subdivision of reports will be made only where the confidentiality can be preserved regarding the identity of persons, including parties to a contract, and proprietary business information. In order to effectively address the statistical disclosure issues surrounding reporting of data elements below the national level, AMS has and will continue to consult with appropriate experts in the field of statistical disclosure limitation. AMS has and will continue to also include industry participants in discussions regarding confidentiality issues surrounding data aggregation and reporting.

The program developed to collect and manage data received from those entities required to report will ensure security of data transmission and storage, and confidentiality of information that is maintained by AMS. During program development, AMS has and will continue to include industry participants, as well as technical experts, in discussions regarding issues surrounding data security and confidentiality.

In all cases, AMS will continue to publish a mix of existing voluntary market reports along with the mandatory market reports where duplication and inferential disclosure (disclosing information in such a way that the identity of a respondent can be inferred) is not an issue. Any duplication has been resolved with the discontinuation of the voluntary report version.

#### *The Livestock Mandatory Reporting Act of 1999 (Act)*

The Act establishes a program of information regarding the marketing of cattle, swine, lambs and products of such livestock. AMS is responsible for implementing the mandatory reporting of market information on livestock and livestock products, which is contained in Sections 211 through 256 of the Act. The Sections on mandatory reporting of livestock are divided into five Chapters. Chapter 1 and Chapter 2, Definitions and Administration, respectively, apply to all species of livestock and livestock products required to be reported. Chapters 3, 4, and 5 apply to beef, swine, and lamb, respectively, and except for lamb, establish the requirements for mandatory reporting. AMS is implementing these sections of the Act through these regulations.

The Act also directs the Secretary to encourage continued voluntary reporting by packers to which these mandatory reporting requirements do not apply. Other Agencies in the Department are responsible for implementing the remaining sections of the Act. These sections include the following provisions. Section 257 of the Act provides for the compilation and monthly publication of retail prices of beef, pork, lamb, veal, chicken and turkey and the initiation of a meat price spreads report. The Act also contains Related Beef Reporting Provisions, Sections 921 through 924 which provides for export certificates for meat and meat food products, and obtain information on imports of beef, beef variety meats, and cattle. Related Swine Reporting Provisions, Sections 931 through 934 calls for improving the hogs and pigs inventory report, the collection

of information on barrow and gilt slaughter, and to conduct an average trim loss correlation study and prepare a report. Swine Packer Marketing Contracts, Sections 221 and 222 require the establishment and maintenance of a library or catalogue of swine packer marketing contracts offered to producers and a monthly report of contracted swine numbers.

#### Cattle

The Act requires that a cattle packer whose federally inspected plant slaughtered an average of at least 125,000 cattle per year for the preceding 5 calendar years, or did not slaughter cattle during the preceding 5 calendar years but is considered a packer based on plant capacity as determined by the Secretary, report market information to the Secretary. They are required to report the prices for each type of cattle purchase, categorized to clearly delineate imported from domestic market purchases, negotiated purchase, formula marketing arrangement, and forward contract, the quantity of cattle, categorized to clearly delineate imported from domestic market purchases, purchased on a live weight basis and a carcass basis, the weight, the quality grade, and premiums and discounts. This information will be reported twice a day not later than 10:00 a.m. and 2:00 p.m. Central Time. The Secretary will issue reports to the public of this information at least three times each day.

The Act further requires that a packer report marketing information not later than 9 a.m. Central Time on the first reporting day of each week for cattle bought by the type of purchase for the prior week. In addition, packers must report weekly information on the first reporting day not later than 9 a.m. Central Time for cattle purchased on a formula or contract marketing arrangement and slaughtered the prior week. The Secretary will issue a public report not later than 10 a.m. Central Time on the first reporting day of the current slaughter week.

The Act also mandates that the packer report information on boxed beef cut sales to the Secretary at least twice each reporting day not less frequently than once before and once after 12:00 noon Central Time. This information includes the price per hundredweight, the quantity in each lot of boxed beef cuts sold, information regarding the characteristics of each lot (i.e., domestic vs. export sale, USDA Quality Grade, etc.), the type of beef cut and the trim specification. The Secretary will report this information to the public twice each reporting day.

## Swine

The Act requires that a swine packer whose federally inspected plant slaughtered an average of at least 100,000 swine per year for the preceding 5 calendar years, or did not slaughter swine during the preceding 5 calendar years but is considered a packer based on plant capacity as determined by the Secretary, report market information to the Secretary.

The packer must report to the Secretary not later than 7:00 a.m. Central Time information on all swine purchased, priced, or slaughtered on the prior business day. The packer must report all purchasing data including the number of swine purchased, swine scheduled for delivery and the base price and purchase data for slaughtered swine for which a price has been established. The information also includes all slaughter data by class for the total number of swine slaughtered including information concerning the net price, average carcass weight, average sort loss, average backfat, average loin depth, average lean percentage, and total slaughter quantity. Packers reporting the average lean percentage must report the manner in which the average lean percentage is calculated as well as whenever a change in such calculation is made. In doing so, the packer shall make available to the Secretary the underlying data, applicable methodology and formulae, and supporting materials used to determine the average lean percentage, which the Secretary will convert to the carcass measurements or lean percentage of the swine of the individual packer to correlate to a common percent lean measurement. Additionally, the information to be reported includes packer purchase commitments, which shall be equal to the number of swine scheduled for delivery to a packer for slaughter each of the next 14 calendar days.

The Secretary will publish the information in a prior day report not later than 8:00 a.m. Central Time on the reporting day on which the information is received from the packer.

The Act also requires packers to report to the Secretary in the morning not later than 10:00 a.m. Central Time and in the afternoon not later than 2:00 p.m. Central Time each reporting day. The information to be reported is the same for the morning and afternoon reports and includes an estimate of (1) the total number of swine purchased by each method of pricing, (2) the total number of swine purchased up until the time of reporting, and (3) the base price paid for all negotiated purchases of

market hogs and the base price paid for each type of purchase of market hogs other than through a negotiated purchase. The Secretary will make the morning report available to the public not later than 11:00 a.m. Central Time and the afternoon report at 3:00 p.m. Central Time on each reporting day.

The Secretary will compile and issue a weekly noncarcass merit premium report on the first reporting day of the week not later than 5:00 p.m. Central Time. This report is prepared from information furnished to the Secretary by packers who must report not later than 4:00 p.m. Central Time on the first reporting day of the week. The information required includes each category of standard noncarcass merit premiums and the amount in dollars per hundred pounds of carcass weight paid to producers by the packer.

Further, the Act provides that the Secretary review the information required to be reported by packers at least once every two years. Also, the Act directs the Secretary to promulgate regulations that specify additional information to be reported by packers if the Secretary determines information currently reported does not accurately reflect the methods by which swine are valued or priced, or account for the fact that packers that slaughter a significant majority of the swine produced in the United States no longer use backfat or lean percentage factors as indicators of price.

## Lamb

The Act gives the Secretary the authority to establish a mandatory lamb price reporting program that will provide timely, accurate, and reliable market information. Through these regulations the Secretary is establishing a mandatory lamb price reporting program.

Although the Act does not specify the requirements for establishing a mandatory lamb price reporting program as it does for cattle and swine, AMS developed these requirements based upon its knowledge of the lamb industry and market information reporting of lamb under the voluntary reporting program. Following are the requirements for the mandatory lamb price reporting program.

A lamb packer whose federally inspected plant slaughtered or processed an average of at least the equivalent of 75,000 lambs each year for the preceding 5 calendar years will report to the Secretary once daily the price of each type of lamb purchase, negotiated purchase, formula marketing arrangements, forward contract, quantity of lamb purchased on live

weight or carcass weight, a range and average estimated live weights, quality grade, premiums and discounts, class type, pelt type, state of origin, and estimated dressing percentage. The Secretary will issue a report to the public on this information not less than once each day.

Lamb packers will be required to report to the Secretary on a weekly basis on the second reporting day of the week information from the prior week. This information will include the quantity and certain carcass characteristics of lambs purchased through a negotiated purchase, formula marketing arrangement or forward contract that were slaughtered, the quantity and carcass characteristics of packer owned lamb that were slaughtered. Reported information will include, by type of purchase, the quantity of lamb purchased on live weight and carcass weight basis that were slaughtered, the quality grade, premiums and discounts paid, and dressing percentage. In addition, a lamb packer will be required to report the quantity and basis level for forward contracts, the range and average of intended premiums and discounts, and the expected slaughter date.

The Secretary will make available to the public the information on the second reporting day of the current slaughter week.

Packers will report information on daily sales of carcass lamb and sales of boxed lamb cuts each reporting day. For sales of carcass lamb, the information will include prices for sales, the type of sale, the branded product characteristics, the quantity of each sale, the USDA grade, trim specification, weight range, and delivery period. For sales of boxed lamb cuts, the packer will report the same information plus the quantity of boxes of each cut, the weight range of each cut, and the product state of refrigeration. The Secretary will issue to the public a report on carcass lamb sales and boxed lamb cut sales once each reporting day.

For any calendar year, a lamb importer who imported an average of 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years will report to the Secretary weekly the prices received for imported lamb cuts sold on the domestic market. Additionally, an importer that did not import an average of 5,000 metric tons of lamb meat products during the immediately preceding 5 calendar years will also be required to report the above information, if the Secretary determines that the person should be considered an importer based on their volume of lamb imports.

Lamb importers will be required to report weekly, prices received for sales of imported boxed lamb cuts sold on the domestic market during the prior week including the quantity of each transaction, the type of sale, the branded product characteristics, the product state of refrigeration, the cut of lamb, the trim specification, the cut weight range, and the product delivery period.

#### **Other Provisions of the Act Involving Administration**

The administrative provisions of the Act set forth the requirements for maintaining confidentiality regarding the packer reporting of proprietary information and lists the conditions under which Federal employees can release such information. These administrative provisions also establish that the Secretary can make necessary adjustments in the information reported by packers and take action to verify the information reported, and directs the Secretary to report and publish reports by electronic means to the maximum extent practical. The Act provides for what constitutes violations of the Act, such as failure to report the required information on time or failure to report accurate information.

The section on enforcement establishes a civil penalty—of not more than \$10,000—for each violation and provides for the Secretary's issuance of cease and desist orders. This section also provides for notice and hearing of violations before the Secretary, judicial review, issuance of an injunction or restraining order, and establishes a civil penalty for failure to obey a cease and desist order.

The fees section directs the Secretary to not charge or assess fees for the submission, reporting, receipt, availability, or access to published reports or information collected through this program.

The section on recordkeeping requires each packer to make available to the Secretary on request for 2 years 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 livestock products, as well as such records or other information that is necessary or appropriate to verify the accuracy of information required to be reported. Also, the Act provides that reporting entities are not required to report new or additional information that they do not generally have available or maintain, or the provisions of which would be unduly burdensome.

Further, the Act provides that the Secretary may suspend any requirement if the Secretary determines that the application of the requirement would be inconsistent with the Act.

#### **Final Rule, New Part 59 of Title 7**

This rule will establish and add a new Part 59 to Title 7 of the Code of Federal Regulations, implementing the mandatory livestock reporting provisions of the Act. Accordingly, these regulations include appropriate definitions; a description of which entities are required to report market information; a description of what information they will report, when they will report, and how they will report; a description of what information the Secretary will make available to the public and when this information will be made available; an explanation of what records will be required to be maintained and made available to the Secretary.

#### **General Provisions**

Part 59 implements the provisions of the Act. Subpart A of Part 59, General Provisions, covers those requirements pertinent to all aspects of mandatory reporting. Section 59.10 details how packers and importers will be required to report information and how reporting will be handled over weekends and holidays. Electronic reporting is required for all information collection. Electronic reporting will involve the transfer of data from a packer's or importer's existing 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 will be aggregated and processed into various market reports that will be released according to the daily and weekly time schedule set forth in these regulations.

Section 59.10 also outlines the requirements for regional reporting and aggregation by the Secretary, adjustments in information by the Secretary, and lists reporting exemptions.

Section 59.20 identifies the recordkeeping requirements imposed by the Act and these regulations on packers and importers. Reporting packers and importers are required to maintain and to 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. In addition, they are required to maintain such records or other information as is necessary or appropriate to verify the accuracy of the information required to be reported under these regulations. All of the above mentioned paperwork must be maintained by packers and importers for at least 2 years. Further, packers are required to maintain a record of the time of day a lot of cattle, swine, or lambs was purchased, either before 10:00 a.m. Central Time, between 10:00 a.m. and 2:00 p.m. Central Time, and after 2:00 p.m. Central Time. However, to allow packers and importers time to collect, assemble and submit the information to AMS by the prescribed deadlines, all covered transactions up to within one half hour of the specified reporting times will be reported.

Lastly, under Subpart A, § 59.30 establishes general definitions of terms used throughout the regulations, which are applicable to all subparts.

#### *Cattle*

Subpart B of Part 59 states what is required to be reported in the cattle and boxed beef sectors. § 59.100 establishes definitions of cattle terms used in Subpart B including the definition of packer which identifies which entities are required to report under this rule. In any calendar year, the term cattle packer includes any federally inspected cattle plant which slaughtered an average of 125,000 head of cattle a year for the immediately preceding 5 calendar years. Additionally, the term includes any processing plant that did not slaughter cattle during the immediately preceding 5 calendar years if the Secretary determines that the plant should be considered a packer based on its capacity.

For entities that did not slaughter cattle during the immediately preceding 5 calendar years, such as a new plant or existing plant that begins operations, the 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.

Section 59.101 discusses the daily reporting requirement for live cattle transactions including what information will be reported, when it will be reported, and when it will be published. Cattle plants covered under the rule will report the details of their cattle purchases twice each day to AMS (once by 10:00 a.m. Central Time, and once by 2:00 p.m. Central Time) and will include all covered transactions made up to within one half hour of the

specified reporting time. Packers completing transactions during the one half hour prior to the previous reporting time will report those transactions at the next prescribed reporting time. The Secretary will publish the information not less than three times each day. Section 59.102 discusses the same types of requirements for weekly live cattle reporting. Packers are required to report information regarding the prior slaughter week on the first reporting day of each week by 8:00 a.m. Central Time. This information will be published by the Secretary on the same day by 10:00 a.m. Central Time. Finally under Subpart B, § 59.103 details the information required to be reported concerning sales of boxed beef cuts including what will be reported, when it will be reported, and when it will be published. Cattle plants producing boxed beef cuts are required to report their domestic and export sales of boxed beef cuts including applicable branded boxed beef cuts to AMS twice each reporting day, once by 10:00 a.m. Central Time and once by 2:00 p.m. Central Time, including all covered transactions made up to within one half hour of the specified reporting time. Cattle plants completing transactions during the one half hour prior to the previous reporting time will report those transactions at the next prescribed reporting time. This information will be published twice each day by the Secretary. These plants are required to reference the Institutional Meat Purchase Specifications (IMPS) for Fresh Beef Products Series 100, United States Department of Agriculture, Agricultural Marketing Service, Livestock and Seed Program, when applicable.

#### *Swine*

Subpart C of Part 59 lists the requirements of swine reporting beginning with § 59.200 which establishes definitions for terms used throughout the subpart, including the definition of packer which identifies which entities are covered under the regulations. In any calendar year, the term swine packer includes any federally inspected swine plant which slaughtered an average of 100,000 head of swine a year for the immediately preceding 5 calendar years. Additionally, the term includes any processing plant that did not slaughter swine during the immediately preceding 5 calendar years if the Secretary determines that the plant should be considered a packer based on its capacity.

For entities that did not slaughter swine during the immediately preceding

5 calendar years, such as a new plant or existing plant that begins operations, the 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.

Section 59.202 discusses the daily reporting requirement for live hog transactions including what information will be reported, when it will be reported, and when it will be published.

Swine packers required to report under this rule will report the details of their swine purchases three times each day including a prior day report not later than 7 a.m. Central Time, a morning report not later than 10 a.m. Central Time, and an afternoon report not later than 2 p.m. Central Time, including all covered transactions made up to within one half hour of each specified reporting time. Packers completing transactions during the one half hour prior to the previous reporting time will report those transactions at the next prescribed reporting time. This information will be published by the Secretary each reporting day not later than 8 a.m. Central Time, 11 a.m. Central Time, and 3 p.m. Central Time, respectively. Section 59.203 details the requirements for reporting weekly swine information to AMS including what will be reported, when it will be reported, and when it will be published. On the first reporting day of each week, not later than 4 p.m. Central Time, packers are required to report information on noncarcass merit premiums used and paid to producers during the prior slaughter week by category. This information will be published on the first reporting day of each week not later than 5 p.m. Central Time.

#### *Lamb*

Subpart D of Part 59 covers the mandatory reporting of lambs. Section 59.300 provides definitions for terms used throughout Subpart D including definitions for packer and for importer which identifies which entities are required to report under this rule. For any calendar year, the term lamb packer includes only a federally inspected lamb processing plant which slaughtered or processed the equivalent of an average of 75,000 head of lambs a year for the immediately preceding 5 calendar years. Additionally, the term includes any processing plant that did not slaughter or process an average of 75,000 lambs during the immediately preceding 5 calendar years if the Secretary determines that the plant should be considered a packer based on the

slaughter or processing capacity of the plant.

For entities that did not slaughter lambs during the immediately preceding 5 calendar years, such as a new plant or existing plant that begins operations the 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 any calendar year, the term lamb importer includes any importer that imported an average of 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years. Additionally, for any calendar year, the term importer includes any lamb importer that did not import an average of 5,000 metric tons of lamb meat products during the immediately preceding 5 calendar years if the Secretary determines that the person should be considered an importer based on their volume of lamb imports.

For importers of lamb carcasses and cuts, AMS will annually review import lamb volume data obtained from the United States Customs Service to determine which importers are required to report imported boxed lamb cut sales information under these regulations.

Entities that slaughter or process the equivalent of 75,000 lamb per year represent nearly all lamb packers and processors that currently report market information to AMS under voluntary reporting. The lamb packer definition varies from the definition of a cattle packer and swine packer in that it includes entities that process as well as slaughter. The trading of lamb carcasses continues to be a mainstay of the industry and many of the major processors of lamb carcasses into boxed lamb cuts do not slaughter but, rather, purchase carcasses from slaughterers. The 75,000 head per year provision for both slaughterers and processors was included to ensure comprehensive coverage of the lamb carcass and boxed lamb cut markets, similar to what is currently being reported to AMS under voluntary reporting.

Because imported products comprise 31% of the U.S. market and can affect prices for domestic lamb, lamb importers were included for more complete information on lamb meat products being imported into the U.S., including the types, quantities, and prices of these products.

Section 59.301 covers the daily reporting requirements for live lamb transactions including what will be reported, when it will be reported, and when it will be published. Lamb plants

covered under the rule will report the details of their live lamb purchases once each day to AMS, to include all covered transactions made up to within one half hour of the specified reporting time. Lamb plants completing transactions during the one half hour prior to the previous reporting time will report those transactions at the next prescribed reporting time. The Secretary will publish this information not less than once each day. Section 59.302 covers the same type of information for weekly reporting of live lamb transactions. Packers are required to report information regarding the prior slaughter week on the second reporting day of each week to be published by the Secretary on the same day. Finally, § 59.303 covers the reporting requirements for transactions of lamb carcasses and boxed lamb cuts including what will be reported, when it will be reported, and when it will be published. Packers are required to report details of their transactions of carcass lambs once each day and the Secretary will publish the information once each day. Packers are required to report details of their sales of boxed lamb cuts, including applicable branded product. This information will be published once each day. These plants are required to reference the Institutional Meat Purchase Specifications (IMPS) for Fresh Lamb and Mutton Series 200, United States Department of Agriculture, Agricultural Marketing Service, Livestock and Seed Program, when applicable.

Importers of boxed lamb cuts are required to report the required information of their prior week sales of imported boxed lamb cuts on the domestic market, including applicable branded product on the first reporting day of each week and this information will be published by the Secretary on the same day.

#### OMB Control Numbers

Subpart E of Part 59 covers the OMB control number 0581-0186 assigned pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) for the information collection requirements listed in Subparts B through D of Part 59. All required information must be reported to AMS in a standardized format. The standardized format is embodied in 16 OMB-approved data collection forms. Copies of these 16 forms are included in Appendix E at the end of this document. Cattle packers will utilize six of these forms (Appendix A) when reporting information to AMS including two for daily cattle reporting (LS-113 and LS-114), three for weekly cattle reporting (LS-115, LS-116, and

LS-117), and one for daily boxed beef cuts reporting (LS-126). Swine packers will utilize three forms (Appendix B), two for daily reporting of swine purchases (LS-118 and LS-119) and one for weekly reporting of non-carcass merit premium information (LS-120). Lamb packers will utilize seven of these forms (Appendix C) when reporting information to AMS including two for daily lamb reporting (LS-121 and LS-122), three for weekly lamb reporting (LS-123, LS-124, and LS-125), one for daily and weekly boxed lamb cuts reporting (LS-128) and one for daily and weekly lamb carcass reporting (LS-129). Lamb importers will utilize one of these forms when reporting information to AMS on weekly imported boxed lamb cut sales (LS-128).

#### Appendices

The final section of this document contains a series of five appendices. These appendices will not appear in the Code of Federal Regulations. The first three appendices, Appendices A to C, have already been discussed above. They describe the forms that will be used by those required to report information under this program. Appendix D contains guidelines for those entities required to report information on how to use the forms. The forms are contained in Appendix E.

## II. Comments and Responses

On March 17, 2000, AMS published a proposed rule in the **Federal Register** and invitation for comment (NPRM)(65 FR 14652-14691) establishing a mandatory program of reporting information regarding the marketing of cattle, swine, lambs, and products of such livestock under the Act. Comments were accepted for the 30-day period beginning March 17, 2000 and ending April 17, 2000. AMS received 703 comments covering a wide range of issues and concerns. The following is a breakdown of the commenters by type:

Commenter classification	Number
Packer-processor .....	36
Packer employee <sup>1</sup> .....	581
Livestock producer .....	29
Importer .....	6
Packer advocate .....	5
Producer advocate .....	35
Governmental agency .....	9
Trading company/academia .....	2
<b>Total</b> .....	<b>703</b>

<sup>1</sup> Includes 533 form letters sent in 10 separate comments and 48 form letters sent in 48 separate comments.

Specific comments are discussed in detail below.

#### Comments Relating to Cost Burden and Recordkeeping

##### Validity of Cost Burden Estimates

*Summary of Comments:* AMS received 468 comments concerning the validity of the cost burden estimates for implementing mandatory reporting in the propose rule. Four commenters agreed with AMS's estimate of the cost burden of mandatory reporting in the proposed rule. However, most commenters questioned AMS's cost burden estimates suggesting that the estimates were understated. Numerous commenters argued that the cost burden associated with mandatory reporting on small entities amounted to an economic hardship that would either force them to close their operations, sell out to a larger firm, or require they pass these additional costs on to producers and consumers which could negatively impact domestic markets for livestock and livestock products.

Many commenters offered a wide range of cost burden estimates for mandatory price reporting. These estimates ranged from \$5,000 to \$6,560,000, and included initial start-up costs and annual costs of compliance. The estimated initial setup costs ranged from \$15,000 to \$700,000 with most of the setup cost estimates ranging from \$30,000 to \$75,000. Estimates for annual operating costs ranged from \$5,000 to \$400,000 with most of the estimates ranging from \$40,000 to \$105,000. A few commenters submitted industry cost estimates on a cost per head basis, as a cost multiple of the AMS cost estimates, and on an hourly basis.

A few commenters suggested that AMS could reduce the reporting cost burden by changing some of the reporting requirements of the proposed rule. They recommended allowing lot aggregation, exempting branded boxed beef and lamb cuts, exempting lots of livestock consisting of fewer than 50 head, and exempting information which AMS would not be able to publish in reports due to confidentiality concerns as examples of reporting requirements that could be eliminated.

*Agency Response:* AMS's cost estimates along with the supporting assumptions and methodology used were stated in the proposed rule. These supporting assumptions and methodology used appeared in the Regulatory Impact Analysis, Regulatory Flexibility Analysis, and Paperwork Reduction Act Analysis sections of the proposed rule. The commenters did not provide any detailed supporting data and information on the methodology used in formulating their cost estimates or any information that would enable

AMS to determine how they derived their cost estimates. However, we do note that the wide range of estimates does raise concerns as to what assumptions and methodology were used by the commenters.

AMS believes that one explanation for the reason why some estimates submitted by commenters exceeded the estimates made by AMS is that commenters were estimating the costs of developing systems that far exceeded the minimum requirements of a system that would fulfill these regulations. Additionally, AMS believes that some commenters may have included other costs associated with normal recordkeeping and accounting practices that are already required by existing regulations for those engaged in the livestock and meat packing and importing industries and therefore are not new costs being required by the implementation of these regulations.

Nonetheless, AMS has carefully reviewed its analysis of the cost burden estimates for mandatory reporting using the same assumptions and methodology used in the proposed rule. In this regard, we have added tables in the Regulatory Impact Analysis, Regulatory Flexibility Analysis, and Paperwork Reduction Act Analysis sections of this final rule which even more clearly itemize the supporting assumptions and methodology used by AMS in formulating our cost estimates. Further, we have adjusted our cost estimates where appropriate.

Therefore, AMS believes we have done as comprehensive of an analysis as possible of the cost burden imposed by these regulations on those required to report.

AMS does not agree that allowing lot aggregation, exempting branded boxed beef and lamb cuts, or exempting lots of livestock consisting of fewer than 50 head as reporting requirements would reduce the cost burden on the industry. Eliminating these requirements will not have any effect on reducing the number of forms that are included in AMS's estimated reporting cost burden because the suggested changes are not unique to any one form. The amount of time required to submit the forms will not be result in any significant time savings as AMS expects all data submission to be accomplished through electronic means. These changes will not reduce the number of respondents required to report as none of the respondents are limited to selling only branded boxed beef and lamb cuts and buying livestock in lots of 50 head or less. Lastly, allowing respondents to aggregate information on lots of livestock prior to submission will require them to spend

additional time to sort and aggregate the information, resulting in an increased time burden.

AMS does agree, however, that exempting entire product categories would reduce the annual cost burden on the industry. Specifically, eliminating entire product categories will reduce the number of responses specified in the Paperwork Reduction Act section of the proposed rule.

According to § 251(d)(3) of the Act, the Secretary shall make information obtained under this program available to the public only if it conforms to aggregation guidelines established by the Secretary. Pursuant to § 251(d)(3), the Secretary has established the following guidelines: Submitted information will only be published by USDA if (a) it is obtained from no fewer than 3 packers or importers representing a minimum of three companies, (b) the information from any one packer or importer represents not more than 60 percent of the information to be published, and (c) AMS does not have any reason to believe the information cannot be reported in a manner that protects the confidentiality of the source packer.

Because there is only one entity engaged in the business of purchasing imported lamb carcasses, AMS cannot report this information without disclosing the identity of the entity reporting. By requiring this entity to report its purchases of imported lamb carcasses that AMS would be unable to publish, the Agency believes this requirement would be an unnecessary burden placed upon the entity.

Accordingly, in this final rule, importers are not required to report market information on purchases of imported lamb carcasses. Consequently, the estimated annual reporting burden for Form LS-129—Lamb Carcass Report has been reduced by 43 hours or \$860 per year. The total cost burden for lamb carcass reporting in this final rule has been adjusted accordingly.

Nevertheless, if a sufficient number of entities enter the business of importing lamb carcasses that AMS believes it would be able to publish the information obtained, AMS intends on initiating rulemaking to amend these regulations to require the reporting of information by importers on purchases of imported lamb carcasses.

Additionally, in contrast to the proposed rule, this final rule will not require lamb importers to report their purchases of imported boxed lamb cuts. Although the proposed regulations required lamb importers to report both their purchases and sales of imported boxed lamb cuts, the Agency has

determined that because the reporting of lamb cuts sold in portion cut form (e.g., chops, steaks, etc.) are not to be reported for either domestic or imported lamb, the reporting of both the purchases and sales of imported boxed lamb cuts would not provide a significant amount of additional market information over what will be obtained by only requiring importers to report information on their sales of imported boxed lamb cuts not sold in portion cut form.

AMS had originally intended to obtain market information concerning the purchases and sales of imported boxed lamb cuts in an effort to disseminate more complete market information concerning the prices being paid and received for imported lamb meat products entering the U.S. market. However, because packers and importers are exempt from reporting information concerning any boxed lamb cuts sold in portion cut form, the only product lamb importers produce from the processing of imported boxed lamb cuts not in portion cut form, AMS determined that requiring the reporting of this information was not necessary as these products could be processed into portion cut form before export to the United States, thereby being exempt from these reporting provisions. Further, information concerning the volume and value of imported boxed lamb cuts that are not sold in portion cut form from importers who buy and sell imported boxed lamb cuts not in portion cut form, this information is already being obtained by the requirement that importers report the prices they receive for their sales of those products.

#### Electronic Reporting of Information

*Summary of Comments:* Twenty-one commenters supported electronic reporting of market news information. They believed that electronic reporting would facilitate aggregation and dissemination and would reduce the cost burden associated with paperwork. A few commenters recommended that rarely should AMS grant packers and importers exemptions from electronic reporting. A few commenters also wanted to see the system designed to eventually handle real-time reporting. One commenter suggested AMS develop and make available web-based input forms for submitting data online.

*Agency Response:* AMS agrees with the points raised by the commenters regarding electronic data submission. AMS's own estimates of cost burdens indicated that the cost of submitting information by any method other than electronic would be cost-prohibitive, error prone, and unsecured. For the

same reasons, AMS will grant exceptions to electronic reporting only in emergency cases such as power failures or loss of Internet accessibility. AMS will also provide web-based input screens as an alternative option for entities to use when submitting information. AMS computer specialists have conducted on-site visits over the past year to many packers who will be required to report to discuss and evaluate electronic recordkeeping systems employed by the industry.

AMS understands commenter's concerns about their ability to comply with these reporting requirements in a timely, accurate manner, in order to avoid any enforcement penalties. This is particularly important in the context of an untested, electronic reporting process and disparate computing resources among reporting entities. AMS further understands that unforeseen technical difficulties may occur during the implementation of this rule which may, in some cases, prevent full compliance. Recognizing these concerns and acknowledging our responsibility to provide flexibility in dealing with small business as directed by the President in the 1995 Regulatory Reform—Waiver of Penalties and Reduction memorandum, entities acting in good faith in attempting to establish a data transfer technology and reporting process that will comply with the electronic reporting requirements will not be penalized under the enforcement provisions.

To further assist the industry in achieving compliance, educational and outreach sessions will be held around the country immediately upon publication of this final rule. In these sessions, AMS will actively assist each reporting entity in understanding how their information technology infrastructures and related resources should be configured in order to ensure interoperability with the electronic transaction system developed by AMS. AMS will document and provide the reporting entities with standards and protocols associated with the transaction. Among other topics, these sessions will also provide information on implementing and using digital certificates, acceptable submission formats, the newly designed web-based input method, output report designs, data aggregation guidelines, and AMS' electronic transaction system. In addition, AMS plans to beta test the technology to implement the rule during the time between publication of this final rule and its effective date and all entities required to report will be encouraged to participate in the beta testing program. Any feedback received

during this outreach and testing period will be used to revise the reporting requirements, input and output formats, and process accordingly.

In response to the comment concerning AMS developing and making available a web-based input forms for submitting data online, AMS found that some of the smaller entities covered under mandatory price reporting would benefit from such a web-based submission system. Accordingly, AMS is developing such a system that will be ready in time for program implementation.

#### Maintenance of Records

*Summary of Comments:* AMS received 4 comments expressing concern that many of the records required for submission under mandatory price reporting are not normally maintained by their operation and argued that the requirement of such records is contrary to the intent of the Act.

*Agency Response:* The Agency has tried to make the records required to be submitted and maintained under this final rule the minimum needed to achieve the objectives of the Act. Further, based upon AMS's knowledge of common industry practices and in being consistent with the requirements of the Act, these regulations do not require the reporting of any new or additional information that is either not generally available or maintained by packers or the provision of which would be unduly burdensome.

#### Retention of Records

*Summary of Comments:* Five comments suggested that the 2-year record retention requirement for packers covered under mandatory price reporting be changed. They recommended that packers be required to maintain records for up to 10 years so that the records would be available for investigation purposes.

*Agency Response:* A 2-year recordkeeping requirement is required by § 255(a) of the Act.

#### Maintenance of Records of Oral Agreements

*Summary of Comments:* AMS received 9 comments recommending that packers be required to maintain data on oral agreements and verbal contracts. The commenters expressed concern that no provision was made in the proposed rule for clarifying how records of such transactions would be maintained.

*Agency Response:* Section 255(a)(2) of the Act requires packers to maintain such records or other information as is

necessary or appropriate to verify the accuracy of the information required to be reported, including verification of oral agreements and verbal contracts of any transaction required to be reported under mandatory price reporting.

#### Comments Relating to Reporting Timeframes

##### Prior Day Swine Reporting

*Summary of Comments:* AMS received 27 comments regarding the proposed prior day swine reporting time of 7:00 a.m. Central Time (§ 57.202(a) of the proposal and § 59.202(a) of this final rule). Fourteen commenters supported this reporting requirement as being satisfactory to ensure timely availability of market information. Thirteen commenters argued that the requirement to report prior day swine information at 7:00 a.m. Central Time daily would not allow packers sufficient time to collect, audit, and review information prior to submission, thereby increasing the chance for error and the potential liability for penalties. These commenters stated that this requirement was unrealistic because the required information is not available in a complete and accurate form until later in the day. A few commenters stated they would have to hire additional personnel and alter their normal work schedules in order to comply with the 7:00 a.m. Central Time prior day swine reporting requirement. Commenters located in the Pacific Time zone stated that they would be particularly burdened by this requirement by being 2 hours behind the Central Time zone specified reporting times. Two commenters stated that their business day did not begin until after the required 7:00 a.m. Central Time reporting requirement for prior day swine information.

*Agency Response:* The time requirements for the reporting of prior day swine information are in accordance with the Act (section 232(c)(1)(B)) and this final rule reflects that provision of the Act. Nonetheless, information not available in time for the prior day swine reporting should be reported, and will be published, as a part of the next report.

##### Prior Slaughter Week Cattle Reporting

*Summary of Comments:* AMS received 5 comments stating that the 9:00 a.m. reporting time on the first reporting day of the week for prior slaughter week data (§ 57.102(c) of the proposal) for reporting cattle was unrealistic since complete information would not be available. They argued that, because standard industry practice

was to have cattle that are slaughtered on Friday and Saturday graded on Monday, all of the information required would not be available or even known until Tuesday at the earliest. These commenters recommended that the required reporting day be moved to later in the week.

*Agency Response:* The time requirements for the reporting of prior slaughter week cattle information are in accordance with the Act (section 222(d)(1) and (2)) and this final rule reflects those provisions of the Act. Nonetheless, information not available in time for the prior slaughter week reporting should be reported, and will be published, as a part of the next report.

#### Reporting Trades Within 30 Minutes of Reporting Times

*Summary of Comments:* AMS received 2 comments stating that it was impossible to report all trades occurring within 30 minutes of the 10:00 a.m. and 2:00 p.m. proposed reporting times. They argued that this requirement would disrupt their procurement practices by forcing their buyers to discontinue their purchases.

*Agency Response:* The 10:00 a.m. and 2:00 p.m. reporting time requirements for reporting purchases of cattle and swine are consistent with the provisions of the Act. The 2:00 p.m. reporting time requirement for reporting purchases of lambs is set by regulation in accordance with § 241 of the Act which authorizes the Secretary to establish a program of mandatory price reporting program for lamb and lamb products. The 2:00 p.m. reporting time was chosen to be consistent with the reporting times for cattle and swine and is consistent with current industry practice under the existing market news program.

The requirement to report all covered purchases up to one half hour of the set reporting time (§ 59.10(b)) allows time for preparing and transmitting the required information prior to the set deadline and provides for purchases made in the interim 30 minutes to be reported at the next reporting time.

#### Reporting Times for Boxed Beef

*Summary of Comments:* AMS received one comment objecting to the reporting times of 10 a.m. and 2 p.m. Central Time for boxed beef. The commenter argued that the Act only required that box beef sales be reported prior to 12 noon and once after 12 noon.

*Agency Response:* The Act provides that information on boxed beef will be reported twice daily, once before 12 noon and once after (§ 223(a)). In the proposed rule, AMS required that

reporting be completed by 10 a.m. and 2 p.m. Central Time. These times reflect the boxed beef report publishing times that have been in effect for a number of years under voluntary reporting. These times are deemed to be appropriate because they reflect current industry practice and provide the needed time to prepare and transmit information to AMS.

#### Reporting Times for Lamb Purchases

*Summary of Comments:* AMS received 4 comments expressing concern over the twice-daily reporting requirement for live lamb (§ 57.301(a) of the proposal). The commenters suggested that this requirement for twice daily reporting of live lamb purchases be changed to reporting once per day reporting at 2 p.m. Two of these commenters also expressed concern over the proposed requirement to report prior slaughter week data at 9 a.m. on the first reporting day of the week (§ 57.302(a) of the proposal). They argued that this information is typically not available until Tuesday for formula and contract sales of livestock. They proposed that the requirement be changed from the first reporting day of the week to a later day.

*Agency Response:* The Act authorizes the Secretary to establish a program of mandatory lamb price information reporting. However, unlike the sections dealing with cattle and swine, § 241 of the Act does not mandate reporting timeframes. AMS has reviewed the comments specific to lamb reporting time frames in the proposed rule and has made the following changes in this final rule. Under § 59.301(a), AMS has changed the requirement for mandatory daily reporting of lamb from twice per day at 10 a.m. and at 2 p.m. Central Time, as proposed, to once per day at 2 p.m. Central Time. Under mandatory weekly reporting of lambs (§ 59.302(a)), AMS has changed the required reporting day for reporting prior slaughter week information from 9 a.m. Central Time on the first reporting day of the week to 9 a.m. Central Time on the second reporting day of the week. These changes will bring the proposed regulations more in line with current industry practices and will lessen the burden on those entities required to report while continuing to ensure complete, accurate, and timely access to market information. Section 59.301(a) and § 59.302(a), respectively, have been revised accordingly.

#### Reporting Times for Boxed Lamb Cuts and Lamb Carcasses

*Summary of Comments:* AMS received 2 comments stating that the

daily requirement for reporting of lamb carcasses and boxed lamb cuts (§ 57.303(a) of the proposal) was not necessary because prices are set on a weekly basis and remained in effect for the entire week.

*Agency Response:* AMS has determined that, while prices for all trading during a given week may be set on a weekly basis, trading occurs on a daily basis. Furthermore, the day of the week on which the lamb carcass market is established is not always the same day. AMS believes that changing the required reporting to once weekly would not achieve the objectives of the Act. For these reasons this suggestion is not adopted.

#### Actual Time Stamping

*Summary of Comments:* AMS received 7 comments suggesting that packers be required to maintain the exact time that each transaction took place instead of by one of the 3 proposed time blocks (before 10 a.m. Central Time, between 10 a.m. and 2 p.m. Central Time, and after 2 p.m. Central Time).

*Agency Response:* Section 255(c) of the Act requires that each reported transaction evidence the time that the transaction took place by one of 3 time blocks (before 10 a.m. Central Time, between 10 a.m. and 2 p.m. Central Time, and after 2 p.m. Central Time). Accordingly, this suggestion is not adopted.

#### Comments Relating to Reporting Units

##### Lot Aggregation

*Summary of Comments:* AMS received 37 comments pertaining to reporting lot size. Eleven commenters suggested that packers should be allowed to aggregate lots of livestock sharing a common price or aggregate lots sharing the same price, specification, and purchase terms prior to reporting the required information to AMS. Two of these same commenters felt that aggregation should only be for lots sharing the same price. Six commenters suggested that small lots of livestock, particularly cows and bulls, be exempted from the reporting requirements. They pointed out that most cows and bulls were purchased one head at a time, largely through auctions, and believed the burden of reporting each transaction outweighed the marginal value of the information on individual animals.

Nine commenters supported reporting transactions by lot as proposed.

Eleven commenters recommended that AMS exempt sales of boxed beef and boxed lamb from the reporting

requirement under a minimum number of boxes or a minimum weight range (e.g. 100–200 boxes or 6,000–20,000 pounds).

*Agency Response:* AMS does not believe that its proposed rule should be modified based on these comments. Section 251(c) of the Act requires a packer to report all information obtained under this part on an individual lot basis. Further, § 212 defines a lot as: “The term ‘lot’ means a group of one or more livestock that is identified for the purpose of a single transaction between a buyer and a seller.” Similarly, with respect to the comments concerning boxed beef and lamb, information on such sales, regardless of the number of boxes or weight range, must be reported. However, as discussed elsewhere in this section, with respect to purchases made at auction markets, such purchases do not need to be reported. Accordingly, these suggestions are not adopted.

#### Distributive Sales

*Summary of Comments:* Five commenters recommended transactions of boxed beef, boxed lamb and lamb carcasses of less than carlot volume, commonly referred to in the industry as “distributive sales”, be exempted from the reporting requirement. AMS understands distributive sales to be sales of boxed beef destined for more than two delivery stops, and sales of boxed lamb, and lamb carcasses destined for more than three delivery stops. These commenters expressed a concern that the reporting of such transactions would unfairly expose the business practices of small business entities to larger competitors thus placing the smaller entities at a disadvantage in the marketplace. Distributive sales are largely comprised of unique, value-added products where prices often reflect added customer services.

*Agency Response:* Because of the uniqueness of the distributive trade, relatively small percentage such trades represent of all boxed beef sales, and negative effect the inclusion of such unrelated information would have on the aggregated reports AMS would publish, it was never AMS’s intention that the information concerning the distributive trade would be included in this program as AMS believes the reporting of such information is not contemplated by the Act.

To clarify that distributive sales are not to be reported, in this final rule, AMS has included definitions of a carlot of boxed beef, boxed lamb, and lamb carcasses. For purposes of boxed beef cuts reporting, a carlot is any

transaction between a buyer and a seller involving 2 or less delivery stops consisting of one or more individual boxed beef items. For lamb carcasses and boxed lamb cuts reporting, a carlot is any transaction between a buyer and a seller involving 3 or less delivery stops consisting of one or more individual boxed lamb cuts or any combination of carcass weights. By adding these definitions, AMS has clarified the regulations concerning reporting of distributive trade of boxed beef and boxed lamb cuts and lamb carcasses. Sections 59.100 and 59.300 of these regulations have been revised accordingly.

#### Packer Thresholds

*Summary of Comments:* Twelve comments were received concerning the thresholds that were established by the Act and AMS to determine who is a packer or importer for the purposes of mandatory reporting.

Three commenters believed the proposed thresholds were accurate and opposed any changes and nine commenters supported changes to the proposed thresholds.

Of the nine who supported changes to the proposed thresholds, 5 commenters expressed the concern that the lamb import threshold of 5,000 metric tons and the domestic lamb packer threshold of an average 75,000 head per year for each of the preceding 5 years were not comparable. These commenters felt that the threshold for lamb importers was set too high in relation to the domestic packer threshold and should be lowered to insure adequate coverage of the imported lamb market. These commenters also suggested that all importers of lamb, regardless of size, be required to report.

The four remaining comments addressed separate issues. One commenter suggested raising the cattle threshold from an average of 125,000 to 199,999 head per year for each of the preceding 5 years. This would exempt most cow and bull plants from reporting. Another packer suggested that the cattle threshold should be raised to exempt packers slaughtering fewer than 500,000 head per year for each of the preceding 5 years. They suggested that this would reduce the burden on smaller packers while still maintaining adequate market coverage. Another commenter suggested raising the threshold for swine packers from an average of 100,000 to 500,000 head per year for each of the preceding 5 years. The commenter believed that this threshold would cover the majority of swine without subjecting smaller independent plants to the reporting

burden. Finally, one commenter suggested that the lamb reporting thresholds be lowered from the average 75,000 head per year for each of the preceding 5 years in order to capture information from many of the ethnic lamb kills which the commenter contends have a major impact on lamb pricing.

*Agency Response:* The definitions of cattle and swine packers put forth in the proposed regulations are defined by the Act. However, unlike cattle and swine, the Act does not provide a definition of a lamb packer or importer.

AMS believes that lowering the lamb packer threshold from what was put forth in the proposed regulation will create a burden on additional lamb packers without a gain of significant market information. Additionally, the 75,000 head per year threshold was set to be compatible with those thresholds set by the Act for cattle and swine packers.

Similarly, AMS established the 5,000 metric ton lamb importer threshold because it will cover a comparable percentage of the lamb imports as slaughter and processing are being covered by the cattle, swine and lamb packer definitions, or approximately 80% of lamb imported into the U.S. (According to U.S. Customs Service published data, in 1999, 40,301 metric tons were imported by the U.S.)

The importer capacity threshold would have to be reduced to 2,500 metric tons to cover the remaining 20% of lamb meat imports. Additionally, the products imported by many of these operations are so unique that AMS believes it would be unable to report them without disclosing proprietary information.

For the reasons stated above, none of the suggested changes to the cattle packer, swine packer, lamb packer, or lamb importer definitions are adopted.

#### Comments Relating to Voluntary Reporting

##### Voluntary Reporting Role

*Summary of Comments:* AMS received 51 comments supporting a continued role for voluntary market reporting. A total of 44 comments expressed a desire to continue voluntary reporting in those markets not covered by mandatory reporting. These commenters encouraged AMS to continue to solicit voluntary participation from entities not covered under mandatory reporting including producers and smaller packers. The commenters maintained that the information gained through this voluntary process would provide a

check and balance to mandatory reporting and would fill gaps in mandatory reporting.

Several commenters recommended that adequate funding be found for both mandatory and voluntary reporting. These commenters believed that market news should be fully staffed with adequate resources to at least maintain the current level of market information.

*Agency Response:* AMS intends to continue many voluntary reporting programs. AMS has no plans to discontinue coverage of any voluntary-based market news reports not affected by mandatory reporting, including reports covering livestock auction sales, packer sales of pork cuts and by-products, feeder cattle sales, feeder pig sales, and grain trading. In some instances, mandatory reporting may provide some of the information that is already being provided under voluntary reporting. This would include some transactions of packer direct purchases of slaughter cattle, packer sales of boxed beef and lamb cuts including applicable branded boxed cuts, packer sales of lamb carcasses, and packer negotiated purchases of swine. The market reports reflecting this information will continue to be published but the basis of the market reports will be more comprehensive and will become mandatory information.

In some instances, mandatory reporting will provide new information that has never been reported under the existing voluntary reporting program. AMS anticipates that this information will provide the basis for publishing market news reports not previously provided for under voluntary reporting. This will include reports covering the prior day swine market, forward contract and formula marketing arrangement cattle purchases, packer-owned cattle and lamb information, sales of imported boxed lamb cuts, including applicable branded product; and live lamb premiums and discounts.

The Act requires the Secretary to encourage voluntary reporting by packers to which the mandatory reporting requirements do not apply. AMS will encourage voluntary reporting in markets not covered under mandatory reporting.

#### Transition Period

*Summary of Comments:* Ten comments were received promoting the need for a transitional period from voluntary to mandatory based reporting. The commenters contended that a transition would lessen market disruptions through the loss of market information.

*Agency Response:* Although AMS will not be able to implement a transition period of both mandatory and voluntary information being published at the same time, AMS will implement a program of education and outreach during the period between the publication of this final rule and its effective date to ensure market participants understand the changes that will be occurring. This should lessen disruptions in the marketplace in such areas as where AMS's market news reports are used by the industry as the basis for formulated sales.

#### Loss of Personal Contact

*Summary of Comments:* AMS received 7 comments expressing concern about the potential loss of personal contact between the livestock industry and AMS livestock and meat trade market news reporters where industry participants are able to routinely, conveniently and openly discuss market conditions with AMS livestock and meat trade market news reporters. These commenters believed these market news reporters would have to spend so much of their time managing the large volume of information anticipated to be collected under mandatory reporting that there would be little or no time available for the traditional personal contact and AMS would not maintain its current office locations resulting in further loss of personal contact.

*Agency Response:* As discussed previously, AMS intends on continuing its voluntary market news reporting program for those products not covered by mandatory reporting. Accordingly, no loss in personal contact with AMS market news reporters should be experienced by individuals accustomed to working with voluntary market news reporters in those markets. Additionally, at this time, AMS has no plans to close any of its current office locations as a result of mandatory reporting, so accessibility to market news offices by producers or other interested persons should not be impacted.

However, in accordance with the requirements of § 251(b) of the Act, which states that no officer, employee, or agent of the United States shall, without the consent of the packer or other person concerned, divulge or make known in any manner, any facts or information regarding the business of the packer or other person that was acquired through reporting required by the Act, AMS will ensure that unauthorized releases of information are guarded against. AMS is especially mindful of this given that the submission of such information by

packers and importers under this program is mandatory and carries civil penalties for the failure or refusal to submit information. Accordingly, AMS recognizes and will institute policies that will ensure that market reporters engaged in the collection and dissemination of mandatory information will not be able to openly discuss market conditions concerning proprietary information. Further, AMS recognizes that market reporters engaged in the collection and dissemination of mandatory information cannot discuss any information before such information is made available publicly.

This is not to say that any of these requirements conflict in any way with procedures currently followed as a part of the voluntary reporting program, but establishment of this mandatory program requires AMS to clarify its policies and procedures regarding public contact with market reporters engaged in the collection of mandatory information.

#### Comments Relating to Regional Reporting

##### National, Regional, and State-wide Reporting

*Summary of Comments:* AMS received 42 comments addressing the issue of how mandatory information should be reflected—on a nationwide, regional, or state-wide basis. Five commenters wrote supporting AMS's intentions to initially release reports on a national basis in order to protect confidentiality.

Most commenters opposed the initial release of mandatory information on a national level. These commenters asserted that national level reports were of limited use to the industry and they would not accomplish the goal of providing producers with useful and accurate information. These commenters believed that AMS could release much of the mandatory information on a regional and statewide basis from the outset without disclosing proprietary information, especially in the case of some of the significant market news reports currently being released under voluntary reporting such as the Iowa-Southern Minnesota Direct Hog report. These commenters urged AMS to initially release as much mandatory information as possible on a statewide and regional basis while complying with the confidentiality provisions of the Act. A few commenters suggested that AMS release mandatory information from the outset on a regional and statewide basis regardless of confidentiality provisions.

Some commenters questioned AMS's statutory authority to begin publishing mandatory information only on a national level.

*Agency Response:* Sections 251(d) of the Act provides for the mandatory information to be published on a national and a regional or statewide basis as the Secretary determines to be appropriate while ensuring that the identity of a reporting person is not disclosed. Initially, AMS will develop reports on a national basis to ensure the confidentiality in the reports of the identity of persons, parties to contracts, and proprietary business information. Over time, as the system of mandatory market news reporting is refined, AMS will expand reports to a regional or statewide basis.

#### *Comments Relating to Confidentiality*

##### Transaction-Level Data Sharing

*Summary of Comments:* AMS received 23 comments addressing the issue of providing transaction-level data gathered through mandatory reporting to other Federal and State enforcement entities. These commenters wanted the rule clarified to accomplish transaction-level data sharing for enforcement and investigation purposes with the Packers and Stockyards Administration, the Justice Department, the Federal Trade Commission, any State enforcement agency or in response to any court sanctioned request or Freedom of Information request.

*Agency Response:* The conditions under which information is to be disclosed is stated in § 251 General Provisions of the Act. The information obtained by the Secretary under this program may be disclosed: (1) To agents or employees of USDA in the course of their official duties under the Act; (2) as directed by the Secretary or the Attorney General, for enforcement purposes; or (3) by a court of competent jurisdiction. It is not necessary to include a section on disclosure in the final rule.

##### Maintaining Confidentiality

*Summary of Comments:* AMS received 26 comments concerning maintaining confidentiality of proprietary information collected under mandatory reporting. Most commenters believed AMS should establish effective aggregation procedures to ensure safeguarding proprietary information. Some commenters urged AMS to develop guidelines for aggregation and publish them in the final rule. In addition, the majority of commenters wanted AMS to present the format of the aggregated reports that it intends to

publish as a result of mandatory reporting. A few commenters stated that aggregation of market information would not provide the level of market transparency that was needed in the reports.

*Agency Response:* Pursuant to § 251(d)(3), the Secretary has established the following guidelines: Submitted information will only be published by USDA if: (a) It is obtained from no fewer than 3 packers or importers representing a minimum of three companies; (b) the information from any one packer or importer represents not more than 60 percent of the information to be published; and (c) AMS does not have any reason to believe the information cannot be reported in a manner that protects the confidentiality of the source packer.

In addition, AMS is developing formats for those reports it intends to publish as a result of mandatory price reporting. These sample reports will be used as part of the educational and outreach component being developed by AMS to facilitate the transition from voluntary market news reporting to mandatory market news reporting during the period between publication of this final rule and its effective date. With respect to concerns regarding the reports being able to provide the level of market transparency that is needed, as already discussed, AMS will initially release reports on a national basis to ensure the confidentiality in the reports of the identity of persons, parties to contracts, and proprietary business information. Over time, as the system of mandatory market news reporting is refined, AMS will expand reports to a regional or statewide basis to provide more market transparency.

##### Nation of Origin

*Summary of Comments:* AMS received 2 comments regarding the inclusion of nation of origin as a reporting requirement for reporting lamb products. The commenters argued that the inclusion of nation of origin served no useful purpose.

*Agency Response:* It is widely understood in the lamb industry that the majority of boxed lamb cuts and lamb carcasses imported into the U.S. come from Australia and New Zealand. Because industry participants are already aware of the origin of lamb imports, the value of requiring this information to be reported is outweighed by the burden the request of such information places on lamb importers required to report. Accordingly, the nation of origin requirement in § 57.303 of the proposal has been removed from this final rule

for reporting of domestic and imported sales of boxed lamb cuts, and sales of lamb carcasses.

#### *Comments Relating to Imports and Exports*

##### Lamb Imports

*Summary of Comments:* AMS received 17 comments addressing lamb import reporting requirements. Six commenters expressed support for import lamb reporting. They believed that information on lamb imports would be very beneficial to domestic lamb producers and that it would help to restore competition in the marketplace for lamb products. Eleven commenters opposed AMS mandating reporting of all purchases and sales of boxed imported lamb cuts and imported lamb carcasses because they felt it would disclose their operating margins. Further, they argued that they were being treated differently than beef and pork importers and that import lamb information was of little benefit to domestic producers and what little information was to be gained was outweighed by the potential burden placed upon them. They recommended that the dual requirement of reporting purchases and sales of imported lamb carcasses be dropped from the final rule. One other commenter suggested that all lamb imports be exempted from the reporting requirements in this final rule.

*Agency Response:* AMS does not agree that all imported lamb be exempted. In 1999, lamb imports comprised 32% of the total U.S. consumption based on U.S. Customs Service data (50,377 metric tons in 1999) and domestic production data published by the National Agricultural Statistics Service (235.8 million pounds in 1999). Imported lamb accounts for nearly a third of the total domestic U.S. market and directly impacts the pricing structure of the domestic marketplace. Market information on lamb imports is clearly significant and important to domestic lamb producers.

AMS agrees with the suggestion to not report both the purchases and sales of imported boxed lamb cuts and carcass lamb as required in the proposed rule. Accordingly, AMS has made the following changes to the imported lamb reporting requirements in this final rule.

First, as already discussed, the requirement for reporting purchases of imported lamb carcasses has been removed from § 59.303. Because there is only one entity engaged in the business of purchasing imported lamb carcasses, AMS cannot report this information without disclosing the identity of the entity reporting.

Second, AMS has revised the requirements for the reporting of imported boxed lamb cuts in § 59.303 to clarify that lamb importers will not be required to report lamb cuts that are prepared in a portion cut form (e.g. chops, steaks, etc.). AMS recognizes that the reporting of portion cuts is not required for domestic boxed lamb cuts or boxed beef cuts and therefore should not be required for imports. Furthermore, such portion cuts are unique to certain respondents based upon characteristics such as cutting style or packaging and would not be eligible for inclusion in published reports without disclosing proprietary business information.

And third, as already discussed, this final rule will not require lamb importers to report their purchases of imported boxed lamb cuts. Although the proposed regulations required lamb importers to report both their purchases and sales of imported boxed lamb cuts, the agency has determined that because the reporting of lamb cuts sold in portion cut form (e.g., chops, steaks, etc.) are not to be reported for either domestic or imported lamb, the reporting of both the purchases and sales of imported boxed lamb cuts would not provide a significant amount of additional market information over what will be obtained by only requiring importers to report information on their sales of imported boxed lamb cuts not sold in portion cut form.

AMS had originally intended to obtain market information concerning the purchases and sales of imported boxed lamb cuts in an effort to disseminate more complete market information concerning the prices being paid and received for imported lamb meat products entering the U.S. market. However, because packers and importers are exempt from reporting information concerning any boxed lamb cuts sold in portion cut form, the only product lamb importers produce from the processing of imported boxed lamb cuts not in portion cut form, AMS determined that requiring the reporting of this information was not necessary as these products could be processed into portion cut form before export to the United States, thereby being exempt from these reporting provisions. Further, information concerning the volume and value of imported boxed lamb cuts that are not sold in portion cut form from importers who buy and sell imported boxed lamb cuts not in portion cut form, this information is already being obtained by the requirement that importers report the prices they receive for their sales of those products.

#### Reporting Imported Lamb on CIF Basis

*Summary of Comments:* One commenter suggested that because the majority of imported lamb is sold on a delivered basis (CIF or cost-including-freight) that AMS should require information on imported lamb prices to be reported on a CIF basis. To report this information on an Ex-Dock basis (cost of the product at the dock not including freight charges) as proposed, the commenter argued, freight would have to be deducted. And, since freight is different for each sale, it would impose a tremendous burden. The commenter further cited the Ocean Shipping and Reform Act, effective May 1, 1999, to assert that specific freight costs may not be available to importers.

*Agency Response:* This issue has been resolved, as AMS will not require the reporting of information on the purchases of imported lamb carcasses or imported boxed lamb cuts.

#### Reporting Exported Boxed Beef

*Summary of Comments:* AMS received 9 comments regarding boxed beef cuts exports. Three commenters supported the reporting of exported boxed beef cuts but expressed concern about maintaining confidentiality while publishing export boxed beef information.

Six commenters opposed the reporting of export boxed beef cuts. They argued that export boxed beef products were proprietary in nature and were often produced for specific foreign markets and reporting sales of boxed beef for export would do irreparable harm to the export trade. They further argued that no other major beef-exporting nation is required to report such information. One commenter expressed the opinion that AMS was simply confusing § 201 of the Act which calls for beef export sales to be reported under the Foreign Agricultural Service's Export Sales Reporting Program with a legislative mandate to report export boxed beef prices. Others cited a lack of clear legislative mandate for export boxed beef reporting.

*Agency Response:* Section 223 of the Act requires each packer processing boxed beef to report information on total boxed beef sales and does not distinguish between domestic and export sales (emphasis added). AMS believes that export sales of boxed beef is a significant and growing segment of the U.S. beef industry and its reporting is required to provide transparency to the market. However, with regard to concerns raised by commenters regarding the release of information that would harm U.S. entities interests in

export markets, AMS will not report information on those proprietary cuts that would compromise the identity or confidentiality of those persons or entities reporting.

#### Reporting Imported Boxed Beef

*Summary of Comments:* Two commenters suggested that imported boxed beef cuts should be covered under mandatory price reporting and cited the inclusion of imported lamb as justification.

*Agency Response:* The Act does not authorize the collection of information on imported boxed beef. As stated in § 223 of the Act, packers are only required to report information on boxed beef sales. Although § 923 of the Act does provide for the collection of certain information by the Secretary on the imports of beef, beef variety meats, and cattle, the Secretary has assigned the responsibility for the collection of this information and administration of this section of the Act to the USDA's Animal and Plant Health Inspection Service and Food Safety and Inspection Service. They are implementing this section of the Act by separate actions, apart from this final regulation.

#### Comments Relating to Branded Products

##### Reporting Branded Products

*Summary of Comments:* AMS received 15 comments on reporting information on branded products. Only one comment was supportive of AMS's proposal. However, the commenter felt that branded products should only be included when they became more standardized and less proprietary. The remaining 14 commenters opposed the reporting of branded beef products. Most of these commenters referred to the "intent" of Congress as justification for exemption of branded products. They cited the Senate Agriculture Committee report language that accompanied the authorizing legislation that stated, "The Committee \* \* \* does not intend that individual branded products will be reported."

Also, the majority of the commenters expressed the opinion that branded products were not comparable to other cuts because of the addition of value due to the method of preparation and other services rather than the value associated with inherent product characteristics. Several commenters stated that those value added services are proprietary and reporting such proprietary information would disadvantage large and small packers alike, forcing the industry back to a commodity business at the expense of the producer and consumer.

*Agency Response:* Upon further review of the requirements proposed in § 57.103 and § 57.303 of the proposed rule for reporting sales of branded boxed beef and lamb, the language in § 59.103 and § 59.303 of this final rule has been amended to require the reporting of only those branded products produced and marketed on their quality, yield, or breed characteristics or boxed beef cuts produced and marketed under one of USDA's Meat Grading and Certification Branch, Certified Beef programs. These products are not unique to any one packer and can be produced by anyone in the industry. These sections no longer require the mandatory reporting of branded products where the brand is exclusive to a packer.

AMS is developing formats for those reports it intends to publish as a result of mandatory price reporting. These reports will be made available as a part of the educational and outreach component being developed by AMS to facilitate the transition from voluntary market news reporting to mandatory market news reporting during the period between publication of this final rule and its effective date. In creating these reports, AMS is taking the necessary steps to ensure confidentiality of the source data as required by the Act. Brand names reported to AMS will not be disclosed but will only be used to identify branded boxed beef and lamb cuts for aggregation into branded categories in the published reports.

#### *Comments Relating to Specific Provisions of the Act*

##### Mandatory Reporting Implementation Time Schedule

*Summary of Comments:* AMS received 22 comments concerning the mandatory price reporting implementation time schedule. Fourteen of these commenters favored implementation without delay, arguing that mandatory price reporting was a necessary reform that should be adopted as expeditiously as possible. They opposed extending the comment period beyond the timeframe established by the Act. Some commenters requested a 90-day extension to the comment period. They contended that the problems in the proposed rule could only be addressed by a re-proposal of the entire regulation. One commenter argued that, since AMS had not provided enough meaningful details of how it intended to utilize collected information while protecting confidentiality, it had not abided by the Administrative Procedure Act which calls for public notice and comment regarding the terms of regulation. Two commenters

specifically requested that the boxed beef portion of the rule be stayed until problems they perceived could be addressed.

*Agency Response:* Section 941 of the Act provided a 30-day comment period for the proposed rule. Nevertheless, with specific regard to requests for an extension of the comment period and for AMS to issue a re-proposal, AMS does not agree. AMS believes that the information obtained through the 703 comments received during the 30-day comment period demonstrate adequate public notice and provide sufficient information for AMS to base any changes upon. Further, none of the comments lead AMS to believe the concerns raised by commenters merit a re-proposal of the regulations.

With regard to the concern raised by the commenter concerning compliance with the Administrative Procedure Act, this program and all of its provisions are issued consistent with the provisions of that Act.

Further, with regard to concerns raised by commenters that the boxed beef portion be stayed until certain problems could be addressed, AMS does not agree that the concerns raised by commenters merit a re-proposal and has incorporated necessary changes into this final regulation.

##### Reporting by Company

*Summary of Comments:* Two commenters recommended that AMS change the required reporting by individual plant to reporting by a company as a whole. The commenters maintained that, while slaughter data for individual plants will be available, reporting of animals priced might not be. The plant to which the purchased animals will be shipped is not known at the time of purchase. For this reason, reported information will not always be accurate because changes to the shipping location could occur after the required reporting time has passed. The commenters were concerned about possible violations to § 252 "Unlawful Acts", of the Act as a result.

*Agency Response:* AMS does not agree. In the case of cattle and swine, the Act defines who is required to report. And, in the case of lamb packers and lamb importers, AMS has provided definitions that would capture information in a similar manner.

In the case of cattle, the entity required to report is each cattle processing plant that meets the definition in § 221(5) of the Act. For swine, it is a swine processing plant that meets the definition in § 231(12). For lamb, these regulations state that those entities required to report are a lamb

processing plant and a lamb importer that meet the definitions in § 59.300 of this final rule. Further, information reported on a per plant basis provides for the refinement of reports to represent regional and Statewide markets, something that the reporting by a company, which may have individual plants in many States, would not allow for.

##### Publishing Adjustments

*Summary of Comments:* One commenter suggested that AMS publish all adjustments made to reported information due to price aberrations that would distort published information to the detriment of producers, packers, or other market participants. The commenter also suggested that AMS provide categories for such adjustments in its published reports.

*Agency Response:* Section 251(e) of the Act, authorizes the Secretary to make reasonable adjustments to information reported by packers to reflect price aberrations that the Secretary determines would distort the published information to the detriment of producers, packers, or other market participants. AMS finds useful purpose would be served in publishing categories for such adjustments when the information contained in the reports reflects such adjustments, similar to what is currently done under the voluntary reporting program.

##### Annual Reporting of Number of Covered Plants

*Summary of Comments:* AMS received one comment suggesting AMS publish an annual report on the number of plants required to report under mandatory price reporting.

*Agency Response:* In the proposed rule and in this final rule, AMS included such information in the supplemental sections addressing the Agency's Regulatory Impact Analysis, Regulatory Flexibility Analysis and Paperwork Reduction Analysis. However, AMS does not intend to publish such information annually as the Agency believes that this would serve no useful purpose. However, interested individuals could always receive such information upon request.

##### Publishing of Auditing Procedures

*Summary of Comments:* AMS received 9 comments requesting specific audit procedures for compliance be outlined and published for comment. The commenters argued that the Act includes specific provisions for what constitutes a reporting violation but the proposed rule offers no enforcement procedures. At least 3 of the

commenters were concerned that inadvertent and unintentional mistakes should not constitute a violation but rather only a clear pattern of abuse should constitute a violation. They believed that language to this effect should be stated in the proposed rule.

*Agency Response:* AMS is in the process of hiring auditors and developing documented procedures that will be used by AMS auditors to ensure compliance with these regulations. Common to many regulatory programs, these procedures are internal agency procedures for conducting enforcement activities and therefore are not required to be published for public comment. With specific regard to concerns raised by commenters expressing confusion about what would or would not constitute a violation of the Act, § 252 of the Act clearly sets forth what actions are violations, and § 253 clearly sets forth the enforcement provisions for such violations. Nevertheless, AMS will be available to discuss specific enforcement questions and activities with those entities required to report to clarify any areas of concern they may have.

#### Penalty Provisions

*Summary of Comments:* AMS received 3 comments expressing the view that the provision in the Act setting the penalty for violations at \$10,000 per violation was inadequate and needed to be increased.

*Agency Response:* Section 253 of the Act establishes a civil penalty of not more than \$10,000. However, that section of the Act further provides that each day during which a violation continues is to be considered a separate violation.

#### State Preemption

*Summary of Comments:* AMS received 3 comments requesting that language be placed in the regulations regarding the preemption of State mandatory price reporting laws. The commenters believed that the omission of such language in the final rule would allow States to impose their own mandatory reporting laws.

*Agency Response:* Section 259 of the Act provides that no State may impose a requirement that is in addition to, or inconsistent with, any requirement of the 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.

Contained within the supplemental information sections of the proposed rule and these final rules are discussions concerning that provision of

the Act. Even though such language does not appear in the regulatory text of this final rule, this does not have an effect on the application and enforcement of this provision of the Act.

#### Expanding the Scope of the Act

*Summary of Comments:* AMS received one comment contending that AMS had no authority to expand the scope of the Act to include information not specified in the Act. The commenter pointed out that under the definition of 'terms of trade' in § 57.100 of the proposal, AMS had added the concept of 'priced' to the definition.

*Agency Response:* In § 57.100 of the proposed rule, the word 'priced' was inadvertently included in the definition of 'terms of trade'. Section 59.100 of this final rule is revised accordingly.

#### Prices for Cattle

*Summary of Comments:* One commenter opposed the inclusion of the definition of 'prices for cattle' (§ 57.101(1) of the proposal) in the daily reporting for live cattle section.

*Agency Response:* The phrase 'prices for cattle' is included in the Act. In the proposed rule, AMS provided a definition of the phrase to provide further explanation of what information was required to be reported. The items included in the definition of 'prices for cattle' are all essential to the publishing of useful, accurate, and easy to understand market reports.

#### Average Estimated Live Cattle Weight

*Summary of Comments:* One commenter opposed the inclusion of the term 'average' of estimated live weight in the reporting requirements for daily cattle in the proposed rule (§ 57.101(a)(1)(iv)). The commenter contended that this expanded the requirements of the Act and added to the already exhaustive reporting requirements.

*Agency Response:* The estimated average live weight is required to accurately convey the characteristics of a given lot of cattle. The Act contemplates the reporting of information required to accurately describe the characteristics of a lot of cattle so that the users of the information in the published reports could determine the factors affecting the price of live cattle. Accordingly, this term is consistent with the intent of the Act.

#### Packer Sold Swine

*Summary of Comments:* Under § 57.200 of the proposed rule, one commenter objected to the inclusion of the definition of 'packer sold swine' in

the regulatory text. The commenter argued that the inclusion of 'packer sold swine' was not authorized by the Act.

*Agency Response:* A definition of the term 'packer-owned swine' appears in the § 231(14) of the Act.

#### State of Origin

*Summary of Comments:* One commenter objected to the addition of 'state of origin' to the regulation arguing that it constitutes an "impermissible" extension of the statutory authorization.

*Agency Response:* The Act directs the Secretary to publish collected information on a national, and a regional or statewide basis (§ 251(d)). The 'state of origin' is required for AMS to be able to report information on a regional or statewide basis and is consistent with the intent of the Act.

#### Reporting Delayed Pricing Purchases

*Summary of Comments:* With respect to pricing that is determined on a delayed basis, one commenter objected to the inclusion of the sentence "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" in § 57.202(b)(4) of the proposal as it did not appear in the Act.

*Agency Response:* Inclusion of this sentence was necessary to specify when purchases with delayed pricing are to be reported and is consistent with the intent of the Act.

#### Comments Relating to Reporting Procedures

##### Reporting Input Forms

*Summary of Comments:* AMS received 109 comments referencing the proposed mandatory reporting forms to be used by packers when submitting required information. However, none of the comments AMS received specifically addressed issues relating to the format or design of the forms but rather used the forms as a venue to argue for or against the inclusion of reporting requirements. A few of the commenters expressed concern over some of the information requested in the forms (including state of origin, boxed beef box count, and buyer destination) suggesting that such information was either not authorized by the Act or was not pertinent. Several commenters requested clarification of what was being asked for on the forms. Other commenters suggested that AMS provide procedural guidelines explaining how and when information was to be reported on the forms. Many of the commenters used the forms to express concerns including lot

aggregation, inclusion of cows under mandatory reporting, and reporting exports of boxed beef and imports of boxed lamb.

AMS received 19 comments that raised issues with reporting requirements presented on various forms. Specific comments were received that took issue with reporting requirements found on the following forms: LS-113 Live Cattle Daily Report (current established prices), 15 comments; LS-114 Live Cattle Daily Report (committed and delivered cattle), 8 comments; LS-115 Live Cattle Weekly Report (forward contract and packer-owned), 6 comments; LS-116 Live Cattle Weekly Report (formula purchases), 4 comments; LS-117 Cattle Premiums and Discounts Weekly Report, 2 comments; LS-126 Boxed Beef Daily Report, 19 comments; LS-118 Swine Prior Day Report, 16 comments; LS-119 Swine Daily Report, 17 comments; and LS-121 Live Lamb Daily Report (current established prices), 3 comments.

*Agency Response:* AMS has previously responded to these comments on matters of procedural clarification, simplification, and further definition of terms elsewhere in this discussion. AMS has redesigned the reporting forms in this final rule to make them more representative of the electronic format required for submission of all information under mandatory reporting. AMS has also included written guidelines at the end of the regulatory text in the final rule on how to those required to report information should complete the information for the mandatory reporting forms (Appendix D).

#### Published Report Formats

*Summary of Comments:* AMS received 23 comments addressing the issue of the format that reports published by AMS would take as a result of mandatory price reporting. Specifically, commenters wanted assurances that the information would be presented in a form readily understandable to users. Seven of these commenters wanted AMS to include the new report formats in the final rule. They stressed that the reports should be understandable with information overload avoided whenever possible. Two of the commenters wanted AMS to provide some sort of connection between the current voluntary-based reports and their mandatory-based counterparts for analysis of historical relationships. The remaining 9 commenters wanted the new reports to be available on the Internet in an archived form for up to 2 years. These

same commenters also recommended that the reports be accessible by telephone, facsimile, Internet, printed media, electronic broadcast media (radio and television), and through private information providers.

Four of the comments AMS received on this issue were opposed to publishing the information in any form. They argued that mandatory price reporting would generate a vast array of useless data that could not be published in any usable format. Further, they argued that mandatory price reporting would promote confusion in the marketplace.

*Agency Response:* AMS is developing the formats for those reports it intends to publish as a result of mandatory price reporting. Demonstrating the format for these reports will be a part of the educational and outreach component being developed by AMS to facilitate the transition from voluntary market news reporting to mandatory market news reporting during the period between publication of this final rule and its effective date.

In response to the availability of different types of reports, the Act prohibits AMS from charging fees for information published as a result of mandatory price reporting (§ 254). It is AMS's intention to continue to provide information in a wide array of formats, especially electronic formats that are as easily accessible to users as funding will permit.

In response to comments opposed to the publishing of information in any form, development of this program is mandated by the Act. Further, AMS believes that the Agency will be able to publish information in a useable format and in a manner which will be useful to market participants, thereby actually decreasing confusion in the marketplace.

#### Pre-Testing of Computer System

*Summary of Comments:* AMS received one comment expressing concern that the computer systems needed to process the information collected under mandatory price reporting should be pre-tested during a pre-implementation phase.

*Agency Response:* AMS has planned a pre-implementation testing phase of the computer systems necessary to process the information collected under mandatory price reporting to ensure that delays and inaccuracies do not occur. Several packers have agreed to participate in the tests.

#### Reporting Changes, Adjustments and Cancellations

*Summary of Comments:* AMS received 2 comments requesting that procedures be provided in the final rule for how or if packers would report changes or cancellations to sales already reported to AMS. AMS received one comment requesting that AMS provide clarification on whether packers are required to report adjustments in the reported amount of payment made in the time between the filing of reports and when the producer receiving payment is actually paid.

*Agency Response:* AMS understands that it is normal practice in the beef industry for adjustments to be made to the original boxed beef sales agreement prior to the product being shipped. Often, quantities of product are added to the original order, products are substituted, or the order is cancelled altogether. Under the current voluntary reporting program, AMS does not change a published report to reflect price adjustments beyond the next report because of the confusion such a change creates. This policy will continue under mandatory price reporting.

Accordingly, packers and importers are not expected to report price and quantity adjustments made to sales already reported to AMS after the required reporting time has passed. However, it is important to note that this mandatory program of information contains two separate and distinct functions. Section 255(a)(2) of the Act requires packers to maintain such records or other information as is necessary to verify the accuracy of the information reported. Further, § 252(4) of the Act defines the reporting of information in a manner that demonstrates a pattern of significant variance in accuracy when compared with the actual information as a violation. Therefore, packers and importers should consider these provisions of the Act in maintaining and reporting information.

#### Reporting Formula and Forward Contract Purchases

*Summary of Comments:* AMS received one comment requesting clarification on when a formula or forward contract based transaction is to be reported if the price is not known until the date shipped.

*Agency Response:* As proposed in § 57.101 of the proposed rule and published in this final rule in § 59.101 under "type of purchase", formula marketing arrangements and forward contract transactions are to be reported

on the date when the price is agreed upon by the buyer and seller. If the price is not determined until the date of shipment, then that is when the information should be reported. AMS finds that further clarification is not needed in these regulations.

#### Reporting by Class and Weight

*Summary of Comments:* AMS received 2 comments suggesting that AMS publish livestock information by class and weight in order to let producers know what weight and class of livestock were in most demand.

*Agency Response:* AMS agrees. AMS will report livestock separately by class and weight and by other factors that are also a price determining factor.

#### Comments Relating to Other Issues

##### Institutional Meat Purchasing Specifications

*Summary of Comments:* AMS received 13 comments concerning the inclusion of boxed beef and lamb cuts that are not cut in conformance with the Institutional Meat Purchasing Specifications (IMPS). Three commenters opposed reporting only those beef and lamb cuts that conform to IMPS. They expressed the view that, unless IMPS is kept current with industry cutting practices, new value-added cuts styles would go unreported and producers would have no way to monitor changes in the industry. Ten commenters supported only the reporting of beef and lamb cuts that conformed to IMPS. These commenters contended that the majority of the beef and lamb cuts they produce do not conform to IMPS and questioned whether AMS could include this information in a published report in a meaningful manner. Further, they argued that the uniqueness of many of these items would prevent AMS from being able to maintain the confidentiality of the reporting packer. If AMS could not publish this information while maintaining confidentiality, they reason that packers should be exempt from reporting such beef and lamb cuts.

*Agency Response:* Section 223 of the Act requires that representatives of packer processing plants report information on total boxed beef sales. Exempting or limiting reporting to IMPS cuts would not be consistent with the intent of the Act. Non-IMPS cuts that are traded by a sufficient number of packers or importers can be incorporated into published reports while maintaining the confidentiality of the reporting entities and providing

market participants with timely and pertinent information.

#### Educational Component

*Summary of Comments:* Seven commenters suggested AMS develop an educational component in conjunction with mandatory price reporting in order that users could better understand and utilize the new information collected.

*Agency Response:* Education is key to the successful implementation of mandatory price reporting. Accordingly, AMS is already planning to institute a program of education and outreach after publication of this final rule and before its implementation to ensure all market participants understand the different aspects of the new program. Further, AMS plans to develop a guide that will be available to the public that will explain the mandatory market news reports to help all users to understand and utilize the information published.

AMS will work with industry groups, educators, news media, and individuals in carrying out our objective to educate market participants about this program and will encourage other interested groups to assist us in furthering our commitment to this educational and outreach process.

#### Comments Relating to Auctions

##### Reporting of Auction Purchases

*Summary of Comments:* AMS received 44 comments that concerned the burden created by the required reporting of livestock purchased through auctions markets, specifically for purchases of cows and bulls. Two of these comments consisted of a total of 40 identical form letters. The commenters contended that most purchases of livestock in auctions markets occurred on a one-head per lot basis and requiring the reporting of each lot would greatly increase the reporting burden being placed on them by mandatory reporting. They argued further that purchases from auction and terminal markets were already in the public domain and should therefore be exempt from mandatory price reporting. Several other commenters said that they had no system in place to distinguish between purchases from auctions and purchases from direct sources.

*Agency Response:* As already discussed earlier in this section, AMS has clarified that purchases of livestock through auction markets are not required by this final rule. As auction purchases are made in an open, public setting between one seller and many buyers, auction purchases do not meet any of the types of purchases defined by the Act as a "type of purchase"

(§ 221(8)). Accordingly, packers required to submit information under mandatory price reporting will not be required to report information on transactions of livestock purchased at auction markets by either salaried employees of a packer or a person that buys on commission for a packer. However, livestock purchased by a packer from a livestock dealer, a purchase between one buyer and one seller not in a public setting, must be reported because this constitutes a negotiated trade which is defined by the Act as a "type of purchase" reportable under mandatory reporting. Accordingly, packers must institute systems to distinguish between purchases from auctions and purchases from direct sources for the purposes of mandatory reporting.

#### Comments Relating to Definitions of Terms

##### Clarification of "Committed"

*Summary of Comments:* Six commenters recommended clarification of the term "committed" found in § 57.20 of the proposed rule. The commenters pointed out that this definition conflicted with the definition found in § 57.100 of the proposed rule for "cattle committed" which is defined in the Act.

*Agency Response:* AMS agrees with the concern of the commenters. In the final rule, AMS has removed the definition for "committed" under § 59.30 and has replaced it with a separate definition for "swine committed" under § 59.200 and is defined as meaning swine scheduled to be delivered to a packer within the 14-day period beginning on the date of an agreement to sell the swine. The 14-day requirement corresponds to § 232(c)(1)(C)(iii) of the Act which calls for the reporting of packer purchase commitments for each of the next 14 days.

##### Clarification of Negotiated Purchase Definition

*Summary of Comments:* Five commenters requested clarification of the definitions for "negotiated purchase" and "negotiated sale" under § 57.20 of the proposed rule. Specifically, they expressed concern that both terms seem to include the requirement that there be an agreement on a delivery date at the time of buyer-seller interaction. They pointed out that it is not common industry practice to agree on a delivery date on the date the base price is negotiated.

*Agency Response:* These terms are defined by the Act in § 212.

Accordingly, for the purposes of this program, a negotiated purchase or sale is a combination of pricing and scheduling.

#### Definition of Lot

*Summary of Comments:* Two commenters suggested that the term 'lot' be defined.

*Agency Response:* The term "lot" is defined in the Act and the definition included in the proposed rule under § 57.20. "The term "lot" means a group of one or more livestock that is identified for the purpose of a single transaction between a buyer and a seller."

#### Definitions of Premium and Discount

*Summary of Comments:* Two comments were received requesting clarification of the terms "premium" and 'discount'. One commenter expressed concern that "premium" was defined as being expressed in terms of dollars per one hundred pounds. They questioned how a premium not defined in terms of dollars per one hundred pounds would be reported. The other commenter questioned the definitions of "premium" and "discount" in reference to swine. The commenter pointed out that terms quality grade and yield grade in the definitions pertain to cattle and lambs only, not swine. The commenter suggested that the definition be corrected to reflect this.

*Agency Response:* The definition of "premium" states that the premium is expressed in dollars per one hundred pounds. As this is the only meaningful way for AMS to standardize the information received and report meaningful information, premiums and discounts established on other basis must be converted to a dollar per hundred pounds basis prior to reporting to AMS.

AMS agrees with the second commenter. As a result, the definition of the term "discount" applicable to swine in § 59.30 is corrected in this final rule to read, "The term "discount" means the adjustment, expressed in dollars per one hundred pounds, subtracted from the base price due to weight, quality characteristics, yield characteristics, livestock class, dark cutting, breed, or dressing percentage." The definition of the term 'premium' under § 59.30 is changed in this final rule to read, "The term "premium" means the adjustment, expressed in dollars per one hundred pounds, added to the base price due to weight, quality characteristics, yield characteristics, livestock class, and breed."

#### Definition of Imported

*Summary of Comments:* Four commenters requested that a definition of 'imported' be added to clarify reporting requirements for livestock and livestock products.

*Agency Response:* AMS agrees. In § 59.101 in this final rule, AMS included a definition for imported: "The term "imported" means livestock that are fed to slaughter weight outside of the 50 States or livestock products produced outside of the 50 States."

#### Definition of Priced

*Summary of Comments:* One commenter requested further explanation of the term "priced" under § 57.20 of the proposed rule. The commenter wanted the definition to define the moment at which a transaction is considered to be "priced".

*Agency Response:* The definition of "priced" in § 57.20 of the proposed rule is revised in this final rule to clarify when a transaction is deemed "priced". The definition of "priced" in § 59.30 of this final rule is revised to read "the time when the final price is determined either through buyer-seller interaction and agreement or as the result of some other price determining method."

#### Definition of Purchased

*Summary of Comments:* Two commenters wanted further definition of the term "purchased" to define the moment when livestock or livestock products are considered to be "purchased".

*Agency Response:* AMS believes the definition contained within the proposed rule for the term "purchased", "The term "purchased" means the agreement on a price, or the method for calculating a price, determined through seller-buyer interaction and agreement", does convey that livestock or meat is considered "purchased" when either the price or the mechanism for determining the price is agreed upon by the buyer and seller. Accordingly, the definition has remained unchanged in this final rule.

#### Definition of Origin

*Summary of Comments:* Two commenters recommended that AMS include a definition of the term "origin" in the final rule. The commenters expressed concern that if AMS was asking for country of origin, this requirement extended beyond the authority provided in the Act.

*Agency Response:* In the final rule, AMS has included a definition for the term 'origin' under § 59.30 to read, "The term "origin" means the State where the livestock were fed to slaughter weight".

This requirement was included to allow for aggregation of submitted information in a regional or statewide-published report.

#### Definition of Established

*Summary of Comments:* One comment recommended that the term 'established' be defined. This term is used twice in the proposed rule, once under § 57.101(a)(1) and once under § 57.301(a)(1) where the requirement for reporting prices, " \* \* \* established on that day \* \* \*" is listed. The commenters wanted to know when a price was to be considered "established".

*Agency Response:* The language in § 57.101(a)(1) of the proposed rule mirrors the Act and identical language was used in § 57.301(a)(1) of the proposed rule for uniformity. AMS has added a definition for the term 'established' under § 59.100 and § 59.300 in this final rule to read; "The term 'established' when used in connection with prices means that point in time when the final price is determined."

#### Cattle Committed and Committed Definition Discrepancy

*Summary of Comments:* Four commenters pointed out what they believed to be inconsistencies between the terms 'cattle committed' (§ 57.100) and 'committed' (§ 57.20) contained within the proposed rule.

*Agency Response:* AMS agrees with the concerns raised by commenters. AMS has removed the definition of the term 'committed' from § 59.30 in the final rule.

#### Clarification of Formula Arrangement and Forward Contract

*Summary of Comments:* AMS received 3 comments requesting further clarification of the definition for the terms 'formula marketing arrangement' and 'forward contract' under § 57.100 of the proposed rule. They argued that the definitions for 'formula marketing arrangement' and for 'forward contract' are not mutually exclusive.

*Agency Response:* AMS does not agree. The definitions of 'formula marketing arrangement' and 'forward contract' in § 59.100 of this final rule reflect the definitions of these terms contained in the Act. A 'formula marketing arrangement' refers to an advance commitment for livestock or livestock products under which the price is determined at a future date following slaughter or manufacture. A 'forward contract' refers to an agreement to purchase livestock or livestock products under which the price is

determined in advance of slaughter or manufacture.

#### Definition of Branded

*Summary of Comments:* Three comments were received requesting clarification of the term 'branded' as defined for cattle in § 57.100 and for lambs in § 57.300 of the proposed rule. One commenter noted that the definition was very broad and would include virtually all boxed beef and lamb cuts.

*Agency Response:* AMS agrees that the definition of 'branded' in the proposed rule requires further clarification to accurately reflect what AMS requires to be reported. Accordingly, in this final rule, the definitions for the term 'branded' in § 59.100 and § 59.300 have been revised. In § 59.100, the definition has been revised to read: "The term 'branded' means boxed beef cuts produced and marketed under a corporate trademark (for example, products that are marketed on their quality, yield, or breed characteristics), or boxed beef cuts produced and marketed under one of USDA's Meat Grading and Certification Branch, Certified Beef programs." In § 59.300, the definition has been revised to read: "The term 'branded' means boxed lamb cuts produced and marketed under a corporate trademark (for example, products that are marketed on their quality, yield, or breed characteristics), or boxed lamb cuts produced and marketed under one of USDA's Meat Grading and Certification Branch, Certified programs."

AMS believes this clarification should satisfy the concerns of the commenters.

#### Definition of Boxed Beef

*Summary of Comments:* AMS received 4 comments requesting that AMS provide a definition of the term 'boxed beef' to clarify its use in the regulations.

*Agency Response:* This comment has merit. In the final rule, under § 59.100, AMS has included a definition for 'boxed beef' as follows: "The term 'boxed beef' means those carlot-based portions of a beef carcass including fresh primals, subprimals, cuts fabricated from subprimals (excluding portion-control cuts such as chops and steaks similar to those described in the portion cut products contained within the IMPS for Fresh Beef Products Series 100), and thin meats (e.g. inside and outside skirts, pectoral meat, cap and wedge meat, and blade meat) not older than 14 days from date of manufacture; fresh ground beef, beef trimmings, and boneless processing beef not older than 7 days from date of manufacture; and

frozen beef trimmings and boneless processing beef not older than 60 days from date of manufacture."

AMS believes this definition is consistent with the industry's use of the term and provides the clarification and specificity requested by the commenters.

#### Definition of Packer Owned Cattle

*Summary of Comments:* AMS received one comment questioning the definition for "packer owned cattle". The commenter took issue with the inclusion in the definition of the 14-day period prior to slaughter that cattle must be owned by a packer to qualify the cattle as being packer owned. The commenter believed that the 14-day timeframe was arbitrary and requested an explanation of why the timeframe was set at 14 days.

*Agency Response:* The definition of "packer owned cattle" including the 14-day requirement in § 59.100 of this final rule reflects the definition of "packer owned cattle" in § 221(6) of the Act.

#### Definition of Prices for Cattle

*Summary of Comments:* One commenter objected to the definition of 'prices for cattle'. The commenter pointed out that in the definition of 'prices for cattle', the requirement for expected date of slaughter is not known on the date an agreement to purchase livestock is made.

*Agency Response:* AMS agrees with the concern raised by the commenter. The definition of 'prices for cattle' in § 59.100 has been revised in this final rule to remove the words 'expected date of slaughter'.

#### Definition of Terms of Trade

*Summary of Comments:* One commenter expressed concern about the definition of 'terms of trade'. The commenter argued that the ambiguity of the terms 'negotiated purchase', 'committed', 'purchased', and 'priced' made it impossible to know what exactly is to be reported under 'terms of trade' and when it is to be reported.

*Agency Response:* As previously mentioned, AMS clarified the definitions of the terms 'purchased', 'priced', and 'negotiated purchase' in § 59.30 and has removed the definition of 'committed' under § 59.30.

#### Definition of Packer

*Summary of Comments:* One commenter expressed concern over the definition of the term 'packer'. Specifically, the commenter was concerned about the portion of the definition that dealt with the issue of cattle processing plants that did not

slaughter during the immediately preceding 5 calendar years being considered as packers by the Secretary's discretion after consideration of the plant's capacity. The commenter was opposed to the Secretary having the discretion to decide at a later date that a processor could be included under mandatory price reporting by this definition.

*Agency Response:* Section 221(5) of the Act defines the term 'packer' and that definition is reflected in § 57.100 of the proposed rule and also in this final rule. Section 221(5)(C) in the Act states: "\* \* \* in the case of a cattle processing plant that did not slaughter cattle during the immediately preceding 5 calendar years, the Secretary shall consider the plant capacity of the processing plant in determining whether the processing plant should be considered a packer under this chapter."

#### Definition of Cattle Type

*Summary of Comments:* One commenter suggested changing the definition of the term 'cattle type' to include heiferettes, Brahmans, and Corrientes as inferior classes.

*Agency Response:* The term "cattle type" is defined in § 221 of the Act and the definition in these regulations simply mirrors that definition. AMS believes the stated types of cattle provided in the definition adequately differentiate the major types of cattle traded in the market which are of price determining importance. Accordingly, AMS believes no further clarification is necessary in the regulatory text.

#### Reporting by Purchase Type

*Summary of Comments:* One commenter questioned how a packer would be able to identify the type of sale given the ambiguities with the definitions of 'negotiated sale', 'formula marketing arrangement', and 'forward contract' under § 57.20 of the proposed rule.

*Agency Response:* As previously discussed in this section, AMS has clarified the definitions of these terms in § 59.30 and AMS believes this clarification should resolve the concerns raised by the commenter.

#### Definition of Average Carcass Weight

*Summary of Comments:* AMS received 6 comments requesting that the terms 'weighted average carcass price' and 'aggregate weighted average carcass price' used in § 57.102(c)(2) & (6) and § 57.302(c)(2) & (7) of the proposed rule be defined in the final rule.

*Agency Response:* These terms are used in the Act as part of the information required to be reported for

formula purchase cattle. These terms were included in the required information for lambs in the proposed rule for uniformity.

The term 'weighted average carcass price' refers to the weighted average carcass price of a reportable lot of cattle including applicable premiums and discounts. AMS does not believe this term needs to be defined in these regulations.

The term 'aggregate weighted average carcass price' was intended to provide an overall weighted average carcass price by purchase type for all cattle purchased on that reporting day. Upon further review, AMS has determined that an overall aggregated weighted average carcass price for each type of purchase can be calculated from the information required to be reported. For this reason, in this final rule, AMS has removed the requirement for 'aggregate weighted average carcass price' for cattle and lambs under § 59.102(a)(6) and § 59.302(a)(6) respectively.

#### Definition of Swine Forward Contract

*Summary of Comments:* Pertaining to § 57.200 of the proposed rule, swine definitions, AMS received one comment requesting the inclusion of a definition of the term, 'forward contract' for swine reporting.

*Agency Response:* AMS does not agree. Subpart C, Swine Reporting, of the proposed rule does not include the term 'forward contract' but does provide a definition of the term 'other purchase arrangement' which embodies the concept of a 'forward contract'. Providing a definition for a swine reporting term that does not exist in Subpart C of the rule serves no purpose as the definition of the term 'other purchase arrangement' covers 'forward contract' purchases.

#### Definition of Net Price and Average Net Price

*Summary of Comments:* AMS received 14 comments concerning inconsistencies and confusion over the definition of the term 'net price' in the proposed rule as it compares to the use of the term by the Act as well as confusion over why both 'net price' and 'average net price' were requested to be reported by the proposed regulations.

*Agency Response:* In the proposed rule, AMS incorrectly defined the term 'net price' to mean 'the total amount paid by a packer to producers' instead of the definition provided in the Act as 'the total amount paid by a packer to a producer'. This definition has been corrected to conform to the definition of 'net price' in the Act.

The Act defines 'net price' in dollars per hundred pounds of carcass weight of swine. This definition is used as the basis for reporting average net price, highest net price and lowest net price. This average net price is calculated from the total net price and the total carcass weight and expressed in dollars per hundredweight. Section 57.202 Mandatory Daily Reporting for Swine of the proposed rule required that packers would report both net price and average net price as well as the highest net price and the lowest net price. Upon further review of these requirements and the Act, AMS finds that the same information for swine can be obtained by requiring that packers report only average net price, highest net price and lowest net price. Accordingly, the requirement to report 'net price' is removed from § 59.202 in this final rule. Likewise, the reporting of 'net price' has been removed from Form LS-118 Swine Prior Day Report.

#### Redefining Swine Packer to Not Include the Term Cattle

*Summary of Comments:* Two commenters suggested changes to the definition of 'packer' under § 57.200 of the proposed rule as it applies to swine. The commenters pointed out that the word 'cattle' was used instead of the word 'swine' as provided in the Act.

*Agency Response:* The commenters are correct. In this final rule, AMS has corrected § 59.200 by removing the word 'cattle' and replacing it with the word 'swine'.

#### Redefining Swine Packer to Include Other Entities

*Summary of Comments:* Two commenters suggested additional changes to the definition of 'packer' under § 57.200 of the proposed rule as it applies to swine. One commenter believed that the words "\* \* \* a federally inspected \* \* \*" should be replaced with "\* \* \* any plant authorized for interstate shipment \* \* \*" to bring the definition in line with proposed federal regulations on interstate shipment of meat. The other commenter expressed concern over the phrase "\* \* \* buying swine in commerce \* \* \*" as at least one U.S. swine slaughtering facility is vertically integrated to the point that it technically buys no swine and would therefore be exempted and suggested that this passage be changed to "\* \* \* slaughters swine in commerce \* \* \*" in order to include such vertically integrated operations.

*Agency Response:* Section 221(5) of the Act defines the term 'packer' and this definition is reflected in § 59.200

this final rule. AMS does not believe that any State inspected facility, affected by changes to Federal regulations governing the interstate shipment of meat, slaughter at a volume sufficient that they would be covered by these regulations. Therefore, the proposed change would not have any effect on the information AMS will obtain under this program. To respond to concerns regarding vertically integrated operations, AMS believes that the entities the commenter is concerned about are already covered by the existing definition. Therefore, neither suggestion is adopted.

#### Definition of Swine Packer Purchase Commitments

*Summary of Comments:* Three commenters objected to defining 'packer purchase commitments' under § 57.202(a)(3) of the proposed rule as swine scheduled for delivery because committing and scheduling are two separate steps in the swine procurement process and are not the same as the Act provides.

*Agency Response:* The use of the term 'packer purchase commitment' provided for by the Act, § 232(c)(1) Prior Day Report, sets forth the requirement that a packer report packer purchase commitments that "\* \* \* shall be equal to the number of swine scheduled for delivery to a packer for slaughter for each of the next 14 calendar days." Accordingly, the use of the term remains unchanged in this final rule from the proposal.

#### Definition of Purchase Data

*Summary of Comments:* One commenter expressed concern over perceived ambiguity in the definition of 'purchase data'. The commenter contends that this clause limits packers to only reporting weight.

*Agency Response:* As stated in § 231(17) of the Act, 'purchase data' means *all* of the applicable data, including weight (if purchased live), for swine purchased during the applicable reporting period regardless of the expected delivery date, reported by hog class, type of purchase, and packer owned swine. Accordingly, applicable data includes base price. Similarly, the definition of 'slaughter data' as stated in § 231(18) of the Act means *all* of the applicable data, including weight (if purchased live), for swine slaughtered by a packer during the applicable reporting period regardless of when the price of the swine was negotiated or otherwise determined, reported by hog class, type of purchase, and packer owned swine. After further consideration by the Agency, AMS has

revised the text in the proposal to include in this final rule that applicable data in this instance includes average loin depth because it is a major determinant of price in the swine industry.

#### Definition of Type of Purchase

*Summary of Comments:* One commenter expressed concern regarding the definition of the term 'type of purchase'. The commenter included as an example a packer who serves only as a "custom" processor of a producer's swine and does not take ownership of the swine. The commenter wondered how such arrangements would be reported and how other new and innovative methods would be reported.

*Agency Response:* As defined, 'type of purchase' refers only to those purchases of swine by a packer from a producer. In the commenter's example, the packer never "purchases" the swine from the producer and therefore would not be required to report that as a transaction. AMS does not believe this suggestion merits a change in the definition of the term 'type of purchase' nor does AMS believe that the reporting custom slaughter costs was contemplated by the Act.

#### Definition of Basis Level

*Summary of Comments:* AMS received one comment regarding the term 'basis level'. The commenter questioned the use of the phrase "\* \* \* adjustment to a future price \* \* \*" in the definition. The commenter argued that the term "basis" in the Act seems to refer to the difference between the cash price and the futures market price for a product. The commenter suggested that "\* \* \* a future price \* \* \*" be replaced with the term "\* \* \* a futures market price."

*Agency Response:* AMS does not agree. AMS does not believe the Act intended on limiting the definition to a futures market. Accordingly, the definition of the term 'basis level', defined in § 212(2) of the Act, remains unchanged in these final regulations.

#### Definition of Average Lean Percentage

*Summary of Comments:* AMS received one comment pointing out an error in the definition of the term 'average lean percentage'. The commenter pointed out that the last 5 lines of the definition should not have been included.

*Agency Response:* The commenter is correct. This was in error. The definition of 'average lean percentage' has been corrected to remove the last 5 lines and conform to the use of the term in the Act.

#### Clarification of Other Market Formula Purchase

*Summary of Comments:* One commenter expressed the opinion that the definitions for the terms 'other market formula purchase' and 'other purchase arrangement' should be clarified in the final rule.

*Agency Response:* These two terms, 'other market formula purchase' and 'other purchase arrangement' are defined in § 221 of the Act and the definitions of these two terms in this final rule reflect the definitions found in the Act.

#### Definition of Lamb Packer

*Summary of Comments:* AMS received one comment questioning the inclusion of lamb processors in the definition of lamb 'packer' in § 57.300 of the proposed rule. The commenter argued that the reporting mandate provided by Congress was never intended to apply to prices paid or received by processors of beef and pork. Thus, the commenter reasoned that the definition of a lamb packer should not apply to lamb processors.

*Agency Response:* Section 241 of the Act authorizes the Secretary to establish a program of mandatory lamb price information reporting 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." In the beef and pork industries, there are no major packer slaughterers that do not also process meat and meat products. However, in the lamb industry, this is not the case. Not only do major lamb slaughterers not always process but also major lamb processors do not always slaughter. It is because of this uniqueness of the lamb industry that defining packers to include lamb processors as well as slaughterers is critical to AMS's ability to provide accurate, reliable and complete market information for this sector.

#### Comments Relating Specifically to Cattle

##### Reporting of Hot Carcass Yields

*Summary of Comments:* Two commenters expressed interest in seeing a weekly reporting of average hot carcass yields.

*Agency Response:* Estimated carcass dressing percents will be collected under mandatory cattle reporting and will be included in a weekly-published report.

##### Reporting Cattle by Price Penalty

*Summary of Comments:* Two commenters recommended AMS require packers to report the weekly percentages of cattle that are price-penalized by penalty characteristic. This would include the percentage of cattle that are condemned, the percentage of dark cutters, and the percentage of any other characteristics that result in a price penalty.

*Agency Response:* This information is not mandated by the Act for the purposes of mandatory price reporting and therefore is not listed in the information that is required to be reported in this final rule. Furthermore, AMS does not publish this information under its current voluntary reporting program.

##### Reporting Details of Cattle Formula Contracts

*Summary of Comments:* AMS received 2 comments recommending that AMS report all details of cattle formula contracts including all premiums and discounts to the base price and any special arrangements. They contended that this would provide accurate pricing information to the producer.

*Agency Response:* This information is required by § 222(d) of the Act and § 59.102 of these final regulations. Packers are required to report the following information for cattle purchased through a formula marketing arrangement: (1) The quantity of cattle; (2) the weighted average price paid for a carcass, including all applicable premiums and discounts; (3) the range of premiums and discounts paid; (4) the weighted average of premiums and discounts paid; (5) the range of prices paid; (6) the aggregate weighted average price paid for a carcass; and (7) the terms of trade regarding the cattle, as applicable.

##### Reporting of Cattle By-Products

*Summary of Comments:* AMS received one comment regarding cattle by-products. The commenter believed that the omission of cattle by-products in the proposed rule was an oversight on the part of AMS. The commenter argued that the industry relied on cattle by-products information and not including them under mandatory price reporting would create data quality problems.

*Agency Response:* Section 223 of the Act limits reporting of beef and products from beef to total boxed beef cuts as defined in this final rule (§ 59.100). AMS will continue to report cattle by-products through its voluntary reporting program.

### Boxed Beef Cutout

*Summary of Comments:* AMS received one comment expressing the desire to see the boxed beef cutout report continue in its current format under mandatory price reporting.

*Agency Response:* AMS will publish the boxed beef cutout report in a format similar to that provided under the current voluntary program and that will provide users of the report with the market information in an easy to read and understandable format. Interested persons will have a chance to comment on the format for this report when AMS makes it available during its program of education and outreach between the time of publication of this final rule and its implementation date.

### Reporting Distressed and Frozen Boxed Beef

*Summary of Comments:* AMS received 3 comments requesting that AMS drop the requirement to report transactions of distressed and frozen boxed beef cuts. In accordance with current industry practice, these commenters state that fresh boxed beef cuts are considered to be distressed 15 days after the date of manufacture for whole cuts; 8 days after the date of manufacture for fresh ground beef, beef trimmings, and boneless processing beef; and 60 days after the date of manufacture for frozen beef trimmings and boneless processing beef.

*Agency Response:* The market for such products varies considerably in price and availability of supply. Market reports based on such inconsistent markets would be of limited value and, therefore, AMS will not collect market information or publish market reports on distressed products. Accordingly, the definition of "boxed beef" does not include distressed product.

### Daily Reporting of Formula Purchases

*Summary of Comments:* AMS received one comment requesting that the required daily reporting of formula purchases be suspended. The commenter argued that the proposed rule's requirement for both daily and weekly reporting of formula purchases is redundant. Further, the commenter felt that it would be impossible to represent a clear picture of the transactions on a daily basis, as packers do not use uniform formula arrangements.

*Agency Response:* AMS does not agree. The daily and weekly reporting of this information provides valuable information to the industry. And, in accordance with § 222 of the Act, this final rule requires daily and weekly reporting of formula purchases of cattle.

### Comments Relating Specifically to Swine

#### Reporting Transactions Made Between Required Times

*Summary of Comments:* AMS received 2 comments requesting that the procedure for reporting transactions occurring between 2 p.m. and 12 midnight Central Time be clarified so that they knew what would be reported and when it would be reported.

*Agency Response:* Transactions occurring between 2 p.m. and 12 midnight Central Time are not to be reported on the daily morning or afternoon reports for swine (§ 59.202(b) & (c)). They are to be included as part of the prior day swine report as described in § 59.202(a) of this final rule.

#### Reporting Swine to a Standard

*Summary of Comments:* AMS received 14 comments regarding the issue of publishing live swine price information to a uniform standard. Twelve of these commenters agreed that publishing live swine price data to a uniform standard would lessen confusion and mistrust in the marketplace. However, they expressed concern over the methodology that would be employed to accomplish the conversion of each reporting packer's information to the standard. Specifically, they questioned using the Standardized Fat Free Lean Index prior to its being held to adequate review (In a separate action, through AMS press release, AMS published for comment on March 13, 2000, the Standardized Fat Free Lean Index). The remaining 2 comments expressed complete opposition to any attempt to publish to a standard. One commenter argued that such a move would hinder innovation by the packing industry by prohibiting the incorporation of technological advances in lean measurement devices. The other commenter believed that accuracy would be compromised and that producers would not be able to accurately make a conversion from published prices to the commenter's system.

*Agency Response:* Section 232 of the Act directs the Secretary to correlate information provided by packers to convert the carcass measurements or lean percentage of the swine of each individual packer to a common percent lean measurement. AMS is not aware of any other uniform standard besides the Standardized Fat Free Lean Index for reporting live swine information that better achieves this objective of the Act.

AMS received comments on the Standardized Fat Free Lean Index and is

in the process of evaluating them. AMS will use the index for reporting live swine information and will adopt any change to the index that might arise for the request for comments. Further AMS has added an additional measure of muscling, "average loin depth", to those factors to be reported by packers required to report. AMS believes the addition of this measure should aid producers in understanding the information reported by packers and published by AMS.

#### Reporting of Pork Cuts

*Summary of Comments:* AMS received 11 comments supporting the inclusion of mandatory reporting of domestic and export wholesale sales of boxed pork cuts consistent with the reporting requirements for beef and lamb.

*Agency Response:* The Act does not authorize a mandatory program of reporting for pork cuts. Therefore, they are not included in this final rule.

#### Reporting of Producer Identification Numbers

*Summary of Comments:* Seven comments were received expressing an interest in requiring packers to report producer identification numbers as part of the information collected under mandatory price reporting. Commenters agreed that this would provide for more efficient investigation and monitoring of preferential pricing treatment for AMS and other USDA departments.

*Agency Response:* This information is not necessary for the purpose of mandatory price reporting as provided by the Act. The Act calls for information for all transactions covered by mandatory reporting to be provided by individual lot. Lot identification numbers, required under the rule, are sufficient to ensure compliance with this provision.

#### Reporting of Net Price

*Summary of Comments:* AMS received one comment expressing the belief that the requirement for packers to report net price information for the prior day swine report was inappropriate and meaningless. The commenter argued that net price is only material to individual producers.

*Agency Response:* Publishing net price information allows producers to accurately compare the actual price they received for their livestock with the aggregated price for other producers. Using base prices for such a comparison would not provide the same level of accuracy unless all details of the transactions are known.

#### Reporting by Packers to Producers

*Summary of Comments:* Three comments were received expressing the desire to see AMS require the reporting to producers by packers of the raw data utilized by the packers when calculating the percent lean of hogs. The commenters believed that this would allow producers to compare their transaction results with AMS's publicly reported information.

*Agency Response:* The Act does not provide for the reporting of such information and it is therefore not required by this final rule.

#### Reporting Prices for Packer-Owned Swine

*Summary of Comments:* Two comments were received requesting that AMS require the reporting of prices for packer-owned swine to be included in published reports.

*Agency Response:* Section 232(b)(2) of the Act prohibits the collection of price information on packer-owned swine and it is therefore not required by this final rule.

#### Reporting of Merit Premiums

*Summary of Comments:* AMS received 7 comments expressing a desire to see daily reporting of carcass and non-carcass merit premiums. The commenters believed that this information was important to producers.

*Agency Response:* Section 232(d) of the Act requires only the weekly reporting of non-carcass merit premiums in effect during the prior slaughter week. Further, the Act does not provide for the reporting of carcass merit premiums.

#### Publishing of Formula Contract Information

*Summary of Comments:* Five commenters suggested that the formula contract information should be categorized and published by AMS.

*Agency Response:* These comments have merit. To ensure producers, packers and other market participants can readily understand the information published by AMS, AMS will categorize formula contract information in published reports. AMS will make these categories available as a part of its program of education and outreach after publication of this final rule and before its implementation date.

#### Reporting Committed Swine

*Summary of Comments:* AMS received 4 comments expressing concern over the requirement to report swine committed to the packer for the next 14 days (§ 57.202(a)(3) of the proposed rule). The commenters could

not see the value of such information and believed that reporting it could have a detrimental effect on the market.

*Agency Response:* Required by § 232 of the Act, the reporting the volume of swine committed to packers over each of the next 14 days will provide the industry with important demand side information for the market as a whole without disclosing proprietary information on any individual packer.

#### Comments Relating Specifically to Lambs

#### Reporting of Lamb and Lamb Products

*Summary of Comments:* AMS received 11 comments on this issue. Two of the comments were opposed to the inclusion of lamb and lamb products under mandatory price reporting. These commenters believed that AMS had exceeded the intent of Congress by making the lamb reporting requirements more comprehensive than the reporting for beef or pork. They stressed that Congress did not include lamb and lamb products reporting in the Act because it would prove too burdensome to the lamb industry. However, 9 commenters strongly supported the inclusion of lamb and lamb products reporting authorized but not mandated by the Act. They argued that such a program of mandatory lamb price reporting was vital to the economic stability of the domestic lamb industry and that the requirements in the proposed rule for lamb reporting were reasonable and in compliance with the intent of the Act.

*Agency Response:* Section 241 of the Act authorizes the Secretary to establish a program of mandatory lamb price information reporting 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." If the Secretary takes such action, an opportunity for comment on the proposed regulations must be provided. Under this authority, a program of mandatory lamb price reporting was included in the proposed rule and the opportunity for comment was provided. Additionally, AMS does not believe that it has made these requirements more comprehensive than the reporting for cattle or swine, but does believe it has met the intent of Congress and is operating under the authority of the Act.

#### Reporting of Wool and Pelt Information

*Summary of Comments:* Five commenters supported the continued reporting of prices for wool and pelts.

*Agency Response:* AMS will continue the reporting of the wool and pelts

markets under the current system of voluntary reporting.

#### Reporting of Boxed Lamb Cuts

*Summary of Comments:* AMS received 4 comments in opposition to the required reporting of boxed lamb cuts. One of the commenters took the position that boxed cut information is irrelevant to producers. Another expressed concern over the reporting of distressed sales. Two remaining commenters were concerned that, with all trades being reported, the published price ranges would be inflated to the point of making the information useless.

*Agency Response:* AMS does not agree that the reporting of boxed lamb cut information is irrelevant to producers. The value of a lamb carcass is based on the prices received for boxed lamb cuts. AMS believes the collection and reporting of this information is consistent with the stated purpose of the Act to provide information which would improve the price reporting services of the Department of Agriculture.

With respect to concerns over the reporting of distressed product sales, as previously mentioned, in § 59.300 of this final rule, AMS has provided a definition of the term 'boxed lamb' as follows: "The term 'boxed lamb' means those carlot-based portions of a lamb carcass including fresh primals, subprimals, cuts fabricated from subprimals (excluding portion-control cuts such as chops and steaks similar to those portion cut items described in the Institutional Meat Purchase Specifications (IMPS) for Fresh Lamb and Mutton Series 200, United States Department of Agriculture, Agricultural Marketing Service, Livestock and Seed Program), and thin meats (e.g. inside and outside skirts, pectoral meat, cap and wedge meat, and blade meat) not older than 14 days from date of manufacture; fresh ground lamb, lamb trimmings, and boneless processing lamb not older than 7 days from date of manufacture; frozen primals, subprimals, cuts fabricated from subprimals, and thin meats not older than 180 days from date of manufacture; and frozen ground lamb, lamb trimmings, and boneless processing lamb not older than 90 days from date of manufacture." Thus, the reporting of information on sales of distressed product is not required by this final rule. Additionally, to ensure the relevance of the information obtained and reported by AMS, AMS has added product 'state of refrigeration' to the list of factors to be reported, for boxed domestic and imported lamb products that are required to be reported.

### III. Impact Analysis

#### Executive Order 12866

Although not economically significant, this rule has been determined to be significant for the purposes of Executive Order 12866, and therefore, has been reviewed by the Office of Management and Budget (OMB). Regulations must be designed in the most cost-effective manner possible to obtain the regulatory objective while imposing the least burden on society. AMS has prepared a Regulatory Impact Assessment (RIA) consisting of a statement of the need for the action, an examination of alternative approaches, and an analysis of the benefits and costs. A complete analysis of the number of affected entities and the required volume of reporting is discussed under the Paperwork Reduction Act section following this section.

*Need for Action.* As stated in the background section, currently, packers are not required to report prices or the terms of sale for the animals they buy from producers. Rather, AMS collects information on daily sales and price information from packers and others on a voluntary basis. However, in recent years more animals are now being transacted under marketing arrangements where neither the arrangements nor the final purchase prices are publicly disclosed. While some of these marketing arrangements are using publicly reported prices as a base, many use the base price plus a premium and a premium/discount schedule depending upon the quality of the carcass. Current market price reports do not capture these pricing mechanisms.

Likewise, importers of lamb carcasses and cuts are not required to report sales of such imported products.

In recent years, the livestock industry has undergone fundamental changes due to economies of size at both the producer and packer level. These changes are reflected in the structure and marketing practices used today. Today, four firms slaughter about 80 percent of all fed cattle, about 55 percent of all hogs, and about 80 percent of all lambs. On the producer side, about 105 feedlots account for about 39 percent of feedlot cattle marketings, the remaining 104,000 feedlots account for 61 percent of the marketings. About 2,005 hog operations control about 47 percent of the hog inventory and the remaining 90,000 farms hold 53 percent. To assure the packers consistent quantities and quality of animals, many of the larger producers, often at a premium price, will enter into private

marketing agreements with the packers. The packer is assured of larger lots, scheduled delivery, and consistent quality animals yielding meat with characteristics desired by consumers. The producer gets a higher price than in the traditional open markets and reduced transaction costs.

Rather than buy and sell on the open market, many large slaughtering firms increasingly feed their own animals or utilize private marketing arrangements, such as forward contracts, formula pricing, and exclusive purchase agreements—for which prices and terms of sale are not publicly disclosed. The procurement methods make it difficult for producers, particularly smaller ones, who utilize open cash markets or wish to consider alternative marketing arrangements, to determine the actual purchase prices of livestock.

Most major packers provide information daily to Market News on cash prices and total numbers of livestock involved in transactions. This does not provide full coverage of animals purchased. Market News estimates that 60–65 percent of all slaughter steer and heifer transactions, 25 percent of slaughter hog transactions, and 60 percent of all slaughter lamb transactions are reported daily through the voluntary process. The remaining 35–40 percent of cattle transactions, 75 percent of the hog transactions, and 40 percent of the lamb transactions, which are not reported voluntarily, represent private marketing arrangements. As private marketing agreements become more prevalent, the number of reported transactions will further shrink and the accuracy and completeness of the information for U.S. marketings will erode.

Various groups have asked for mandatory price reporting of livestock products, arguing that fewer publicly reported marketing arrangements make it difficult for producers to determine the actual prevailing purchase prices of livestock. The pressure for mandatory reporting has steadily increased in recent years, though prior attempts to pass mandatory reporting legislation have been unsuccessful, largely due to a lack of broad, unified support from the industry. Over the past couple of years, reported price levels for cattle, hogs, and lambs have run below the 5-year average leading some to argue that it was due to market forces of supply and demand or lower quality animals in the cash market. In the fall of 1998, slaughter plants operated at full capacity and reported cash hog prices reached a 30-year low. During this period, producers and policy officials were looking for accurate and timely

market information to guide their decisions. A true hog price picture eluded them as a large amount of unreported transactions kept market news from being able to report the actual purchase price of hogs.

Private marketing arrangements or otherwise coordinated agreements between hog producers and slaughter plants are increasingly the norm. As a result, spot-market demand for slaughter hogs is greatly influenced by slaughter capacity utilization. When the available supply of slaughter hogs exceeds the designed plant capacity, slaughter costs rise as packers turn to overtime labor. To compensate for sharply higher labor costs, slaughter plants lower their bids for slaughter hogs on the public cash markets. This reduces demand for the uncontracted supply of slaughter hogs and is reflected in sharply lower spot market cash prices. This was the situation in late 1998.

Many market participants were no longer able to obtain the actual purchase prices of hogs on which to base their marketing decisions. Even the large farm producers were unable to evaluate contracts because of the unknown premium/discount schedules, which may be different in each marketing agreement. These circumstances helped to galvanize industry support for mandatory reporting and industry groups worked throughout the latter half of 1999 to fashion a mandatory reporting proposal.

During the same time period, the General Accounting Office (GAO) was requested by members of Congress to conduct a study on USDA's pork price reporting system. The study found that USDA's current methods for reporting farm and retail prices did not accurately reflect actual prices for all methods of purchase. During periods of plentiful hog supplies, packers frequently pay a lower price for hogs procured through the spot market than those procured by contract. However, the study did point out spot market hogs are of generally lower quality and more variable in weight and availability which may explain why packers are willing to pay a premium for a stable flow of hogs with consistent quality and weights.

Ultimately, Congress passed the Livestock Mandatory Reporting Act of 1999 (Act) which seeks to provide more transparency in the price discovery process and, thereby, to encourage competition in the marketplace for livestock and livestock products. By mandating reporting, the Act seeks to provide more market information to all market participants. These regulations will implement the Act. It requires packers to provide to Market News the

terms of all their livestock purchases, including those obtained through private marketing arrangements. Moreover, it requires processors of boxed beef and lamb cuts, breakers of lamb carcasses, and importers of boxed lamb cuts to report many of their transactions.

In some instances, mandatory reporting will provide new information which has never been reported under the existing voluntary reporting program. AMS anticipates that this information will provide the basis for newly published market news reports not previously provided for under voluntary reporting, including reports covering the prior day swine market, forward contract and formula marketing arrangement cattle purchases, packer-owned cattle and sheep information, sales of imported boxed lamb cuts, including applicable branded product; and live lamb premiums and discounts. In other instances, mandatory reporting will provide information that is already being provided under voluntary reporting. This includes packer direct purchases of slaughter cattle, packer sales of boxed beef and lamb cuts including applicable branded boxed cuts, packer sales of lamb carcasses, and packer negotiated purchases of swine. AMS anticipates that, in such cases, the market reports reflecting this information will continue to be published but the basis of the market reports will become mandatory information. Lastly, many voluntary-based market news reports will not be affected by mandatory reporting, including reports covering livestock auction sales, packer sales of pork cuts and by-products, and grain trading. Collectively, the new mandatory information and the current voluntary information will provide more transparency in the price discovery process and, thereby, encourage competition in the marketplace for livestock and livestock products.

*Alternatives.* As required by E.O. 12866, various methods were considered by which the objectives of the rule could be accomplished. Most private marketing reporting services rely on basic AMS livestock prices and organize the data in a particular way for a client. Further, the Act directs the Secretary to, the maximum extent practicable, provide for the reporting and publishing of information by electronic means. However, in developing these regulations AMS did consider other means by which the objectives of this 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 Act prescribes specific times that reporting entities must report to AMS. Similarly, the Act prescribes specific times for publication of a report by AMS. AMS believes electronic submission to be the only method capable of allowing for AMS to collect, aggregate and publish reports while complying with the specific time-frames set forth in the Act. AMS believes it is not possible for the Agency to receive information over the telephone, facsimile or regular mail and then transcribe the information into electronic format before aggregating and publishing the information while still complying with the publication time-frames set forth in the Act. However, AMS may provide for an exception to electronic reporting in emergencies or in cases when an alternative is agreeable to AMS and the reporting entity. The major cost of complying with this rule involves the information collection and reporting process. The information collection and reporting process is explained in the Summary of Costs Section and is referenced in § 59.10(f) Reporting Methods. A complete discussion of the cost analysis can be found in the summary of costs section.

*Summary of Benefits.* Many producers contend that they cannot obtain the market information needed to easily and quickly compare marketing possibilities available from different packers. This information is needed for producers to devise a marketing strategy that obtains the best possible prices for their livestock. Private advisory services will be able to provide a more in depth analysis to clients about alternative marketing strategies. In addition, producers selling under a private marketing agreement need benchmark prices and terms to evaluate their particular agreement to assure an equitable price for their livestock. Furthermore, the growth of private marketing arrangements in the red meat industry and declining participation in the public markets make it difficult for producers to determine prevailing market prices. Mandatory reporting will require packers to provide USDA all terms of their marketing contracts.

The implementation of this rule will improve the price and supply reporting services of the USDA. In addition, participants in the marketplace for livestock and livestock products will be able to easily monitor price and market conditions. The price discovery process will become more transparent ensuring equal market information access for all participants. The increased

transparency will more clearly transmit market signals about qualities first buyers demand thereby rewarding producers who produce animals that yield the meat consumers desire with a higher price. The increase in the quantity and quality of available market information will encourage competition in the marketplace while providing participants with the ability to make more informed marketing decisions.

Although quantities and prices of production inputs are obtained by surveys and production costs are derived, the question remains as to how to value the output in a complex marketing environment. Producers will benefit from the increase in information brought about by mandatory reporting by being able to consider more detailed market reports and previously unavailable data on non-cash market livestock procurements. These reports will better reflect the overall supply and demand situation of the marketplace and will allow producers to better determine prevailing market prices, conditions, and arrangements pertinent to the marketing process.

*Summary of Costs.* On March 17, 2000, AMS published proposed rules for these regulations in the **Federal Register**. Based on comments submitted and upon further review by AMS, the following changes and clarifications have been made in the final rule from the proposal.

#### *Codification in the Code of Federal Regulations*

This rule will establish and add a new Part 59 to Title 7 of the Code of Federal Regulations (CFR). Although the proposed rule referenced the establishment and addition of a new Part 57, upon further inspection by the Agency, it was determined that Part 59 of 7 CFR would be the appropriate codification of the final regulations.

#### **Boxed Beef and Lamb and Lamb Carcasses**

When reporting sales of boxed beef and lamb cuts and lamb carcasses, packers will not be required to report sales of product not sold at a carlot-based price (distributive trade), frozen boxed beef cuts (excluding beef trimmings, boneless processing beef, and cow product), distressed product, cuts in portion cut form (e.g. chops, steaks, etc.), and branded boxed beef and lamb cuts where the brand is based upon unique characteristics such as cutting style or packaging.

For sales of boxed beef cuts, the reporting requirements for "cut date", "buyer", and "destination" have been eliminated.

For sales of lamb carcasses and lamb cuts, the requirements for "cut date", "buyer", and "destination" have been eliminated. For sales of boxed lamb cuts, packers will now be required to report product "state of refrigeration".

**Imported Lamb Carcasses and Cuts**

Importers are not required to report market information on purchases of imported boxed lamb cuts or imported lamb carcasses, or of purchases and sales of imported lamb cuts in portion cut form (e.g. chops, steaks, etc.). For the weekly boxed lamb sales reports, importers will not be required to report product "nation of origin", but will now be required to report product "state of refrigeration".

**Live Cattle and Lambs**

Packers will not be required to report purchases from auction markets made either by a salaried employee of the packer or a person that buys on commission for a packer.

For cattle purchases, the requirement for reporting "slaughter date" has been deleted.

The twice-daily requirement for the reporting of all purchases of live lambs in the proposed rule has been reduced to once daily reporting at 2 p.m. Central Time. The regulations were clarified to require that packers are required to report "class of lamb" and "pelt type" for live lamb purchases. Additionally, the weekly reporting of lambs that were slaughtered will no longer require packers to report "shrink factor" and the reporting time for this report has been moved from the first reporting day to the second reporting day of the week.

**Live Swine**

For the daily reporting of swine that were slaughtered, packers will now be required to report "average loin depth" on the "prior day report".

**Other Changes**

Other miscellaneous changes were made to the regulatory text in response to the comments received and further review by AMS, including the addition of several new definitions to clarify the meaning of terms used in the regulations.

AMS's cost estimates along with the supporting assumptions and methodology used were stated in the proposed rule. These supporting assumptions and methodology used appeared in the Regulatory Impact Analysis, Regulatory Flexibility Analysis, and Paperwork Reduction Act Analysis sections of the proposed rule. Comments received in response to the proposed rule did not provide any

detailed supporting data and information on the methodology used in formulating their cost estimates or any information that would enable AMS to determine how they derived their cost estimates. However, we do note that the wide range of estimates received does raise concerns as to what assumptions and methodology were used by the commenters.

AMS believes that one explanation for the reason why some estimates submitted by commenters exceeded the estimates made by AMS is that commenters were estimating the costs of developing systems that exceeded the minimum requirements of a system that would fulfill these regulations. Additionally, AMS believes that some commenters may have included other costs associated with normal recordkeeping and accounting practices that are already required by existing regulations for those engaged in the livestock and meat packing and importing industries and therefore are not new costs being required by the implementation of these regulations.

Nonetheless, AMS has carefully reviewed its analysis of the cost burden estimates for mandatory reporting using the same assumptions and methodology used in the proposed rule. In this regard, we have added tables to this analysis which even more clearly itemize the supporting assumptions and methodology used by AMS in formulating our cost estimates. Further, we have adjusted our cost estimates where appropriate.

Therefore, AMS believes we have done as comprehensive of an analysis as possible of the cost burden imposed by these regulations on those required to report.

The regulations have been designed to achieve the regulatory objectives in as cost-effective manner as possible. To the extent practicable, they draw upon current industry practices in order to minimize the burden to the industry. The regulatory objective is to increase the amount of information available to participants in the marketplace for livestock and livestock products by mandating reporting of market information by certain members of the industry. Methods of accomplishing the required information collection in the timeliest manner while minimizing the opportunity for errors and maximizing existing systems and processes were contemplated. Electronic transfer of data from the reporting entity to the Agency was chosen as the least cost reporting method to accomplish all of the objectives of mandatory information collection.

AMS considered other alternatives for firms lacking electronic data transfer capabilities, such as faxing the required information to a Market News office for hand data entry. This was rejected because of the costs to both the respondent and to AMS; the amount of time required with this alternative is unworkable given the short time-frames required for public dissemination. However, there is an exception in emergencies or in cases when an alternative method is agreeable to AMS and the reporting entity.

Electronic data transmission of information is accomplished using an interface with an existing electronic record keeping system. In most cases, the information packers and importers are required to report already exists in internal computerized record keeping systems. Packers and importers will provide for the translation of the information from their existing electronic recordkeeping system into the required AMS standardized format. Once accomplished, the information will be electronically transmitted to AMS where it will be automatically loaded into an AMS database. We estimate that the cost in terms of time and money for this alternative is in the initial creation of the interface. We estimate that the creation of this interface by in-house computer personnel will require an industry average of 15 hours per respondent. Further, we estimate the cost per hour to average \$50.00 for a total cost, on average, of \$750.00. Those companies not having in-house computer personnel will incur such costs as are necessary to bring in outside computer programmers to accomplish the task. The Agency estimates this cost to be from \$750.00 to \$1,000.00.

**INITIAL ELECTRONIC SUBMISSION  
STARTUP COST PER RESPONDENT**

Hours to develop interface <sup>1</sup> .....	15
Labor cost per hour .....	× \$50.00
<b>Total cost per respondent .....</b>	<b>\$750.00</b>
Startup Cost Prorated over 5 Year Life of Program: \$750.00/5 = \$150.00 annual cost per respondent	

<sup>1</sup> Hours required to develop electronic interface between existing company electronic recordkeeping system and AMS required electronic submission format.

Additionally, AMS estimates the annual cost per respondent for the storage of the electronic data files which were submitted to AMS in compliance with the reporting provisions of this rule to be \$1,830.00 (see Paperwork Reduction Act section for a full

discussion). This estimate includes the cost of electronic data storage media, backup electronic data storage media, and backup software required to maintain an estimated annual electronic recordkeeping and backup burden of 42 megabytes, on average, per respondent. In addition, this estimate includes the cost per employee to maintain such records which is estimated to average 70 hours per year at \$20.00 per hour for a total salary component cost of \$1,400.00 per year.

**ANNUAL RECORDKEEPING COST PER RESPONDENT**

Labor hours per year .....	70
Labor cost per hour .....	× \$20.00
Sub-total labor cost per year .....	\$1,400.00
Electronic storage cost <sup>1</sup> .....	+ \$430.00
<b>Total recordkeeping cost .....</b>	<b>\$1,830.00</b>

<sup>1</sup>Includes cost of hard electronic storage (estimated to average 42 Megabytes/year), backup tape media, backup tape drive, and backup software.

In this rule, information collection requirements include the submission of

the required information on a daily and weekly basis in the standard format provided in the following forms: (1) Live Cattle Daily Report (Current Established Prices), (2) Live Cattle Daily Report (Committed and Delivered Cattle), (3) Live Cattle Weekly Report (Forward Contract and Packer-Owned), (4) Live Cattle Weekly Report (Formula Purchases), (5) Cattle Premiums and Discounts Weekly Report, (6) Boxed Beef Daily Report, (7) Swine Prior Day Report, (8) Swine Daily Report, (9) Swine Noncarcass Merit Premium Weekly Report, (10) Live Lamb Daily Report (Current Established Prices), (11) Live Lamb Daily Report (Committed and Delivered Lambs), (12) Live Lamb Weekly Report (Forward Contract and Packer-Owned), (13) Live Lamb Weekly Report (Formula Purchases), (14) Lamb Premiums and Discounts Weekly Report, (15) Boxed Lamb Report, and (16) Lamb Carcass Report. Copies of these 16 forms are included in Appendices at the end of this rule. Cattle packers will utilize six of these forms (Appendix A) when reporting information to AMS including two for

daily cattle reporting, three for weekly cattle reporting, and one for daily boxed beef cuts reporting. AMS estimates the total data submission cost burden to cattle packers to be \$266,560.

Swine packers will utilize three forms (Appendix B), two for daily reporting of swine purchases and one for weekly reporting of non-carcass merit premium information. AMS estimates the total data submission cost burden to swine packers to be \$166,400.

Lamb packers will utilize seven of these forms (Appendix C) when reporting information to AMS including two for daily lamb reporting, three for weekly lamb reporting, one for daily and weekly boxed lamb cuts reporting and one for daily and weekly lamb carcass reporting. Lamb importers will utilize one of these forms when reporting information to AMS for reporting weekly imported boxed lamb cut sales. AMS estimates the total data submission cost burden to lamb packers and lamb importers to be \$48,900.

These cost estimates are discussed in detail in the Paperwork Reduction Act Section.

**Breakdown of Estimated Data Submission Cost Burden**

**I.—NUMBER OF RESPONSES PER RESPONDENT PER YEAR**

Form	Reporting days	Responses	Total responses
<b>Cattle:</b>			
LS-113 .....	260	× 2 daily	= 520
LS-114 .....	260	× 2 daily	= 520
LS-115 .....	52	× 1 weekly	= 52
LS-116 .....	52	× 1 weekly	= 52
LS-117 .....	52	× 1 weekly	= 52
LS-126 .....	260	× 2 daily	= 520
<b>Swine:</b>			
LS-118 .....	260	× 1 daily	= 260
LS-119 .....	260	× 2 daily	= 520
LS-120 .....	52	× 1 weekly	= 52
<b>Lamb:</b>			
<b>Domestic:</b>			
LS-121 .....	260	× 1 daily	= 260
LS-122 .....	260	× 1 daily	= 260
LS-123 .....	52	× 1 weekly	= 52
LS-124 .....	52	× 1 weekly	= 52
LS-125 .....	52	× 1 weekly	= 52
LS-128 .....	260	× 1 daily	= 260
LS-129 .....	260	× 1 daily	= 260
<b>Importer:</b>			
LS-128 .....	52	× 1 weekly	= 52

**II.—NUMBER OF SUBMISSION HOURS PER RESPONDENT PER YEAR**

Form	Submissions/year	Hours/submission	Total hours/year
<b>Cattle:</b>			
LS-113 .....	520	× .17	= 88.40
LS-114 .....	520	× .17	= 88.40
LS-115 .....	52	× .25	= 13.00
LS-116 .....	52	× .25	= 13.00
LS-117 .....	52	× .08	= 4.16

## II.—NUMBER OF SUBMISSION HOURS PER RESPONDENT PER YEAR—Continued

Form	Submissions/ year		Hours/ submission		Total hours/ year
LS-126 .....	260	×	.125	=	65.00
Swine:					
LS-118 .....	260	×	.25	=	65.00
LS-119 .....	260	×	.17	=	88.40
LS-120 .....	52	×	.25	=	13.00
Lamb:					
Domestic:					
LS-121 .....	260	×	.34	=	88.40
LS-122 .....	260	×	.34	=	88.40
LS-123 .....	52	×	.25	=	13.00
LS-124 .....	52	×	.25	=	13.00
LS-125 .....	52	×	.08	=	4.16
LS-128 .....	260	×	.167	=	43.40
LS-129 .....	260	×	.167	=	43.40
Importer:					
LS-128 .....	52	×	.084	=	4.37

## III.—TOTAL SUBMISSION COST PER RESPONDENT PER YEAR

Form	Total hours/ year		Cost/hour		Total \$'s/year
Cattle:					
LS-113 .....	88.40	×	\$20.00	=	\$1,768.00
LS-114 .....	88.40	×	20.00	=	1,768.00
LS-115 .....	13.00	×	20.00	=	260.00
LS-116 .....	13.00	×	20.00	=	260.00
LS-117 .....	4.16	×	20.00	=	83.20
LS-126 .....	65.00	×	20.00	=	1,300.00
Totals .....	271.96	×	20.00	=	5,440.00
Swine:					
LS-118 .....	65.00	×	20.00	=	1,300.00
LS-119 .....	88.40	×	20.00	=	1,768.00
LS-120 .....	13.00	×	20.00	=	260.00
Totals .....	166.40	×	20.00	=	3,328.00
Lamb:					
Domestic:					
LS-121 .....	88.40	×	20.00	=	1,768.00
LS-122 .....	88.40	×	20.00	=	1,768.00
LS-123 .....	13.00	×	20.00	=	260.00
LS-124 .....	13.00	×	20.00	=	260.00
LS-125 .....	4.16	×	20.00	=	83.20
LS-128 .....	43.40	×	20.00	=	868.00
LS-129 .....	43.40	×	20.00	=	868.00
					5,875.00
Importer:					
LS-128 .....	4.37	×	20.00	=	+87.00
Totals .....	298.13	×	20.00	=	5,962.00

## IV.—TOTAL YEARLY SUBMISSION COST FOR ALL RESPONDENTS

Form	Total \$'s/year		No. of respondents		Total cost*
Cattle:					
LS-113 .....	\$1,768.00	×	49	=	\$86,640.00
LS-114 .....	1,768.00	×	49	=	86,640.00
LS-115 .....	260.00	×	49	=	12,740.00
LS-116 .....	260.00	×	49	=	12,740.00
LS-117 .....	83.20	×	49	=	4,080.00
LS-126 .....	1,300.00	×	49	=	63,700.00
Totals .....	5,440.00	×	49	=	266,560.00

IV.—TOTAL YEARLY SUBMISSION COST FOR ALL RESPONDENTS—Continued

Form	Total \$'s/year	No. of respondents	Total cost*
<b>Swine:</b>			
LS-118 .....	1,300.00 ×	50 =	65,000.00
LS-119 .....	1,768.00 ×	50 =	88,400.00
LS-120 .....	260.00 ×	50 =	13,000.00
<b>Totals .....</b>	<b>3,328.00 ×</b>	<b>50 =</b>	<b>166,400.00</b>
<b>Lamb:</b>			
<b>Domestic:</b>			
LS-121 .....	1,768.00 ×	8 =	14,140.00
LS-122 .....	1,768.00 ×	8 =	14,140.00
LS-123 .....	260.00 ×	8 =	2,080.00
LS-124 .....	260.00 ×	8 =	2,080.00
LS-125 .....	83.20 ×	8 =	670.00
LS-129 .....	868.00 ×	8 =	6,950.00
<b>LS-128 .....</b>	<b>5,007.00 ×</b>	<b>8 =</b>	<b>40,060.00</b>
<b>LS-128 .....</b>	<b>868.00 ×</b>	<b>9 =</b>	<b>+7,810.00</b>
<b>Total .....</b>			<b>47,870.00</b>
<b>Importer:</b>			
LS-128 .....	87.00 ×	6 =	520.00
<b>Total .....</b>			<b>48,390.00</b>

\*Dollars values rounded to nearest \$10.00.

The total cost burden to packers and importers required to submit information under this rule includes initial startup costs for electronic submission of data, annual recordkeeping costs, and annual data submission costs. Total reporting costs to cattle packers are estimated to be \$7,420 per plant, \$5,308 for hog packers, \$7,860 for sheep slaughtering plants, and \$2,070 for lamb importers.

TOTAL ANNUAL COST BURDEN TO RESPONDENTS

	Cost per respondent	No. of respondents	Total cost*
<b>Cattle:</b>			
Initial Startup .....	= \$150.00 ×	49 =	\$7,350.00
Recordkeeping .....	= 1,830.00 ×	49 =	89,670.00
Data Submission .....	= 5,440.00 ×	49 =	266,560.00
<b>Total Cost Per Respondent: 363,580.00/49 .....</b>			<b>= 7,420.00</b>
<b>Swine:</b>			
Initial Startup .....	= 150.00 ×	50 =	7,500.00
Recordkeeping .....	= 1,830.00 ×	50 =	91,500.00
Data Submission .....	= 3,328.00 ×	50 =	166,400.00
<b>Total Cost Per Respondent: 265,400.00/50 .....</b>			<b>= 5,308.00</b>
<b>Lamb:</b>			
<b>Domestic:</b>			
Initial Startup .....	= 150.00 ×	9 =	1,350.00
Recordkeeping .....	= 1,830.00 ×	9 =	16,470.00
Data Submission .....	= 5,875.00 ×	9 =	52,880.00
			<b>70,700.00</b>
<b>Importer:</b>			
Initial Startup .....	= 150.00 ×	6 =	900.00
Recordkeeping .....	= 1,830.00 ×	6 =	10,980.00
Data Submission .....	= 87.00 ×	6 =	522.00
			<b>12,400.00</b>
<b>Total Cost Per Respondent:</b>			
Domestic: 70,700.00/9 .....			= 7,860.00
Importer: 12,400.00/6 .....			= 2,070.00

\*Dollars values rounded to nearest \$10.00.

The respondent reporting costs vary widely by species and the size of lots purchased. Section 251 (c) General Provisions Reporting by Packers requires packers to report all information required under this subtitle on an individual lot basis. Therefore, larger lots bought by the larger packers

will result in a lower reporting cost per head slaughtered. Using 1999 federally inspected slaughter data the cost per animal slaughtered will decline as slaughter volume increased. The smaller cattle packers will have the highest reporting cost per head slaughtered, while the largest hog slaughtering firms

will have the lowest. Based on a preliminary analysis by specie, cost for cattle is estimated to be 0.011 dollars per head, swine 0.003 dollars per head, sheep 0.021 dollars per head, and lamb importers 0.428 dollars per metric ton. See Table 1. Respondent Cost.

TABLE 1.—RESPONDENT COST

Size group	Plants	Head 1,000	Respondent cost dollars	Cost per head dollars
Respondent cost for cattle slaughter, 1999:				
1–124,999 (Exempted) .....	710	2994.3	0	0
125,000–199,999 .....	10	1,878.1	74,200	0.039508
200,000–299,999 .....	7	1,773.7	51,940	0.029283
300,000–499,999 .....	10	4,296.2	74,200	0.017271
500,000–999,999 .....	7	4,604.4	51,940	0.011281
1,000,000–1,499,999 .....	11	13,464.8	81,620	0.006062
1,500,000+ .....	4	6,403.3	29,680	0.004635
Total (Subject to regulation) .....	49	32,420.5	363,580	0.011215
Respondent cost for hog slaughter, 1999:				
1–99,999 (Exempted) .....	674	3,500.1	0	0
100,000–249,999 .....	13	2,177.8	69,004	0.031685
250,000–499,999 .....	4	1,270.6	21,232	0.016710
500,000–999,999 .....	5	3,181.5	26,540	0.008342
1,000,000–1,499,999 .....	2	2,465.3	10,616	0.004306
1,500,000–1,999,999 .....	9	16,160.9	47,772	0.002956
2,000,000–2,999,999 .....	9	19,547.7	47,772	0.002444
3,000,000–3,999,999 .....	6	21,618.4	31,848	0.001473
4,000,000+ .....	6	29,632.6	31,848	0.001075
Total (Subject to regulation) .....	54	96,054.8	*286,632	0.002879
Respondent cost per head slaughtered, Sheep, 1999:				
1–74,999 (Exempted) .....	553	541.2	0	0
75,000–499,999 .....	6	1,634.9	47,160	0.028846
500,000+ .....	2	1,378.2	15,720	0.011406
Total (Subject to regulation) .....	8	3,013.1	**62,880	0.020869
Size Group	Importers	Metric tons imported	Respondent cost dollars	Cost per ton dollars
Respondent cost per metric ton imported, Lamb and mutton, 1999:				
Under 5,000 metric tons (Exempted) .....	371	7,534	0	0
5,000 and over .....	6	30,138	12,900	0.428031057
Total (Subject to regulation) .....	6	30,138	12,900	0.428031057

\* Total respondents does not reflect latest estimate of 50 used by AMS throughout this rule. AMS calculates total respondent cost as 50 x \$5,308.00 = \$265,400.00.

\*\* Total respondents does not reflect estimate of 9 used by AMS to reflect one packer that also imports. AMS calculates total respondent cost as 9 x \$7,860.00 = \$70,700.00.

In addition to these costs to packers for submitting information, the mandatory price reporting program will cost approximately \$4.7 million in FY 2000 and \$5.9 million in FY 2001. In order to implement the program in FY 2000, AMS is hiring additional staff, issuing regulations, and setting up an electronic database to capture data and develop reports that began in July. The 56 staff years required to administer and produce high quality mandatory price reports include reporters, auditors,

clerical personnel, and computer specialists. These employees will be located in three AMS offices located across the country. Salary-related costs in FY 2001 are estimated at \$3.5 million. Other costs include approximately \$600 thousand for travel and transportation; \$600 thousand for miscellaneous costs such as office space, utilities, communications costs, printing, reimbursements to cooperating States, training, and office supplies; \$200 thousand for equipment, including

computers, software, and licenses; and \$1 million for a computer systems contract to develop the database required to manage the data.

**Executive Order 12988**

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform, and is not intended to have retroactive effect. States and political divisions of States are

specifically preempted by § 259 of the Act from imposing requirements in addition to, or inconsistent with, any requirements of the Act with respect to the submission or publication of information on the prices and quantities of livestock or livestock products. Further, the Act does not restrict or modify the authority of the Secretary to administer or enforce the Packers and Stockyards Act, 1921 (7 U.S.C. 181 *et seq.*); administer, enforce, or collect voluntary reports under the Act or any other laws; 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 rule.

### Civil Rights Review

AMS has considered the potential civil rights implications of this rule on minorities, women, or persons with disabilities and prepared a Civil Rights Impact Analysis to ensure that no person or group shall be discriminated against on the basis of race, color, sex, national origin, religion, age, disability, or marital or family status. This included those persons who are employees of those entities required to participate and those individuals who wish to use information collected by this mandatory program of information regarding the marketing of cattle, swine, lambs, and products of such livestock.

Upon a review of our regulation and the Civil Rights Impact Analysis on the proposed rule, prepared by AMS, the USDA Office of Civil Rights determined that this rule does not require affected entities to relocate or alter their operations in ways that could adversely affect such persons or groups or will this program have a disproportionate effect on women, minorities or people with disabilities. Further, this program will not exclude from participation any persons or groups, deny any persons or groups the benefits of the program, subject any persons or groups to discrimination.

The final rule, which incorporates comments received during the comment period, has no disproportionate impact on women, minorities or people with disabilities.

### Executive Order 13132

This 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 expressed preemption provision. This rule is required by the Act. Section 259 of the

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."

For a number of years, States have operated programs of voluntary market reporting of livestock and livestock products. Many of these programs have been operated in conjunction with the USDA through Federal-State agreements. Under these agreements, the USDA and the States work cooperatively to gather and disseminate information on the livestock markets within the State. Until now, all of these programs have been based on voluntary reporting of market information. The Act and these regulations are not intended to have an effect on any voluntary market reporting programs currently being operated by the States.

However, recently, several States have enacted legislation mandating, to various degrees, the reporting of market information on transactions of cattle, swine, and lambs conducted within that particular State. Currently, this includes the States of Iowa, Minnesota, Missouri, Nebraska, and South Dakota. Of these, only Minnesota and South Dakota are collecting mandated market information.

Section 259 of the Act, preempts States from imposing mandatory reporting requirements that are in addition to or inconsistent with any requirement of this rule with respect to the collection and publication of information on the prices and quantities of livestock and livestock products. This preemption clause will affect all mandatory reporting programs currently in effect by the States and the implementation of any mandatory reporting programs currently developed, in the process of being developed, or that may be developed at a later date.

With regard to consultation with States, AMS has made sure that the States are aware of the Act and AMS has engaged in formal and informal discussions regarding the implications of Federal livestock mandatory reporting with those States which either currently have mandatory reporting programs or are in the process of

developing mandatory reporting programs.

Additionally, interested persons were invited to comment on the proposal as it related to the operation of State livestock and livestock products reporting programs. The summaries of comments follow.

*Summary of Comments:* AMS received 3 comments requesting that language be placed in the regulations regarding the preemption of State mandatory price reporting laws. The commenters believed that the omission of such language in the final rule would allow States to impose their own mandatory reporting laws.

*Agency Response:* Section 259 of the Act provides that no State may impose a requirement that is in addition to, or inconsistent with, any requirement of the 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. Contained within the supplemental information sections of the proposed rule and these final rules are discussions clarifying the Agency's interpretation of the Act as it relates to the preemption of State mandatory reporting programs. Accordingly, although such language does not appear in the regulatory text of this final rule, this has no effect on the enforcement of the Act.

### Regulatory Flexibility Act

*In General.* This rule has been reviewed under the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). The purpose of the 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. The Livestock Mandatory Reporting Act of 1999 (Act) requires AMS to collect and publish livestock market information. The required information is only available directly from those entities required to report under the Act and by these regulations and exists nowhere else. Therefore, this rule does not duplicate market information reasonably accessible to the Agency.

In formulating this rule, particular consideration was given to reducing the

burden on entities while still achieving the objectives of the regulation. Accordingly, thresholds were set which defined those entities which are required to report information on purchases of live cattle, swine and lambs, as well as information on domestic and export sales of boxed beef cuts including applicable branded product, and sales of lamb carcasses, boxed lamb cuts including applicable branded product, and imported boxed lamb cuts including applicable branded product.

In any calendar year, only federally inspected cattle plants which slaughtered an average of 125,000 head of cattle a year for the immediately preceding 5 calendar years are required to report. Additionally, any cattle plant that did not slaughter cattle during the immediately preceding 5 calendar years are required to report if the Secretary determines that the plant should be considered a packer based on its capacity. For entities that did not slaughter cattle during the immediately preceding 5 calendar years, such as a new plant or existing plant that begins operations the 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. This accounts for approximately 49 out of 759 cattle plants or 6.5% of all federally inspected cattle plants.

For any calendar year, any federally inspected swine plant which slaughtered an average of 100,000 head of swine a year for the immediately preceding 5 calendar years are required to report information. Additionally, any swine plant that did not slaughter swine during the immediately preceding 5 calendar years if the Secretary determines that the plant should be considered a packer based on the capacity of the processing plant are required to report. This accounts for approximately 50 out of 728 swine plants or 6.9% of all federally inspected swine plants.

In any calendar year, federally inspected lamb plants which slaughtered the equivalent of an average of 75,000 head of lambs a year for the immediately preceding 5 calendar years are considered a packer and required to report. A packer includes a processing plant that purchases and processes an average of 75,000 lamb carcasses annually rather than slaughter live lambs. Additionally, any processing plant that did not slaughter an average of 75,000 lambs during the immediately preceding 5 calendar years if the Secretary determines that the plant

should be considered a packer based on the capacity of the processing plant are required to report.

For any calendar year, lamb importers that imported an average of 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years are required to report. Additionally, lamb importers that did not import an average of 5,000 metric tons of lamb meat products during the immediately preceding 5 calendar years if the Secretary determines that the person should be considered an importer based on the volume of lamb imports are required to report. Some lamb plants may also be importers. This accounts for approximately 17 out of 561 lamb plants and importers or 3.0% of all federally inspected lamb plants and importers.

Fully 93.5% of all cattle, 93.1% of all swine, and 97.0% of all lamb plants in the U.S. are exempted by this rule from reporting information.

Accordingly, we also have prepared a regulatory flexibility analysis. The RFA compares the size of meat packing plants to the Standard Industrial Code (SIC) to determine the percentage of small businesses within the meat packing industry. Under these size standards, meat packing companies with 500 or less employees are considered small business entities.

*Objectives and Legal Basis.* The objective of this rule is to improve the price and supply reporting services of the Department of Agriculture in order to encourage competition in the marketplace for livestock and livestock products by increasing the amount of information available to participants. This is accomplished through the establishment of a program of information regarding the marketing of cattle, swine, lambs, and products of such livestock as specifically directed by the Act and these regulations, as described in detail in the background section.

*Estimated Number of Small Businesses.* This rule provides for the mandatory reporting of market information by livestock packers who for any calendar year have slaughtered a certain number of livestock during the immediately preceding 5 calendar years. This number is 125,000 head per year for cattle and 100,000 head per year for swine. Lamb plants required to report include those that for any calendar year slaughter or process the equivalent of 75,000 head per year during the immediately preceding 5 calendar years. Additionally, for any calendar year lamb importers that imported an average of 5,000 metric tons of lamb meat products per calendar year during the

immediately preceding 5 calendar years are also required to report details of their purchases. For cattle and swine processing plants that have not slaughtered livestock during the immediately preceding 5 calendar years are also required to report if the Secretary determines that the plants should be considered packers based on their capacity. Additionally, lamb packers and lamb meat processors and importers that did not slaughter or process the equivalent of 75,000 head per year or import 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years are required to report if the Secretary determines that they should be considered an importer based on their volume of lamb imports.

These packers and importers are required to report the details of all transactions involving purchases of livestock and the details of all transactions involving domestic and export sales of boxed beef cuts including applicable branded product, and sales of domestic boxed lamb cuts including applicable branded product, imported boxed lamb cuts including applicable branded product and lamb carcasses to AMS. Cattle and swine information will be reported to AMS according to the schedule directed by the Act and these regulations with purchases of swine reported three times each day, purchases of cattle twice each day, and sales of domestic and exported boxed beef cuts, including applicable branded product, reported twice each day. Lamb information will be reported to AMS according to the schedule mandated by these regulations with purchases of lambs reported once each day and sales of lamb carcasses reported once each day. Previous week sales of imported boxed lamb cuts including applicable branded boxed lamb cuts will be reported once weekly on the first reporting day of the week.

The SIC size standard classifies a small business in the meat packing industry as a company with less than 500 employees. Although it is common in the red meat industry for larger companies to own several plants, some of which may employ less than 500 people, those companies and lamb importers with a total slaughter plant employment at all locations of less than 500 are considered to be small businesses for the purposes of this rule even though individual plants are mandated to report as provided by the Act and these regulations.

For any calendar year, federally inspected beef plants required to report include those that slaughtered an average of 125,000 head per year during

the immediately preceding 5 calendar years. Also included are processing plants that did not slaughter cattle during the immediately preceding 5 calendar years but are determined to be a packer by the Secretary based on the capacity of the processing plant. By this definition, approximately 30 individual beef packing companies representing 49 individual plants are required to report information to AMS. Based on the SBA size standard, 10 of these 30 beef packing companies are considered small businesses, representing 10 plants that are required to report. The figure of 49 plants required to report represents 6.5% of the cattle plants in the U.S. The remaining 93.5% of cattle plants, nearly all estimated to qualify as small business, are exempt from mandatory reporting.

For any calendar year, federally inspected pork plants required to report include those that slaughtered an average of 100,000 head per year during the immediately preceding 5 calendar years. Also included are processing plants that did not slaughter swine during the immediately preceding 5 calendar years but are determined to be a packer by the Secretary based on the capacity of the processing plant. By this definition, approximately 29 individual pork packing companies representing a total of 50 individual plants are required to report information to AMS. Based on the SBA size standard, 15 of these 29 pork packing companies are considered small businesses, representing 15 individual plants that are required to report. The figure of 50 plants required to report represents 6.9% of the swine plants in the U.S. The remaining 93.1% of swine plants, nearly all estimated to qualify as small business, are exempt from mandatory reporting.

For any calendar year, lamb packers required to report include those that slaughtered or processed the equivalent of 75,000 head per year during each of the immediately preceding 5 calendar years. Also included are processing plants that did not slaughter or process an average of 75,000 lambs during the immediately preceding 5 calendar years but are determined to be a packer by the Secretary based on the capacity of the processing plant. For any calendar year, an importer that imported an average of 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years are required to report. Additionally, a lamb importer that did not import an average of 5,000 metric tons of lamb meat products during the immediately preceding 5 calendar years if the Secretary determines that the person should be considered an importer based on the

volume of lamb imports, will also be required to report. By this definition, 17 individual companies including importers representing a total of 12 plants, are required to report information. Based on the SBA size standard, all 12 of these lamb plants are considered small businesses with none employing more than 500 people. The figure of 12 plants required to report represents 3.0% of the lamb plants in the U.S. Nearly all of the remaining 97.0% of lamb plants are estimated to qualify as small businesses and are exempt from mandatory reporting.

*Projected Reporting.* This rule requires the reporting of specific market information regarding the buying and selling of livestock and livestock products. The information will be reported to AMS by electronic means. 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 (Appendices A–C).

Once the required information has been entered into the AMS database, it will be aggregated and processed into various market reports which will be released according to the daily and weekly time schedule set forth in these regulations.

As an alternative, in response to comments concerning AMS developing and making available a web-based input forms for submitting data online, AMS found that some of the smaller entities covered under mandatory price reporting would benefit from such a web-based submission system. Accordingly, AMS is developing such a system that will be ready in time for program implementation.

Under both systems, information regarding the specific characteristics of each reported sale must be supplied by lot without aggregation. In order to adequately describe and categorize each transaction, as many as fifteen separate pieces of information are required to be reported. This information includes price, head count, weight, quality grade, and yield grade. The frequency respondents are required to report is one to three times each reporting day depending on the species and type of information required.

In 1999, an average of 700,000 cattle were slaughtered each week. Beef plants identified as small businesses contributed an estimated 7,000 head per day, on average, to this weekly slaughter with each business contributing an estimated 700 head per day on average

based upon publicly available information. At a maximum, if each of these 700 cattle were purchased in lots of one head each and 15 pieces of information were required for each purchase, as many as 10,500 individual pieces of information will have to be reported by each small beef packing plant each reporting day. In addition, each of the small beef packing plants is required to report all domestic and export sales of boxed beef cuts including applicable branded product. On average, each of these small entities slaughters an estimated 700 head per day. Since most beef carcasses are usually fabricated at the point of slaughter, each of these small beef packers process about 700 beef cattle into boxed beef cuts each day. Normally, boxed beef cut sales average about 200 boxes per transaction and each head of cattle equals 7 boxes. This represents 25 separate transactions which, if 15 pieces of information were required per transaction, translates into 375 pieces of information reported by each small beef packing business producing boxed beef each business day. AMS estimates the total annual burden on each small cattle packer and boxed beef processing entity to be \$7,420, including \$5,440 for annual costs associated with electronically submitting data, \$150.00 for annual share of initial startup costs of \$750, and \$1,830 for the storage and maintenance of electronic files that were submitted to AMS.

This figure was calculated by estimating the time required to complete the necessary data submission and factoring by the number of times reporting is required per day for an estimated total of 260 reporting days in a year (see Paperwork Reduction Act section for a complete, detailed discussion).

On average each week in 1999, 1.9 million swine were slaughtered. Pork plants identified as small businesses contributed an estimated 17,000 head per day to this weekly slaughter with each business contributing on average an estimated 1,125 head per day, based on publicly available figures. If each of these head were purchased in lots of one head each and 15 pieces of information were required for each purchase, 16,875 pieces of information will have to be reported by each small pork packing plant per day.

Using the same methodology as described above for cattle, AMS estimates the total annual burden on each small swine packing entities to be \$5,308, including \$3,328 for annual costs associated with electronically submitting data, \$150.00 for annual

share of initial startup costs of \$750, and \$1,830 for the storage and maintenance of electronic files that were submitted to AMS. This estimate does not include costs associated with reporting sales of pork products which is not required to be reported.

Sheep slaughter in 1999 averaged 70,000 head per week. All lamb plants contributing to this weekly slaughter are identified as small businesses. On average, these lamb plants each slaughtered an estimated 2,200 head per day, based on publicly available information. If each of these lambs were purchased one at a time and 15 pieces of information were required for each transaction, 33,000 pieces of information will have to be reported by each small lamb packing plant. In addition, all lamb plants processing the equivalent of 75,000 lambs per year during each of the immediately preceding 5 calendar years, which are required to report, qualify as small businesses. These plants are required by regulation to report information on their sales of boxed lamb cuts. It is estimated that negotiated sales comprise the majority of all boxed lamb cut sales. Based on publicly available information, lamb plants processing lamb into boxed lamb cuts, on average, process the equivalent of an estimated 1,200 head per day. It is normal business practice that these lamb cuts are sold in units averaging between 25–150 boxes per transaction, representing about 8–50 head of lambs (about 3 boxes per head). At 1,200 head per day, there could be as many as 150 transactions per day per reporting packer. Assuming that each of these 150 transactions required 15 pieces of information per transaction, 2,250 pieces of information will have to be reported by each small lamb packing plant.

In any calendar year, importers of lamb meat products that imported an average of 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years are required to report the details of their sales of boxed lamb cuts including applicable branded product to AMS on a weekly basis. Additionally, in any calendar year, lamb importers that did not import an average of 5,000 metric tons of lamb meat products during the immediately preceding 5 calendar years if the Secretary determines that the person should be considered an importer based on the volume of lamb imports are required to report the above information. AMS estimates that each of the 5 importers required to report import, on average, 180 metric tons of lamb products per week. AMS estimates that the majority of these imports are

contracted over a period of time, usually from 3–6 months, possibly as much as 12 months. Prices are normally negotiated at the time the contract is entered into along with the particular cut of lamb and the volume. During the time the contract is in effect, prices are not expected to change from week to week but quantities might. Assuming that an average importer purchases an average of 10 different cut styles, each at a single price, from an average of 2 suppliers, AMS estimates that the weekly reporting burden for each importer includes information for up to 20 different transactions. Each transaction requires 7 pieces of information including, price, quantity, cut, trim, weight, delivery date, and nation of origin, for a total of 140 separate pieces of information.

AMS estimates the total annual burden on each small lamb packer to be \$7,860 including \$5,875 for annual costs associated with electronically submitting data, \$150.00 for annual share of initial startup costs of \$750, and \$1,830 for the storage and maintenance of electronic files that were submitted to AMS.

AMS estimates the total annual burden on each small importer of lamb to be \$2,070 including \$87 for annual costs associated with electronically submitting data, \$150.00 for annual share of initial startup costs of \$750, and \$1,830 for the storage and maintenance of electronic files that were submitted to AMS.

Normally, few packers buy livestock or livestock products in one head or one head equivalent lots. Similarly, few importers buy imported lamb cuts in less than carlot volumes. Therefore, the estimated reporting burden described here reflects the maximum reporting burden on small businesses.

*Projected Recordkeeping.* Each packer and importer required to report information to the Secretary 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 by these regulations to maintain and to 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. Reporting packers and importers are also required to maintain

copies of the information provided to AMS. All of the above-mentioned paperwork must be kept for at least 2 years. Packers and importers are not required to report any other new or additional information that 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 that is imposed on the packers and importers is further discussed in the section entitled Paperwork Reduction Act that follows.

In addition, we have not identified any relevant Federal rules that are currently in effect that duplicate, overlap, or conflict with this rule. AMS will continue to report market information collected through its voluntary market reporting program provided the collection of such information does not duplicate the information collection requirements of this rule.

Professional skills required for recordkeeping under this rule are not different than those 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 rule as directed by the Act requires cattle and swine packing plants of a certain size to report information to the Secretary at prescribed times throughout the day and week. Further, lamb slaughter and processing plants and lamb importers of a certain size are required by these regulations to report information to the Secretary at prescribed times throughout the day and week. These regulations already exempt many small businesses by the establishment of daily slaughter, processing, and import capacity thresholds. Based on figures published by the National Agricultural Statistics Service (NASS), there were 759 cattle, 728 swine, and 561 lamb federally inspected slaughter plants operating in the U.S. at the end of 1999. AMS estimates that approximately 49 cattle plants are required to report information (6.5% of all federally inspected cattle plants), 50 swine plants are required to report information (6.9% of all federally inspected swine plants), and 17 lamb packers and importers are required to report information (2.1% of all federally inspected lamb plants and 1.3% of all lamb importers). Therefore, fully 93.5% of all cattle plants, 93.1% of all swine plants, and 97.9% of all lamb packers and 98.7% of lamb importers are not required to report.

AMS recognizes that a major economic impact of this rule on those small entities required to report involves the manner in which information must be reported to the Secretary. However, in developing these regulations AMS did consider other means by which the objectives of this 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 Act prescribes specific times that reporting entities must report to AMS. Similarly, the Act prescribes specific times for publication of a report by AMS. AMS believes electronic submission to be the only method capable of allowing for AMS to collect, aggregate and publish reports while complying with the specific time-frames set forth in the Act. AMS believes it is not possible for the Agency to receive information over the telephone, facsimile or regular mail and then transcribe the information into electronic format before aggregating and publishing the information while still complying with the publication time-frames set forth in the Act.

Nevertheless, in response to the comments received in response to the proposed rule concerning AMS developing and making available web-based input forms for submitting data online, AMS found that some of the smaller entities covered under mandatory price reporting would benefit from such a web-based submission system. Accordingly, AMS is developing such a system that will be ready in time 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 to AMS and the reporting entity.

Other than these alternatives, AMS cannot envision any other 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 to minimize the burden on them to the maximum extent practicable.

AMS understands that unforeseen technical difficulties may occur during the implementation of this rule that may, in some cases, prevent full compliance. To assist the industry in achieving compliance, during the period between publication of this final rule and its effective date, AMS will provide assistance and training to each covered

entity to ensure that they have been given the technical information necessary to comply with both methods of electronic data transmission requirements. Furthermore, covered entities acting in good faith in attempting to comply with electronic reporting requirements during the implementation phase will not be penalized under the enforcement provisions.

*Comments and Responses.* In the proposed rule published March 17, 2000, comments were invited on the reporting format, including alternatives from small businesses that would be less burdensome. Although these comments and the Agency's responses to them were contained in the background section of this action where the Agency responded to all of the comments received in response to the proposal, the Agency has identified those comments that specifically pertained to issues raised in this section and responded to them again here. Summaries of AMS' responses to those issues concerning this section follow.

#### **Validity of Cost Burden Estimates**

To specifically respond to issues of concern to small businesses, the Agency's responses to the comments concerning the validity of AMS' cost burden estimates in the proposed rule remain unchanged. AMS's cost estimates along with the supporting assumptions and methodology used were stated in the proposed rule. These supporting assumptions and methodology used appeared in the Regulatory Impact Analysis, Regulatory Flexibility Analysis, and Paperwork Reduction Act Analysis sections of the proposed rule. The commenters, including small businesses, did not provide any detailed supporting data and information on the methodology used in formulating their cost estimates or any information that would enable AMS to determine how they derived their cost estimates. However, we do note that the wide range of estimates does raise concerns as to what assumptions and methodology were used by the commenters.

AMS believes that one explanation for the reason why some estimates submitted by commenters exceeded the estimates made by AMS is that commenters were estimating the costs of developing systems that far exceeded the minimum requirements of a system that would fulfill these regulations. Additionally, AMS believes that some commenters may have included other costs associated with normal recordkeeping and accounting practices that are already required by existing

regulations for those engaged in the livestock and meat packing and importing industries and therefore are not new costs being required by the implementation of these regulations.

Nonetheless, AMS has carefully reviewed its analysis of the cost burden estimates for mandatory reporting. In this regard, we have added tables in the Regulatory Impact Analysis, Regulatory Flexibility Analysis, and Paperwork Reduction Act Analysis sections of this final rule which even more clearly itemize the supporting assumptions and methodology used by AMS in formulating our cost estimates. Further, we have adjusted our cost estimates where appropriate. Therefore, AMS believes we have done as comprehensive of an analysis as possible of the cost burden imposed by these regulations on those required to report.

Additionally, AMS does not agree that allowing lot aggregation, exempting branded boxed beef and lamb cuts, or exempting lots of livestock consisting of fewer than 50 head as reporting requirements would reduce the cost burden on the industry. Eliminating these requirements will not have any effect on reducing the number of forms that are included in AMS's estimated reporting cost burden because the suggested changes are not unique to any one form. The amount of time required to submit the forms will not be result in any significant time savings as AMS expects all data submission to be accomplished through electronic means. These changes will not reduce the number of respondents required to report as none of the respondents are limited to selling only branded boxed beef and lamb cuts and buying livestock in lots of 50 head or less. Lastly, allowing respondents to aggregate information on lots of livestock prior to submission will require them to spend additional time to sort and aggregate the information, resulting in an increased time burden.

AMS does agree, however, that exempting entire product categories would reduce the annual cost burden on the industry. Specifically, eliminating entire product categories will reduce the number of responses specified in the Paperwork Reduction Act section of the proposed rule.

According to § 251(d)(3) of the Act, the Secretary shall make information obtained under this program available to the public only if it conforms to aggregation guidelines established by the Secretary. Pursuant to § 251(d)(3), the Secretary has established the following guidelines: Submitted information will only be published by

USDA if (a) it is obtained from no fewer than 3 packers or importers representing a minimum of three companies, (b) the information from any one packer or importer represents not more than 60 percent of the information to be published, and (c) AMS does not have any reason to believe the information cannot be reported in a manner that protects the confidentiality of the source packer.

Because there is only one entity engaged in the business of purchasing imported lamb carcasses, AMS cannot report this information without disclosing the identity of the entity reporting. By requiring this entity to report its purchases of imported lamb carcasses that AMS knows that it would be unable to publish, the Agency believes this requirement would be an unnecessary burden placed upon the entity.

Accordingly, in this final rule, importers are not required to report market information on purchases of imported lamb carcasses. Consequently, the estimated annual reporting burden for Form LS-129-Lamb Carcass Report has been reduced by 43 hours or \$860 per year. The total cost burden for lamb carcass reporting in this final rule has been adjusted accordingly.

Nevertheless, if a sufficient number of entities enter the business of importing lamb carcasses that AMS believes it would be able to publish the information obtained, AMS intends on initiating rulemaking to amend these regulations to require the reporting of information by importers on purchases of imported lamb carcasses.

Additionally, in contrast to the proposed rule, this final rule will not require lamb importers to report their purchases of imported boxed lamb cuts. Although the proposed regulations required lamb importers to report both their purchases and sales of imported boxed lamb cuts, the Agency has determined that because the reporting of lamb cuts sold in portion cut form (*e.g.*, chops, steaks, etc.) are not to be reported for either domestic or imported lamb, the reporting of both the purchases and sales of imported boxed lamb cuts would not provide a significant amount of additional market information over what will be obtained by only requiring importers to report information on their sales of imported boxed lamb cuts not sold in portion cut form.

AMS had originally intended to obtain market information concerning the purchases and sales of imported boxed lamb cuts in an effort to disseminate more complete market information concerning the prices being paid and received for imported lamb

meat products entering the U.S. market. However, because packers and importers are exempt from reporting information concerning any boxed lamb cuts sold in portion cut form, the only product lamb importers produce from the processing of imported boxed lamb cuts not in portion cut form, AMS determined that requiring the reporting of this information was not necessary as these products could be processed into portion cut form before export to the United States, thereby being exempt from these reporting provisions. Further, information concerning the volume and value of imported boxed lamb cuts that are not sold in portion cut form from importers who buy and sell imported boxed lamb cuts not in portion cut form, this information is already being obtained by the requirement that importers report the prices they receive for their sales of those products.

As a result of the removal of the requirement for lamb importers to report their purchases of imported boxed lamb cuts, the estimated annual reporting burden for Form LS-128-Boxed Lamb Cuts Report has been reduced by 26 hours or \$520 per year. The total cost burden for boxed lamb cut reporting in this final rule has been adjusted accordingly.

Given that all of those lamb importers required to report are classified as small businesses, these changes specifically benefits small businesses.

#### **Electronic Reporting of Information**

AMS agrees with the points raised by the commenters regarding electronic data submission discussed earlier. AMS's own estimates of cost burdens indicated that the cost of submitting information by any method other than electronic would be cost-prohibitive, error prone, and unsecured. For the same reasons, AMS will grant exceptions to electronic reporting only in emergency cases such as power failures or loss of Internet accessibility. AMS will also provide web-based input screens as an alternative option for entities to use when submitting information. AMS computer specialists have conducted on-site visits over the past year to many packers who will be required to report to discuss and evaluate electronic recordkeeping systems employed by the industry.

AMS understands commenter's concerns about their ability to comply with these reporting requirements in a timely, accurate manner, in order to avoid any enforcement penalties. This is particularly important in the context of an untested, electronic reporting process and disparate computing resources

among reporting entities. AMS further understands that unforeseen technical difficulties may occur during the implementation of this rule which may, in some cases, prevent full compliance. Recognizing these concerns and acknowledging our responsibility to provide flexibility in dealing with small business as directed by the President in the 1995 Regulatory Reform—Waiver of Penalties and Reduction memorandum, entities acting in good faith in attempting to establish a data transfer technology and reporting process that will comply with the electronic reporting requirements will not be penalized under the enforcement provisions.

To further assist the industry in achieving compliance, educational and outreach sessions will be held around the country immediately upon publication of this final rule. In these sessions, AMS will actively assist each reporting entity in understanding how their information technology infrastructures and related resources should be configured in order to ensure interoperability with the electronic transaction system developed by AMS. AMS will document and provide the reporting entities with standards and protocols associated with the transaction. Among other topics, these sessions will also provide information on implementing and using digital certificates, acceptable submission formats, the newly designed web-based input method, output report designs, data aggregation guidelines, and AMS' electronic transaction system. In addition, AMS plans to beta test the technology to implement the rule during the time between publication of this final rule and its effective date and all entities required to report will be encouraged to participate in the beta testing program. Any feedback received during this outreach and testing period will be used to revise the reporting requirements, input and output formats, and process accordingly.

In response to the comment concerning AMS developing and making available a web-based input forms for submitting data online, AMS found that some of the smaller entities covered under mandatory price reporting would benefit from such a web-based submission system. Accordingly, AMS is developing such a system that will be ready in time for program implementation.

Although AMS does not believe that this change will result in any time or cost savings for those required to report, or that this alternative will prove a feasible alternative for larger companies who are required to submit large

volumes of information, AMS will provide this alternative to those small businesses seeking an alternate method of submitting information who do not wish to develop their own electronic versions of the AMS reporting forms (a complete analysis is provided in the Paperwork Reduction Act section).

#### **Prior Day Swine Reporting**

The time requirements for the reporting of prior day swine information are in accordance with the Act (§ 232(c)(1)(B)) and this final rule reflects that provision of the Act. Nonetheless, information not available in time for the prior day swine reporting should be reported, and will be published, as a part of the next report.

Several small businesses expressed concern over these time requirements and the result this requirement would have on them being required to hire additional staff. AMS has attempted to manage the impact of this program on small businesses wherever possible. Nonetheless, there are certain requirements that are provided by statute and basic to program provisions.

#### **Distributive Sales**

Recognizing that requiring the reporting of distributive sales would specifically target small businesses, that the distributive trade is unique when compared to traditional boxed beef trade, the relatively small percentage such trades represent of all boxed beef sales, and the negative effect the inclusion of such unrelated information would have on the aggregated reports AMS would publish, it was never AMS's intention that the information concerning the distributive trade would be included in this program as AMS believes the reporting of such information is not contemplated by the Act.

To clarify that distributive sales are not to be reported, in this final rule, AMS has included definitions of a carlot of boxed beef, boxed lamb, and lamb carcasses. For purposes of boxed beef cuts reporting, a carlot is any transaction between a buyer and a seller involving 2 or less delivery stops consisting of one or more individual boxed beef items. For lamb carcasses and boxed lamb cuts reporting, a carlot is any transaction between a buyer and a seller involving 3 or less delivery stops consisting of one or more individual boxed lamb cuts or any combination of carcass weights. By adding these definitions, AMS has clarified the regulations concerning reporting of distributive trade of boxed beef and boxed lamb cuts and lamb carcasses. Sections 59.100 and 59.300 of

these regulations have been revised accordingly.

This clarification should lessen the impact this regulation will have on small businesses.

#### **Maintenance of Records**

The Agency has tried to make the records required to be submitted and maintained under this final rule the minimum needed to achieve the objectives of the Act and has specifically considered the impact the submission and retention of such records will have on small businesses. Further, based upon AMS's knowledge of common industry practices and in being consistent with the requirements of the Act, these regulations do not require the reporting of any new or additional information that is either not generally available or maintained by packers or the provision of which would be unduly burdensome.

#### **Reporting of Auction Purchases**

As already discussed earlier in this section, AMS has clarified that purchases of livestock through auction markets are not required by this final rule. As auction purchases are made in an open, public setting between one seller and many buyers, auction purchases do not meet any of the types of purchases defined by the Act as a "type of purchase" (§ 221(8)). Accordingly, packers required to submit information under mandatory price reporting will not be required to report information on transactions of livestock purchased at auction markets by either salaried employees of a packer or a person that buys on commission for a packer. However, livestock purchased by a packer from a livestock dealer, a purchase between one buyer and one seller not in a public setting, must be reported because this constitutes a negotiated trade which is defined by the Act as a "type of purchase" reportable under mandatory reporting. Accordingly, packers must institute systems to distinguish between purchases from auctions and purchases from direct sources for the purposes of mandatory reporting.

#### **Reporting of Lamb and Lamb Products**

AMS recognizes that fully all of the lamb packers required to report are considered small businesses. However, § 241 of the Act authorizes the Secretary to establish a program of mandatory lamb price information reporting 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." If the Secretary

takes such action, an opportunity for comment on the proposed regulations must be provided. Under this authority, a program of mandatory lamb price reporting was included in the proposed rule and the opportunity for comment was provided.

Additionally, AMS does not believe that it has made these requirements more comprehensive than the reporting for cattle or swine, but does believe it has met the intent of Congress and is operating under the authority of the Act.

#### **Packer Thresholds**

The establishment of cattle and swine packer thresholds by the Act and the establishment of lamb packer and importer thresholds by these regulations is an important component of the Agency's efforts to ensure this regulation does not unfairly impact small businesses. By exempting the vast majority of small businesses from being required to comply with these regulations greatly reduces the overall impact of these regulations on small businesses as a whole.

Nevertheless, to specifically respond to the concerns raised by commenters, the definitions of cattle and swine packers put forth in the proposed regulations are defined by the Act. However, unlike cattle and swine, the Act does not provide a definition of a lamb packer or importer.

AMS believes that lowering the lamb packer threshold from what was put forth in the proposed regulation will create a burden on additional lamb packers without a gain of significant market information. Additionally, the 75,000 head per year threshold was set to be compatible with those thresholds set by the Act for cattle and swine packers.

Similarly, AMS established the 5,000 metric ton lamb importer threshold because it will cover a comparable percentage of the lamb imports as slaughter and processing are being covered by the cattle, swine and lamb packer definitions, or approximately 80% of lamb imported into the U.S. (According to U.S. Customs Service published data, in 1999, 40,301 metric tons were imported by the U.S.).

The importer capacity threshold would have to be reduced to 2,500 metric tons to cover the remaining 20% of lamb meat imports. Additionally, the products imported by many of these operations are so unique that AMS believes it would be unable to report them without disclosing proprietary information.

For the reasons stated above, none of the suggested changes to the cattle

packer, swine packer, lamb packer, or lamb importer definitions are adopted.

### Voluntary Reporting Role

As already discussed, AMS intends to continue many voluntary reporting programs. AMS has no plans to discontinue coverage of any voluntary-based market news reports not affected by mandatory reporting, including reports covering livestock auction sales, packer sales of pork cuts and by-products, feeder cattle sales, feeder pig sales, and grain trading. Many of those entities that will participate in these voluntary market news programs are small businesses.

In some instances, mandatory reporting may provide some of the information that is already being provided under voluntary reporting. This would include some transactions of packer direct purchases of slaughter cattle, packer sales of boxed beef and lamb cuts including applicable branded boxed cuts, packer sales of lamb carcasses, and packer negotiated purchases of swine. The market reports reflecting this information will continue to be published but the basis of the market reports will be more comprehensive and will become mandatory information.

In some instances, mandatory reporting will provide new information that has never been reported under the existing voluntary reporting program. AMS anticipates that this information will provide the basis for publishing market news reports not previously provided for under voluntary reporting. This will include reports covering the prior day swine market, forward contract and formula marketing arrangement cattle purchases, packer-owned cattle and lamb information, sales of imported boxed lamb cuts, including applicable branded product; and live lamb premiums and discounts.

The Act requires the Secretary to encourage voluntary reporting by packers to which the mandatory reporting requirements do not apply. However, for those small businesses not affected by these regulations, since participation in such programs is voluntary, the Agency does not look to this as a burden being placed upon them. AMS will also encourage voluntary reporting in markets not covered under mandatory reporting.

### Reporting Branded Products

As already discussed in the section responding to all of the comments received in response to these regulations, upon further review of the requirements proposed in § 57.103 and § 57.303 of the proposed rule for

reporting sales of branded boxed beef and lamb, the language in § 59.103 and § 59.303 of this final rule has been clarified to require the reporting of only those branded products produced and marketed on their quality, yield, or breed characteristics or boxed beef cuts produced and marketed under one of USDA's Meat Grading and Certification Branch, Certified Beef programs. These products are not unique to any one packer and can be produced by anyone in the industry. These sections no longer require the mandatory reporting of branded products where the brand is exclusive to a packer.

AMS is developing formats for those reports it intends to publish as a result of mandatory price reporting. These reports will be made available as a part of the educational and outreach component being developed by AMS to facilitate the transition from voluntary market news reporting to mandatory market news reporting during the period between publication of this final rule and its effective date. In creating these reports, AMS is taking the necessary steps to ensure confidentiality of the source data as required by the Act. Brand names reported to AMS will not be disclosed but will only be used to identify branded boxed beef and lamb cuts for aggregation into branded categories in the published reports.

This clarification should aid those small businesses that were concerned this regulation would compromise the competitiveness of their company-specific branded beef and lamb programs.

### Paperwork Reduction Act

This rule contains recordkeeping and submission requirements that were subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. Chapter 35). Comments were solicited in the proposal for these regulations that was published in the March 17, 2000, **Federal Register**. A summary of the comments AMS received and the Agency's responses to those comments are at the end of this section.

In accordance with 5 CFR Part 1320, we include the description of the reporting and recordkeeping requirements and an estimate of the annual burden on packers required to report information under this rule. Modifications to these regulations made in response to the comments that affected the recordkeeping and submission requirements of this final rule have been incorporated into this section. Because there was insufficient time for a normal clearance procedure,

AMS requested emergency processing and received temporary approval from OMB for the use of the information collection and recordkeeping requirements that we will use to implement the mandatory livestock reporting program on an expedited basis.

*Title:* Livestock Mandatory Reporting Act of 1999.

*OMB Number:* 0581-0186.

*Expiration Date of Assessment:* November 2003.

*Type of Request:* Extension.

*Abstract:* The information collection and recordkeeping requirements in this regulation are essential to establishing and implementing a mandatory program of livestock and livestock products reporting. Based on the information available, AMS estimates that there are 49 beef packer plants, 50 pork packer plants, 12 lamb packer plants and 6 lamb importers that are required to report market information under this rule (1 lamb entity is both a packer and an importer). These companies have similar recordkeeping systems and business operation practices and conduct their operations in a similar manner. AMS believes that all of the information required under this rule can be collected from existing materials and systems and that these materials and systems can be adapted to satisfy the forms. The PRA also requires AMS to measure the recordkeeping burden. Under this rule, each packer and importer required to report must maintain and make available upon request for 2 years, such records as are necessary to verify the accuracy of the information required to be reported. These records include 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. Under this rule, the electronic data files which the packers are required to utilize when submitting information to AMS will have to be maintained as these files provide the best record of compliance. The recordkeeping burden includes the amount of time needed to store and maintain records. AMS estimates that, since records of 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 are stored and maintained as a matter of normal business practice by these companies for a period in excess of 2 years, additional annual costs will be nominal. AMS estimates the

annual cost per respondent for the storage of the electronic data files which were submitted to AMS in compliance with the reporting provisions of this rule to be \$1,830.00. This estimate includes the cost of electronic data storage media, backup electronic data storage media, and backup software required to maintain an estimated annual electronic recordkeeping and backup burden of 42 megabytes, on average, per respondent. In addition, this estimate includes the cost per employee to maintain such records which is estimated to average 70 hours per year at \$20.00 per hour for a total salary component cost of \$1,400.00 per year.

#### ANNUAL RECORDKEEPING COST PER RESPONDENT

Labor hours per year .....	70
Labor cost per hour .....	x \$20.00
Sub-total labor cost per year ....	\$1,400.00
Electronic storage cost <sup>1</sup> .....	+ \$430.00
Total recordkeeping cost	\$1,830.00

<sup>1</sup> Includes cost of hard electronic storage (estimated to average 42 Mb/year), backup tape media, backup tape drive, and backup software.

In this rule, information collection requirements include the submission of the required information on a daily and weekly basis in the standard format provided in the following forms: (1) Live Cattle Daily Report (Current Established Prices), (2) Live Cattle Daily Report (Committed and Delivered Cattle), (3) Live Cattle Weekly Report (Forward Contract and Packer-Owned), (4) Live Cattle Weekly Report (Formula Purchases), (5) Cattle Premiums and Discounts Weekly Report, (6) Boxed Beef Daily Report, (7) Swine Prior Day Report, (8) Swine Daily Report, (9) Swine Noncarcass Merit Premium Weekly Report, (10) Live Lamb Daily Report (Current Established Prices), (11) Live Lamb Daily Report (Committed and Delivered Lambs), (12) Live Lamb Weekly Report (Forward Contract and Packer-Owned), (13) Live Lamb Weekly Report (Formula Purchases), (14) Lamb Premiums and Discounts Weekly Report, (15) Boxed Lamb Report, and (16) Lamb Carcass Report. Copies of these 16 forms are included in Appendices at the end of this rule. Cattle packers will utilize six of these forms (Appendix A) when reporting information to AMS including two for daily cattle reporting, three for weekly cattle reporting, and one for daily boxed beef cuts reporting. Swine packers will utilize three forms (Appendix B), two for daily reporting of swine purchases

and one for weekly reporting of non-carcass merit premium information. Lamb packers will utilize seven of these forms (Appendix C) when reporting information to AMS including two for daily lamb reporting, three for weekly lamb reporting, one for daily and weekly boxed lamb cuts reporting and one for daily and weekly lamb carcass reporting. Lamb importers will utilize one of these forms when reporting information to AMS for reporting weekly imported boxed lamb cut sales.

These information collection requirements have been designed to minimize disruption to the normal business practices of the affected entities. Each of these forms requires the minimal amount of information necessary to properly describe each reportable transaction, as required under this rule. The number of forms is a result of an attempt to reduce the complexity of each form.

(1) Live Cattle Daily Report (Current Established Prices): Form LS-113.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .17 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live cattle purchases to the Secretary.

*Estimated Number of Respondents:* 49 plants.

*Estimated Number of Responses per Respondent:* 520 (2 per day for 260 days).

*Estimated Total Annual Burden on Respondents:* 4,332 hours.

*Total Cost:* \$86,640.

(2) Live Cattle Daily Report (Committed and Delivered Cattle): Form LS-114.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .17 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live cattle purchases to the Secretary.

*Estimated Number of Respondents:* 49 plants.

*Estimated Number of Responses per Respondent:* 520 (2 per day for 260 days).

*Estimated Total Annual Burden on Respondents:* 4,332 hours.

*Total Cost:* \$86,640.

(3) Live Cattle Weekly Report (Forward Contract and Packer-Owned): Form LS-115.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live cattle purchases to the Secretary.

*Estimated Number of Respondents:* 49 plants.

*Estimated Number of Responses per Respondent:* 52 (1 per week for 52 weeks).

*Estimated Total Annual Burden on Respondents:* 637 hours.

*Total Cost:* \$12,740.

(4) Live Cattle Weekly Report (Formula Purchases): Form LS-116.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live cattle purchases to the Secretary.

*Estimated Number of Respondents:* 49 plants.

*Estimated Number of Responses per Respondent:* 52 (1 per week for 52 weeks).

*Estimated Total Annual Burden on Respondents:* 637 hours.

*Total Cost:* \$12,740.

(5) Cattle Premiums and Discounts Weekly Report: Form LS-117.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .08 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live cattle purchases to the Secretary.

*Estimated Number of Respondents:* 49 plants.

*Estimated Number of Responses per Respondent:* 52 (1 per week for 52 weeks).

*Estimated Total Annual Burden on Respondents:* 204 hours.

*Total Cost:* \$4,080.

(6) Boxed Beef Daily Report: Form LS-126.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .125 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on domestic and export boxed beef cut sales to the Secretary.

*Estimated Number of Respondents:* 49 plants.

*Estimated Number of Responses per Respondent:* 520 (2 per day for 260 days).

*Estimated Total Annual Burden on Respondents:* 3,185 hours.

*Total Cost:* \$63,700.

(7) Swine Prior Day Report: Form LS-118.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live swine purchases to the Secretary.

*Estimated Number of Respondents:* 50 plants.

*Estimated Number of Responses per Respondent:* 260 (1 per day for 260 days).

*Estimated Total Annual Burden on Respondents:* 3,250 hours.

*Total Cost:* \$65,000.

(8) Swine Daily Report: Form LS-119.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .17 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live swine purchases to the Secretary.

*Estimated Number of Respondents:* 50 plants.

*Estimated Number of Responses per Respondent:* 520 (2 per day for 260 days).

*Estimated Total Annual Burden on Respondents:* 4,420 hours.

*Total Cost:* \$88,400.

(9) Swine Noncarcass Merit Premium Weekly Report: Form LS-120.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live swine purchases to the Secretary.

*Estimated Number of Respondents:* 50 plants.

*Estimated Number of Responses per Respondent:* 52 (1 per week for 52 weeks).

*Estimated Total Annual Burden on Respondents:* 650 hours.

*Total Cost:* \$13,000.

(10) Live Lamb Daily Report (Current Established Prices): Form LS-121.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .34 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live lamb purchases to the Secretary.

*Estimated Number of Respondents:* 8 plants.

*Estimated Number of Responses per Respondent:* 260 (1 per day for 260 days).

*Estimated Total Annual Burden on Respondents:* 707 hours.

*Total Cost:* \$14,140.

(11) Live Lamb Daily Report (Committed and Delivered Lambs): Form LS-122.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .34 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live lamb purchases to the Secretary.

*Estimated Number of Respondents:* 8 plants.

*Estimated Number of Responses per Respondent:* 260 (1 per day for 260 days).

*Estimated Total Annual Burden on Respondents:* 707 hours.

*Total Cost:* \$14,140.

(12) Live Lamb Weekly Report (Forward Contract and Packer-Owned): Form LS-123.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live lamb purchases to the Secretary.

*Estimated Number of Respondents:* 8 plants.

*Estimated Number of Responses per Respondent:* 52 (1 per week for 52 weeks).

*Estimated Total Annual Burden on Respondents:* 104 hours.

*Total Cost:* \$2,080.

(13) Live Lamb Weekly Report (Formula Purchases): Form LS-124.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live lamb purchases to the Secretary.

*Estimated Number of Respondents:* 8 plants.

*Estimated Number of Responses per Respondent:* 52 (1 per week for 52 weeks).

*Estimated Total Annual Burden on Respondents:* 104 hours.

*Total Cost:* \$2,080.

(14) Lamb Premiums and Discounts Weekly Report: Form LS-125.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .08 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live lamb purchases to the Secretary.

*Estimated Number of Respondents:* 8 plants.

*Estimated Number of Responses per Respondent:* 52 (1 per week for 52 weeks).

*Estimated Total Annual Burden on Respondents:* 33 hours.

*Total Cost:* \$660.

(15) Boxed Lamb Report: Form LS-128.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .167 hours per electronically submitted response for domestic packing plants and .084 hours per electronically submitted response for importers.

*Respondents:* Packer processing plants and importers required to report information on boxed lamb cut sales to the Secretary.

*Estimated Number of Respondents:* 14 entities (including 1 entity that both processes and imports).

*Estimated Number of Responses per Respondent:* 260 (1 per day for 260 days) for domestic packing plants; 52 (1 per week for 52 weeks) for importers.

*Estimated Total Annual Burden on Respondents:* 391 hours for domestic packing plants and 26 hours for importers.

*Total Cost:* \$7,810 for domestic packing plants and \$520 for importers for a total of \$8,330.00.

(16) Lamb Carcass Report: Form LS-129.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .167 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on lamb carcass sales to the Secretary.

*Estimated Number of Respondents:* 8 entities.

*Estimated Number of Responses per Respondent:* 260 (1 per day for 260 days).

*Estimated Total Annual Burden on Respondents:* 347 hours.

*Total Cost:* \$6,940.

## Breakdown of Estimated Data Submission Cost Burden

## I.—NUMBER OF RESPONSES PER RESPONDENT PER YEAR

Form	Reporting days	Responses	Total responses
<b>Cattle:</b>			
LS-113 .....	260	× 2 daily =	520
LS-114 .....	260	× 2 daily =	520
LS-115 .....	52	× 1 weekly =	52
LS-116 .....	52	× 1 weekly =	52
LS-117 .....	52	× 1 weekly =	52
LS-126 .....	260	× 2 daily =	520
<b>Swine:</b>			
LS-118 .....	260	× 1 daily =	260
LS-119 .....	260	× 2 daily =	520
LS-120 .....	52	× 1 weekly =	52
<b>Lamb:</b>			
<b>Domestic:</b>			
LS-121 .....	260	× 1 daily =	260
LS-122 .....	260	× 1 daily =	260
LS-123 .....	52	× 1 weekly =	52
LS-124 .....	52	× 1 weekly =	52
LS-125 .....	52	× 1 weekly =	52
LS-128 .....	260	× 1 daily =	260
LS-129 .....	260	× 1 daily =	260
<b>Importer:</b>			
LS-128 .....	52	× 1 weekly =	52

## II.—NUMBER OF SUBMISSION HOURS PER RESPONDENT PER YEAR

Form	Submissions/year	Hours/submission	Total hours/year
<b>Cattle:</b>			
LS-113 .....	520	× .17 =	88.40
LS-114 .....	520	× .17 =	88.40
LS-115 .....	52	× .25 =	13.00
LS-116 .....	52	× .25 =	13.00
LS-117 .....	52	× .08 =	4.16
LS-126 .....	260	× .125 =	65.00
<b>Swine:</b>			
LS-118 .....	260	× .25 =	65.00
LS-119 .....	260	× .17 =	88.40
LS-120 .....	52	× .25 =	13.00
<b>Lamb:</b>			
<b>Domestic:</b>			
LS-121 .....	260	× .34 =	88.40
LS-122 .....	260	× .34 =	88.40
LS-123 .....	52	× .25 =	13.00
LS-124 .....	52	× .25 =	13.00
LS-125 .....	52	× .08 =	4.16
LS-128 .....	260	× .167 =	43.40
LS-129 .....	260	× .167 =	43.40
<b>Importer:</b>			
LS-128 .....	52	× .084 =	4.37

## III.—TOTAL SUBMISSION COST PER RESPONDENT PER YEAR

Form	Total hours/year	Cost/hour	Total dollars/year
<b>Cattle:</b>			
LS-113 .....	88.40	× \$20.00 =	\$1,768.00
LS-114 .....	88.40	× 20.00 =	1,768.00
LS-115 .....	13.00	× 20.00 =	260.00
LS-116 .....	13.00	× 20.00 =	260.00
LS-117 .....	4.16	× 20.00 =	83.20
LS-126 .....	65.00	× 20.00 =	1,300.00
<b>Totals</b> .....	<b>271.96</b>	<b>× 20.00 =</b>	<b>5,440.00</b>
<b>Swine:</b>			
LS-118 .....	65.00	× 20.00 =	1,300.00

## III.—TOTAL SUBMISSION COST PER RESPONDENT PER YEAR—Continued

Form	Total hours/ year		Cost/hour		Total dollars/ year
LS-119 .....	88.40	×	20.00	=	1,768.00
LS-120 .....	13.00	×	20.00	=	260.00
Totals .....	166.40	×	20.00	=	3,328.00
Lamb:					
Domestic:					
LS-121 .....	88.40	×	20.00	=	1,768.00
LS-122 .....	88.40	×	20.00	=	1,768.00
LS-123 .....	13.00	×	20.00	=	260.00
LS-124 .....	13.00	×	20.00	=	260.00
LS-125 .....	4.16	×	20.00	=	83.20
LS-128 .....	43.40	×	20.00	=	868.00
LS-129 .....	43.40	×	20.00	=	868.00
Total .....					5,875.00
Importer:					
LS-128 .....	4.37	×	20.00	=	+87.00
Totals .....	298.13	×	20.00	=	5,962.00

## IV.—TOTAL YEARLY SUBMISSION COST FOR ALL RESPONDENTS

Form	Total dollars/ year		Number of respondents		Total cost*
Cattle:					
LS-113 .....	\$1,768.00	×	49	=	\$86,640.00
LS-114 .....	1,768.00	×	49	=	86,640.00
LS-115 .....	260.00	×	49	=	12,740.00
LS-116 .....	260.00	×	49	=	12,740.00
LS-117 .....	83.20	×	49	=	4,080.00
LS-126 .....	1,300.00	×	49	=	63,700.00
Totals .....	5,440.00	×	49	=	266,560.00
Swine:					
LS-118 .....	1,300.00	×	50	=	65,000.00
LS-119 .....	1,768.00	×	50	=	88,400.00
LS-120 .....	260.00	×	50	=	13,000.00
Totals .....	3,328.00	×	50	=	166,400.00
Lamb:					
Domestic:					
LS-121 .....	1,768.00	×	8	=	14,140.00
LS-122 .....	1,768.00	×	8	=	14,140.00
LS-123 .....	260.00	×	8	=	2,080.00
LS-124 .....	260.00	×	8	=	2,080.00
LS-125 .....	83.20	×	8	=	670.00
LS-129 .....	868.00	×	8	=	6,950.00
Total .....	5,007.00	×	8	=	40,060.00
LS-128 .....	868.00	×	9	=	+7,810.00
Total .....					47,870.00
Importer:					
LS-128 .....	87.00	×	6	=	520.00
Total .....					48,390.00

\*dollars values rounded to nearest \$10.00.

*Estimated Total Annual Burden on Respondents by Species:*  
*Live Cattle and Boxed Beef:* \$363,580 including \$266,560 for annual costs

associated with electronically submitted responses (13,328 annual hours (271.96 annual hours per 49 respondents) @ \$20.00 per hour), initial electronic data

transfer setup costs of \$7,350 (\$750.00 prorated over 5 years = \$150.00 per 49 respondents), and \$89,670 (\$1,830 per 49 respondents) for the storage and

maintenance of electronic files that were submitted to AMS.

*Live Swine:* \$265,400 including \$166,400 for annual costs associated with electronically submitted responses (8,320 annual hours (166.40 annual hours per 50 respondents) @ \$20.00 per hour), initial electronic data transfer setup costs of \$7,500 (\$750.00 prorated over 5 years = \$150.00 per 50 respondents), and \$91,500 (\$1,830 per 50 respondents) for the storage and maintenance of electronic files that were submitted to AMS.

*Live Lambs, Boxed Lamb, and Lamb Carcasses:* \$83,620 including \$70,700 for packers (\$52,875 for annual costs associated with electronically submitted responses (2,643.75 annual hours (293.75 annual hours per 9 respondents) @ \$20.00 per hour), initial electronic data transfer setup costs of \$1,350 (\$750.00 prorated over 5 years = \$150.00 per 9 respondents), and \$16,470 (\$1,830 per 9 respondents) for the storage and maintenance of electronic files that were submitted to AMS) and \$12,400 for importers (\$520 for annual costs associated with electronically submitted responses (26.2 annual hours (4.37 annual hours per 6 respondents) @ \$20.00 per hour), initial electronic data transfer setup costs of \$900 (\$750.00 prorated over 5 years = \$150.00 per 6 respondents), and \$10,980 (\$1,830 per 6 respondents) for the storage and maintenance of electronic files that were submitted to AMS).

In the proposed rule published March 17, 2000, comments were invited on: (1) The accuracy of the Agency's burden estimate of the proposed collection of information including the validity of the methodology and the assumptions used; (2) ways to minimize the burden of the collection of information on those who would be required to respond, including through the use of appropriate electronic collection methods; (3) whether the proposed collection of information was sufficient or necessary for the proper performance of the functions of the agency as mandated by the Act; and (4) ways to enhance the quality, utility, and clarity of the information to be collected.

Although these comments and the Agency's responses to them were contained in the background section of this action where the Agency responded to all of the comments received in response to the proposal, the Agency has identified those comments that specifically pertained to issues raised in this section and responded to them again here. Summaries of the comments AMS received and the responses by the Agency to those comments follow.

#### Validity of Cost Burden Estimates

AMS received 468 comments concerning the validity of the cost burden estimates for implementing mandatory reporting in the proposed rule. Four commenters agreed with AMS's estimate of the cost burden of mandatory reporting in the proposed rule. However, most commenters questioned AMS's cost burden estimates suggesting that the estimates were understated. Numerous commenters argued that the cost burden associated with mandatory reporting on small entities amounted to an economic hardship that would either force them to close their operations, sell out to a larger firm, or require they pass these additional costs on to producers and consumers which could negatively impact domestic markets for livestock and livestock products.

Many commenters offered a wide range of cost burden estimates for mandatory price reporting. These estimates ranged from \$5,000 to \$6,560,000, and included initial start-up costs and annual costs of compliance. The estimated initial setup costs ranged from \$15,000 to \$700,000 with most of the setup cost estimates ranging from \$30,000 to \$75,000. Estimates for annual operating costs ranged from \$5,000 to \$400,000 with most of the estimates ranging from \$40,000 to \$105,000. A few commenters submitted industry cost estimates on a cost per head basis, as a cost multiple of the AMS cost estimates, and on an hourly basis.

A few commenters suggested that AMS could reduce the reporting cost burden by changing some of the reporting requirements of the proposed rule. They recommended allowing lot aggregation, exempting branded boxed beef and lamb cuts, exempting lots of livestock consisting of fewer than 50 head, and exempting information which AMS would not be able to publish in reports due to confidentiality concerns as examples of reporting requirements that could be eliminated.

As already discussed earlier in this section and in the section responding to all of the comments received in response to the proposed rule, AMS's cost estimates along with the supporting assumptions and methodology used were stated in the proposed rule. These supporting assumptions and methodology used appeared in the Regulatory Impact Analysis, Regulatory Flexibility Analysis, and Paperwork Reduction Act Analysis sections of the proposed rule.

However, with specific regard to this section, the commenters did not provide any detailed supporting data and

information on the methodology used in formulating their cost estimates or any information that would enable AMS to determine how they derived their cost estimates. We do note that the wide range of estimates does raise concerns as to what assumptions and methodology were used by the commenters.

AMS believes that one explanation for the reason why some estimates submitted by commenters exceeded the estimates made by AMS is that commenters were estimating the costs of developing systems that far exceeded the minimum requirements of a system that would fulfill these regulations. Additionally, AMS believes that some commenters may have included other costs associated with normal recordkeeping and accounting practices that are already required by existing regulations for those engaged in the livestock and meat packing and importing industries and therefore are not new costs being required by the implementation of these regulations.

Nonetheless, AMS has carefully reviewed its analysis of the cost burden estimates for mandatory reporting. In this regard, we have added tables in this analysis which even more clearly itemize the supporting assumptions and methodology used by AMS in formulating our Paperwork Reduction Act analysis cost estimates. Further, we have adjusted our cost estimates where appropriate. Therefore, AMS believes we have done as comprehensive of an analysis as possible of the cost burden imposed by these regulations on those required to report.

Additionally, AMS does not agree that allowing lot aggregation, exempting branded boxed beef and lamb cuts, or exempting lots of livestock consisting of fewer than 50 head as reporting requirements would reduce the cost burden on the industry. Eliminating these requirements will not have any effect on reducing the number of forms that are included in AMS's estimated reporting cost burden because the suggested changes are not unique to any one form. The amount of time required to submit the forms will not result in any significant time savings as AMS expects all data submission to be accomplished through electronic means. These changes will not reduce the number of respondents required to report as none of the respondents are limited to selling only branded boxed beef and lamb cuts and buying livestock in lots of 50 head or less. Lastly, allowing respondents to aggregate information on lots of livestock prior to submission will require them to spend additional time to sort and aggregate the

information, resulting in an increased time burden.

AMS does agree, however, that exempting entire product categories would reduce the annual cost burden on the industry. Specifically, eliminating entire product categories will reduce the number of responses specified in this section when compared with the proposed rule.

According to § 251(d)(3) of the Act, the Secretary shall make information obtained under this program available to the public only if it conforms to aggregation guidelines established by the Secretary. Pursuant to § 251(d)(3), the Secretary has established the following guidelines: Submitted information will only be published by USDA if (a) it is obtained from no fewer than 3 packers or importers representing a minimum of three companies, (b) the information from any one packer or importer represents not more than 60 percent of the information to be published, and (c) AMS does not have any reason to believe the information cannot be reported in a manner that protects the confidentiality of the source packer.

Because there is only one entity engaged in the business of purchasing imported lamb carcasses, AMS cannot report this information without disclosing the identity of the entity reporting. By requiring this entity to report its purchases of imported lamb carcasses that AMS would be unable to publish, the Agency believes this requirement would be an unnecessary burden placed upon the entity.

Accordingly, in this final rule, importers are not required to report market information on purchases of imported lamb carcasses. Consequently, the estimated annual reporting burden for Form LS-129-Lamb Carcass Report has been reduced by 43 hours or \$860 per year. The total cost burden for lamb carcass reporting in this final rule has been adjusted accordingly.

Nevertheless, if a sufficient number of entities enter the business of importing lamb carcasses that AMS believes it would be able to publish the information obtained, AMS intends on initiating rulemaking to amend these regulations to require the reporting of information by importers on purchases of imported lamb carcasses.

Additionally, in contrast to the proposed rule, this final rule will not require lamb importers to report their purchases of imported boxed lamb cuts. Although the proposed regulations required lamb importers to report both their purchases and sales of imported boxed lamb cuts, the Agency has determined that because the reporting of

lamb cuts sold in portion cut form (*e.g.*, chops, steaks, etc.) are not to be reported for either domestic or imported lamb, the reporting of both the purchases and sales of imported boxed lamb cuts would not provide a significant amount of additional market information over what will be obtained by only requiring importers to report information on their sales of imported boxed lamb cuts not sold in portion cut form.

AMS had originally intended to obtain market information concerning the purchases and sales of imported boxed lamb cuts in an effort to disseminate more complete market information concerning the prices being paid and received for imported lamb meat products entering the U.S. market. However, because packers and importers are exempt from reporting information concerning any boxed lamb cuts sold in portion cut form, the only product lamb importers produce from the processing of imported boxed lamb cuts not in portion cut form, AMS determined that requiring the reporting of this information was not necessary as these products could be processed into portion cut form before export to the United States, thereby being exempt from these reporting provisions. Further, information concerning the volume and value of imported boxed lamb cuts that are not sold in portion cut form from importers who buy and sell imported boxed lamb cuts not in portion cut form, this information is already being obtained by the requirement that importers report the prices they receive for their sales of those products.

As a result of the removal of the requirement for lamb importers to report their purchases of imported boxed lamb cuts, the estimated annual reporting burden for Form LS-128-Boxed Lamb Cuts Report has been reduced by 26 hours or \$520 per year. The total cost burden for boxed lamb cut reporting in this final rule has been adjusted accordingly.

#### **Electronic Reporting of Information**

Twenty-one commenters supported electronic reporting of market news information. They believed that electronic reporting would facilitate aggregation and dissemination and would reduce the cost burden associated with paperwork. A few commenters recommended that rarely should AMS grant packers and importers exemptions from electronic reporting. A few commenters also wanted to see the system designed to eventually handle real-time reporting. One commenter suggested AMS develop

and make available web-based input forms for submitting data online.

AMS agrees with the points raised by the commenters regarding electronic data submission. AMS's own estimates of cost burdens indicated that the cost of submitting information by any method other than electronic would be cost-prohibitive, error prone, and unsecured. For the same reasons, AMS will grant exceptions to electronic reporting only in emergency cases such as power failures or loss of Internet accessibility. AMS will also provide web-based input screens as an alternative option for entities to use when submitting information. AMS computer specialists have conducted on-site visits over the past year to many packers who will be required to report to discuss and evaluate electronic recordkeeping systems employed by the industry.

AMS understands commenter's concerns about their ability to comply with these reporting requirements in a timely, accurate manner, in order to avoid any enforcement penalties. This is particularly important in the context of an untested, electronic reporting process and disparate computing resources among reporting entities. AMS further understands that unforeseen technical difficulties may occur during the implementation of this rule which may, in some cases, prevent full compliance. Recognizing these concerns and acknowledging our responsibility to provide flexibility in dealing with small business as directed by the President in the 1995 Regulatory Reform—Waiver of Penalties and Reduction memorandum, entities acting in good faith in attempting to establish a data transfer technology and reporting process that will comply with the electronic reporting requirements will not be penalized under the enforcement provisions.

To further assist the industry in achieving compliance, educational and outreach sessions will be held around the country immediately upon publication of this final rule. In these sessions, AMS will actively assist each reporting entity in understanding how their information technology infrastructures and related resources should be configured in order to ensure interoperability with the electronic transaction system developed by AMS. AMS will document and provide the reporting entities with standards and protocols associated with the transaction. Among other topics, these sessions will also provide information on implementing and using digital certificates, acceptable submission formats, the newly designed web-based

input method, output report designs, data aggregation guidelines, and AMS' electronic transaction system. In addition, AMS plans to beta test the technology to implement the rule during the time between publication of this final rule and its effective date and all entities required to report will be encouraged to participate in the beta testing program. Any feedback received during this outreach and testing period will be used to revise the reporting requirements, input and output formats, and process accordingly.

In response to the comment concerning AMS developing and

making available a web-based input forms for submitting data online, AMS found that some of the smaller entities covered under mandatory price reporting would benefit from such a web-based submission system. Accordingly, AMS is developing such a system that will be ready in time for program implementation.

However, AMS does not believe that this alternative changes the Agency's estimate of the time or cost burden imposed by this regulation. The justification for this is two fold. First, larger packers will not use this system as it will prove unworkable for packers

required to submit large volumes of information. Second, AMS believes that the time to transcribe data from original records to an on-line form far exceeds the time it would take to develop a system that automatically downloads the information into a file that is later electronically submitted to AMS as an attachment (a complete analysis is provided in the Paperwork Reduction Act section).

AMS estimates that, if all entities submitting information under this rule did so through the use of the web-based input form method, the cost burden would be as follows:

**Breakdown of Estimated Data Submission Cost Burden**

**I.—NUMBER OF RESPONSES PER RESPONDENT PER YEAR**

Form	Reporting days	Responses	Total responses
<b>Cattle:</b>			
LS-113 .....	260	× 2 daily =	520
LS-114 .....	260	× 2 daily =	520
LS-115 .....	52	× 1 weekly =	52
LS-116 .....	52	× 1 weekly =	52
LS-117 .....	52	× 1 weekly =	52
LS-126 .....	260	× 2 daily =	520
<b>Swine:</b>			
LS-118 .....	260	× 1 daily =	260
LS-119 .....	260	× 2 daily =	520
LS-120 .....	52	× 1 weekly =	52
<b>Lamb:</b>			
<b>Domestic:</b>			
LS-121 .....	260	× 1 daily =	260
LS-122 .....	260	× 1 daily =	260
LS-123 .....	52	× 1 weekly =	52
LS-124 .....	52	× 1 weekly =	52
LS-125 .....	52	× 1 weekly =	52
LS-128 .....	260	× 1 daily =	260
LS-129 .....	260	× 1 daily =	260
<b>Importer:</b>			
LS-128 .....	52	× 1 weekly =	52

**II.—NUMBER OF SUBMISSION HOURS PER RESPONDENT PER YEAR**

Form	Submissions/year	Hours/submission	Total hours/year
<b>Cattle:</b>			
LS-113 .....	520	× .34 =	176.80
LS-114 .....	520	× .34 =	176.80
LS-115 .....	52	× .50 =	26.00
LS-116 .....	52	× .50 =	26.00
LS-117 .....	52	× .16 =	8.30
LS-126 .....	260	× .25 =	130.00
<b>Swine:</b>			
LS-118 .....	260	× .50 =	130.00
LS-119 .....	260	× .34 =	176.80
LS-120 .....	52	× .50 =	26.00
<b>Lamb:</b>			
<b>Domestic:</b>			
LS-121 .....	260	× .68 =	176.80
LS-122 .....	260	× .68 =	176.80
LS-123 .....	52	× .50 =	26.00
LS-124 .....	52	× .50 =	26.00
LS-125 .....	52	× .16 =	8.30
LS-128 .....	260	× .34 =	88.40
LS-129 .....	260	× .34 =	88.40

## II.—NUMBER OF SUBMISSION HOURS PER RESPONDENT PER YEAR—Continued

Form	Submissions/ year	Hours/ submission	Total hours/ year
Importer: LS-128 .....	52 ×	.16 =	8.30

## III.—TOTAL SUBMISSION COST PER RESPONDENT PER YEAR

Form	Total hours/ year	Cost/hour	Total dollars/ year
<b>Cattle:</b>			
LS-113 .....	176.80 ×	\$20.00 =	\$3,536.00
LS-114 .....	176.80 ×	20.00 =	3,536.00
LS-115 .....	26.00 ×	20.00 =	520.00
LS-116 .....	26.00 ×	20.00 =	520.00
LS-117 .....	8.30 ×	20.00 =	166.00
LS-126 .....	130.00 ×	20.00 =	2,600.00
Totals .....	543.90 ×	20.00 =	10,878.00
<b>Swine:</b>			
LS-118 .....	130.00 ×	20.00 =	2,600.00
LS-119 .....	176.80 ×	20.00 =	3,536.00
LS-120 .....	26.00 ×	20.00 =	520.00
Totals .....	332.80 ×	20.00 =	6,656.00
<b>Lamb:</b>			
Domestic:			
LS-121 .....	176.80 ×	20.00 =	3,536.00
LS-122 .....	176.80 ×	20.00 =	3,536.00
LS-123 .....	26.00 ×	20.00 =	520.00
LS-124 .....	26.00 ×	20.00 =	520.00
LS-125 .....	8.30 ×	20.00 =	166.00
LS-128 .....	88.40 ×	20.00 =	1,768.00
LS-129 .....	88.40 ×	20.00 =	11,810.00
Importer: LS-128 .....	8.30 ×	20.00 =	+166.00
Totals .....	595.80 ×	20.00 =	11,916.00

## IV.—TOTAL YEARLY SUBMISSION COST FOR ALL RESPONDENTS

Form	Total dollars/ year	Number of respondents	Total cost <sup>1</sup>
<b>Cattle:</b>			
LS-113 .....	\$3,536.00 ×	49 =	\$173,260.00
LS-114 .....	3,536.00 ×	49 =	173,260.00
LS-115 .....	520.00 ×	49 =	25,480.00
LS-116 .....	520.00 ×	49 =	25,480.00
LS-117 .....	166.00 ×	49 =	8,130.00
LS-126 .....	2,600.00 ×	49 =	127,400.00
Totals .....	10,880.00 ×	49 =	533,120.00
<b>Swine:</b>			
LS-118 .....	2,600.00 ×	50 =	130,000.00
LS-119 .....	3,536.00 ×	50 =	176,800.00
LS-120 .....	520.00 ×	50 =	26,000.00
Totals .....	6,656.00 ×	50 =	332,800.00
<b>Lamb:</b>			
Domestic:			
LS-121 .....	3,536.00 ×	8 =	28,290.00
LS-122 .....	3,536.00 ×	8 =	28,290.00
LS-123 .....	520.00 ×	8 =	4,160.00
LS-124 .....	520.00 ×	8 =	4,160.00
LS-125 .....	166.00 ×	8 =	1,330.00

## IV.—TOTAL YEARLY SUBMISSION COST FOR ALL RESPONDENTS—Continued

Form	Total dollars/ year		Number of respondents		Total cost <sup>1</sup>
LS-129 .....	1,768.00	×	8	=	14,140.00
	10,050.00	×	8	=	80,370.00
LS-128 .....	1,768.00	×	9	=	+5,910.00
Total .....					96,280.00
Importer:					
LS-128 .....	166.00	×	6	=	1,000.00
Total .....					97,280.00

<sup>1</sup> Dollars values rounded to nearest \$10.00.

(1) Live Cattle Daily Report (Current Established Prices): Form L-113.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .34 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live cattle purchases to the Secretary. *Estimated Number of Respondents:* 49 plants.

*Estimated Number of Responses per Respondent:* 520 (2 per day for 260 days).

*Estimated Total Annual Burden on Respondents:* 8,663 hours.

*Total Cost:* \$173,260.

(2) Live Cattle Daily Report (Committed and Delivered Cattle): Form LS-114.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .34 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live cattle purchases to the Secretary. *Estimated Number of Respondents:* 49 plants.

*Estimated Number of Responses per Respondent:* 520 (2 per day for 260 days).

*Estimated Total Annual Burden on Respondents:* 8,663 hours.

*Total Cost:* \$173,260.

(3) Live Cattle Weekly Report (Forward Contract and Packer-Owned): Form LS-115.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .50 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live cattle purchases to the Secretary. *Estimated Number of Respondents:* 49 plants.

*Estimated Number of Responses per Respondent:* 52 (1 per week for 52 weeks).

*Estimated Total Annual Burden on Respondents:* 1,274 hours.

*Total Cost:* \$25,480.

(4) Live Cattle Weekly Report (Formula Purchases): Form LS-116.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .50 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live cattle purchases to the Secretary. *Estimated Number of Respondents:* 49 plants.

*Estimated Number of Responses per Respondent:* 52 (1 per week for 52 weeks).

*Estimated Total Annual Burden on Respondents:* 1,274 hours.

*Total Cost:* \$25,480.

(5) Cattle Premiums and Discounts Weekly Report: Form LS-117.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .16 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live cattle purchases to the Secretary. *Estimated Number of Respondents:* 49 plants.

*Estimated Number of Responses per Respondent:* 52 (1 per week for 52 weeks).

*Estimated Total Annual Burden on Respondents:* 408 hours.

*Total Cost:* \$8,130.

(6) Boxed Beef Daily Report: Form LS-126.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on domestic and export boxed beef cut sales to the Secretary. *Estimated Number of Respondents:* 49 plants.

*Estimated Number of Responses per Respondent:* 520 (2 per day for 260 days).

*Estimated Total Annual Burden on Respondents:* 1,274 hours.

*Estimated Total Annual Burden on Respondents:* 6,370 hours. *Total Cost:* \$127,400.

(7) Swine Prior Day Report: Form LS-118.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .50 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live swine purchases to the Secretary. *Estimated Number of Respondents:* 50 plants.

*Estimated Number of Responses per Respondent:* 260 (1 per day for 260 days).

*Estimated Total Annual Burden on Respondents:* 6,500 hours.

*Total Cost:* \$130,000.

(8) Swine Daily Report: Form LS-119.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .34 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live swine purchases to the Secretary. *Estimated Number of Respondents:* 50 plants.

*Estimated Number of Responses per Respondent:* 520 (2 per day for 260 days).

*Estimated Total Annual Burden on Respondents:* 8,840 hours.

*Total Cost:* \$176,800.

(9) Swine Noncarcass Merit Premium Weekly Report: Form LS-120.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .50 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live swine purchases to the Secretary. *Estimated Number of Respondents:* 50 plants.

*Estimated Number of Responses per Respondent:* 52 (1 per week for 52 weeks).

*Estimated Total Annual Burden on Respondents:* 1,300 hours.  
*Total Cost:* \$26,000.

(10) Live Lamb Daily Report (Current Established Prices): Form LS-121.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .68 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live lamb purchases to the Secretary.

*Estimated Number of Respondents:* 8 plants.

*Estimated Number of Responses per Respondent:* 260 (1 per day for 260 days).

*Estimated Total Annual Burden on Respondents:* 1,410 hours.  
*Total Cost:* \$28,290.

(11) Live Lamb Daily Report (Committed and Delivered Lambs): Form LS-122.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .68 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live lamb purchases to the Secretary.

*Estimated Number of Respondents:* 8 plants.

*Estimated Number of Responses per Respondent:* 260 (1 per day for 260 days).

*Estimated Total Annual Burden on Respondents:* 1,140 hours.  
*Total Cost:* \$28,290.

(12) Live Lamb Weekly Report (Forward Contract and Packer-Owned): Form LS-123.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .50 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live lamb purchases to the Secretary.

*Estimated Number of Respondents:* 8 plants.

*Estimated Number of Responses per Respondent:* 52 (1 per week for 52 weeks).

*Estimated Total Annual Burden on Respondents:* 208 hours.  
*Total Cost:* \$4,160.

(13) Live Lamb Weekly Report (Formula Purchases): Form LS-124.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .50 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live lamb purchases to the Secretary.

*Estimated Number of Respondents:* 8 plants.

*Estimated Number of Responses per Respondent:* 52 (1 per week for 52 weeks).

*Estimated Total Annual Burden on Respondents:* 208 hours.

*Total Cost:* \$4,160.

(14) Lamb Premiums and Discounts Weekly Report: Form LS-125.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .16 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on live lamb purchases to the Secretary.

*Estimated Number of Respondents:* 8 plants.

*Estimated Number of Responses per Respondent:* 52 (1 per week for 52 weeks).

*Estimated Total Annual Burden on Respondents:* 66 hours.

*Total Cost:* \$1,330.

(15) Boxed Lamb Report: Form LS-128.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .34 hours per electronically submitted response for domestic packing plants and .16 hours per electronically submitted response for importers.

*Respondents:* Packer processing plants and importers required to report information on boxed lamb cut sales to the Secretary.

*Estimated Number of Respondents:* 14 entities (including 1 entity that both processes and imports).

*Estimated Number of Responses per Respondent:* 260 (1 per day for 260 days) for domestic packing plants; 52 (1 per week for 52 weeks) for importers.

*Estimated Total Annual Burden on Respondents:* 782 hours for domestic packing plants and 52 hours for importers.

*Total Cost:* \$15,910 for domestic packing plants and \$1,000 for importers for a total of \$16,910.00.

(16) Lamb Carcass Report: Form LS-129.

*Estimate of Burden:* Public reporting burden for collection of information is estimated to be .34 hours per electronically submitted response.

*Respondents:* Packer processing plants required to report information on lamb carcass sales to the Secretary.

*Estimated Number of Respondents:* 8 entities.

*Estimated Number of Responses per Respondent:* 260 (1 per day for 260 days).

*Estimated Total Annual Burden on Respondents:* 707 hours.

*Total Cost:* \$14,140.

## Reporting Input Forms

AMS received 109 comments referencing the proposed mandatory reporting forms to be used by packers when submitting required information. However, none of the comments AMS received specifically addressed issues relating to the format or design of the forms but rather used the forms as a venue to argue for or against the inclusion of reporting requirements. A few of the commenters expressed concern over some of the information requested in the forms (including state of origin, boxed beef box count, and buyer destination) suggesting that such information was either not authorized by the Act or was not pertinent. Several commenters requested clarification of what was being asked for on the forms. Other commenters suggested that AMS provide procedural guidelines explaining how and when information was to be reported on the forms. Many of the commenters used the forms to express concerns including lot aggregation, inclusion of cows under mandatory reporting, and reporting exports of boxed beef and imports of boxed lamb.

AMS received 19 comments that raised issues with reporting requirements presented on various forms. Specific comments were received that took issue with reporting requirements found on the following forms: LS-113 Live Cattle Daily Report (current established prices), 15 comments; LS-114 Live Cattle Daily Report (committed and delivered cattle), 8 comments; LS-115 Live Cattle Weekly Report (forward contract and packer-owned), 6 comments; LS-116 Live Cattle Weekly Report (formula purchases), 4 comments; LS-117 Cattle Premiums and Discounts Weekly Report, 2 comments; LS-126 Boxed Beef Daily Report, 19 comments; LS-118 Swine Prior Day Report, 16 comments; LS-119 Swine Daily Report, 17 comments; and LS-121 Live Lamb Daily Report (current established prices), 3 comments.

AMS has previously responded to these comments on matters of procedural clarification, simplification, and further definition of terms in the section responding to all of the comments received in response to the proposed rule.

Nevertheless, with specific regard to this section, AMS has redesigned the reporting forms in this final rule to make them more representative of the electronic format required for submission of all information under mandatory reporting. AMS has also included written guidelines at the end

of the regulatory text in the final rule on how to those required to report information should complete the information for the mandatory reporting forms (Appendix D).

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

Cattle, Hogs, Lamb, Livestock, Reporting and recordkeeping, Sheep.

For the reasons set forth in the preamble, Chapter I of Title 7 is amended by adding a new Part 59 to read as follows:

#### PART 59—LIVESTOCK MANDATORY REPORTING

##### Subpart A—General Provisions

- 59.10 General administrative provisions.
- 59.20 Recordkeeping.
- 59.30 Definitions.

##### Subpart B—Cattle Reporting

- 59.100 Definitions.
- 59.101 Mandatory daily reporting for live cattle.
- 59.102 Mandatory weekly reporting for live cattle.
- 59.103 Mandatory reporting of boxed beef sales.

##### Subpart C—Swine Reporting

- 59.200 Definitions.
- 59.201 General reporting provisions.
- 59.202 Mandatory daily reporting for swine.
- 59.203 Mandatory weekly reporting for swine.

##### Subpart D—Lamb Reporting

- 59.300 Definitions.
- 59.301 Mandatory daily reporting for lambs.
- 59.302 Mandatory weekly reporting for lambs.
- 59.303 Mandatory reporting of lamb carcasses and boxed lamb.

##### Subpart E—OMB Control Number

- 59.400 OMB control number assigned pursuant to the Paperwork Reduction Act.

Authority: 7 U.S.C. 1621 *et seq.*

#### Subpart A—General Provisions

##### § 59.10 General administrative provisions.

(a) *Reporting by packers and importers.* A packer or importer shall report all information required under this Part on an individual lot basis.

(b) *Reporting schedule.* Whenever a packer or importer is required to report information on transactions of livestock and livestock products under this Part by a set time, all covered transactions up to within one half hour of the reporting deadline shall be reported. Transactions completed during the one half hour prior to the previous reporting time, but not reported in the previous report, shall be reported at the next scheduled reporting time.

(c) *Regional reporting and aggregation.* The Secretary shall make

information obtained under this Part available to the public only in a manner that:

(1) Ensures that the information is published on a national and a regional or statewide basis as the Secretary determines to be appropriate;

(2) Ensures that the identity of a reporting person or the entity which they represent is not disclosed; and

(3) Market information reported to the Secretary by packers and importers shall be aggregated in such a manner that the market reports issued will not disclose the identity of persons, packers and importers, including parties to a contract and packer's and importer's proprietary information.

(d) *Adjustments.* Prior to the publication of any information required under this Part, the Secretary may make reasonable adjustments in information reported by packers and importers to reflect price aberrations or other unusual or unique occurrences that the Secretary determines would distort the published information to the detriment of producers, packers, or other market participants.

(e) *Reporting of activities on weekends and holidays.* Livestock and livestock products committed to a packer, or importer, or purchased, sold, or slaughtered by a packer or importer on a weekend day or holiday shall be reported to the Secretary in accordance with the provisions of this Part and reported by the Secretary on the immediately following reporting day. A packer shall not be required to report such actions more than once on the immediately following reporting day.

(f) *Reporting methods.* Whenever information is required to be reported under this Part, it shall be reported by electronic means and shall adhere to a standardized format established by the Secretary to achieve the objectives of this Part, except in emergencies or in cases when an alternative method is agreeable to the entity required to report and AMS.

##### § 59.20 Recordkeeping.

(a) *In General.* Each packer or importer required to report information to the Secretary under the Act and this Part shall maintain for 2 years and make available to the Secretary the following information on request:

(1) 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 or livestock products; and

(2) Such records or other information as is necessary or appropriate to verify

the accuracy of the information required to be reported under the Act and this Part.

(b) *Purchases of cattle and swine and sales of boxed beef cuts.* A record of a purchase of a lot of cattle or swine, or a sale of a unit of boxed beef cuts, by a packer shall evidence whether the purchase or sale occurred:

- (1) Before 10 a.m. Central Time;
- (2) Between 10 a.m. and 2 p.m. Central Time; or
- (3) After 2 p.m. Central Time.

(c) *Purchases of lambs.* A record of a purchase of a lot of lambs by a packer shall evidence whether the purchase occurred:

- (1) Before 2 p.m. Central Time; or
- (2) After 2 p.m. Central Time.

(d) *Sales of lamb carcasses and sales of boxed lamb cuts.* A record of a sale by a packer of lamb carcasses and cuts, or of a sale by an importer of lamb cuts shall evidence time and date the sale occurred:

- (1) Before 2 p.m. Central Time; or
- (2) After 2 p.m. Central Time.

(e) *Reporting sales of boxed beef cuts and sales of boxed lamb cuts.*

(1) Beef packers must report all sales of boxed beef items by the applicable Institutional Meat Purchase Specifications (IMPS) item number or the boxed beef items' cutting and trimming specifications.

(2) Lamb packers and importers must report all sales of boxed lamb items by the applicable Institutional Meat Purchase Specifications (IMPS) item number or the boxed lamb items' cutting and trimming specifications.

##### § 59.30 Definitions.

The following definitions apply to this part.

*Base price.* The term "base price" means the price paid for livestock, delivered at the packing plant, before application of any premiums or discounts, expressed in dollars per hundred pounds of hot carcass weight.

*Basis level.* The term "basis level" means the agreed on adjustment to a future price to establish the final price paid for livestock.

*Current slaughter week.* The term "current slaughter week" means the period beginning Monday, and ending Sunday, of the week in which a reporting day occurs.

*Discount.* The term "discount" means the adjustment, expressed in dollars per one hundred pounds, subtracted from the base price due to weight, quality characteristics, yield characteristics, livestock class, dark cutting, breed, or dressing percentage.

*Exported.* The term "exported" means livestock or livestock products that are

physically shipped to locations outside of the 50 States.

*F.O.B.* The term "F.O.B." means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer (e.g., F.O.B. Plant, F.O.B. Feedlot).

*Imported.* The term "imported" means livestock that are raised to slaughter weight outside of the 50 States or livestock products produced outside of the 50 States.

*Institutional meat purchase specifications.* Specifications describing various meat cuts, meat products, and meat food products derived from all livestock species, commonly abbreviated "IMPS", and intended for use by any meat procuring activity. Copies of the IMPS may be obtained from the U.S. Department of Agriculture, Agricultural Marketing Service, Livestock and Seed Program located at Room 2603 South Building, 1400 Independence Ave, SW., PO Box 96456, Washington, DC 20090-6456. Phone (202) 720-4486 or Fax (202) 720-1112. Copies may also be obtained over the Internet at: [www.ams.usda.gov/lsg/stand/st-pubs.htm](http://www.ams.usda.gov/lsg/stand/st-pubs.htm).

*Livestock.* The term "livestock" means cattle, swine, and lambs.

*Lot.* (1) When used in reference to livestock, the term "lot" means a group of one or more livestock that is identified for the purpose of a single transaction between a buyer and a seller;

(2) When used in reference to lamb carcasses, the term "lot" means a group of one or more lamb carcasses sharing a similar weight range category and comprising a single transaction between a buyer and seller; or

(3) When used in reference to boxed beef and lamb, the term "lot" means a group of one or more boxes of beef or lamb items sharing cutting and trimming specifications and comprising a single transaction between a buyer and seller.

*Marketing.* The term "marketing" means the sale or other disposition of livestock, livestock products, or meat or meat food products in commerce.

*Negotiated purchase.* The term "negotiated purchase" means a cash or spot market purchase by a packer of livestock from a producer under which the base price for the livestock is determined by seller-buyer interaction and agreement on a delivery day. The livestock are scheduled for delivery to the packer not more than 14 days after the date on which the livestock are committed to the packer.

*Negotiated sale.* The term "negotiated sale" means a cash or spot market sale by a producer of livestock to a packer

under which the base price for the livestock is determined by seller-buyer interaction and agreement on a delivery day. The livestock are scheduled for delivery to the packer not later than 14 days after the date on which the livestock are committed to the packer. When used in reference to sales of boxed beef or lamb cuts or lamb carcasses the term "negotiated sale" means a sale by a packer selling boxed beef or lamb cuts or lamb carcasses to a buyer of boxed beef or lamb cuts or lamb carcasses under which the price for the boxed beef or lamb cuts or lamb carcasses is determined by seller-buyer interaction and agreement on a day.

*Origin.* The term "origin" means the State where the livestock were fed to slaughter weight.

*Premium.* The term "premium" means the adjustment, expressed in dollars per one hundred pounds, added to the base price due to weight, quality characteristics, yield characteristics, livestock class, and breed.

*Priced.* The term "priced" means the time when the final price is determined either through buyer-seller interaction and agreement or as a result of some other price determining method.

*Prior slaughter week.* The term "prior slaughter week" means the Monday through Sunday prior to a reporting day.

*Producer.* The term "producer" means any person engaged in the business of selling livestock to a packer for slaughter (including the sale of livestock from a packer to another packer).

*Purchased.* The term "purchased" means the agreement on a price, or the method for calculating a price, determined through buyer-seller interaction and agreement.

*Reporting day.* The term "reporting day" means a day on which a packer conducts business regarding livestock committed to the packer, or livestock purchased, sold, or slaughtered by the packer; the Secretary is required to make such information available to the public; and the Department of Agriculture is open to conduct business.

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

*State.* The term "State" means each of the 50 States.

## Subpart B—Cattle Reporting

### § 59.100 Definitions.

The following definitions apply to this subpart.

*Boxed beef.* The term "boxed beef" means those carlot-based portions of a

beef carcass including fresh primals, subprimals, cuts fabricated from subprimals (excluding portion-control cuts such as chops and steaks similar to those portion cut items described in the Institutional Meat Purchase Specifications (IMPS) for Fresh Beef Products Series 100, and thin meats (e.g. inside and outside skirts, pectoral meat, cap and wedge meat, and blade meat) not older than 14 days from date of manufacture; fresh ground beef, beef trimmings, and boneless processing beef not older than 7 days from date of manufacture; and frozen beef trimmings and boneless processing beef not older than 60 days from date of manufacture.

*Branded.* The term "branded" means boxed beef cuts produced and marketed under a corporate trademark (for example, products that are marketed on their quality, yield, or breed characteristics), or boxed beef cuts produced and marketed under one of USDA's Meat Grading and Certification Branch, Certified Beef programs.

*Carcass characteristics.* The term "carcass characteristics" means the range and average carcass weight in pounds, the quality grade and yield grade (if applicable), and the average cattle dressing percentage.

*Carlot-based.* The term "carlot-based" means any transaction between a buyer and a seller destined for two or less delivery stops consisting of one or more individual boxed beef items.

*Cattle committed.* The term "cattle committed" means cattle that are scheduled to be delivered to a packer within the 7-day period beginning on the date of an agreement to sell the cattle.

*Cattle type.* The term "cattle type" means the following types of cattle purchased for slaughter:

- (1) Fed steers;
- (2) Fed heifers;
- (3) Fed Holsteins and other fed dairy steers and heifers;
- (4) Cows; and
- (5) Bulls.

*Established.* The term "established", when used in connection with prices, means that point in time when the buyer and seller agree upon a net price.

*Formula marketing arrangement.*

(1) When used in reference to live cattle, the term "formula marketing arrangement" means the advance commitment of cattle for slaughter by any means other than through a negotiated purchase or a forward contract, using a method for calculating price in which the price is determined at a future date.

(2) When used in reference to boxed beef, the term "formula marketing arrangement" means the advance

commitment of boxed beef by any means other than through a negotiated purchase or a forward contract, using a method for calculating price in which the price is determined at a future date.

*Forward contract.*

(1) When used in reference to live cattle, the term "forward contract" means an agreement for the purchase of cattle, executed in advance of slaughter, under which the base price is established by reference to prices quoted on the Chicago Mercantile Exchange, or other comparable publicly available prices.

(2) When used in reference to boxed beef, the term "forward contract" means an agreement for the sale of boxed beef, executed in advance of manufacture, under which the base price is established by reference to publicly available quoted prices.

*Packer.* The term "packer" means any person engaged in the business of buying cattle in commerce for purposes of slaughter, of manufacturing or preparing meats or meat food products from cattle for sale or shipment in commerce, or of marketing meats or meat food products from cattle in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce. For any calendar year, the term "packer" includes only a federally inspected cattle processing plant that slaughtered an average of 125,000 head of cattle per year during the immediately preceding 5 calendar years. Additionally, in the case of a cattle processing plant that did not slaughter cattle during the immediately preceding 5 calendar years, it shall be considered a packer if the Secretary determines the processing plant should be considered a packer under this subpart after considering its capacity.

*Packer-owned cattle.* The term "packer-owned cattle" means cattle that a packer owns for at least 14 days immediately before slaughter.

*Prices for cattle.* The term "prices for cattle" includes the price per hundredweight; the purchase type; the quantity on a live and a dressed weight basis; the estimated live weight range; the average live weight; the estimated percentage of cattle of a USDA quality grade Choice or better; beef carcass classification; any premiums or discounts associated with weight, quality grade, yield grade, or type of purchase; cattle State of origin; estimated cattle dressing percentage; and price basis as F.O.B. feedlot or delivered at the plant.

*Terms of trade.* The term "terms of trade" means, with respect to the purchase of cattle for slaughter:

(1) Whether a packer provided any financing agreement or arrangement with regard to the cattle;

(2) Whether the delivery terms specified the location of the producer or the location of the packer's plant;

(3) Whether the producer is able to unilaterally specify the date and time during the business day of the packer that the cattle are to be delivered for slaughter; and

(4) The percentage of cattle purchased by a packer as a negotiated purchase that are delivered to the plant for slaughter more than 7 days, but fewer than 14 days, after the earlier of either the date on which the cattle were committed to the packer, the date on which the cattle were purchased by the packer, or the date on which the cattle were priced by the packer.

*Type of purchase.* The term "type of purchase" with respect to cattle, means a negotiated purchase, a formula market arrangement, and a forward contract.

*Type of sale.* The term "type of sale" with respect to boxed beef, means a negotiated sale, a formula market arrangement, and a forward contract.

**§ 59.101 Mandatory daily reporting for live cattle.**

(a) *In General.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary at least two times each reporting day not later than 10:00 a.m. Central Time and not later than 2:00 p.m. Central Time the following information for each cattle type, inclusive since the last reporting, categorized to clearly delineate domestic from imported market purchases as described in § 59.10(b).

(1) The prices for cattle (per hundredweight) established on that day, categorized by:

- (i) The type of purchase;
- (ii) The quantity of cattle purchased on a live weight basis;
- (iii) The quantity of cattle purchased on a dressed weight basis;
- (iv) A range and average of estimated live weights of cattle purchased;
- (v) An estimate of the percentage of the cattle purchased that were of a quality grade of Choice or better; and
- (vi) Any premiums or discounts associated with weight, quality grade, or yield grade expressed in dollars per hundredweight on a dressed basis.

(2) The quantity of cattle delivered to the packer (quoted in numbers of head) on that day, categorized by:

- (i) The type of purchase;
- (ii) The quantity of cattle delivered on a live weight basis; and
- (iii) The quantity of cattle delivered on a dressed weight basis.

(3) The quantity of cattle committed to the packer (quoted in numbers of head) as of that day, categorized by:

- (i) The type of purchase;
- (ii) The quantity of cattle committed on a live weight basis; and
- (iii) The quantity of cattle committed on a dressed weight basis.

(4) The terms of trade regarding the cattle, as applicable.

(b) *Publication.* The Secretary shall make the information available to the public not less frequently than three times each reporting day.

**§ 59.102 Mandatory weekly reporting for live cattle.**

(a) *In General.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary on the first reporting day of each week, not later than 9:00 a.m. Central Time, the following information applicable to the prior slaughter week, categorized to clearly delineate domestic from imported market purchases:

(1) The quantity of cattle purchased through forward contracts that were slaughtered;

(2) The quantity of cattle delivered under a formula marketing arrangement that were slaughtered;

(3) The quantity and carcass characteristics of packer-owned cattle that were slaughtered;

(4) The quantity, basis level, and delivery month for all cattle purchased through forward contracts;

(5) The range and average of intended premiums and discounts (including those associated with weight, quality grade, yield grade, or type of cattle) that are expected to be in effect for the current slaughter week; and

(6) The following information for cattle purchased through a formula marketing arrangement and slaughtered during the prior slaughter week:

(i) The quantity (quoted in both numbers of head and pounds) of cattle;

(ii) The weighted average price paid for a carcass, including applicable premiums and discounts;

(iii) The range of premiums and discounts paid;

(iv) The weighted average of premiums and discounts paid;

(v) The range of prices paid; and

(vi) The terms of trade regarding the cattle, as applicable.

(b) *Publication.* The Secretary shall make available to the public the information obtained under paragraph (a) of this section on the first reporting day of the current slaughter week by 10:00 a.m. Central Time.

**§ 59.103 Mandatory reporting of boxed beef sales.**

(a) *Daily reporting.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary at least twice each reporting day (once by 10 a.m. Central Time, and once by 2 p.m. Central Time) the following information on total boxed beef domestic and export sales established on that day inclusive since the last reporting as described in § 59.10(b):

- (1) The price for each lot of each boxed beef sale, quoted in dollars per hundredweight on a F.O.B. plant basis;
- (2) The quantity for each lot of each sale, quoted by number of pounds sold; and
- (3) The information regarding the characteristics of each sale is as follows:
  - (i) The type of sale;
  - (ii) The branded product characteristics, if applicable;
  - (iii) The grade for steer and heifer beef (e.g., USDA Prime, USDA Choice or better, USDA Choice, USDA Select, ungraded no-roll product);
  - (iv) The grade for cow beef or packer yield and/or quality sort for cow beef (e.g., Breakers, Boners, White Cow);
  - (v) The cut of beef, referencing the most recent version of the Institutional Meat Purchase Specifications (IMPS), when applicable;
  - (vi) The trim specification;
  - (vii) The weight range of the cut;
  - (viii) The product delivery period; and
  - (ix) The beef type (steer/heifer, dairy steer/heifer, or cow).

(b) *Publication.* The Secretary shall make available to the public the information obtained under paragraph (a) of this section not less frequently than twice each reporting day.

**Subpart C—Swine Reporting****§ 59.200 Definitions.**

The following definitions apply to this subpart.

*Affiliate.* The term “affiliate”, with respect to a packer, means:

- (1) A person that directly or indirectly owns, controls, or holds with power to vote, 5 percent or more of the outstanding voting securities of the packer;
- (2) A person 5 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the packer; and
- (3) A person that directly or indirectly controls, or is controlled by or under common control with, the packer.

*Applicable reporting period.* The term “applicable reporting period” means the

period of time prescribed by the prior day report, the morning report, and the afternoon report, as provided in § 59.202.

*Average carcass weight.* The term “average carcass weight” means the weight obtained by dividing the total carcass weight of the swine slaughtered at the packing plant during the applicable reporting period by the number of these same swine.

*Average lean percentage.* The term “average lean percentage” means the value equal to the average percentage of the carcass weight comprised of lean meat for the swine slaughtered during the applicable reporting period. Whenever the packer changes the manner in which the average lean percentage is calculated, the packer shall make available to the Secretary the underlying data, applicable methodology and formulae, and supporting materials used to determine the average lean percentage, which the Secretary may convert either to the carcass measurements or lean percentage of the swine of the individual packer to correlate to a common percent lean measurement.

*Average net price.* The term “average net price” means the quotient (stated per hundred pounds of carcass weight of swine) obtained by dividing the total amount paid for the swine slaughtered at a packing plant during the applicable reporting period (including all premiums and less all discounts) by the total carcass weight of the swine (in hundred pound increments).

*Average sort loss.* The term “average sort loss” means the average discount (in dollars per hundred pounds carcass weight) for swine slaughtered during the applicable reporting period, resulting from the fact that the swine did not fall within the individual packer’s established carcass weight range or lot variation range.

*Backfat.* The term “backfat” means the fat thickness (in inches) measured between the third and fourth rib from the last rib, 7 centimeters from the carcass split (or adjusted from the individual packer’s measurement to that reference point using an adjustment made by the Secretary) of the swine slaughtered during the applicable reporting period.

*Barrow.* The term “barrow” means a neutered male swine, with the neutering performed before the swine reached sexual maturity.

*Base market hog.* The term “base market hog” means a hog for which no discounts are subtracted from and no premiums are added to the base price.

*Base price.* The term “base price” means the price from which no

discounts are subtracted and no premiums are added.

*Boars.* The term “boar” means a sexually-intact male swine.

*Bred female swine.* The term “bred female swine” means any female swine, whether a sow or gilt, that has been mated or inseminated, or has been confirmed, to be pregnant.

*Formula price.* The term “formula price” means a price determined by a mathematical formula under which the price established for a specified market serves as the basis for the formula.

*Gilt.* The term “gilt” means a young female swine that has not produced a litter.

*Highest net price.* The term “highest net price” means the highest net price paid for a single lot or group of swine slaughtered at a packing plant during the applicable reporting period per hundred pounds of carcass weight of swine.

*Hog Class.* The term “hog class” means, as applicable, barrows or gilts; sows; or boars or stags.

*Loin depth.* The term “loin depth” means the muscle depth (in inches) measured between the third and fourth ribs from the last rib, 7 centimeters from the carcass split (or adjusted from the individual packer’s measurement to that reference point using an adjustment made by the Secretary) of the swine slaughtered during the applicable reporting period.

*Lowest net price.* The term “lowest net price” means the lowest net price paid for a single lot or group of swine slaughtered at a packing plant during the applicable reporting period per hundred pounds of carcass weight of swine.

*Net price.* The term “net price” means the total amount paid by a packer to a producer (including all premiums, less all discounts) per hundred pounds of carcass weight of swine delivered at the plant. The total amount paid shall include any sum deducted from the price (per hundredweight) paid to a producer that reflects the repayment of a balance owed by the producer to the packer or the accumulation of a balance to later be repaid by the packer to the producer. The total amount paid shall exclude any sum earlier paid to a producer that must be repaid to the packer.

*Noncarcass merit premium.* The term “noncarcass merit premium” means an increase in the base price of the swine offered by an individual packer or packing plant, based on any factor other than the characteristics of the carcass, if the actual amount of the premium is known before the sale and delivery of the swine.

*Other market formula purchase.* The term "other market formula purchase" means 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 a pork product. The term "other market formula purchase" includes a formula purchase in a case which the price formula is based on 1 or more futures or options contracts.

*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, or other market formula purchase; and does not involve packer-owned swine.

*Packer.* The term "packer" means any person engaged in the business of buying swine in commerce for purposes of slaughter, of manufacturing or preparing meats or meat food products from swine for sale or shipment in commerce, or of marketing meats or meat food products from swine in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce. For any calendar year, the term "packer" includes only a federally inspected swine processing plant that slaughtered an average of 100,000 head of swine per year during the immediately preceding 5 calendar years. Additionally, in the case of a swine processing plant that did not slaughter swine during the immediately preceding 5 calendar years, it shall be considered a packer if the Secretary determines the processing plant should be considered a packer under this subpart after considering its capacity.

*Packer-owned swine.* The term "packer-owned swine" means swine that a packer (including a subsidiary or affiliate of the packer) owns for at least 14 days immediately before slaughter.

*Packer-sold swine.* The term "packer-sold swine" means the swine that are owned by a packer (including a subsidiary or affiliate of the packer) for more than 14 days immediately before sale for slaughter; and sold for slaughter to another packer.

*Pork.* The term "pork" means the meat of a porcine animal.

*Pork product.* The term "pork product" means a product or byproduct produced or processed in whole or in part from pork.

*Purchase data.* The term "purchase data" means all of the applicable data, including base price and weight (if purchased live), for all swine purchased during the applicable reporting period, regardless of the expected delivery date of the swine, reported by:

- (1) Hog class;
- (2) Type of purchase; and

(3) Packer-owned swine.

*Slaughter data.* The term "slaughter data" means all of the applicable data for all swine slaughtered by a packer during the applicable reporting period, regardless of whether the price of the swine was negotiated or otherwise determined, reported by:

- (1) Hog class;
- (2) Type of purchase; and
- (3) Packer-owned swine.

*Sow.* The term "sow" means an adult female swine that has produced 1 or more litters.

*Stag.* The term "stag" means a male swine that was neutered after reaching sexual maturity.

*Swine.* The term "swine" means a porcine animal raised to be a feeder pig, raised for seedstock, or raised for slaughter.

*Swine committed.* The term "swine committed" means swine scheduled and delivered to a packer within the 14-day period beginning on the date of an agreement to sell the swine.

*Swine or pork market formula purchase.* The term "swine or pork market formula purchase" means a purchase of swine by a packer in which the pricing mechanism is a formula price based on a market for swine, pork, or a pork product, other than a future or option for swine, pork, or a pork product.

*Type of purchase.* The term "type of purchase", with respect to swine, means:

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

#### **§ 59.201 General reporting provisions.**

(a) *Packer-owned swine.* Information required under this section for packer-owned swine shall include quantity and carcass characteristics, but not price.

(b) *Type of Purchase.* If information regarding the type of purchase is required under this section, the information shall be reported according to the numbers and percentages of each type of purchase comprising:

- (1) Packer-sold swine; and
- (2) All other swine.

#### **§ 59.202 Mandatory daily reporting for swine.**

(a) *Prior day report.* The corporate officers or officially designated representatives of each packer shall report to the Secretary for each business day of the packer not later than 7:00 a.m. Central Time on each reporting day information regarding all swine purchased, priced, or slaughtered during the prior business day of the packer as specified in § 59.10(b):

(1) All purchase data, reported by lot, including:

- (i) The total number of swine purchased;
- (ii) The total number of swine scheduled for delivery to a packer for slaughter;
- (iii) The base price and weight for all swine purchased on a live weight basis; and

(iv) The base price and premiums and discounts paid for carcass characteristics for all swine purchased on a carcass basis for which a price has been established. For swine that were not priced, this information shall be reported on the next prior day report after the price is established.

(2) The following slaughter data for the total number of swine slaughtered:

- (i) The average net price;
- (ii) The lowest net price;
- (iii) The highest net price;
- (iv) The average carcass weight;
- (v) The average sort loss;
- (vi) The average backfat;
- (vii) The average loin depth;
- (viii) The average lean percentage;

and

(ix) Total quantity slaughtered.

(3) Packer purchase commitments, which shall be equal to the number of swine scheduled for delivery to a packer for slaughter for each of the next 14 calendar days.

(4) Publication. The Secretary shall publish the information obtained under this paragraph in a prior day report not later than 8:00 a.m. Central Time on the reporting day on which the information is received from the packer.

(b) *Morning report.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary not later than 10:00 a.m. Central Time each reporting day as described in § 59.10(b):

(1) The packer's best estimate of the total number of swine and packer-owned swine expected to be purchased throughout the reporting day through each type of purchase;

(2) The total number of swine and packer-owned swine purchased up to that time of the reporting day through each type of purchase;

(3) All purchase data for base market hogs purchased up to that time of the reporting day through negotiated purchases; and

(4) All purchase data for base market hogs purchased through each type of purchase other than negotiated purchase 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.

(5) Publication. The Secretary shall publish the information obtained under this paragraph in the morning report as soon as practicable, but not later than 11 a.m. Central Time, on each reporting day.

(c) *Afternoon report.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary not later than 2:00 p.m. Central Time each reporting day as described in § 59.10(b):

(1) The packer's best estimate of the total number of swine and packer-owned swine expected to be purchased throughout the reporting day through each type of purchase;

(2) The total number of swine and packer-owned swine purchased up to that time of the reporting day through each type of purchase;

(3) The base price paid for all base market hogs purchased up to that time of the reporting day through negotiated purchases; and

(4) The base price paid for all base market hogs purchased through each type of purchase other than negotiated purchase 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.

(5) Publication. The Secretary shall publish the information obtained under this paragraph in the afternoon report as soon as practicable, but not later than 3:00 p.m. Central Time, on each reporting day.

#### § 59.203 Mandatory weekly reporting for swine.

(a) *Weekly noncarcass merit premium report.* Not later than 4:00 p.m. Central Time in accordance with § 59.10(b) on the first reporting day of each week, the corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary a noncarcass merit premium report that lists:

(1) Each category of standard noncarcass merit premiums used by the packer in the prior slaughter week; and

(2) The dollar value (in dollars per hundred pounds of carcass weight) paid to producers by the packer, by category.

(b) *Premium list.* A packer shall maintain and make available to a producer, on request, a current listing of the dollar values (per hundred pounds of carcass weight) of each noncarcass

merit premium used by the packer during the current or the prior slaughter week.

(c) *Publication.* The Secretary shall publish the information obtained under this subsection as soon as practicable, but not later than 5:00 p.m. Central Time, on the first reporting day of each week.

### Subpart D—Lamb Reporting

#### § 59.300 Definitions.

The following definitions apply to this subpart.

*Boxed lamb.* The term “boxed lamb” means those carlot-based portions of a lamb carcass including fresh primals, subprimals, cuts fabricated from subprimals (excluding portion-control cuts such as chops and steaks similar to those portion cut items described in the Institutional Meat Purchase Specifications (IMPS) for Fresh Lamb and Mutton Series 200, and thin meats (e.g. inside and outside skirts, pectoral meat, cap and wedge meat, and blade meat) not older than 14 days from date of manufacture; fresh ground lamb, lamb trimmings, and boneless processing lamb not older than 7 days from date of manufacture; frozen primals, subprimals, cuts fabricated from subprimals, and thin meats not older than 180 days from date of manufacture; and frozen ground lamb, lamb trimmings, and boneless processing lamb not older than 90 days from date of manufacture.

*Branded.* The term “branded” means boxed lamb cuts produced and marketed under a corporate trademark (for example, products that are marketed on their quality, yield, or breed characteristics), or boxed lamb cuts produced and marketed under one of USDA's Meat Grading and Certification Branch, Certified programs.

*Carcass characteristics.* The term “carcass characteristics” means the range and average carcass weight in pounds, the quality grade and yield grade (if applicable), and the lamb average dressing percentage.

*Carlot-based.* The term “carlot-based” means any transaction between a buyer and a seller destined for three or less delivery stops consisting of one or more individual boxed lamb items or any combination of carcass weights.

*Established.* The term “established”, when used in connection with prices, means that point in time when the buyer and seller agree upon a net price.

*Formula marketing arrangement.*

(1) When used in reference to live lambs, the term “formula marketing arrangement” means the advance commitment of lambs for slaughter by

any means other than through a negotiated purchase or a forward contract, using a method for calculating price in which the price is determined at a future date.

(2) When used in reference to boxed lamb, the term “formula marketing arrangement” means the advance commitment of boxed lamb by any means other than through a negotiated purchase or a forward contract, using a method for calculating price in which the price is determined at a future date.

*Forward contract.*

(1) When used in reference to live lambs, the term “forward contract” means an agreement for the purchase of lambs, executed in advance of slaughter, under which the base price is established by reference to publicly available prices.

(2) When used in reference to boxed lamb, the term “forward contract” means an agreement for the sale of boxed lamb, executed in advance of manufacture, under which the base price is established by reference to publicly available quoted prices.

*Importer.* The term “importer” means any person engaged in the business of importing lamb meat products who takes ownership of such 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 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years. Additionally, the term includes those that did not import an average of 5,000 metric tons of lamb meat products during the immediately preceding 5 calendar years, if the Secretary determines that the person should be considered an importer based on their volume of lamb imports.

*Lambs committed.* The term “lambs committed” means lambs that are scheduled to be delivered to a packer within the 7-day period beginning on the date of an agreement to sell the lambs.

*Packer.* The term “packer” means any person 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 75,000 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 75,000 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.

*Packer-owned lambs.* The term "packer-owned lambs" means lambs that a packer owns for at least 14 days immediately before slaughter.

*Terms of trade.* The term "terms of trade" includes, with respect to the purchase of lambs for slaughter:

(1) Whether a packer provided any financing agreement or arrangement with regard to the lambs;

(2) Whether the delivery terms specified the location of the producer or the location of the packer's plant;

(3) Whether the producer is able to unilaterally specify the date that the lambs are to be delivered for slaughter; and

(4) The percentage of lambs purchased by a packer as a negotiated purchase that are delivered to the plant for slaughter more than 7 days, but less than 14 days, after the earlier of either:

(i) The date on which the lambs were committed to the packer;

(ii) The date on which the lambs were purchased by the packer; or

(iii) The date on which the lambs were priced by the packer.

*Type of purchase.* The term "type of purchase" means a negotiated purchase, a formula market arrangement, and a forward contract.

*Type of sale.* The term "type of sale" with respect to boxed lamb, means a negotiated sale, a formula market arrangement, and a forward contract.

#### **§ 59.301 Mandatory daily reporting for lambs.**

(a) *In General.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary at least once each reporting day not later than 2:00 p.m. Central Time the following information for lamb, categorized to clearly delineate domestic from imported market purchases as described in § 59.10(b):

(1) The prices for lambs (per hundredweight) established on that day as F.O.B. feedlot or delivered at the plant, categorized by:

(i) The type of purchase;

(ii) The class of lamb;

(iii) The quantity of lambs purchased on a live weight basis;

(vi) The quantity of lambs purchased on a dressed weight basis;

(v) A range and average of estimated live weights of lambs purchased;

(vi) An estimate of the percentage of the lambs purchased that were of a quality grade of Choice or better;

(vii) Any premiums or discounts associated with weight, quality grade, yield grade, or any type of purchase;

(viii) Lamb State of origin;

(ix) The pelt type; and

(x) The estimated lamb dressing percentage.

(2) The quantity of lambs delivered to the packer (quoted in numbers of head) on that day, categorized by:

(i) The type of purchase;

(ii) The quantity of lambs delivered on a live weight basis; and

(iii) The quantity of lambs delivered on a dressed weight basis.

(3) The quantity of lambs committed to the packer (quoted in numbers of head) as of that day, categorized by:

(i) The type of purchase;

(ii) The quantity of lambs committed on a live weight basis; and

(iii) The quantity of lambs committed on a dressed weight basis.

(4) The terms of trade regarding the lambs, as applicable.

(b) *Publication.* The Secretary shall make the information available to the public not less than once each reporting day.

#### **§ 59.302 Mandatory weekly reporting for lambs.**

(a) *In general.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary the following information applicable to the prior slaughter week contained in paragraphs (a)(1) through (a)(4) and (a)(6) of this section not later than 9 a.m. Central Time on the second reporting day of the current slaughter week, and the following information applicable to the prior slaughter week contained in paragraph (a)(5) of this section not later than 9:00 a.m. Central Time on the first reporting day of the current slaughter week categorized to clearly delineate domestic from imported market purchases:

(1) The quantity of lambs purchased through forward contracts that were slaughtered;

(2) The quantity of lambs delivered under a formula marketing arrangement that were slaughtered;

(3) The quantity and carcass characteristics of packer-owned lambs that were slaughtered;

(4) The quantity, basis level, and delivery month for all lambs purchased through forward contracts;

(5) The following information applicable to the current slaughter week. The range and average of intended premiums and discounts (including those associated with weight, quality grade, yield grade, or type of lamb) that are expected to be in effect for the current slaughter week; and

(6) The following information for lambs purchased through a formula marketing arrangement and slaughtered during the prior slaughter week, categorized to clearly delineate domestic from imported market purchases:

(i) The quantity (quoted in both numbers of head and pounds) of lambs;

(ii) The weighted average price paid for a carcass, including applicable premiums and discounts;

(iii) The range of premiums and discounts paid;

(iv) The weighted average of premiums and discounts paid;

(v) The range of prices paid; and

(vi) The terms of trade regarding the lambs, as applicable.

(b) *Publication.* The Secretary shall make available to the public the information obtained under paragraphs (a)(1) through (a)(4) and (a)(6) of this section on the second reporting day of the current slaughter week and information obtained in paragraph (a)(5) of this section on the first reporting day of the current slaughter week.

#### **§ 59.303 Mandatory reporting of lamb carcasses and boxed lamb.**

(a) *Daily reporting of lamb carcass transactions.* The corporate officers or officially designated representatives of each packer shall report to the Secretary each reporting day the following information on total carlot-based lamb carcass transactions not later than 3:00 p.m. Central Time in accordance with § 59.10(b):

(1) The price for each lot of each lamb carcass transaction, quoted in dollars per hundredweight on an F.O.B. plant basis;

(2) The quantity for each lot of each transaction, quoted by number of carcasses sold; and

(3) The following information regarding the characteristics of each transaction:

(i) The type of sale;

(ii) The USDA quality grade of lamb;

(iii) The USDA yield grade;

(iv) The estimated weight range of the carcasses; and

(v) The product delivery period.

(b) *Daily reporting of domestic boxed lamb sales.* The corporate officers or officially designated representatives of each packer shall report to the Secretary each reporting day the following information on total domestic boxed lamb cut sales not later than 2:30 p.m. Central Time as described in § 59.10(b):

(1) The price for each lot of each boxed lamb cut sale, quoted in dollars per hundredweight on a F.O.B. plant basis;

(2) The quantity for each lot of each sale, quoted by product weight sold; and

(3) The following information regarding the characteristics of each transaction:

- (i) The type of sale;
- (ii) The branded product characteristics, if applicable;
- (iii) The U.S.D.A. quality grade of lamb;
- (iv) The cut of lamb, referencing the most recent version of the Institutional Meat Purchase Specifications (IMPS), when applicable;
- (v) U.S.D.A. yield grade, if applicable;
- (vi) The product state of refrigeration;
- (vii) The weight range of the cut; and
- (viii) The product delivery period.

(c) *Weekly reporting of imported boxed lamb sales.* The corporate officers or officially designated representatives of each lamb importer shall report to the Secretary on the first reporting day of each week the following information applicable to the prior week for imported boxed lamb cut sales not later than 10 a.m. Central Time:

(1) The price for each lot of a boxed lamb cut sale, quoted in dollars per hundredweight on a F.O.B. plant basis;

(2) The quantity for each lot of a transaction, quoted by product weight sold; and

(3) The following information regarding the characteristics of each transaction:

- (i) The type of sale;
- (ii) The branded product characteristics, if applicable;
- (iii) The cut of lamb, referencing the most recent version of the Institutional Meat Purchase Specifications (IMPS), when applicable;
- (iv) The product state of refrigeration;
- (v) The weight range of the cut; and
- (vi) The product delivery period.

(d) *Publication.* The Secretary shall make available to the public the information required to be reported in paragraphs (a) and (b) of this section not less frequently than once each reporting day and the information required to be reported in paragraph (c) of this section on the first reporting day of the current slaughter week.

#### Subpart E—OMB Control Number

##### § 59.400 OMB control number assigned pursuant to the Paperwork Reduction Act.

The information collection and recordkeeping requirements of this part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0581-0186.

Dated: November 20, 2000.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

**Note:** The following Appendices will not appear in the Code of Federal Regulations.

#### Appendix A—Cattle Mandatory Reporting Forms

The following 6 forms visually represent the mandatory market information that is required to be reported electronically on domestic and import sales and purchases of live cattle and boxed beef to the Agricultural Marketing Service.

##### Cattle

- LS-113 Live Cattle Daily Report (Current Established Prices)
- LS-114 Live Cattle Daily Report (Committed and Delivered Cattle)
- LS-115 Live Cattle Weekly Report (Forward Contract and Packer-Owned)
- LS-116 Live Cattle Weekly Report (Formula Purchases)
- LS-117 Cattle Premiums and Discounts Weekly Report
- LS-126 Boxed Beef Daily Report

#### Appendix B—Swine Mandatory Reporting Forms

The following 3 forms visually represent the mandatory market information that is required to be reported electronically on domestic and import sales and purchases of live swine to the Agricultural Marketing Service.

##### Swine

- LS-118 Swine Prior Day Report
- LS-119 Swine Daily Report
- LS-120 Swine Noncarcass Merit Premium Weekly Report

#### Appendix C—Lamb Mandatory Reporting Forms

The following 7 forms visually represent the mandatory market information that is required to be reported electronically on purchases of live lambs and imported boxed lamb cuts; and sales of lamb carcasses, and domestic and import boxed lamb cuts to the Agricultural Marketing Service.

##### Lamb

- LS-121 Live Lamb Daily Report (Current Established Prices)
- LS-122 Live Lamb Daily Report (Committed and Delivered Lambs)
- LS-123 Live Lamb Weekly Report (Forward Contract and Packer-Owned)
- LS-124 Live Lamb Weekly Report (Formula Purchases)
- LS-125 Lamb Premiums and Discounts Report
- LS-128 Boxed Lamb Report
- LS-129 Lamb Carcass Report

#### Appendix D—Mandatory Reporting Forms Guideline

The following mandatory reporting form guidelines will be used by persons required to report electronically transmitted mandatory market information to the Agricultural Marketing Service.

The first 10 fields of each mandatory reporting form provide the following information: identification number (plant establishment number or importer ID number), company name (name of parent company), plant street address (street address for plant), plant city (city where plant is located), plant state (state where plant is located), plant zip code (zip code where plant is located), contact name (the name of the corporate representative contact at the plant), phone number (full phone number for the plant including area code), reporting date (date the information was submitted (mm/dd/yyyy)), and reporting time (the submission time corresponding to the 10:00 a.m. and the 2:00 p.m. reporting requirements). The reporting time requirement is only applicable to forms LS-113 Live Cattle Daily Report (current established prices), LS-114 Live Cattle Daily Report (Committed and Delivered Cattle), LS-126 Boxed Beef Daily Report, and LS-119 Swine Daily Report.

(a) Cattle Mandatory Reporting Forms. (See Appendix E for samples)

(1) LS-113—Live Cattle Daily Report (current established prices).

(i) Lot identification (11). Enter code used to identify the lot to the packer.

(ii) Source (12). Enter '1', domestic, if cattle were purchased inside of the 50 States, or '2', imported, if cattle were purchased outside of the 50 States.

(iii) Purchase type code (13). Enter the code that describes the type of purchase.

(iv) Class code (14). Enter the code that best describes the type of cattle.

(v) Selling basis (15a-b). For 15a, enter "1" if cattle were purchased on a live basis or "2" if cattle were purchased on a dressed basis. For 15b, enter "1" if cattle are shipped on an FOB feedlot basis or "2" if cattle are delivered at the plant.

(vi) Head count (16). Enter the quantity of cattle in the lot in number of head.

(vii) Weight range (17a & 17b). Enter the lowest (17a) and highest (17b) weights for cattle in the lot in pounds.

(viii) Estimated average weight (18). Enter the estimated average weight of the lot in pounds.

(ix) Average price (19). Enter the price established on that day for the lot in dollars per hundredweight.

(I) For negotiated purchases, enter the final (net) price paid.

(II) For formula purchases, enter the base price.

(III) For forward contract purchases, enter either the final (net) price paid or the base price depending on the contract.

(x) Percent Choice or better (20). Enter the percentage of the number of cattle in the lot of a quality grade of Choice or better.

(xi) Classification code (21). Enter the code which best describes the quality of the majority of the cattle in the lot.

(xii) Dressing percentage (22). Enter an average dressing percentage for the cattle in the lot. For negotiated purchases, enter an estimate. For all other purchase types, enter the actual average dressing percentage.

(xiii) Origin (23). Enter the 2-letter postal abbreviation for the State in which the cattle were fed to slaughter weight. Leave blank if cattle are imported.

(xiv) Premiums and discounts paid (24a-f). Enter the total net value of the adjustment for the lot (in dollars per hundredweight) for any premiums associated with weight, quality, or yield expressed as a positive value and for any discounts associated with weight, quality, or yield expressed as a negative value in parenthesis.

(xv) Terms of Trade (25a-d). Enter when applicable, otherwise leave blank.

(I) Packer financing (25a). Enter "1" (yes) or "2" (no) in response to: "Did packer provided financing agreement or arrangement with regards to the cattle?"

(II) Delivery location (25b). Enter "1" if delivery terms specify producer location, "2" if they specify packer's plant location.

(III) Delivery Date (25c). Enter "1" if producer sets date of delivery for slaughter unilaterally; otherwise enter "2" for packer.

(IV) Delivered (25d). Enter "1" if negotiated purchased cattle are to be delivered for slaughter 7 or less days from the committed, purchased, or priced date. Enter "2" if they are to be delivered for slaughter between 8 and 14 days from the date the cattle were committed, purchased, or priced.

(2) LS-114—Live Cattle Daily Report (committed and delivered cattle)

(i) Lot identification (11). Enter code used to identify the lot to the packer.

(ii) Purchasing basis (12). Enter "1" if cattle are delivered or "2" if cattle are committed.

(iii) Source (13). Enter "1", domestic, if cattle are purchased within the 50 States or "2", imported, if cattle are purchased outside of the 50 States.

(iv) Purchase type code (14). Enter the code that best describes the type of purchase.

(v) Class Code (15). Enter the code that best describes the type of cattle in the lot.

(vi) Selling basis (16). Enter "1" if cattle were purchased on a live basis or a "2" if cattle were purchased on a dressed basis.

(vii) Head count (17). Enter the quantity of cattle in the lot in number of head.

(viii) Origin (18). Enter the 2-letter postal abbreviation for the State in which the cattle were fed to slaughter weight. Leave blank if cattle were imported.

(ix) Terms of Trade (19a-d). Enter when applicable, otherwise leave blank.

(I) Packer financing (19a). Enter "1" (yes) or "2" (no) in response to: "Did packer provide financing agreement or arrangement with regards to the cattle?"

(II) Delivery location (19b). Enter "1" if delivery terms specify producer location, "2" if they specify packer's plant location.

(III) Delivery Date (19c). Enter "1" if producer sets date of delivery for slaughter unilaterally; otherwise enter "2" for packer.

(IV) Delivered (19d). Enter "1" if negotiated purchased cattle are to be delivered for slaughter 7 or less days from the committed, purchased, or priced date. Enter "2" if they are to be delivered for slaughter between 8 and 14 days from the date the cattle were committed, purchased, or priced.

(3) LS-115—Live Cattle Weekly Report (forward contract and packer-owned).

(i) Packer-Owned lot identification (11). Enter code used to identify the lot of packer-owned cattle to the packer.

(ii) Packer-Owned source (12). Enter "1", domestic, if packer-owned cattle are from

within the 50 States or "2", imported, if cattle are from outside of the 50 States.

(iii) Packer-Owned head count (13). Enter the quantity of packer-owned cattle in the lot in number of head.

(iv) Packer-Owned actual carcass weight range (14a & 14b). Enter the lowest (14a) and highest (14b) actual carcass weights for cattle in the lot in pounds.

(v) Packer-Owned actual average carcass weight (15). Enter the actual average carcass weight of the lot of packer-owned cattle in pounds.

(vi) Packer-Owned average dressing percentage (16). Enter the average dressing percentage of the lot of packer-owned cattle.

(vii) Percentage yield grade 3 or better (17). Enter the percentage of packer-owned cattle in the lot of a yield grade of 3 or better.

(viii) Quality grade percentage (18-19). Enter the percentage of packer-owned cattle in the lot of a quality grade of Choice or better (18) and the percentage of packer-owned cattle in the lot of a quality grade of Select (19).

(ix) Prior week slaughtered cattle head counts (20-23). Enter the total number of head of cattle slaughtered for the prior week that were purchased through forward contracts and the total number of head for cattle purchased through formula arrangements, categorized by domestic or imported sources. Enter this information once per each week's submission.

(x) Forward contract purchases lot identification (24). Enter code used to identify forward contracted cattle to the packer.

(xi) Forward contract purchases head count (25). Enter quantity of forward contracted cattle in the lot in number of head.

(xii) Forward contract purchases basis level (26). Enter the agreed upon adjustment to a future price to establish the final price of the forward contracted cattle in dollars per one hundred pounds.

(xiii) Forward contract purchases delivery month (27). Enter the delivery month of the cattle purchased through forward contracts as a 3-letter abbreviation.

(4) LS-116—Live Cattle Weekly Report (formula purchases).

(i) Lot identification (11). Enter code used to identify the lot to the packer.

(ii) Source (12). Enter "1", domestic, if cattle are purchased within the 50 States or "2", imported, if cattle are purchased outside of the 50 States.

(iii) Head count (13). Enter the quantity of cattle in the lot in number of head.

(iv) Total pounds (14). Enter the total quantity of cattle in the lot in pounds.

(v) Weighted average carcass price (15). Enter the average weighted average carcass price for the cattle in the lot in dollars per hundredweight.

(vi) Range of prices paid (16a-b). Enter the lowest (16a) and the highest (16b) prices paid for the cattle in the lot in dollars per hundredweight.

(vii) Range of premiums and discounts paid (17a-b). Enter the lowest (17a) and the highest (17b) premium and discount paid for the lot of cattle in dollars per hundredweight. Enter negative values in parenthesis.

(viii) Weighted average of premiums and discounts paid (18). Enter the weighted

average of the premiums and discounts paid for the lot of cattle in dollars per hundredweight. Enter negative values in parenthesis.

(ix) Terms of Trade (19a-c). Enter when applicable else leave blank.

(I) Packer financing (19a). Enter "1" (yes) or "2" (no) in response to: "Did packer provided financing agreement or arrangement with regards to the cattle?"

(II) Delivery location (19b). Enter "1" if delivery terms specify producer location, "2" if they specify packer's plant location.

(III) Delivery Date (19c). Enter "1" if producer sets date of delivery for slaughter unilaterally; otherwise enter "2" for packer.

(5) LS-117—Cattle Premiums and Discounts Weekly Report.

(i) Enter the premiums and discounts (in dollars per hundredweight) expected to be in effect for the current slaughter week for each applicable category of premium and discount (11-34). For "other" categories (35-38), provide a brief description of the basis for the premium/discount along with the value of the premium/discount. Enter negative values in parenthesis.

(6) LS-126—Boxed Beef Daily Report. For lots comprising multiple items, provide information for each item in a separate record identified with the same lot identification or purchase order number.

(i) Lot identification or purchase order number (11). Enter code used to identify the lot to the packer.

(ii) Destination (12). Enter "1", domestic, for product shipped within the 50 States or "2", exported, for product shipped outside of the 50 States.

(iii) Purchase type code (13). Enter the code corresponding to the sale type of the lot of boxed beef.

(iv) Delivery period code (14). Enter the code corresponding to the delivery time period of the lot of boxed beef.

(v) Refrigeration (15). Enter "1" if the product is sold in a fresh condition or "2" if the product is sold in a frozen condition.

(vi) Class code (16). Enter the code that best describes the class of cattle from which the boxed beef was produced.

(vii) Classification code (17). Enter the code corresponding to the grade of the boxed beef.

(viii) Beef cut (18a-b). Enter the numerical code corresponding to the Institutional Meat Purchase Specifications (IMPS) (3 to 4 characters)(18a) or the internal corporate descriptor used to identify the product (18b). Descriptors must be entered consistently for all submissions.

(ix) Trim spec code (19). Enter the code corresponding to the trim level of the boxed beef.

(x) Weight (20). Enter the code corresponding to the relative weight of the product. Where weight is a factor, enter "1" to signify the lighter weight range, "2" to signify the middle weight range, or "3" to signify the heavier weight range. Where weight is not a factor, enter "4" to signify all weights or mixed.

(xi) Total product weight (21). Enter the total weight of the boxed beef cut in the lot in pounds.

(xii) Price (22). Enter the price received for each boxed beef cut in the lot in dollars per one hundred pounds, FOB Plant basis.

(xiii) USDA Certified schedule code (23). Enter the code for the USDA Certified Program schedule, if applicable (e.g. G1, G2, etc.); otherwise leave blank.

(xiv) Branded product code (24a–b). Enter the quality grade code (24a) and the yield grade code (24b) that best describes the brand. Leave blank if not applicable.

(b) Swine Mandatory Reporting Forms. (see Appendix E for samples)

(1) LS–118—Swine Prior Day Report.

(i) Slaughtered swine lot identification (11). Enter code used to identify the lot of slaughtered swine to the packer.

(ii) Slaughtered swine class code (12). Enter the code that best describes the type of slaughtered swine in the lot.

(iii) Slaughtered swine purchase type code (13). Enter the code that describes the type of purchase for the slaughtered swine in the lot.

(iv) Slaughtered swine head count (14). Enter the quantity of slaughtered swine in the lot in number of head.

(v) Slaughtered swine base price (15). Enter the base price established on that day for the lot of slaughtered swine in dollars per one hundred pounds.

(vi) Slaughtered swine average net price (16). Enter the average net price established on that day for the lot of slaughtered swine in dollars per one hundred pounds.

(vii) Slaughtered swine lowest net price (17). Enter the lowest net price established on that day for the lot of slaughtered swine in dollars per one hundred pounds.

(viii) Slaughtered swine highest net price (18). Enter the highest net price established on that day for the lot of slaughtered swine in dollars per one hundred pounds.

(ix) Slaughtered swine average live weight (19). Enter the average live weight of the lot of swine in pounds if slaughtered swine were purchased on a live basis, otherwise leave blank.

(x) Slaughtered swine average carcass weight (20). Enter the average carcass weight of the lot of slaughtered swine in pounds.

(xi) Slaughtered swine average sort loss (21). Enter the average sort loss for the lot of slaughtered swine in dollars per one hundred pounds.

(xii) Slaughtered swine average backfat (22). Enter the average backfat measurement for the lot of slaughtered swine in inches rounded to the nearest tenth of an inch.

(xiii) Slaughtered swine average loin depth (23). Enter the average loin depth measurement for the lot of slaughtered swine in inches rounded to the nearest tenth of an inch.

(xiv) Slaughtered swine average lean percentage (24). Enter the average lean percentage for the lot of slaughtered swine.

(xv) Purchased swine lot identification (25). Enter code used to identify the lot of purchased swine to the packer.

(xvi) Purchased swine ownership code (26). Enter code which best describes the source of the purchased swine whether packer-owned, purchased from another packer, or all other swine.

(xvii) Purchased swine class code (27). Enter the code that best describes the type of purchased swine.

(xviii) Purchased swine purchase type code (28). Enter the code that describes the type of purchase for the purchased swine.

(xix) Purchased swine head count (29). Enter the quantity of purchased swine in the lot.

(xx) Purchased swine average live weight (30). Enter the average live weight of the lot of swine in pounds if swine were purchased on a live basis, otherwise leave blank.

(xxi) Purchased swine base price (31). Enter the base price established on that day for the lot of purchased swine in dollars per one hundred pounds.

(xxii) Scheduled swine (32–45). Enter the number of head of purchase commitment swine that were scheduled for delivery for each of the next 14 days. Enter the total quantity currently scheduled for each day at the time of reporting for each submission.

(2) LS–119—Swine Daily Report.

(i) Purchased swine lot identification (11). Enter code used to identify the lot of purchased swine to the packer.

(ii) Purchased swine purchase type code (12). Enter the code that describes the type of purchase for the swine in the lot.

(iii) Purchased swine live weight (13). Enter live weight of swine in pounds if purchased live, otherwise leave blank.

(iv) Purchased swine class code (14). Enter the code that best describes the type of swine in the lot.

(v) Purchased swine head count (15). Enter the quantity of swine in the lot in number of head.

(vi) Purchased swine base price (16). Enter the base price established on that day for the lot of swine in dollars per one hundred pounds.

(vii) Purchased swine origin (17). Enter the 2-letter postal abbreviation for the State in which the swine were fed to slaughter weight.

(viii) Packer-sold swine purchases (18–25). Enter the best estimate of the total number of packer-sold swine expected to be purchased throughout the reporting day for each purchase type and the total number of packer-sold swine purchased up to that time of the reporting day for each purchase type.

(ix) Packer-sold swine purchases (26–33). Enter the best estimate of the total number of all other swine expected to be purchased throughout the reporting day for each purchase type and the total number of all other swine purchased up to that time of the reporting day for each purchase type.

(3) LS–120—Swine Noncarcass Merit Premium Weekly Report.

(i) Enter the standard noncarcass merit premiums used during the prior slaughter week (11–15) in dollars per hundredweight. If a range of standard noncarcass merit premiums was used, enter the low side of the range (a) and the high side of the range (b). If only one value was used, enter the same number in (a) and (b). If no value for the specified merit was used, leave blank. For 'other' categories (16–20), provide a brief description of the basis for the premium along with the value of the premium.

(c) Lamb Mandatory Reporting Forms. (See Appendix E for samples)

(1) LS–121—Live Lamb Daily Report (current established prices).

(i) Lot identification (11). Enter code used to identify the lot to the packer.

(ii) Source (12). Enter "1", domestic, if lambs were purchased inside of the 50 States, or "2", imported, if lambs were purchased outside of the 50 States.

(iii) Purchase type code (13). Enter the code that describes the type of purchase.

(iv) Class code (14). Enter the code that best describes the type of lambs.

(v) Selling basis (15a–b). For 15a, enter "1" if lambs were purchased on a live basis or "2" if lambs were purchased on a dressed basis. For 15b, enter "1" if lambs are shipped on an FOB feedlot basis or "2" if lambs are delivered at the plant.

(vi) Head count (16). Enter the quantity of lambs in the lot in number of head.

(vii) Weight range (17a & 17b). Enter the lowest (17a) and highest (17b) weights for lambs in the lot in pounds.

(viii) Estimated average weight (18). Enter the estimated average weight of the lot in pounds.

(ix) Average price (19). Enter the price established on that day for the lot in dollars per hundredweight.

(I) For negotiated purchases, enter the final (net) price paid.

(II) For formula purchases, enter the base price.

(III) For forward contract purchases, enter either the final (net) price paid or the base price depending on the contract.

(x) Percent Choice or better (20). Enter the percentage of the number of lambs in the lot of a quality grade of Choice or better.

(xi) Classification code (21). Enter the code which best describes the quality of the majority of the lambs in the lot.

(xii) Dressing percentage (22). Enter an average dressing percentage for the lambs in the lot. For negotiated purchases, enter an estimate. For all other purchase types, enter the actual average dressing percentage.

(xiii) Origin (23). Enter the 2-letter postal abbreviation for the State in which the lambs were fed to slaughter weight. Leave blank if lambs are imported.

(xiv) Pelt Code (24). Enter the code that best describes the type of pelt for the majority of lambs in the lot.

(xv) Premiums and discounts paid (25a–f). Enter the total net value of the adjustment for the lot (in dollars per hundredweight) for any premiums associated with weight, quality, or yield expressed as a positive value and for any discounts associated with weight, quality, or yield expressed as a negative value in parenthesis.

(xvi) Terms of Trade (26a–d). Enter when applicable, otherwise leave blank.

(I) Packer financing (26a). Enter "1" (yes) or "2" (no) in response to: "Did packer provided financing agreement or arrangement with regards to the lambs?"

(II) Delivery location (26b). Enter "1" if delivery terms specify producer location, "2" if they specify packer's plant location.

(III) Delivery Date (26c). Enter "1" if producer sets date of delivery for slaughter unilaterally; otherwise enter "2" for packer.

(IV) Delivered (26d). Enter "1" if negotiated purchased lambs are to be delivered for slaughter 7 or less days from the committed, purchased, or priced date. Enter "2" if they are to be delivered for slaughter between 8 and 14 days from the date the lambs were committed, purchased, or priced.

(2) LS-122—Live Lamb Daily Report (committed and delivered lambs)

(i) Lot identification (11). Enter code used to identify the lot to the packer.

(ii) Purchasing basis (12). Enter "1" if lambs are delivered or "2" if lambs are committed.

(iii) Source (13). Enter "1", domestic, if lambs are purchased within the 50 States or "2", imported, if lambs are purchased outside of the 50 States.

(iv) Purchase type code (14). Enter the code that best describes the type of purchase.

(v) Selling basis (15). Enter "1" if lambs were purchased on a live basis or a "2" if lambs were purchased on a dressed basis.

(vi) Head count (16). Enter the quantity of lambs in the lot in number of head.

(vii) Origin (17). Enter the 2-letter postal abbreviation for the State in which the lambs were fed to slaughter weight. Leave blank if lambs were imported. (viii) Terms of Trade (18a-d). Enter when applicable, otherwise leave blank.

(I) Packer financing (18a). Enter "1" (yes) or "2" (no) in response to: "Did packer provided financing agreement or arrangement with regards to the lambs?"

(II) Delivery location (18b). Enter "1" if delivery terms specify producer location, "2" if they specify packer's plant location.

(III) Delivery Date (18c). Enter "1" if producer sets date of delivery for slaughter unilaterally; otherwise enter "2" for packer.

(IV) Delivered (18d). Enter "1" if negotiated purchased lambs are to be delivered for slaughter 7 or less days from the committed, purchased, or priced date. Enter "2" if they are to be delivered for slaughter between 8 and 14 days from the date the lambs were committed, purchased, or priced.

(3) LS-123—Live Lamb Weekly Report (forward contract and packer-owned).

(i) Packer-Owned lot identification (11). Enter code used to identify the lot of packer-owned lambs to the packer.

(ii) Packer-Owned source (12). Enter "1", domestic, if packer-owned lambs are from within the 50 States or "2", imported, if lambs are from outside of the 50 States.

(iii) Packer-Owned head count (13). Enter the quantity of packer-owned lambs in the lot in number of head.

(iv) Packer-Owned actual carcass weight range (14a & 14b). Enter the lowest (14a) and highest (14b) actual carcass weights for lambs in the lot in pounds.

(v) Packer-Owned actual average carcass weight (15). Enter the actual average carcass weight of the lot of packer-owned lambs in pounds.

(vi) Packer-Owned average dressing percentage (16). Enter the average dressing percentage of the lot of packer-owned lambs.

(vii) Percentage yield grade 3 or better (17). Enter the percentage of packer-owned lambs in the lot of a yield grade of 3 or better.

(viii) Quality grade percentage (18-19). Enter the percentage of packer-owned lambs

in the lot of a quality grade of Choice or better (18) and the percentage of packer-owned lambs in the lot of a quality grade of Good (19).

(ix) Prior week slaughtered lambs head counts (20-23). Enter the total number of head of lambs slaughtered for the prior week that were purchased through forward contracts and the total number of head for lambs purchased through formula arrangements, categorized by domestic or imported sources. Enter this information once per each week's submission.

(x) Forward contract purchases lot identification (24). Enter code used to identify forward contracted lambs to the packer.

(xi) Forward contract purchases head count (25). Enter quantity of forward contracted lambs in the lot in number of head.

(xii) Forward contract purchases basis level (26). Enter the agreed upon adjustment to a future price to establish the final price of the forward contracted lambs in dollars per one hundred pounds.

(xiii) Forward contract purchases delivery month (27). Enter the delivery month of the lambs purchased through forward contracts as a 3-letter abbreviation.

(4) LS-124—Live Lamb Weekly Report (formula purchases).

(i) Lot identification (11). Enter code used to identify the lot to the packer.

(ii) Source (12). Enter "1", domestic, if lambs are purchased within the 50 States or "2", imported, if lambs are purchased outside of the 50 States.

(iii) Head count (13). Enter the quantity of lambs in the lot in number of head.

(iv) Total pounds (14). Enter the total quantity of lambs in the lot in pounds.

(v) Weighted average carcass price (15). Enter the average weighted average carcass price for the lambs in the lot in dollars per hundredweight.

(vi) Range of prices paid (16a-b). Enter the lowest (16a) and the highest (16b) prices paid for the lambs in the lot in dollars per hundredweight.

(vii) Range of premiums and discounts paid (17a-b). Enter the lowest (17a) and the highest (17b) premium and discount paid for the lot of lambs in dollars per hundredweight. Enter negative values in parenthesis.

(viii) Weighted average of premiums and discounts paid (18). Enter the weighted average of the premiums and discounts paid for the lot of lambs in dollars per hundredweight. Enter negative values in parenthesis.

(ix) Terms of Trade (19a-c). Enter when applicable else leave blank.

(I) Packer financing (19a). Enter "1" (yes) or "2" (no) in response to: "Did packer provided financing agreement or arrangement with regards to the lambs?"

(II) Delivery location (19b). Enter "1" if delivery terms specify producer location, "2" if they specify packer's plant location.

(III) Delivery Date (19c). Enter "1" if producer sets date of delivery for slaughter unilaterally; otherwise enter "2" for packer.

(5) LS-125—Lamb Premiums and Discounts Weekly Report.

(i) Enter the premiums and discounts (in dollars per hundredweight) expected to be in

effect for the current slaughter week for each applicable category of premium and discount (11-32). For "other" categories (33-37), provide a brief description of the basis for the premium/ discount along with the value of the premium/discount. Enter negative values in parenthesis.

(6) LS-128—Boxed Lamb Daily Report. For lots comprising multiple items, provide information for each item in a separate record identified with the same lot identification or purchase order number.

(i) Lot identification or purchase order number (11). Enter code used to identify the lot to the packer.

(ii) Destination/Source (12). Enter "1", domestic, for product originating within the 50 States or "2", imported, for product originating from outside of the 50 States.

(iii) Transaction basis (13). Enter "1" for purchased product or "2" for sold product.

(iv) Purchase/sale type code (14). Enter the code corresponding to the sale type of the lot of boxed lamb.

(v) Delivery period code (15). Enter the code corresponding to the delivery time period of the lot of boxed lamb.

(vi) Refrigeration (16). Enter "1" if the product is sold in a fresh condition or "2" if the product is sold in a frozen condition.

(vii) Classification code (17). Enter the code corresponding to the grade of the boxed lamb, if applicable.

(viii) Lamb cut (18a-b). Enter the numerical code corresponding to the Institutional Meat Purchase Specifications (IMPS) (3 to 4 characters) (18a) or the internal corporate descriptor used to identify the product (18b). Descriptors must be entered consistently for all submissions.

(ix) Weight (19). Enter the code corresponding to the relative weight of the product. Where weight is a factor, enter "1" to signify the lighter weight range, "2" to signify the middle weight range, or "3" to signify the heavier weight range. Where weight is not a factor, enter "4" to signify all weights or mixed.

(x) Total product weight (20). Enter the total weight of the boxed lamb cut in the lot in pounds.

(xi) Price (21). Enter the price received for each boxed lamb cut in the lot in dollars per one hundred pounds, FOB Plant basis.

(xii) USDA Certified schedule code (22). Enter the code for the USDA Certified Program schedule, if applicable (e.g. CL, etc.); otherwise leave blank.

(xiii) Branded product code (23a-b). Enter the quality grade code (23a) and the yield grade code (23b) that best describes the brand. Leave blank if not applicable.

(7) LS-129—Lamb Carcass Report. For lots comprised of distinct carcass weight range categories with different prices, provide information for each weight range in a separate record identified with the same lot identification or purchase order number.

(i) Lot identification or purchase order number (11). Enter code used to identify the lot to the packer.

(ii) Sale type code (12). Enter the code corresponding to the sale type of the lot of carcass lamb.

(iii) FOB Plant Price (13). Enter the price received for the lamb carcasses in dollars per one hundred pounds, FOB Plant basis.

(iv) Number of carcasses (14). Enter the total number of lamb carcasses in the lot.

(v) Classification code (15) Enter the corresponding USDA quality grade code.

(vi) Yield grade code (16). Enter the corresponding USDA yield grade code.

(vii) Estimated carcass weight range (17a–b). Enter the lowest (17a) and highest (17b) weights (in pounds) which best describes the majority of the lamb carcasses in the lot.

(viii) Delivery period code (18). Enter the code corresponding to the time period the lamb carcasses will deliver.

#### **Appendix E—Mandatory Reporting Forms**

The cattle, swine, and lamb mandatory reporting forms follow:

**BILLING CODE 3410–02–P**

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE AGRICULTURAL MARKETING SERVICE		
LIVE CATTLE DAILY REPORT (Current Established Prices)		
1. IDENTIFICATION NUMBER	PURCHASE TYPE CODE	CLASSIFICATION CODE
2. COMPANY NAME	1 = NEGOTIATED 2 = FORMULA MARKETING ARRANGEMENT 3 = FORWARD CONTRACT	1 = MIXED STEER/HEIFER 2 = STEER 3 = HEIFER 4 = DAIRYBRED STR/HFR 5 = MIXED STR/HFR/COW 6 = DAIRY COW 7 = BEEF COW 8 = MIXED COW 9 = BULL
3. PLANT STREET ADDRESS		1 = PRIME 2 = CHOICE 3 = SELECT 4 = STANDARD 5 = PREMIUM WHITE 6 = CUTTER/CANNER 90% 7 = BONER 85% 8 = BREAKER 75% 9 = BULL 92%
4. PLANT CITY		
5. PLANT STATE		
6. PLANT ZIP CODE		
7. CONTACT NAME		
8. PHONE NUMBER (include area code)		
9. REPORTING DATE (mm/dd/yyyy)		
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)		
11. LOT IDENTIFICATION		
12. SOURCE (1 = Domestic; 2 = Imported)		
13. PURCHASE TYPE CODE		
14. CLASS CODE		
15a. SELLING BASIS (1 = Live; 2 = Dressed)		
15b. SELLING BASIS - Shipment (1 = FOB; 2 = Delivered)		
16. HEAD COUNT		
17a. WEIGHT RANGE - LOW (pounds)		
17b. WEIGHT RANGE - HIGH (pounds)		
18. ESTIMATED AVERAGE WEIGHT (pounds)		
19. AVERAGE PRICE (\$/cwt.)		
20. % CHOICE OR BETTER		
21. CLASSIFICATION CODE		
22. DRESSING PERCENTAGE		
23. ORIGIN (2-Letter State postal abbr.)		
24a. PREMIUM PAID - WEIGHT (\$/cwt.)		
24b. PREMIUM PAID - QUALITY (\$/cwt.)		
24c. PREMIUM PAID - YIELD (\$/cwt.)		
24d. DISCOUNT PAID - WEIGHT (\$/cwt.)		
24e. DISCOUNT PAID - QUALITY (\$/cwt.)		
24f. DISCOUNT PAID - YIELD (\$/cwt.)		
25a. PACKER FINANCING (1 = yes; 2 = no)		
25b. DELIVERY LOCATION (1 = producer; 2 = packer)		
25c. DELIVERY DATE (1 = producer; 2 = packer)		
25d. DELIVERED (1 = 7 or less; 2 = 8 to 14)		

NOTE: According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

FORM APPROVED - OMB NO. 0581-0186

 UNITED STATES DEPARTMENT OF AGRICULTURE AGRICULTURAL MARKETING SERVICE		LIVE CATTLE DAILY REPORT <i>(Committed and Delivered Cattle)</i>	
PURCHASE TYPE CODE		CLASS CODE	
1 = NEGOTIATED	1 = MIXED STEER/HEIFER	2 = STEER	3 = HEIFER
2 = FORMULA MARKETING ARRANGEMENT	4 = DAIRYBRED STEER/HEIFER	5 = MIXED STR/HFR/COW	6 = DAIRY COW
3 = FORWARD CONTRACT	7 = BEEF COW	8 = MIXED COW	9 = BULL
<p><b>NOTE:</b> According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.</p> <p>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.</p>			
1. IDENTIFICATION NUMBER	17. HEAD COUNT		
2. COMPANY NAME	18. ORIGIN (2-Letter State postal abbr.)		
3. PLANT STREET ADDRESS	19a. PACKER FINANCING (1 = yes; 2 = no)		
4. PLANT CITY	19b. DELIVERY LOCATION (1 = producer; 2 = packer)		
5. PLANT STATE	19c. DELIVERY DATE (1 = producer; 2 = packer)		
6. PLANT ZIP CODE	19d. DELIVERED (1 = Less than 7; 2 = greater than 7 less than 14)		
7. CONTACT NAME			
8. PHONE NUMBER (include area code)			
9. REPORTING DATE (mm/dd/yyyy)			
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)			
11. LOT IDENTIFICATION			
12. PURCHASING BASIS (1 = Delivered; 2 = Committed)			
13. SOURCE (1 = Domestic; 2 = Imported)			
14. PURCHASE TYPE CODE			
15. CLASS CODE			
16. SELLING BASIS (1 = Live; 2 = Dressed)			

LS-114 (07-00) Destroy previous edition dated 02-00.

FORM APPROVED - OMB NO. 0581-0186

 <p>UNITED STATES DEPARTMENT OF AGRICULTURE                  AGRICULTURAL MARKETING SERVICE</p> <p><b>LIVE CATTLE WEEKLY REPORT</b>  <i>(Forward Contract and Packer-Owned)</i></p>		<p><b>PRIOR WEEK SLAUGHTERED CATTLE HEAD COUNTS</b>  <i>(Data in this block to be entered once per weekly submission.)</i></p>	
1. IDENTIFICATION NUMBER		20. DOMESTIC, FORWARD CONTRACT	Head Count
2. COMPANY NAME		21. DOMESTIC, FORMULA ARRANGEMENT	Head Count
3. PLANT STREET ADDRESS		22. IMPORTED, FORWARD CONTRACT	Head Count
4. PLANT CITY		23. IMPORTED, FORMULA ARRANGEMENT	Head Count
5. PLANT STATE		<p><b>NOTE:</b> According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.</p> <p>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.</p>	
6. PLANT ZIP CODE			
7. CONTACT NAME			
8. PHONE NUMBER (include area code)			
9. REPORTING DATE (mm/dd/yyyy)			
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	(NOT APPLICABLE)		
<p><b>SLAUGHTERED PACKER-OWNED CATTLE</b></p>		<p><b>FORWARD CONTRACT PURCHASED CATTLE</b></p>	
11. LOT IDENTIFICATION		24. LOT IDENTIFICATION	
12. SOURCE (1 = Domestic; 2 = Imported)		25. HEAD COUNT	
13. HEAD COUNT		26. BASIS LEVEL (\$/cwt.)	
14a. ACTUAL CARCASS WEIGHT RANGE - LOW		27. DELIVERY MONTH (3-letter abbreviation)	
14b. ACTUAL CARCASS WEIGHT RANGE - HIGH			
15. ACTUAL AVERAGE CARCASS WEIGHT			
16. AVERAGE DRESSING PERCENTAGE			
17. % YIELD GRADE 3 OR BETTER			
18. % QUALITY GRADE CHOICE OR BETTER			
19. % QUALITY GRADE SELECT			

LS-115 (07-00) Destroy previous edition dated 02-00.

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE  
 AGRICULTURAL MARKETING SERVICE

LIVE CATTLE WEEKLY REPORT  
*(Formula Purchases)*



1. IDENTIFICATION NUMBER		<p><b>NOTE:</b> According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.</p> <p>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.</p>
2. COMPANY NAME		
3. PLANT STREET ADDRESS		
4. PLANT CITY		
5. PLANT STATE		
6. PLANT ZIP CODE		
7. CONTACT NAME		
8. PHONE NUMBER (include area code)		
9. REPORTING DATE (mm/dd/yyyy)		
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	(NOT APPLICABLE)	
11. LOT IDENTIFICATION		17a. PREMIUM/DISCOUNT RANGE - LOW (\$/cwt.)
12. SOURCE (1 = Domestic; 2 = Imported)		17b. PREMIUM/DISCOUNT RANGE - HIGH (\$/cwt.)
13. HEAD COUNT		18. PREMIUM/DISCOUNT WEIGHTED AVERAGE (\$/cwt.)
14. TOTAL POUNDS		19a. PACKER FINANCING (1 = yes; 2 = no)
15. WEIGHTED AVERAGE CARCASS PRICE (\$/cwt.)		19b. DELIVERY LOCATION (1 = producer; 2 = packer)
16a. PRICE RANGE - LOW (\$/cwt.)		19c. DELIVERY DATE (1 = producer; 2 = packer)
16b. PRICE RANGE - HIGH (\$/cwt.)		

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FORM APPROVED - OMB NO. 0581-0186



UNITED STATES DEPARTMENT OF AGRICULTURE  
AGRICULTURAL MARKETING SERVICE

### CATTLE PREMIUMS AND DISCOUNTS WEEKLY REPORT

<p>1. IDENTIFICATION NUMBER</p> <p>2. COMPANY NAME</p> <p>3. PLANT STREET ADDRESS</p> <p>4. PLANT CITY</p> <p>5. PLANT STATE</p> <p>6. PLANT ZIP CODE</p> <p>7. CONTACT NAME</p> <p>8. PHONE NUMBER (include area code)</p> <p>9. REPORTING DATE (mm/dd/yyyy)</p> <p>10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)</p>	<p>(NOT APPLICABLE)</p>	<p><b>NOTE:</b> According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.</p> <p>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.</p>
11. PREMIUM/DISCOUNT - Prime		27. PREMIUM/DISCOUNT - 400-500 lbs. Carcass
12. PREMIUM/DISCOUNT - Choice		28. PREMIUM/DISCOUNT - 500-550 lbs. Carcass
13. PREMIUM/DISCOUNT - Select		29. PREMIUM/DISCOUNT - 550-600 lbs. Carcass
14. PREMIUM/DISCOUNT - Standard		30. PREMIUM/DISCOUNT - 600-900 lbs. Carcass
15. PREMIUM/DISCOUNT - Avg. Choice or Better		31. PREMIUM/DISCOUNT - 900-950 lbs. Carcass
16. PREMIUM/DISCOUNT - Dairy-Type		32. PREMIUM/DISCOUNT - 950-1000 lbs. Carcass
17. PREMIUM/DISCOUNT - Bullock/Stag		33. PREMIUM/DISCOUNT - over 1000 lbs. Carcass
18. PREMIUM DISCOUNT - Hardbone		34. PREMIUM/DISCOUNT - Hide (Brand Location)
19. PREMIUM/DISCOUNT - Dark Cutter		35a. PREMIUM/DISCOUNT - Other Description
20. PREMIUM/DISCOUNT - YG 1.0-2.0 (<= .1" Fat)		35b. PREMIUM/DISCOUNT - Other Value
21. PREMIUM/DISCOUNT - YG 2.0-2.5 (<= .2" Fat)		36a. PREMIUM/DISCOUNT - Other Description
22. PREMIUM/DISCOUNT - YG 2.5-3.0 (<= .4" Fat)		36b. PREMIUM/DISCOUNT - Other Value
23. PREMIUM/DISCOUNT - YG 3.0-3.5 (<= .6" Fat)		37a. PREMIUM/DISCOUNT - Other Description
24. PREMIUM/DISCOUNT - YG 3.5-4.0 (<= .8" Fat)		37b. PREMIUM/DISCOUNT - Other Value
25. PREMIUM/DISCOUNT - YG 4.0-5.0 (<= 1.2" Fat)		38a. PREMIUM/DISCOUNT - Other Description
26. PREMIUM/DISCOUNT - YG 5.0/up (>= 1.2" Fat)		38b. PREMIUM/DISCOUNT - Other Value

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FORM APPROVED - OMB NO. 0581-0186

 UNITED STATES DEPARTMENT OF AGRICULTURE AGRICULTURAL MARKETING SERVICE		BOXED BEEF DAILY REPORT																								
1. IDENTIFICATION NUMBER	2. COMPANY NAME	3. PLANT STREET ADDRESS	4. PLANT CITY	5. PLANT STATE	6. PLANT ZIP CODE	7. CONTACT NAME	8. PHONE NUMBER (include area code)	9. REPORTING DATE (mm/dd/yyyy)	10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	11. LOT IDENTIFICATION OR PURCHASE ORDER NUMBER	12. DESTINATION (1 = Domestic; 2 = Exported)	13. PURCHASE TYPE CODE	14. DELIVERY PERIOD CODE	15. REFRIGERATION (1 = Fresh; 2 = Frozen)	16. CLASS CODE	17. CLASSIFICATION CODE	18a. BEEF CUT - IMPS Code	18b. BEEF CUT - Description (if IMPS not applicable)		19. TRIM SPECIFICATION CODE	20. WEIGHT (1 = Light; 2 = Medium; 3 = Heavy; 4 = Mixed)	21. TOTAL PRODUCT WEIGHT (pounds)	22. FOB PLANT PRICE (\$/cwt.)	23. USDA CERTIFIED SCHEDULE CODE (if applicable)	24a. BRANDED PRODUCT CODE - Quality	24b. BRANDED PRODUCT CODE - Yield
																		18b. BEEF CUT - Description (if IMPS not applicable)								
DELIVERY PERIOD CODE 1 = 0-21 DAYS 2 = 22-60 DAYS 3 = 61-90 DAYS 4 = 91/UP DAYS																		CLASS CODE 1 = MIXED STEER/HEIFER 2 = STEER 3 = HEIFER 4 = DAIRYBRED STR/HFR 5 = MIXED STR/HFR/COW 6 = DAIRY COW 7 = BEEF COW 8 = MIXED COW 9 = BULL		CLASSIFICATION CODE 1 = PRIME 2 = CHOICE 3 = SELECT 4 = PREMIUM WHITE 5 = CUTTER/CANNER 90% 6 = BONE 85% 7 = BREAKER 75% 8 = BULL 92% 9 = UNGRADED		TRIM SPEC CODE 1 = 3/4" AVG; 1" MAX 2 = 1/4" AVG; 1/2" MAX 3 = 1/8" AVG; 1/4" MAX 4 = PRACTICALLY FREE; 1/8" MAX 5 = PEELED/DENUDED; 1/8" MAX 6 = PEELED/DENUDED SURFACE MEMBRANE REMOVED; 1/8" MAX				
PURCHASE TYPE CODE 1 = NEGOTIATED 2 = FORMULA MARKETING ARRANGEMENT 3 = FORWARD CONTRACT						BRANDED PRODUCT CODE QUALITY 1 = PRIME 2 = UPPER 2/3 CHOICE 3 = LOWER 1/3 CHOICE 4 = SELECT				YIELD 1 = YIELD GRADE 1-3 2 = YIELD GRADE 4																
NOTE: According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 8 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.  The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-9964 (voice and TDD). USDA is an equal opportunity provider and employer.																										

LS-126 (07-00) Destroy previous edition dated 02-00.

FORM APPROVED - OMB NO. 0581-0186



UNITED STATES DEPARTMENT OF AGRICULTURE  
AGRICULTURAL MARKETING SERVICE

SWINE PRIOR DAY REPORT

CLASS CODE		PURCHASE TYPE CODE		OWNERSHIP CODE
1 = BARROWS/GILTS	1 = NEGOTIATED	1 = PACKER-OWNED		
2 = SOW	2 = OTHER MARKET FORMULA	2 = PACKER-SOLD		
3 = BOARS/STAGS	3 = SWINE OR PORK MARKET FORMULA	3 = ALL OTHER		
	4 = OTHER PURCHASE ARRANGEMENT			
	5 = PACKER-SOLD NEGOTIATED			
	6 = PACKER-SOLD OTHER MARKET FORMULA			
	7 = PACKER-SOLD SWINE OR PORK MARKET FORMULA			
	8 = PACKER-SOLD OTHER PURCHASE ARRANGEMENT			
<p><b>NOTE:</b> According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. Send comments regarding this collection of information, including suggestions for reducing the burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, Paperwork Reduction Project (0581-0186), Washington, DC 20543-0101. This information is not to be distributed outside the agency. The USDA is not responsible for the accuracy or completeness of the information provided, including the collection of information.</p> <p>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require special accommodations to participate in USDA programs, services, or activities should contact the USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.</p>				
1. IDENTIFICATION NUMBER				
2. COMPANY NAME				
3. PLANT STREET ADDRESS				
4. PLANT CITY				
5. PLANT STATE				
6. PLANT ZIP CODE				
7. CONTACT NAME				
8. PHONE NUMBER (include area code)				
9. REPORTING DATE (mm/dd/yyyy)				
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	(NOT APPLICABLE)			
11. SLAUGHTERED SWINE - Lot Identification		25. PURCHASED SWINE - Lot Identification		
12. SLAUGHTERED SWINE - Class Code		26. PURCHASED SWINE - Ownership Code		
13. SLAUGHTERED SWINE - Purchase Type Code		27. PURCHASED SWINE - Class Code		
14. SLAUGHTERED SWINE - Head Count		28. PURCHASED SWINE - Purchase Type Code		
15. SLAUGHTERED SWINE - Base Price (\$/cwt.)		29. PURCHASED SWINE - Head Count		
16. SLAUGHTERED SWINE - Average Net Price (\$/cwt.)		30. PURCHASED SWINE - Avg. Live Weight (pounds)		
17. SLAUGHTERED SWINE - Lowest Net Price (\$/cwt.)		31. PURCHASED SWINE - Base Price (\$/cwt.)		
18. SLAUGHTERED SWINE - Highest Net Price (\$/cwt.)				
19. SLAUGHTERED SWINE - Average Live Weight (pounds)				
20. SLAUGHTERED SWINE - Avg. Carcass Weight (pounds)				
21. SLAUGHTERED SWINE - Average Sort Loss (\$/cwt.)				
22. SLAUGHTERED SWINE - Average Backfat (inches)				
23. SLAUGHTERED SWINE - Average Loin Depth (inches)				
24. SLAUGHTERED SWINE - Average Lean Percentage				

FORM APPROVED - OMB NO. 0581-0186



UNITED STATES DEPARTMENT OF AGRICULTURE  
 AGRICULTURAL MARKETING SERVICE

SWINE PRIOR DAY REPORT

**NOTE:** According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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32. SCHEDULED SWINE - Head Count for Day 1		39. SCHEDULED SWINE - Head Count for Day 8
33. SCHEDULED SWINE - Head Count for Day 2		40. SCHEDULED SWINE - Head Count for Day 9
34. SCHEDULED SWINE - Head Count for Day 3		41. SCHEDULED SWINE - Head Count for Day 10
35. SCHEDULED SWINE - Head Count for Day 4		42. SCHEDULED SWINE - Head Count for Day 11
36. SCHEDULED SWINE - Head Count for Day 5		43. SCHEDULED SWINE - Head Count for Day 12
37. SCHEDULED SWINE - Head Count for Day 6		44. SCHEDULED SWINE - Head Count for Day 13
38. SCHEDULED SWINE - Head Count for Day 7		45. SCHEDULED SWINE - Head Count for Day 14

FORM APPROVED. - OMB NO. 0581-0186



UNITED STATES DEPARTMENT OF AGRICULTURE  
AGRICULTURAL MARKETING SERVICE

SWINE DAILY REPORT

1. IDENTIFICATION NUMBER	CLASS CODE	PURCHASE TYPE CODE
2. COMPANY NAME	1 = BARROWS/GILTS	1 = NEGOTIATED
3. PLANT STREET ADDRESS	2 = SOW	2 = OTHER MARKET FORMULA
4. PLANT CITY	3 = BOARS/STAGS	3 = SWINE OR PORK MARKET FORMULA
5. PLANT STATE		4 = OTHER PURCHASE ARRANGEMENT
6. PLANT ZIP CODE		5 = PACKER-SOLD NEGOTIATED
7. CONTACT NAME		6 = PACKER-SOLD OTHER MARKET FORMULA
8. PHONE NUMBER (include area code)		7 = PACKER-SOLD SWINE OR PORK MARKET FORMULA
9. REPORTING DATE (mm/dd/yyyy)		8 = PACKER-SOLD OTHER PURCHASE ARRANGEMENT
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	<p><b>NOTE:</b> According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. It is the policy of the Department of Agriculture to minimize the burden on the public by reviewing the collection of information to estimate the time, effort, and financial burden associated with collecting the information. This information collection is estimated to average 10 minutes per response, including reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.</p> <p>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center (ATTN: ADA Coordinator) at 1417 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). For a copy of the USDA Privacy Policy, contact the USDA Privacy Officer at 1417 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.</p>	
11. PURCHASED SWINE - Lot Identification	15. PURCHASED SWINE - Head Count	
12. PURCHASED SWINE - Purchase Type Code	16. PURCHASED SWINE - Base Price (\$/cwt.)	
13. PURCHASED SWINE - Live Weight	17. PURCHASED SWINE - Origin (2-letter State postal abbr.)	
14. PURCHASED SWINE - Class Code		
<b>PACKER-SOLD SWINE PURCHASES</b>		
18. EST. NEGOTIATED PURCHASES	Head Count	Head Count
19. EST. OTHER MARKET FORMULA PURCHASES	Head Count	Head Count
20. EST. SWINE/PORK MARKET FORMULA PURCHASES	Head Count	Head Count
21. EST. OTHER ARRANGEMENT PURCHASES	Head Count	Head Count
22. ACT. NEGOTIATED PURCHASES	Head Count	Head Count
23. ACT. OTHER MARKET FORMULA PURCHASES	Head Count	Head Count
24. ACT. SWINE/PORK MARKET FORMULA PURCHASES	Head Count	Head Count
25. ACT. OTHER ARRANGEMENT PURCHASES	Head Count	Head Count
<b>ALL OTHER SWINE PURCHASES</b>		
26. EST. NEGOTIATED PURCHASES	Head Count	Head Count
27. EST. OTHER MARKET FORMULA PURCHASES	Head Count	Head Count
28. EST. SWINE/PORK MARKET FORMULA PURCHASES	Head Count	Head Count
29. EST. OTHER ARRANGEMENT PURCHASES	Head Count	Head Count
30. ACT. NEGOTIATED PURCHASES	Head Count	Head Count
31. ACT. OTHER MARKET FORMULA PURCHASES	Head Count	Head Count
32. ACT. SWINE/PORK MARKET FORMULA PURCHASES	Head Count	Head Count
33. ACT. OTHER ARRANGEMENT PURCHASES	Head Count	Head Count

FORM APPROVED - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE  
AGRICULTURAL MARKETING SERVICE



WEEKLY NONCARCASS MERIT PREMIUM SWINE REPORTING

1. IDENTIFICATION NUMBER		<p><b>NOTE:</b> According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.</p> <p>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whittier Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.</p>
2. COMPANY NAME		
3. PLANT STREET ADDRESS		
4. PLANT CITY		
5. PLANT STATE		
6. PLANT ZIP CODE		
7. CONTACT NAME		
8. PHONE NUMBER (include area code)		
9. REPORTING DATE (mm/dd/yyyy)		
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	(NOT APPLICABLE)	
11a. NONCARCASS MERIT - Volume - Low Range		17a. NONCARCASS MERIT - Other Description
11b. NONCARCASS MERIT - Volume - High Range		17b. NONCARCASS MERIT - Other Value - Low Range
12a. NONCARCASS MERIT - Transportation - Low Range		17c. NONCARCASS MERIT - Other Value - High Range
12b. NONCARCASS MERIT - Transportation - High Range		18a. NONCARCASS MERIT - Other Description
13a. NONCARCASS MERIT - Delivery Timing - Low Range		18b. NONCARCASS MERIT - Other Value - Low Range
13b. NONCARCASS MERIT - Delivery Timing - High Range		18c. NONCARCASS MERIT - Other Value - High Range
14a. NONCARCASS MERIT - Breed - Low Range		19a. NONCARCASS MERIT - Other Description
14b. NONCARCASS MERIT - Breed - High Range		19b. NONCARCASS MERIT - Other Value - Low Range
15a. NONCARCASS MERIT - NPPC Quality Assurance Low Range		19c. NONCARCASS MERIT - Other Value - High Range
15b. NONCARCASS MERIT - NPPC Quality Assurance High Range		20a. NONCARCASS MERIT - Other Description
16a. NONCARCASS MERIT - Other Description		20b. NONCARCASS MERIT - Other Value - Low Range
16b. NONCARCASS MERIT - Other Value - Low Range		20c. NONCARCASS MERIT - Other Value - High Range
16c. NONCARCASS MERIT - Other Value - High Range		

LS-120 (07-00) Destroy previous edition dated 02-00.

FORM APPROVED. - OMB NO. 0581-0186

 <p>UNITED STATES DEPARTMENT OF AGRICULTURE AGRICULTURAL MARKETING SERVICE</p> <p><b>LIVE LAMB DAILY REPORT</b> <i>(Current Established Prices)</i></p>		<p><b>PURCHASE TYPE CODE</b></p> <p>1 = NEGOTIATED 2 = FORMULA MARKETING ARRANGEMENT 3 = FORWARD CONTRACT</p>	<p><b>CLASS CODE</b></p> <p>1 = SLAUGHTER LAMBS 2 = EWES 3 = RAMS/STAGS</p>	<p><b>CLASSIFICATION CODE</b></p> <p>1 = PRIME 2 = CHOICE 3 = GOOD 4 = UTILITY 5 = CULL</p>	<p><b>PELT CODE</b></p> <p>1 = WOOLED 2 = #1 FALL SHORN 3 = #2 4 = #3-4</p>
<p><b>NOTE:</b> According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.</p> <p>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.</p>					
<p><b>(NOT APPLICABLE)</b></p>					
1. IDENTIFICATION NUMBER					
2. COMPANY NAME					
3. PLANT STREET ADDRESS					
4. PLANT CITY					
5. PLANT STATE					
6. PLANT ZIP CODE					
7. CONTACT NAME					
8. PHONE NUMBER (include area code)					
9. REPORTING DATE (mm/dd/yyyy)					
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)					
11. LOT IDENTIFICATION					
12. SOURCE (1 = Domestic; 2 = Imported)					
13. PURCHASE TYPE CODE					
14. CLASS CODE					
15a. SELLING BASIS (1 = Live; 2 = Dressed)					
15b. SELLING BASIS SHIPMENT (1 = FOB; 2 = Delivered)					
16. HEAD COUNT					
17a. WEIGHT RANGE - LOW (pounds)					
17b. WEIGHT RANGE - HIGH (pounds)					
18. ESTIMATED AVERAGE WEIGHT (pounds)					
19. AVERAGE PRICE (\$/cwt.)					
20. % CHOICE OR BETTER					
21. CLASSIFICATION CODE					
<p>22. DRESSING PERCENTAGE</p> <p>23. ORIGIN (2-letter State postal abbr.)</p> <p>24. PELT CODE</p> <p>25a. PREMIUM PAID - WEIGHT (\$/cwt.)</p> <p>25b. PREMIUM PAID - QUALITY (\$/cwt.)</p> <p>25c. PREMIUM PAID - YIELD (\$/cwt.)</p> <p>25d. DISCOUNT PAID - WEIGHT (\$/cwt.)</p> <p>25e. DISCOUNT PAID - QUALITY (\$/cwt.)</p> <p>25f. DISCOUNT PAID - YIELD (\$/cwt.)</p> <p>26a. PACKER FINANCING (1 = yes; 2 = no)</p> <p>26b. DELIVERY LOCATION (1 = producer; 2 = packer)</p> <p>26c. DELIVERY DATE (1 = producer; 2 = packer)</p> <p>26d. DELIVERED (1 = 7 or less; 2 = 8 to 14)</p>					

LS-121 (08-00) Destroy previous edition dated 07-00.

FORM APPROVED - OMB NO. 0581-0186

 <p>UNITED STATES DEPARTMENT OF AGRICULTURE AGRICULTURAL MARKETING SERVICE</p> <p><b>LIVE LAMB DAILY REPORT</b> <i>(Committed and Delivered Lambs)</i></p>		<p><b>PURCHASE TYPE CODE</b></p> <p>1 = NEGOTIATED</p> <p>2 = FORMULA MARKETING ARRANGEMENT</p> <p>3 = FORWARD CONTRACT</p>
1. IDENTIFICATION NUMBER		<p><b>NOTE:</b> According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.</p> <p>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.</p>
2. COMPANY NAME		
3. PLANT STREET ADDRESS		
4. PLANT CITY		
5. PLANT STATE		
6. PLANT ZIP CODE		
7. CONTACT NAME		
8. PHONE NUMBER (include area code)		
9. REPORTING DATE (mm/dd/yyyy)		
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	<b>(NOT APPLICABLE)</b>	
11. LOT IDENTIFICATION		17. ORIGIN (2-Letter State postal abbr.)
12. PURCHASE BASIS (1 = Delivered; 2 = Committed)		18a. PACKER FINANCING (1 = yes; 2 = no)
13. SOURCE (1 = Domestic; 2 = Imported)		18b. DELIVERY LOCATION (1 = producer; 2 = packer)
14. PURCHASE TYPE CODE		18c. DELIVERY DATE (1 = producer; 2 = packer)
15. SELLING BASIS (1 = Live; 2 = Dressed)		18d. DELIVERED (1 = 7 or less; 2 = 8 to 14)
16. HEAD COUNT		

LS-122 (07-00) Destroy previous edition dated 02-00.

FORM APPROVED. - OMB NO. 0581-0186

 <p>UNITED STATES DEPARTMENT OF AGRICULTURE                  AGRICULTURAL MARKETING SERVICE</p> <p><b>LIVE LAMB WEEKLY REPORT</b>  <i>(Forward Contract and Packer-Owned)</i></p>		<p><b>PRIOR WEEK SLAUGHTERED LAMB HEAD COUNTS</b>  <i>(Data in this block to be entered once per weekly submission.)</i></p>
1. IDENTIFICATION NUMBER		20. DOMESTIC, FORWARD CONTRACT Head Count
2. COMPANY NAME		21. DOMESTIC, FORMULA ARRANGEMENT Head Count
3. PLANT STREET ADDRESS		22. IMPORTED, FORWARD CONTRACT Head Count
4. PLANT CITY		23. IMPORTED, FORMULA ARRANGEMENT Head Count
5. PLANT STATE		<p><b>NOTE:</b> According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.</p> <p>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.</p>
6. PLANT ZIP CODE		
7. CONTACT NAME		
8. PHONE NUMBER (include area code)		
9. REPORTING DATE (mm/dd/yyyy)		
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	(NOT APPLICABLE)	
<p><b>SLAUGHTERED PACKER-OWNED LAMBS</b></p>		<p><b>FORWARD CONTRACT PURCHASED LAMBS</b></p>
11. LOT IDENTIFICATION		24. LOT IDENTIFICATION
12. SOURCE (1 = Domestic; 2 = Imported)		25. HEAD COUNT
13. HEAD COUNT		26. BASIS LEVEL (\$/cwt.)
14a. ACTUAL CARCASS WEIGHT RANGE - LOW		27. DELIVERY MONTH (3-letter abbreviation)
14b. ACTUAL CARCASS WEIGHT RANGE - HIGH		
15. ACTUAL AVERAGE CARCASS WEIGHT		
16. AVERAGE DRESSING PERCENTAGE		
17. % YIELD GRADE 3 OR BETTER		
18. % QUALITY GRADE CHOICE OR BETTER		
19. % QUALITY GRADE GOOD		

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE  
 AGRICULTURAL MARKETING SERVICE



**LIVE LAMB WEEKLY REPORT**  
*(Formula Purchases)*

1. IDENTIFICATION NUMBER	<p><b>NOTE:</b> According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.</p> <p>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.</p>
2. COMPANY NAME	
3. PLANT STREET ADDRESS	
4. PLANT CITY	
5. PLANT STATE	
6. PLANT ZIP CODE	
7. CONTACT NAME	
8. PHONE NUMBER (include area code)	
9. REPORTING DATE (mm/dd/yyyy)	
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	
11. LOT IDENTIFICATION	(NOT APPLICABLE)
12. SOURCE (1 = Domestic; 2 = Imported)	17a. PREMIUM/DISCOUNT RANGE - LOW (\$/cwt.)
13. HEAD COUNT	17b. PREMIUM/DISCOUNT RANGE - HIGH (\$/cwt.)
14. TOTAL POUNDS	18. PREMIUM/DISCOUNT WEIGHTED AVERAGE (\$/cwt.)
15. WEIGHTED AVERAGE CARCASS PRICE (\$/cwt.)	19a. PACKER FINANCING (1 = yes; 2 = no)
16a. PRICE RANGE - LOW (\$/cwt.)	19b. DELIVERY LOCATION (1 = producer; 2 = packer)
16b. PRICE RANGE - HIGH (\$/cwt.)	19c. DELIVERY DATE (1 = producer; 2 = packer)

LS-124 (07-00) Destroy previous edition dated 02-00.





