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regulation, and the ice cream bearing the symbol shall be manufactured under continuous resident or continuous nonresident USDA inspection service in accordance with subpart A of this regulation. The dairy ingredients used in such ice cream shall come from USDA approved plants.

PART 59—LIVESTOCK MANDATORY REPORTING

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59.400 OMB control number assigned pursuant to the Paperwork Reduction Act.

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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, shall evidence time and date the sale occurred:

(1) Before 2 p.m. central time; or

(2) After 2 p.m. central time.

A record of sale by an importer of lamb cuts shall evidence the date the sale occurred.

(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.

(f) *Reporting sales of wholesale pork.* A record of a sale of wholesale pork by a packer shall evidence whether the sale occurred:

(1) Before 10:00 a.m. central time;

(2) Between 10:00 a.m. and 2:00 p.m. central time; or

(3) After 2:00 p.m. central time.

[73 FR 28633, May 16, 2008, as amended at 77 FR 50573, Aug. 22, 2012]

§ 59.30 Definitions.

The following definitions apply to this part.

Act. The term ''Act'' means Subtitle B of the Agricultural Marketing Act of 1946, as amended; 7 U.S.C. 1635–1636h.

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, dressing percentage, or other characteristic.

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) or from a common basis point to the buyer (e.g., F.O.B. Omaha).

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., Washington, DC 20250. Phone (202) 260–8295 or Fax (202) 720–1112. Copies may also be obtained over the Internet at *http://www.ams.usda.gov/AMSv1.0/LivestockStandardizationIMPS.*

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, wholesale pork, and lamb, the term 'lot' means a group of one or more boxes of beef, wholesale pork, 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 grid purchase. The term ''negotiated grid purchase'' in reference to cattle means the negotiation of a base price, from which premiums are added and discounts are subtracted, 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.

Percent lean. The term ''percent lean'' means the value equal to the average percentage of the carcass weight comprised of lean meat.

Person. The term ''person'' means any individual, group of individuals, partnership, corporation, association, or other entity.

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.

[73 FR 28633, May 16, 2008, as amended at 77 FR 50573, Aug. 22, 2012]

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 and frozen 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), thin meats (e.g. inside and outside skirts, pectoral meat, cap and wedge meat, and blade meat), and fresh and frozen ground beef, beef trimmings, and boneless processing beef.

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. When used in reference to cow and bull boxed beef items, the term ''carlot-based'' means any transaction between a buyer and seller consisting of 2,000 pounds or more of one or more individual 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 steers and heifers for slaughter:

(1) Whether a packer provided any financing agreement or arrangement with regard to the steers and heifers;

(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 steers and heifers purchased by a packer as a negotiated purchase that are scheduled to be delivered to the plant for slaughter not later than 14 days and the percentage of slaughter steers and heifers purchased by a packer as a negotiated purchase that are scheduled to be delivered to the plant for slaughter more than 14 days, but fewer than 30 days.

Type of purchase. The term ''type of purchase'' with respect to cattle, means a negotiated purchase, negotiated grid 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.

White cow. Cow on a ration that tends to produce white fat.

§ 59.101 Mandatory daily reporting for steers and heifers.

(a) *In general*. The corporate officers or officially designated representatives of each steer and heifer packer processing plant shall report to the Secretary at least two times each reporting day not later than 10 a.m. central time and not later than 2 p.m. central time the following information, 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) The estimated 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, yield grade, or other characteristic 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 daily reporting for cows and bulls.

(a) *In General*. The corporate officers or officially designated representatives of each cow and bull packer processing plant shall report to the Secretary each reporting day 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 base bid price (per hundredweight) intended to be paid for slaughter cow and bull carcasses on that day not later than 10 a.m. central time categorized by:

(i) Weight; and

(ii) For slaughter cows, percent lean (e.g., breaker, boner, cutter (lean)).

(2) The prices for cattle (per hundredweight) purchased during the previous day not later than 2 p.m. central time 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) The estimated weight of the cattle purchased;

(v) The quality classification; and

(vi) Any premiums or discounts associated with weight or quality expressed in dollars per hundredweight on a dressed basis.

(3) The volume of cows and bulls slaughtered the previous day.

(b) *Publication*. The Secretary shall make the information available to the public within one hour of the required reporting time on the reporting day on which the information is received from the packer.

§ 59.103 Mandatory weekly reporting for steers and heifers.

(a) *In general*. The corporate officers or officially designated representatives of each steer and heifer packer processing plant shall report to the Secretary on the first reporting day of each week, not later than 9 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 a negotiated basis that were slaughtered;

(2) The quantity of cattle purchased through a negotiated grid basis that were slaughtered;

(3) The quantity of cattle purchased through forward contracts that were slaughtered;

(4) The quantity of cattle delivered under a formula marketing arrangement that were slaughtered;

(5) The quantity and carcass characteristics of packer-owned cattle that were slaughtered;

(6) The quantity, basis level, basis level month, and delivery month and year for all cattle purchased through forward contracts;

(7) 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.

(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 a.m. central time.

§ 59.104 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, Cutters (lean));

(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 barrow or gilt 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 marketing arrangement. When used in reference to wholesale pork, the term 'formula marketing arrangement' means an agreement for the sale of pork under which the price is established in reference to publicly-available quoted prices.

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.

Forward sale. When used in reference to wholesale pork, the term 'forward sale' means an agreement for the sale of pork where the delivery is beyond the timeframe of a ''negotiated sale'' and means a sale by a packer selling wholesale pork to a buyer of wholesale pork under which the price is determined by seller-buyer interaction and agreement.

Gilt. The term ''gilt'' means a young female swine that has not produced a litter.

Hog Class. The term ''hog class'' means, as applicable, barrows or gilts; sows; or boars or stags.

Inferior swine. The term ''inferior swine'' means swine that are discounted in the market place due to light-weight, health, or physical conditions that affects their value.

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.

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

(1) The formula is determined by negotiation on a lot-by-lot basis; and

(2) The swine are scheduled for delivery to the packer not later than 14 days after the date on which the formula is negotiated and swine are committed to the packer.

Negotiated sale. The term 'negotiated sale' means a sale by a packer selling wholesale pork to a buyer of wholesale pork under which the price is determined by seller-buyer interaction and agreement, and scheduled for delivery not later than 14 days for boxed product and 10 days for combo product after the date of agreement. The day after the seller-buyer agreement shall be considered day one for reporting delivery periods.

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, negotiated 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 and a person that slaughtered an average of 200,000 head of sows, boars, or combination thereof per year during the immediately preceding 5 calendar years. Additionally, in the case of a swine processing plant or person that did not slaughter swine during the immediately preceding 5 calendar years, it shall be considered a packer if the Secretary determines the processing plant or person should be considered a packer under this subpart after considering its capacity.

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 class. The term ''pork class'' means the following types of swine purchased for slaughter:

(1) Barrow/gilt;

(2) Sow;

(3) Boar.

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.

Specialty pork product. The term 'specialty pork product' means wholesale pork produced and marketed under any specialty program such as, but not limited to, genetically-selected pork, certified programs, or specialty selection

programs for quality or breed characteristics.

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;

(4) Other purchase arrangement; and

(5) A negotiated formula purchase.

Type of sale. The term ''type of sale'' with respect to wholesale pork means a negotiated sale, forward sale, or formula marketing arrangement.

Variety meats. The term 'variety meats' with respect to wholesale pork means cut/processing floor items, such as neck bones, tails, skins, feet, hocks, jowls, and backfat.

Wholesale pork. The term 'wholesale pork' means fresh and frozen primals, sub-primals, cuts fabricated from sub-primals, pork trimmings, pork for processing, and variety meats (excluding portion-control cuts, cuts flavored above and beyond normal added ingredients that are used to enhance products, cured, smoked, cooked, and tray packed products). When referring to wholesale pork, added ingredients are used to enhance the product's performance (e.g. tenderness, juiciness) through adding a solution or emulsion via an injection or immersion process. The ingredients shall be limited to water, salt, sodium phosphate, antimicrobials, or any other similar combination of foresaid or similar ingredients and in accordance with established USDA regulations.

[73 FR 28633, May 16, 2008, as amended at 77 FR 50573, Aug. 22, 2012; 81 FR 52973, Aug. 11, 2016]

§ 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 barrows and gilts.

(a) *Prior day report*. The corporate officers or officially designated representatives of each packer that processes barrows and gilts shall report to the Secretary for each business day of the packer not later than 7 a.m. central time on each reporting day information regarding all barrows and gilts purchased or priced, during the prior business day of the packer, and not later than 9 a.m. central time on each reporting day information regarding all barrows and gilts slaughtered, excluding inferior swine, as specified in § 59.10(b):

(1) All purchase data, reported by lot, including:

(i) The total number of barrows and gilts purchased;

(ii) The total number of barrows and gilts scheduled for delivery to a packer for slaughter;

(iii) The base price and weight for all barrows and gilts purchased on a live weight basis; and

(iv) The base price and premiums and discounts paid for carcass characteristics for all barrows and gilts purchased on a carcass basis for which a price has been established. For barrows and gilts 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 barrows and gilts slaughtered:

(i) The average net price;

(ii) The average carcass weight;
(iii) The average sort loss;
(iv) The average backfat;
(v) The average loin depth;
(vi) The average lean percentage; and
(vii) Total quantity slaughtered.

(3) Packer purchase commitments, which shall be equal to the number of barrows and gilts scheduled for delivery to a packer for slaughter for each of the next 14 calendar days.

(4) The Secretary shall publish the information obtained in paragraph (a) of this section in a prior day report not later than 8 a.m. central time for all barrows and gilts purchased and 10 a.m. central time for all barrows and gilts slaughtered on the reporting day on which the information is received from the packer. In addition, the Secretary shall publish a net price distribution for all barrows and gilts slaughtered on the previous day not later than 3 p.m. central time.

(b) *Morning report.* The corporate officers or officially designated representatives of each packer processing plant that processes barrows and gilts shall report to the Secretary not later than 10 a.m. central time each reporting day as described in § 59.10(b):

(1) The packer's best estimate of the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, expected to be purchased throughout the reporting day through each type of purchase;

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

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

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

(5) The Secretary shall publish the information obtained in paragraph (b) of this section 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 that processes barrows and gilts shall report to the Secretary not later than 2 p.m. central time each reporting day as described in § 59.10(b):

(1) The packer's best estimate of the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine expected to be purchased throughout the reporting day through each type of purchase;

(2) The total number of barrows and gilts, and barrows and gilts that qualify as 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) The Secretary shall publish the information obtained in paragraph (c) of this section in the afternoon report as soon as practicable, but not later than 3 p.m. central time, on each reporting day.

[73 FR 28633, May 16, 2008, as amended at 81 FR 52974, Aug. 11, 2016]

§ 59.203 Mandatory daily reporting for sows and boars.

(a) *Prior day report.* The corporate officers or officially designated representatives of each packer of sows and boars shall report to the Secretary for each business day of the packer not

later than 7 a.m. central time on each reporting day information regarding all sows and boars purchased or priced, excluding inferior swine, during the prior business day of the packer all purchase data, reported by lot, including:

(1) The total number of sows and boars purchased divided into at least three weight groups as specified by the Secretary;

(2) The average price paid by each purchase type for all sows in each weight class specified by the Secretary; and

(3) The average price paid by each purchase type for all boars in each weight class specified by the Secretary.

(4) The packer is required to report only the volume of sows and boars that qualify as packer owned swine and shall omit packer owned sows and boars from all average price calculations.

(b) *Publication.* The Secretary shall publish the information obtained in paragraph (a) of this section as soon as practicable, but not later than 8 a.m. central time, on the reporting day on which the information is received from the packer.

§ 59.204 Mandatory weekly reporting for swine.

(a) *Weekly noncarcass merit premium report.* Not later than 4 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 p.m. central time, on the first reporting day of each week.

§ 59.205 Mandatory reporting of wholesale pork 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 for barrows and gilts (once by 10 a.m. central time, and once by 2 p.m. central time) and once each reporting day for sows and boars (by 2 p.m. central time) the following information on total pork sales established on that day inclusive since the last reporting as described in § 59.10(b):

(1) The price for each wholesale pork sale, as defined herein, quoted in dollars per hundredweight on an F.O.B. Plant and an F.O.B. Omaha basis as outlined in § 59.205(d). The price shall include brokerage fees, if applicable. All direct, specific, and identifiable marketing costs (such as point of purchase material, marketing funds, accruals, rebates, and export costs) shall be deducted from the net price if applicable and known at the time of sale;

(2) The quantity for each pork 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) Pork item description;

(iii) Pork item product code;

(iv) The product delivery period, in calendar days;

(v) The pork class (barrow/gilt, sow, boar);

(vi) Destination (Domestic, Export/Overseas, NAFTA);

(vii) Type of Refrigeration (Fresh, Frozen, age range of fresh product); and

(viii) Specialty pork product, if applicable

(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 for gilt and barrow product and once each reporting day for sow and boar product.

(c) The Secretary shall obtain product specifications upon request.

(d) The Secretary shall provide freight information for the purpose of calculating prices on an F.O.B. Omaha basis. The Secretary shall provide this information periodically, but not less than quarterly.

[77 FR 50574, Aug. 22, 2012]

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 any combination of carcass weights. When used in reference to boxed lamb cuts the term ''carlot-based'' means any transaction between a buyer and seller consisting of 1,000 pounds or more of one or more individual boxed lamb items.

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

Packer. The term ''packer'' means any person with 50 percent or more ownership in a facility engaged in the business of buying lambs in commerce for purposes of slaughter, of manufacturing or preparing meat products from lambs for sale or shipment in commerce, or of marketing meats or meat products from lambs in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce. For any calendar year, the term includes only a federally inspected lamb processing plant which slaughtered or processed the equivalent of an average of 35,000 head of lambs per year during the immediately preceding 5 calendar years. Additionally, the term includes a lamb processing plant that did not slaughter or process an average of 35,000 lambs during the immediately preceding 5 calendar years if the Secretary determines that the processing plant should be considered a packer after considering its capacity.

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

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.

Yield grade lamb carcass reporting. The term ''yield grade lamb carcass reporting'' means if the lot includes 80 percent or more of one yield grade, the lot will be considered a single yield grade lot. If the lot contains less than 80 percent of one yield grade, the lot will be considered a mixed grade lot and all yield grades comprising 10 percent or more will be used to describe the lot.

[73 FR 28633, May 16, 2008, as amended at 81 FR 10062, Feb. 29, 2016; 81 FR 52974, Aug. 11, 2016]

§ 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 p.m. central time the prices for lambs (per hundredweight) established on that day as F.O.B. feedlot or delivered at the plant, categorized to clearly delineate domestic from imported market purchases as described in § 59.10(b) and categorized by:

(1) The type of purchase;

(2) The class of lamb;

(3) The quantity of lambs purchased on a live weight basis;

(4) The quantity of lambs purchased on a dressed weight basis;

(5) A range and average of estimated live weights of lambs purchased;

(6) An estimate of the percentage of the lambs purchased that were of a quality grade of Choice or better;

(7) Any premiums or discounts associated with weight, quality grade, yield grade, or any type of purchase;

(8) Lamb state of origin;

(9) The pelt type; and

(10) The estimated lamb dressing percentage.

(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)(5) and (a)(7) 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)(6) of this section not later than 9 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 a negotiated purchase that were slaughtered;

(2) The quantity of lambs purchased through forward contracts that were slaughtered;

(3) The quantity of lambs delivered under a formula marketing arrangement that were slaughtered;

(4) The quantity and carcass characteristics of packer-owned lambs that were slaughtered;

(5) The quantity, basis level, and delivery month for all lambs purchased through forward contracts;

(6) 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

(7) 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; and

(v) The range of prices paid.

(b) *Publication.* The Secretary shall make available to the public the information obtained in paragraphs (a)(1) through (a)(5) and (a)(7) of this section on the second reporting day of the current slaughter week and information obtained in paragraph (a)(6) 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 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 purchased; and

(3) The following information regarding the characteristics of each transaction:

(i) The type of transaction;

(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 USDA quality grade of lamb;

(iv) The cut of lamb, referencing the most recent version of the Institutional Meat Purchase Specifications (IMPS), when applicable;

(v) USDA 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.

PART 60—COUNTRY OF ORIGIN LABELING FOR FISH AND SHELLFISH

Subpart A—General Provisions

DEFINITIONS

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Subpart B [Reserved]

AUTHORITY: 7 U.S.C. 1621 *et seq.*

SOURCE: 74 FR 2701, Jan. 15, 2009, unless otherwise noted.

Subpart A—General Provisions

DEFINITIONS

§ 60.101 Act.

Act means the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*).

§ 60.102 AMS.

AMS means the Agricultural Marketing Service, United States Department of Agriculture.

§ 60.103 Commingled covered commodities.

Commingled covered commodities means covered commodities (of the same type) presented for retail sale in a consumer package that have been prepared from raw material sources having different origins.

§ 60.104 Consumer package.

Consumer package means any container or wrapping in which a covered commodity is enclosed for the delivery and/or display of such commodity to retail purchasers.

§ 60.105 Covered commodity.

(a) *Covered commodity* means:

(1)–(2) [Reserved]

(3) Farm-raised fish and shellfish (including fillets, steaks, nuggets, and any other flesh);