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Reauthorization of the Livestock Mandatory Reporting (LMR) Act in the 114th Congress

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Summary

The U.S. Department of Agriculture's (USDA's) Agricultural Marketing Service (AMS) collected livestock and meat price and related market information from meat packers on a voluntary basis under the authority of the Agricultural Marketing Act of 1946 (7 U.S.C. §1621 et seq.). However, as the livestock industry became increasingly concentrated in the 1990s, fewer animals were sold through negotiated (cash; or "spot") purchases and more frequently sold under alternative marketing arrangements that were not publicly disclosed under voluntary reporting. Some livestock producers, believing such arrangements made it difficult or impossible for them to determine "fair" market prices for livestock going to slaughter, called for mandatory price reporting for packers and others who process and market meat.

In response, Congress passed the Livestock Mandatory Reporting Act of 1999 (P.L. 106-78, Title IX; LMR). The law mandated price reporting for live cattle, boxed beef, and live swine and allowed USDA to establish mandatory price reporting for lamb sales. USDA issued a final rule in December 2000 that went into effect in April 2001. The final rule included mandatory reporting for lamb. The law has been amended to include more detail on swine and to add wholesale pork. The act has been reauthorized three times, and the last reauthorization was set to expire September 30, 2015.

In September 2015, the Senate and House passed the Agriculture Reauthorizations Act of 2015 (H.R. 2051), a Senate-amended version of the House-passed Mandatory Price Reporting Act of 2015, which reauthorized mandatory price reporting until September 30, 2020. The act was signed into law (P.L. 114-54) on September 30, 2015. Reauthorization was widely supported by livestock industry stakeholders. As in past years, stakeholders proposed changes that were intended to improve mandatory reporting as issues emerged between reauthorizations.

In response to livestock stakeholders, the act makes several changes to swine reporting, creating a new *negotiated formula purchase* category and requiring that transactions reported after the day's reporting deadline be reported in the next-day price reports. It revises the definitions of lamb importers and packers by lowering the volume thresholds for determining if an importer or packer is subject to reporting requirements. Lastly, the act requires USDA to conduct a study on LMR ahead of the next reauthorization.

However, the act did not include a provision to grant emergency authority to USDA to continue price reporting in the event of a government shutdown because of a lapse in appropriations. This provision was widely supported by livestock industry stakeholders and had been included in the House-passed version of H.R. 2051.

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The Livestock Mandatory Reporting Act (P.L. 106-78, Title IX; LMR) requires that meat packers report prices and other information on purchases of cattle, hogs, lamb, boxed beef, wholesale pork, and lamb carcasses and boxed lamb to the U.S. Department of Agriculture (USDA). Authority for mandatory reporting was set to expire on September 30, 2015. Livestock industry stakeholders supported the reauthorization of the act, and producer groups put forward proposals amending mandatory reporting. The House passed a reauthorization bill (H.R. 2051) in June 2015. In September 2015, the Senate amended the House-passed bill, and Congress reauthorized LMR until September 30, 2020, in the enacted Agriculture Reauthorizations Act of 2015 (P.L. 114-54).

Background

Before livestock mandatory price reporting was enacted by Congress in 1999, the USDA's Agricultural Marketing Service (AMS) collected livestock and meat price and related market information from meat packers on a voluntary basis under the authority of the Agricultural Marketing Act of 1946 (7 U.S.C. §1621 et seq.). AMS market reporters collected and reported prices from livestock auctions, feedlots, and packing plants. The information was disseminated through hundreds of daily, weekly, monthly, and annual written and electronic USDA reports on sales of live cattle, hogs, and sheep and wholesale meat products from these animals. The goal was to provide all buyers and sellers with accurate and objective market information.

By the 1990s, the livestock industry had undergone many sweeping changes, including increased concentration in meat packing and animal feeding, more production specialization, and more vertical integration (firms controlling more than one aspect of production). Fewer animals were sold through negotiated (cash; or "spot") sales, and more frequently sold under alternative marketing arrangements (e.g., formula sales based on a negotiated price established in the future) with prices not publicly disclosed or reported. Some livestock producers, believing such arrangements made it difficult or impossible for them to determine "fair" market prices for livestock going to slaughter, called for mandatory price reporting for packers and others who process and market meat. USDA had estimated in 2000 that the former voluntary system was not reporting 35%-40% of cattle, 75% of hog, and 40% of lamb transactions.[1]

During debate on mandatory price reporting, opponents, including some meat packers and other farmers and ranchers, argued that a mandate would impose costly new burdens on the industry and could cause the release of confidential company information. Nonetheless, some of these earlier opponents decided to support a mandatory price reporting law. Livestock producers had been hit by very low prices in the late 1990s and were looking for ways to strengthen the markets. Some meat packers also decided to support a national consensus bill at least partly to preempt what they viewed as an emerging "patchwork" of state price reporting laws that could alter competition between packers operating under different state reporting laws.[2]

[1] Wachenheim, C. and E. DeVuyst, "Strategic Response to Mandatory Reporting Legislation in the U.S. Livestock and Meat Industries: Are Collusive Opportunities Enhanced?" *Agribusiness,* vol. 17, no. 2 (2001), p. 180.

[2] Ibid., p. 182. For background and views on mandatory reporting, see U.S. Congress, Senate Committee on Agriculture, Nutrition, and Forestry, *Livestock Issues,* 105th Cong., June 10, 1998, S. Hrg. 105-994; and Perry, J., J. MacDonald, and K. Nelson, et al., *Did the Mandatory Requirement Aid the Market? Impact of the Livestock Mandatory Reporting Act,* Economic Research Service, USDA, LDP-M-135-01, September 2005. For a review of research on mandatory reporting, see Koontz, S. and C. Ward, "Livestock Mandatory Price Reporting: A Literature Review and Synthesis of Related Market Information Research," *Journal of Agricultural & Food Industrial Organization,* vol. 9, issue 1, article 9 (2011).

Legislative and Rulemaking History

The Livestock Mandatory Reporting Act of 1999 (LMR, P.L. 106-78, Title IX; 7 U.S.C. §1635 et seq.) was enacted in October 1999 as part of the FY2000 Agriculture appropriations act.[3] The law mandated price reporting for live cattle, boxed beef, and live swine and allowed USDA to establish mandatory price reporting for lamb sales. The law authorized appropriations as necessary and required USDA to implement regulations no later than 180 days after the law was enacted. Mandatory price reporting was authorized for five years, until September 30, 2004.

USDA issued a final rule on December 1, 2000.[4] Although reporting for lamb was optional in the LMR statute, USDA established mandatory reporting for lamb in the final rule. The rule was to be implemented on January 30, 2001, but USDA delayed implementation for two months until April 2, 2001, to allow for additional time to test the automated LMR program to ensure program requirements were being met.[5]

The implementation of mandatory reporting did not affect the continuation of the AMS voluntary price-reporting program. AMS continues to publish prices from livestock auctions, and feeder cattle and pig sales, through voluntary-based market news reports.

LMR authority lapsed briefly in October 2004 before Congress extended mandatory price reporting for one year to September 30, 2005.[6] Authority for LMR lapsed again on September 30, 2005. At that time, USDA requested that all packers who were required to report under the 1999 act continue to submit required information voluntarily. About 90% of packers voluntarily reported, which allowed USDA to publish most reports. In October 2006, Congress passed legislation to reauthorize reporting through September 30, 2010.[7] This act also amended swine reporting requirements from the original 1999 law, by separating the reporting requirements for sows and boars from barrows and gilts, among other changes. Because statutory authority for the program had lapsed, USDA determined that it had to reestablish regulatory authority through rulemaking in order to continue LMR operations.

On May 16, 2008, USDA issued the final rule to reestablish and revise the mandatory reporting program.[8] This rule incorporated the swine reporting changes and was intended to enhance the program's overall effectiveness and efficiency based on AMS' experience in the administration of the program. The rule became effective on July 15, 2008.

Mandatory wholesale pork price reporting was not included in the original price-reporting act because the hog industry could not agree on reporting for pork. Section 11001 of the 2008 farm bill (P.L. 110-246) directed USDA to conduct a study on the effects of requiring packers to report the price and volume of wholesale pork cuts, which was a voluntary reporting activity at the time.

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[3] Livestock mandatory reporting is also referred to as livestock mandatory price reporting (LMPR) and mandatory price reporting (MPR). This report adopts LMR from the original legislation and because LMR reports include information other than prices.

[4] 65 *Federal Register*, 75464 (December 1, 2000).

[5] LMPR Review Team, *Livestock Mandatory Price Reporting System*, USDA, Report to the Secretary of Agriculture, July 2, 2001, pp. 8-9.

[6] P.L. 108-444.

[7] P.L. 109-296.

[8] 73 *Federal Register* 28606 (May 16, 2008).

The farm bill study on wholesale pork pricing was released in November 2009 and concluded that there would be benefits from a mandatory pork reporting program.[9]

On September 27, 2010, the Mandatory Price Reporting Act of 2010 (P.L. 111-239) was enacted, reauthorizing mandatory price reporting through September 30, 2015. The act added a provision for mandatory reporting of wholesale pork cuts, directed the Secretary to engage in negotiated rulemaking to make required regulatory changes for mandatory wholesale pork reporting, and established a negotiated rulemaking committee to develop these changes.[10] The committee was composed of representatives of pork producers, packers, processors, and retailers. The committee met three times, was open to the public, and developed recommendations for mandatory pork reporting.[11] USDA released the final rule on August 22, 2012, and the regulation was implemented on January 7, 2013.[12]

See the **Appendix** for a description of selected LMR reporting provisions, marketing definitions, confidentiality rules, and USDA reporting and enforcement.

LMR Reauthorization in 2015

The House Agriculture Subcommittee on Livestock and Foreign Agriculture started the reauthorization process by holding a hearing on April 22, 2015, that included producer representatives from the National Pork Producers Council (NPPC), the National Cattlemen's Beef Association (NCBA), and the American Sheep Industry Association (ASI) and a representative from the North American Meat Institute (NAMI), which represents meat packers. All representatives voiced support for mandatory reporting, and the producer representatives identified changes to specific reporting requirements they would like to see incorporated into LMR. All stakeholders agreed that the loss of reporting during the October 2013 government shutdown was disruptive to the market, and they would like LMR to be deemed an "essential" service that operates if another government shutdown should occur.

On April 28, 2015, the Mandatory Price Reporting Act of 2015 (H.R. 2051) was introduced in the House. The House Committee on Agriculture marked up the bill on April 30. H.R. 2051 reauthorized LMR through September 30, 2020, and included several sections that addressed hog and lamb market issues that livestock stakeholders raised about LMR. (See "Livestock Sector Issues for Reauthorization in 2015" for a discussion of LMR issues of interest to the livestock industry.) On June 9, 2015, the House passed H.R. 2051 on a voice vote.

On September 17, 2015, by voice vote, the Senate Agriculture Committee marked up and reported to the full Senate an amended version of the House-passed H.R. 2051. Amended H.R. 2051, the Agriculture Reauthorizations Act of 2015, included provisions to reauthorize Mandatory Price Reporting, the U.S. Grain Standards Act, and the National Forest Foundation Act, three laws that were set to expire on September 30, 2015. On September 21, 2015, the Senate passed the bill by unanimous consent, and the House passed the Senate-amended bill on

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[9] Value Ag, LLC, *Wholesale Pork Price Reporting Analysis*, commissioned by AMS, USDA, November 2009, http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5083549.

[10] Negotiated rulemaking is discussed in context with other rulemaking alternatives in CRS Report R41546, *A Brief Overview of Rulemaking and Judicial Review*.

[11] J. Parcell, *Negotiated Rulemaking: Mandatory Wholesale Pork Price Reporting*, Livestock Marketing Information Center, fact sheet, July 2011, http://lmic.info/sites/default/files/publicfiles/FS2-0711.pdf.

[12] 77 *Federal Register* 50561 (August 22, 2012).

September 28 by voice vote. The Agriculture Reauthorizations Act of 2015 (P.L. 114-54) was signed into law on September 30, 2015.

LMR Provisions Enacted in 2015

The Agriculture Reauthorizations Act of 2015 (P.L. 114-54) extended mandatory price reporting until September 30, 2020. In addition, the act makes several changes to swine reporting, revises definitions in lamb reporting, and requires USDA to conduct a study on LMR ahead of the next reauthorization.

The provisions in P.L. 114-54 on swine and lamb were proposed to Congress by livestock industry stakeholders as measures that would improve LMR (see "Livestock Sector Issues for Reauthorization in 2015" for selected industry proposals for reauthorization). The cattle industry did not formally propose any changes to cattle LMR requirements, but several swine and lamb industry proposals were incorporated in the House-passed Mandatory Price Reporting Act of 2015 (H.R. 2051).

The Senate-amended version included most of the House-passed provisions. However, the section of the House-passed bill[13] that granted emergency authority to USDA to continue price reporting in the event of a government shutdown because of a lapse in appropriations, which was widely supported by the cattle, swine, and lamb industries, was not included in the enacted law. (See "LMR as an "Essential" Service" below for industry views.)

Swine Reporting

The enacted legislation establishes the new *negotiated formula purchase* reporting category. Under this category, swine purchases are based on a formula, negotiated on a lot-by-lot basis, and the swine are scheduled for delivery to the packer no later than 14 days after the formula is negotiated and the swine are committed to packers.

The enacted legislation also amends swine LMR by requiring the reporting of the low and high range of net swine prices, to include the number of barrows and the number of gilts within the ranges, and the total number and weighted average price of barrows and gilts. Lastly, the act requires that next-day reports include transaction prices that were concluded after the previous day's reporting deadlines.

The enacted swine reporting provisions are the same as those in Section 3 of the House-passed bill. (See "New Reporting Proposals for Swine" below for industry views.)

Lamb Definitions

P.L. 114-54 amends the regulations (7 C.F.R. 59.300) for lamb reporting to redefine lamb importers and lamb packers. Now, importers are defined as entities that import an average of 1,000 metric tons of lamb meat per year during the immediately preceding four years. The original limit was 2,500 metric tons. If an importing entity does not meet the volume limit, the Secretary still may determine that an entity should be considered an importer.

In P.L. 114-54, lamb packers are defined as entities having 50% or more ownership in facilities, and include federally inspected facilities that slaughter and process an average of 35,000 head per year over the immediately preceding five years. The original threshold was 75,000 head. Also,

[13] Section 2(b) of the House-passed H.R. 2051.

other facilities may be considered packers if the Secretary determines they should be considered a packer based on processing plant capacity.

These enacted revised definitions for lamb importers and packers are the same as those in Section 4 of the House-passed bill. (See "Concentrated Lamb Markets" below for industry views.)

Study on Livestock Mandatory Reporting

USDA is required to conduct a study of the price-reporting program for cattle, swine, and lamb in P.L. 114-54. The study is to be submitted to the House and Senate Agriculture Committees by March 1, 2018. The study, to be conducted by USDA's Agricultural Marketing Service and the Office of Chief Economist, is directed to analyze current marketing practices and to identify legislative and regulatory recommendations that are readily understandable; reflect current market practices; and are relevant and useful to producers, packers, and other market participants. Also, the study is to analyze USDA reporting services.

This LMR study provision was included in Section 5 of the House-passed bill, but with a later deadline of January 1, 2020.

Livestock Sector Issues for Reauthorization in 2015

A simple reauthorization of mandatory reporting would amend the termination date in Section 260 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636i). However, like past reauthorizations, livestock industry stakeholders suggested changes that were intended to improve mandatory reporting and to address issues that emerged since the last reauthorization. Several of the issues are discussed below.

LMR as an "Essential" Service

During the nearly 15 years that LMR has been in place, livestock producers, processors, and industry analysts have come to rely on the AMS mandatory price reporting data to make marketing decisions. Many livestock contracts between buyers and sellers are based on prices reported under LMR. In October 2013, during the government shutdown when most federal operations came to a standstill, meat packers continued to report LMR data to AMS, but mandatory daily and weekly reports were not published. In addition to the loss of price information for producers, the gap in LMR data affected the futures market because the CME Group[14] uses LMR data to settle live hog contracts. CME also uses LMR-reported cattle carcass characteristics to settle live cattle futures contracts. CME has noted that LMR price data are trusted and that few other public alternatives to the LMR data exist.[15]

During the reauthorization debate, livestock stakeholders urged USDA to deem mandatory reporting an "essential" service in order to avoid the loss of livestock price information if another government shutdown, such as in October 2013, occurs due to a lapse in appropriations.[16] Many contend that any gap in mandatory reporting is disruptive to livestock markets. Although the House-passed version (H.R. 2051) contained such a provision, it was not included in the final bill.

[14] The CME Group consists of the Chicago Mercantile Exchange (CME), the Chicago Board of Trade (CBOT), and the New York Mercantile Exchange (NYMEX). The three exchanges merged in 2007 and 2008.

[15] D. Lehman, managing director, CME Group Commodity Research and Product Development, "The Value of Market News," Agricultural Outlook Forum presentation, February 20, 2015.

[16] NPPC, see http://www.nppc.org/issues/agriculture-industry/125-2/.

New Reporting Proposals for Swine

The NPPC recommended that AMS add another purchase category for swine called *negotiated formula purchase*. Under this purchasing arrangement, a producer negotiates the sale of swine on a lot-by-lot basis, but the price will be determined by formula at a later date. NPPC believes this represents a negotiated sale, but under AMS reporting it is classified as a *swine or pork market formula purchase* because there is no established price at the time of purchase. *Negotiated purchases*, or cash sales, are often viewed as the true measure of price discovery, but negotiated purchases as a share of total hog sales has dropped to less than 4%. According to NPPC testimony before the Subcommittee on Livestock and Foreign Agriculture of the House Agriculture Committee, the total number of hogs that would trade under this new category is not known, but possibly could increase the number of reported negotiated hog sales by 50-100%. Boosting the volume of negotiated purchases would be expected to increase price discovery.

Some livestock sales occur after the afternoon reporting deadline for packers to send reports to AMS and are not reported in a daily report. Pork producers believe that sales of hogs after the afternoon deadline are usually delivered to packing plants the next day. To provide more timely hog marketing and price information, NPPC recommends that hog trades that occur late in the day be reported in the next day's morning or afternoon daily reports. The additional reporting would better reflect the daily hog market; increase trade volume, thus reducing data disclosure issues; and result in more complete reports.

These swine proposals were included in P.L. 114-54.

Concentrated Lamb Markets

The U.S. sheep and lamb industry is confronted with a very concentrated market that results in price-reporting challenges not necessarily experienced by the larger cattle and hog sectors. The sheep and lamb industry as a whole (production, feeding, and processing) believes that LMR is crucial for creating a transparent market, and the American Sheep Industry Association (ASI) worked with AMS from 2012-2014 to amend LMR in ways to improve lamb reporting ahead of reauthorization.[17] Although the ASI effort did not result in rulemaking, proposals developed in earlier years are the basis for the lamb industry's proposals during current reauthorization.

U.S. lamb imports account for half of the lamb consumed in the United States. Therefore, the pricing of lamb imports is crucial for U.S. lamb producers in making marketing decisions. ASI recommended that the reporting threshold for lamb imports be lowered to 1,000 metric tons from the current 2,500 metric tons to capture prices for a greater share of lamb imports.

In addition, smaller or mid-size lamb processors have entered the business to capture specialty lamb markets, but because of the smaller size, these businesses are often exempt from reporting. To capture pricing data from mid-size lamb slaughters and processors, ASI recommended that the threshold for packer reporting be reduced to an average of 35,000 head slaughtered per year during the immediately preceding five years from the current 75,000 head.

[17] During testimony before the House Agriculture Subcommittee on Livestock and Foreign Agriculture, ASI submitted for the record a copy of a report by the Livestock Marketing Information Center, *Analysis of Mandatory Price Reporting System for Lamb*, completed in December 2012. The report details many of the price-reporting concerns of the sheep and lamb industry. ASI has proposed eight recommendations for consideration during reauthorization that could help alleviate problems for lamb reporting: http://www.sheepusa.org/NewsMedia_SheepIndustryNews_PastIssues_2013_April2013_AsisRecommendationsForMandatoryPriceReporting.

These two threshold changes for importers and packers were designed to pick up a larger share of the total lamb market and better reflect average prices in the market. Both proposals were included in P.L. 114-54.

The sheep and lamb industry also faces the situation where there are few participants in the processing sector. This leads to problems with non-reporting because of confidentiality requirements. Also, a substantial share of lamb processing is conducted on a "custom slaughter" basis, which is not counted as a buyer-seller transaction, and thus not reported under LMR. In addition, almost one-third of U.S. lambs are processed by one cooperative that does not report under LMR because its business structure is treated as a packer-owned operation, even though, reportedly, the cooperative is willing to report under LMR. ASI recommended that AMS be flexible with its packer definitions to allow such an operation to report under LMR. P.L. 114-54 granted USDA discretion to determine that importers and packers not meeting the threshold requirements may still be required to report.

Cattle Proposals

The cattle industry supported the reauthorization of LMR, but the new law does not contain any cattle-specific proposals. During the markup of the House bill, House Agriculture Committee Chairman Conaway indicated that the cattlemen and meat packers were working on proposals that could be included as amendments to the bill. Various cattle stakeholders raised some issues with mandatory reporting, but no consensus developed to amend LMR cattle provisions.

The NCBA recommended that AMS have flexibility to request additional information, as needed, to identify and report appropriate industry standards as cattle marketing changes. Also, NCBA recommended that LMR include a new category for fed-cows, to be added to reporting for steers and heifers, and cows and bulls. Currently, AMS reports cover all cows, but a breakout of fed-cows could have provided additional price and marketing information beneficial for cattle producers who market fed-cows.[18]

In a letter to the Senate Agriculture Committees, the Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America (R-CALF) expressed specific concerns about new types of cattle purchases that are not captured in LMR.[19] These include (1) negotiated basis trade-type contracts that do not appear to be reported when negotiated, (2) negotiated cash sales that have extended delivery dates, and (3) "Tops" trades, where a negotiated premium is offered on a cash trade and is then reported as a formula purchase. R-CALF also raised concern about the frequency of late-day transactions that miss the day's reporting deadline, thus possibly distorting the day's price.

The National Farms Union (NFU) expressed its support for the reauthorization of mandatory reporting as an important tool for combating market concentration. In letters to the Senate and House Agriculture Committees, NFU suggested changes to LMR for cattle that would have addressed confidentiality rules, reporting on imported cattle that go into feedlots, reporting on weekly market concentration, and separate data from forward contracts from those tied to the futures market.[20]

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[18] NCBA, *2015 Policy Book*, updated February 2015, see http://cqrcengage.com/beefusa/file/I7xRZnVNCDC/2015%20NCBA%20Policy%20Book.pdf#page=91.

[19] Letter from R-CALF to Chairman Roberts and Ranking Member Stabenow, Senate Agriculture Committee, September 8, 2015, http://r-calfusa.com/wp-content/uploads/2013/04/150908-Mandatory-Price-Reporting-Recommendations-to-Senate-Ag-Comittee.pdf.

[20] http://www.nfu.org/nfu-encourages-support-for-reauthorization-of-livestock-mandatory-price-reporting-offers-

(continued...)

Appendix. Description of the LMR Program

The following sections discuss some of the main Livestock Mandatory Reporting Act (LMR) reporting requirements, as well as confidentiality rules, Agricultural Marketing Service reporting, and enforcement of LMR.[21] The text box, included below, provides definitions for selected terms used in LMR.

Selected Reporting Requirements

- Packers that are subject to mandatory reporting are defined as federally inspected plants that have slaughtered a minimum annual average of 125,000 head of cattle, 100,000 head of swine, 200,000 head of sows and boars or a combination thereof, and 35,000[22] lambs during the immediate five preceding years. If a plant has operated for fewer than five years, USDA will determine, based on capacity, if the packer must report.
- Packers are required to report the prices established for steers and heifers twice daily (10 a.m. and 2 p.m. central time); cows and bulls twice daily (10 a.m. central for current day, and 2 p.m. for previous-day purchases); barrows and gilts three times daily (7 a.m. central for prior-day purchases, and 10 a.m. and 2 p.m. central); sows and boars once daily (7 a.m. central for prior-day purchases); and lambs once daily (2 p.m. central).
- Besides the established prices, packers report premiums and discounts and the type of purchase (e.g., negotiated, formula, or forward contract). Packers are required to report, depending on the species, the quantity delivered for the day; the quantity committed to the packer; the estimated weight on a live weight basis or a dressed weight basis; and quality characteristics, such as Choice grade.
- In addition to daily reporting, on the first reporting day of the week, packers file a cumulative weekly report of the previous week's purchases of steers and heifers, and swine. Lamb packers are required to report the previous week's purchases on the first and second reporting day of the week, depending on the data. Steer and heifer and lamb packers are to include data on type of purchase (negotiated, formula, or forward contract), premiums and discounts, and some carcass characteristics (e.g., quality grade and yield, average dressing percentage). Swine packers are required to report the amount paid in premiums that are based on noncarcass characteristics (e.g., volume, delivery timing, hog breed). Also, packers must make available to producers a list of such premiums.
- In addition to livestock purchase prices, packers are required to report sales data for boxed beef, wholesale pork, and carcass and boxed lamb. Sales are reported twice daily for beef and pork; once daily for lamb. Packers are required to provide price, quantity, quality grade for beef and lamb, and type of cut. Packers report beef and pork domestic and export sales and domestic boxed lamb sales.

(...continued)

suggestions-for-more-accurate-usable-data/2188.

[21] Provisions for cattle, beef, hogs, and pork are in the LMR statute (7 U.S.C. §1635 et seq.) and the LMR regulations (7 C.F.R. Part 59). Lamb provisions are in the LMR regulations. LMR reports are available on the AMS "Livestock, Poultry, and Grain Market News Portal," https://www.marketnews.usda.gov/mnp/ls-home.

[22] P.L. 114-54 lowered the threshold from 75,000 to 35,000 head of lamb.

- Lamb importers who have imported a minimum average of 1,000[23] metric tons of lamb in the immediate five preceding years are required to report such information as weekly lamb prices, quantities imported, the type of sale (negotiated, formula, or forward contract), cuts of lamb, and delivery period.

Types of Purchases in Livestock Mandatory Reporting

Negotiated purchase: 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. Livestock are delivered to the packer not more than 14 days after the date the livestock was committed to the packer.

Negotiated grid purchase (in reference to cattle): 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. Cattle are delivered to the packer not more than 14 days after the date the livestock are committed to the packer.

Formula marketing arrangement: the advance commitment of livestock for slaughter by any means other than 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: an agreement for the purchase of livestock, executed in advance of slaughter, under which the base price is established by reference to publicly available prices. For example, forward contracts may be priced on quoted Chicago Mercantile Exchange prices or other comparable public prices.

Swine or pork market formula purchase: 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.

Swine negotiated formula purchase:[24] a negotiated lot-by-lot purchase based on a formula and scheduled for delivery and committed to the packer within 14 days of the negotiation.

Other market formula purchase: 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 one or more futures or options contracts.

Other purchase arrangement: 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-sold swine: 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.

Other Marketing Terms

Base price: the price paid for livestock, delivered at the packing plant, before application of any **premiums** are added or **discounts** subtracted—for example, weight, quality, or breed characteristics.

Cattle committed: cattle that are scheduled to be delivered to a packer within the seven-day period beginning on the date of an agreement to sell the cattle. **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.

Live weight basis: livestock prices based on total weight, usually reported in dollars per hundredweight. An alternative pricing method is **dressed weight basis**, or carcass weight basis, which is livestock priced after slaughter with organs and heads removed, (also reported in dollars per hundredweight).

Lot: (in reference to livestock) a group of one or more livestock that is identified for the purpose of a single transaction between a buyer and a seller. In reference to boxed beef, wholesale pork, and lamb, the term 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. 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.

Packer-owned livestock: livestock that a packer (for swine, includes a subsidiary or affiliate of the packer) owns for

[23] P.L. 114-54 lowered the threshold from 2,500 to 1,000 metric tons of lamb.

[24] Swine purchase established in P.L. 114-54. It was previously reported as a formula contract.

at least 14 days immediately before slaughter.

Steers are castrated male cattle, and **heifers** are un-bred female cattle. **Cows** are breeding cattle that have calved, and **bulls** are breeding males. **Barrows** are castrated male swine, and **gilts** are un-bred female swine. **Sows** are breeding swine that have farrowed a litter, and **boars** are breeding males.

Confidentiality

The LMR law requires that price reporting be confidential to protect the identity of packers and contracts and proprietary business information. In determining what data could be published, AMS initially adopted a "3/60" confidentiality guideline (commonly used throughout the federal government), i.e., at least three entities in the regional or national reporting area, and no single entity could account for more than 60% of the reported market volume. Otherwise, the data cannot be published in order to protect the identity of those reporting. AMS found that the "3/60" guideline resulted in large gaps in data reporting. For example, during April 2, 2001, and June 15, 2001, 24% of daily reports and 20% of weekly reports were not published because of confidentiality provisions.[25]

In order to address the data gaps, AMS adopted a "3/70/20" guideline in August 2001.[26] It required that at least three entities report 50% of the time over a 60-day period; no one entity could account for more than 70% of volume over a 60-day period; and in cases where only one entity reports, the entity cannot be the only reporter more than 20% of the time over a 60-day period. These new guidelines substantially eliminated the data gaps.

AMS Reporting

The Livestock, Poultry, and Grain Market News Division (LPGMN) of the AMS Livestock, Poultry, and Seed Program is responsible for compiling and disseminating the information collected under LMR. In addition, LPGMN continues to operate a voluntary reporting program for livestock not covered under LMR, poultry and grain. Under LMR, LPGMN publishes 62 daily reports and 47 weekly reports. AMS publishes 29 daily reports for cattle, 20 for swine, 6 for beef, 4 for pork, and 3 for lamb. Weekly reports total 24 for cattle, 2 for swine, 11 for beef, 8 for pork, and 2 for lamb. According to AMS budget documents, mandatory reporting currently provides data for 79% of total slaughtered cattle, 94% of hogs, and 46% of sheep. For meat products, LMR covers 94% of boxed beef production, 87% of wholesale pork, and 57% of lamb meat.[27] Small plants, which fall below required thresholds, or non-federally inspected plants account for the remaining percentage of slaughter and production. AMS market news operates on an annual appropriation of about $34 million, and the LMR program accounts for about $5 million to $6 million of that amount.

Enforcement

AMS compliance staff enforces LMR through audits once every six months. AMS reviews support documentation for randomly sampled lots.[28] If non-compliance is found, AMS will ask

[25] See LMPR Review Team, p. 21.

[26] 66 *Federal Register*, 41194 (August 7, 2001).

[27] AMS, *2015 Explanatory Notes*, pp. 21-23, http://www.obpa.usda.gov/21ams2015notes.pdf.

[28] AMS, *Livestock Mandatory Reporting Compliance Information*, http://www.ams.usda.gov/AMSv1.0/LMRComplianceInfo.

the packer to correct the problem. If the packer does not correct the problem, AMS may issue a warning letter, and ultimately, the packer could be fined $10,000 for each violation if corrective action is not taken. AMS published quarterly compliance reports through September 2014, and then released a six month (October 2014-March 2015) compliance report.[29]

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[29] Available at http://www.ams.usda.gov/AMSv1.0/LMRQuarterlyPlantReviewArchive.