HEARING TO REVIEW REAUTHORIZATION OF THE LIVESTOCK MANDATORY REPORTING ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON LIVESTOCK AND FOREIGN AGRICULTURE

OF THE

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HOUSE OF REPRESENTATIVES

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WEDNESDAY, APRIL 22, 2015

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK AND FOREIGN AGRICULTURE,
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The Subcommittee met, pursuant to call, at 2:39 p.m., in Room 1300 of the Longworth House Office Building, Hon. David Rouzer [Chairman of the Subcommittee] presiding.

Members present: Representatives Rouzer, Hartzler, Newhouse, and Costa.

Staff present: Caleb Crosswhite, Carly Reedholm, Haley Graves, John Goldberg, Mollie Wilken, Patricia Straughn, Ted Monoson, Mary Knigge, and Nicole Scott.

OPENING STATEMENT OF HON. DAVID ROUZER, A REPRESENTATIVE IN CONGRESS FROM NORTH CAROLINA

The CHAIRMAN. This hearing of the Subcommittee on Livestock and Foreign Agriculture to review reauthorization of the Livestock Mandatory Reporting Act, will come to order. I would like to welcome our witnesses to this hearing regarding reauthorization of the Livestock Mandatory Reporting Act. First enacted in 1999, the Act was developed in response to changing markets, with an increasing number of animals being sold by marketing agreements under which prices were not publicly disclosed. As these structural changes continued, livestock producers requested that the then-voluntary price reporting mechanism be made mandatory. Thus, the resulting Act mandated price reporting for live cattle, boxed beef, and live swine, and it allowed USDA to establish mandatory price reporting for lamb sales as well.

Development of the Act, and each subsequent reauthorization, has ultimately involved and required consensus between producers and packers for implementation to work as smoothly as possible. As we approach the expiration of the current law, we have once again asked producers and packers to work towards consensus regarding any request in modifications to the underlying statute. We are aware that discussions have been ongoing, and that, while we are very close to a final package of requests, some further discussion may be necessary prior to announcing a markup of the reauthorization bill. Proposals have been shared between and among the various stakeholder groups, and those proposals have been forwarded to the Committee for review. As consensus is reached, the Committee will prepare draft bill text to be circulated among Members, with the intent to post that legislation for public review later this week, or early next week.

Today we have invited representatives of the affected livestock organizations, as well as a representative of the packers' trade association, NAMI, to share their proposals, identify areas of consensus, and to identify areas of concern. I would note that a representative of the USDA Agricultural Marketing Service, the agency which administers mandatory price supporting, was originally invited to testify today. We have been in discussions with the Secretary's office, and it was the preference of the Department to focus its effort on more detailed briefings and technical assistance on the legislative draft, as opposed to testifying on today's witness panel. That said, I am pleased that Dr. Craig Morris, Deputy Administrator of the Agricultural Marketing Service, with direct responsibility for the livestock, poultry, and seed program is here today, and is prepared to answer any questions that Members may have.

Again, I would like to thank our witnesses for their attendance.

[The prepared statement of Mr. Rouzer follows:]

PREPARED STATEMENT OF HON. DAVID ROUZER, A REPRESENTATIVE IN CONGRESS FROM NORTH CAROLINA

Good afternoon.

I would like to welcome our witnesses to this discussion regarding reauthorization of the Livestock Mandatory Reporting Act.

First enacted in 1999, the Act was developed in response to changing markets with an increasing number of animals being sold via marketing arrangements under which prices were not publicly disclosed. As these structural changes continued, livestock producers requested that the then-voluntary price reporting mechanism be made mandatory. Thus, the resulting Act mandated price reporting for live cattle, boxed beef, and live swine, and it *allowed* USDA to establish mandatory price reporting for lamb sales as well.

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Again, I would like to thank all of our witnesses for their attendance and now yield to the Ranking Member, Mr. Costa, for his opening statement.

The CHAIRMAN. I now yield to Ranking Member, Mr. Costa, for his opening statement.

OPENING STATEMENT OF HON. JIM COSTA, A REPRESENTATIVE IN CONGRESS FROM CALIFORNIA

Mr. COSTA. Thank you very much, Mr. Chairman. I think it is important that the Subcommittee do its due diligence in this matter that is very important to America's livestock industry, and to the cattle producers throughout our nation. I have a very significant cattle producing effort that takes place in California. I have three packing operations that are within my district, and I work closely with all of them, including the cattle producers of California, to ensure that they can remain competitive and thriving, because these are some of the hardest working people you will ever meet. They are tenacious, and they deal with the ups and downs in what sometimes is a volatile market. Yet they not only produce the finest products of beef anywhere in the country, but they also export a significant portion of their product.

The price reporting for livestock and meat was made mandatory some 15 years ago, and the goal of providing buyers and sellers with accurate and objective information is always the goal to ensure for a competitive market; whether we are talking about cattle, or hogs, or sheep, or wholesale meat products. And, obviously, in different regions of the country these livestock producers make up significant parts of the economy in those regions.

Despite the initial opposition, this has become a tool, and American agriculture, agriculturalists, farmers, cattle operators, dairymen, and the rest of the gamut of the—we say the barnyard coalition—needs all the tools that they can have available to them, not only in this country, but to compete in what is becoming more and more a global market. Since livestock mandatory price reporting has become a tool, these reports have had, and continue to have, significant impacts because contracts are negotiated between buyers and sellers. They are based on prices that are reported by the livestock mandatory reporting to the Agricultural Marketing Service. And, obviously, these markets are critical to the viability of an important ability to keep their game. And also there are futures markets that have ramifications as well.

We saw this during the October 2013 shutdown, as the program was not deemed essential during one of the government shutdowns. There was a loss of price data that caused major headaches, at least my folks told me they had major headaches, in the market throughout the country. These sort of disruptions can be prevented by not shutting down government, but in the event it happens, clearly we need to make sure that the flow of information remains uninterrupted.

It is my hope that we can build on these bipartisan efforts that the industry has come to expect with regards to mandatory price reporting reauthorizations. I am looking forward to hearing the testimony from each of you who represent various segments of the industry, and I will listen very carefully back home, because, as a colleague of ours once said, "Mr. Chairman, all politics are local." I am going to want to know what my local folks think as it relates to both packing operations, as well as the feedlot operations, as well as the producers who literally, and figuratively, put the meat on the table.

So, with that, I yield back the balance of my time, and I look forward to the testimony of our witnesses.

The CHAIRMAN. Thank you very much. The chair would request that other Members, when they arrive, submit their opening statements for the record so the witnesses may begin their testimony, and to ensure there is ample time for questions. The chair would like to remind everyone—Members in particular—they will be recognized for questioning in the order of seniority for Members who were present at the start of the hearing. Well, that is going to be easy for me. After that, Members will be recognized in order of their arrival, and I certainly appreciate Members' understanding on that front. Witnesses are asked to limit their oral presentations to 5 minutes. All written statements will be included in the record.

And now I want to introduce our panel of witnesses, and certainly welcome you to the table, and I appreciate your willingness to come before the Committee today. First I want to introduce Mr. Mark Dopp, Senior Vice President, Regulatory Affairs and Scientific Affairs, as well as General Counsel for the North American Meat Institute here in Washington. Mr. James Heimerl, and forgive me if I mispronounce the name. You can correct me at the appropriate time. But he is here on behalf of the National Pork Producers Council. I also would like to introduce Mr. Burton Pfliger, President of the American Sheep Industry Association from Colorado. Mr. Ed Greiman, Chairman of the Cattle Marketing and International Trade Committee, National Cattlemen's Beef Association, from Garner, Iowa. And then, as I mentioned, Dr. Craig Morris is here. He is not part of the panel, but is here for questions, if Members have any, and is Deputy Administrator, Livestock, Poultry, and Seed Program, Agricultural Marketing Service of the U.S. Department of Agriculture.

With that, Mr. Dopp, you may proceed.

STATEMENT OF MARK DOPP, SENIOR VICE PRESIDENT, REGULATORY AFFAIRS AND SCIENTIFIC AFFAIRS/GENERAL COUNSEL, NORTH AMERICAN MEAT INSTITUTE, WASHINGTON, D.C.

Mr. DOPP. Thank you, Mr. Chairman. Good afternoon, Mr. Chairman, Ranking Member Costa, and other Members of the Committee. My name is Mark Dopp, and I am the Senior Vice President and General Counsel of the North American Meat Institute. The Meat Institute, as we now brand ourselves, which came into being on January 1 of this year, and is the result of a merger of the American Meat Institute and the North American Meat Association. Collectively, our organization, and its predecessors, have been representing the nation's meat and poultry industries for more than 100 years.

The Meat Institute's members include 376 of the nation's largest and smallest meat and poultry food manufacturers. Collectively, my members produce 95 percent of the beef, pork, veal, and lamb products, and 75 percent of the turkey products produced in the United States. Among the Meat Institute's member companies, more than 80 percent are small family owned businesses employing fewer than 300 people. These companies operate, compete, sometimes struggle, and mostly thrive in what has become one of the toughest, most competitive, and most scrutinized sectors of our economy, meat packing and processing.

Meat Institute member companies worked closely with the livestock producing community, the Agricultural Marketing Service, and other interested stakeholders when this reporting program first came into being. And we have worked similarly on every reauthorization since then. This iteration of the reauthorization should be no different. In that regard, the Meat Institute has been working with its membership, and with the livestock producer community, to find consensus on reauthorizing the Livestock Mandatory Reporting Act, and I hope that we can continue this partnership in moving this legislation forward free of controversy, and I believe we can. Although there is work yet to be done to reach consensus, I am confident we can achieve this goal in a manner that makes the program more effective, more efficient, and without increasing the costs or regulatory burdens.

I appreciate the opportunity to participate in this hearing, and I look forward to answering any questions that you might have. Thank you.

[The prepared statement of Mr. Dopp follows:]

PREPARED STATEMENT OF MARK DOPP, SENIOR VICE PRESIDENT, REGULATORY AFFAIRS AND SCIENTIFIC AFFAIRS/GENERAL COUNSEL, NORTH AMERICAN MEAT INSTITUTE, WASHINGTON, D.C.

Good afternoon Mr. Chairman, Ranking Member Costa, and Members of the Committee. My name is Mark Dopp and I am Senior Vice President and General Counsel of the North American Meat Institute. The Meat Institute, which came into being on January 1 of this year as a result of the merger of the American Meat Institute and the North American Meat Association, has been representing the nation's meat and poultry industries for more than 100 years.

The Meat Institute's members include 376 of the nation's largest and smallest meat and poultry food manufacturers. Collectively, they produce 95 percent of the beef, pork, veal and lamb products and 75 percent of the turkey products in the U.S. Among the Meat Institute's member companies, 80 percent are small, family-owned businesses employing fewer than 300 people. These companies operate, compete, sometimes struggle and mostly thrive in what has become one of the toughest, most competitive and the most scrutinized sectors of our economy: meat packing and processing.

Meat Institute member companies worked closely with the livestock producer community, the Agricultural Marketing Service, and other interested stakeholders when this reporting program first came into being and on every reauthorization effort since. This iteration of reauthorization must be no different. In that regard, the Meat Institute has been working with its membership and with livestock producer groups, to find consensus on reauthorizing the Livestock Mandatory Reporting Act and I hope we continue this partnership to move this legislation forward, free of controversy.

Although there is work yet to be done to reach consensus, I am confident we can achieve this goal in a manner that makes the program more effective and efficient without increasing costs or regulatory burdens.

Thank you for the opportunity to participate in this hearing. I would be happy to answer questions.

The CHAIRMAN. Thank you, Mr. Dopp. Mr. Heimerl?

STATEMENT OF JAMES R. HEIMERL, OWNER AND MANAGER, HEIMERL FARMS LTD.; DIRECTOR, NATIONAL PORK PRODUCERS COUNCIL, JOHNSTOWN, OH

Mr. HEIMERL. Thank you, Chairman Rouzer, Ranking Member Costa, and Members of the Subcommittee for inviting me to testify on the Livestock Mandatory Reporting Act. I am Jim Heimerl, a hog farmer from Ohio, and a Member of the Board of Directors for the National Pork Producers Council here testifying on behalf of the NPPC, and America's 68,000 pork producers. The mandatory price reporting system for hogs and pork is one of the most important services the U.S. Government provides to the U.S. pork industry, providing essential marketing information used every day by pork producers, packers, and users of pork to price the products they buy and sell.

As you know, the Livestock Mandatory Reporting Act expires September 30 this year. Before that date, pork producers would like Congress to approve legislation reauthorizing the law for 5 years. Pork producers also would like three important additions or changes to the mandatory price reporting system. First, create a category for negotiated formula pricings to better reflect the total number of hogs negotiated each day, regardless of how buyers and sellers arrive at the prices. The original reporting specified four types of purchases for hogs, negotiated swine, or pork market formula, other market formula, and other purchase agreements.

USDA established criteria for each category. They have stayed fairly consistent, providing a known set of rules for industry participants. The market, however, has changed dramatically over the past 15 years, with the most notable changes being the decline in proportion of hog sales conducted through negotiated trades. Today less than four percent of the hogs are sold in negotiated or cash markets, and the numbers sold under some alternative marketing agreements continues to increase.

The mandatory pricing system has adapted to those changes, with one exception, that hogs that are not committed to any pack or on a long term basis, and whose prices are determined by a formula negotiated on a lot by lot basis. USDA doesn't consider such sales in negotiated trades. They are included in a swine or pork market formula category. NPPC believes that the market would be better reflected by placing those animals in a separate category that reflects the true number of hogs, and the price of those hogs sold through negotiations each day, whether or not these negotiations result in a numerical price, or an agreement on how such a price will be established at delivery. NPPC doesn't know exactly how many hogs would fall in this new category, but feedback from market participants suggest it would be two to four percent of the total. This is not a lot, but it would represent a 50 to a 100 percent increase in the number of negotiated hogs.

The second change is to give USDA authority to include late day hog purchase in the following day's morning and afternoon reports to better represent the subsequent day's market conditions. One problem of the diminishing number of hogs sold through negotiated trade is the USDA's confidentiality conditions for publishing information. That is, that the sellers and the buyers not be able to be identified are now often not met for morning and afternoon purchased swine reports. But when that data isn't published, producers and packers don't know what is going on in the marketplace beyond their own actions and trades, so have no frame of reference for market conditions.

NPPC believes that hogs and purchases after the 1:00 p.m. reporting deadline are, in almost every instance, delivered the following day, and thus affect the next day's market, but those animals are not included in the next day's morning or afternoon report. Including them would reflect the current day's markets more clearly, and add to the number of trades and total volume of trades that are submitted to the USDA for reports. This would reduce the probability of violating the USDA's confidentiality conditions and increase the likelihood that USDA would publish complete reports.

The third change would be to recognize that mandatory price reporting system is an absolute essential to the U.S. pork industry, and ensure reports are published during any government shutdown. The price reporting system has established USDA as the authority on daily pricing and supply of hogs. The agency price reports, which have been published now for 15 years, are the essential information source for the U.S. pork industry. While they survived the October 2013 government shutdown, when the USDA stopped publishing price reports, pork producers did so very uncomfortably, with a lot of uncertainty.

The uncertainty about supplies and price has nearly caused significant disagreements over the values of pork products and hogs. Had the shutdown continued, NPPC believes there would have been major disruptions in commerce, and lingering legal challenges to actions taken by packers and producers during the information void. To avoid that, NPPC requests language to be included in reauthorization legislation deeming mandatory price reporting an essential service, or that the Committee take other action to ensure price reports are published during a shutdown, or a lapse in appropriation.

Finally, the NPPC opposes any new legislation or regulations that would restrict marketing opportunities for pork producers, and opposes any government intervention into hog markets, unless such action addresses a clear, unequivocal instance of market failure, or abuse of market power. Thank you again for the opportunity to discuss mandatory pricing and the reporting system. Thanks.

[The prepared statement of Mr. Heimerl follows:]

PREPARED STATEMENT OF JAMES R. HEIMERL, OWNER AND MANAGER, HEIMERL FARMS LTD.; DIRECTOR, NATIONAL PORK PRODUCERS COUNCIL, JOHNSTOWN, OH

Introduction

The National Pork Producers Council (NPPC) is an association of 43 state pork producer organizations that serves as the voice in Washington, D.C., for the nation's pork producers. The U.S. pork industry represents a significant value-added activity in the agriculture economy and the overall U.S. economy. Nationwide, more than 68,000 pork producers marketed more than 112 million hogs in 2013, and those animals provided total gross receipts of $23.4 billion. Overall, an estimated $22.3 billion of personal income and $39 billion of gross national product are supported by the U.S. hog industry. Economists Daniel Otto, Lee Schulz and Mark Imerman at Iowa State University estimate that the U.S. pork industry is directly responsible for the creation of more than 37,000 full-time equivalent pork producing jobs and generates about 128,000 jobs in the rest of agriculture. It is responsible for approximately 102,000 jobs in the manufacturing sector, mostly in the packing industry, and 65,000 jobs in professional services such as veterinarians, real estate agents and bankers. All told, the U.S. pork industry is responsible for nearly 550,000 mostly rural jobs in the United States. The U.S. pork industry today provides 23 billion pounds of safe, wholesome and nutritious meat protein to consumers worldwide.

Importance of the System and Timely Reauthorization

The mandatory price reporting (MPR) system for hogs and pork is one of, if not the singularly, most important service the U.S. government provides to the U.S. industry. The system made possible by the Livestock Mandatory Reporting Act of 1999 (LMRA) is the cornerstone of the marketing information used by pork producers, packers and users of pork products every day to price the products they buy and sell.

The system provides the information upon which the industry runs. Pork producers continue to need a transparent, accurate and timely national market reporting system to make knowledge-based business decisions about selling their hogs. Packers depend on the information as well, and packers and buyers of pork are now quite dependent on the data provided by the mandatory price reporting system for wholesale pork cuts, which was added the last time the act was reauthorized.

Timely and accurate information is important for a competitive market to function effectively. The MPR system is the primary source of such information for the U.S. pork industry.

The timely reauthorization of MPR before it expires on Sept. 30, 2015, is of critical importance to the pork industry. The U.S. Department of Agriculture's authority to gather and publish price information under the LMRA was allowed to expire in September 2004 when key lawmakers blocked action on reauthorization amid concerns about how the system was operated in its early years. The pork industry escaped serious harm during that hiatus when pork packers agreed to continue providing the required information to USDA even though the law was not in effect.

A far more serious disruption of the system occurred in October 2013 when the budget-induced government shutdown prevented USDA from gathering information or publishing reports for 2 weeks. The pork industry continued to function based on prices known immediately prior to the shutdown, but it was reaching a critical level of uncertainty about the true value of hogs and pork just as the budget standoff ended and USDA price reporters went back to work. Little long-term damage was done, but no one wants a repeat of that unfortunate experience.

LMRA needs to be reauthorized well before the Sept. 30, 2015, deadline to preclude any uncertainty for buyers and sellers of hogs from entering into contractual relationships. NPPC supports another 5 year reauthorization of LMRA.

Requested Changes to the LMRA and MPR System

Pork producers are requesting three substantive changes to the Livestock Mandatory Reporting Act in this year's reauthorization legislation. The section below explains the circumstances that are driving the requested changes.

Add a Purchase Category for Negotiated Formula Sales/Purchases

The original LMRA specified four types of purchase for hogs: Negotiated, Swine or Pork Market Formula, Other Market Formula and Other Purchase Arrangements. USDA established criteria for each of the categories that, though changed slightly through the program's life, have stayed generally constant, providing a known set of rules for industry participants.The market, however, has changed dramatically over the past 15 years. The most notable change has been the long-term decline in the proportion of total hog sales that are conducted through Negotiated trades. Today less than four percent of hogs are sold in the negotiated, or cash, market, and the number sold under some sort of alternative marketing arrangement continues to increase.

The decline in the number of hogs traded through Negotiated trades is not, in NPPC's opinion, the fault of the mandatory price reporting system. Any good reporting system should serve as a mirror that reflects the state of a market and any changes that are occurring. The system has done so with only one exception: hogs that are not committed to any packer on a long-term basis and whose price is determined by a formula negotiated on a lot-by-lot basis. USDA has always applied a rule that if a sold lot does not have a numerical price and a delivery date established, it is not a Negotiated trade. At present, any hogs that don't meet the price and delivery date criteria must fall in another category. Hogs for which a price formula is negotiated and agreed to on a lot-by-lot basis currently are included in the Swine or Pork Market Formula category.

NPPC believes the true market will be better reflected under the MPR system by placing these animals in a separate category that will reflect the true number of hogs and prices of those hogs that are sold through negotiations each day, whether or not those negotiations result in a hard and fast numerical price or an agreement on how such a price will be established on the hogs' delivery. No change is free of cost, but NPPC believes this one involves relatively minor programming changes at both the packer and USDA levels. NPPC does not know exactly how many hogs will fall into this new category, but anecdotal feedback from market participants suggests it would be two to four percent of the total. That is not a lot, but it would represent a 50 to 100 percent increase in the number of "negotiated" hogs.

Add a Provision to Include Late-Day Purchases in Subsequent Day Purchased Swine Reports

One problem that has arisen from the diminishing number of hogs sold through Negotiated trades is that USDA's confidentiality conditions for publishing information are now often not met for the morning Purchased Swine reports (LM–HG 202, 209, 205 and 211) and sometimes not met for the afternoon Purchased Swine reports (LM–HG 203, 210, 206 and 212). When data are not published in these reports, producers and packers do not know what is going on in the marketplace beyond their own actions and trades and thus have no frame of reference for market conditions.

Producers believe that hogs purchased after the 1 p.m. afternoon reporting deadline are, in almost every instance, delivered the following day and thus affect the next day's market. At present, those animals are not included in the next day's morning or afternoon reports. Including them would: (a) reflect the current day's market more clearly; and (b) add to the number of trades and the total volume of trades that are submitted to USDA for those reports, thus reducing the probability of violating USDA's confidentiality conditions and increasing the probability of USDA publishing complete reports.

Recognize That the MPR System is Essential to the Pork Industry

Finally, pork producers believe strongly that the Livestock Mandatory Reporting Act and the mandatory price reporting system clearly have established USDA as the authority on daily prices and supplies of pigs. Filling that role for the past 15 years has further established USDA's mandatory price reports as an indispensable information source for the pork industry. The addition of wholesale pork cuts to the system has only enhanced that position.

The MPR system is now essential to the smooth operation of the U.S. pork industry and to protecting and enhancing the economic positions of all participants. The industry survived the October 2013 government shutdown, but it did so uncomfortably and was beginning to face substantial uncertainty when the budget standoff was resolved and USDA's market reporters were called back to their important work. That uncertainty about market supplies and prices was on the verge of causing significant disagreements over the values of pork products and pigs. Had the shutdown continued, NPPC believes there would have been major disruptions to commerce and lingering legal challenges to actions taken by packers and producers during the information void. The fact that little harm came from the 2013 situation is not as important as what might have happened and how easily the situation can be prevented in the future by deeming MPR an essential service—because it is indeed essential to the U.S. pork industry.

Summary

NPPC appreciates Congress's foresight in establishing the MPR system in 1999 and in maintaining it since that time. The organization urges timely reauthorization of the system, with just three changes. First, create a category for Negotiated Formula purchases to better reflect the total number of hogs for which value is negotiated each day regardless of how buyers and sellers arrived at those prices. Second, give USDA the authority and direction to include late-day hog purchases in the following day's morning and afternoon reports to better represent that subsequent day's market conditions and to reduce the chance of information not being published because of the failure to meet USDA's confidentiality criteria. Finally, recognize that the MPR system is absolutely essential to the U.S. pork industry and ensure that it does not "go dark" during any future government shutdowns.

While NPPC recognizes and appreciate MPR's positive role in the pork industry, it opposes any new legislation or regulations that restrict marketing opportunities for producers. Further, NPPC opposes any further government interventions into hog markets unless such actions address a clear, unequivocal instance of market failure or abuse of market power. NPPC does not believe any industry conditions rise to that level of importance at the present time and urge Congress to limit any actions to the ones requested in this testimony.

The CHAIRMAN. Thank you very much. Mr. Pfliger?

STATEMENT OF BURTON PFLIGER, PRESIDENT, AMERICAN SHEEP INDUSTRY ASSOCIATION, CENTENNIAL, CO

Mr. PFLIGER. Thank you, Mr. Chairman and Ranking Member, for the opportunity to speak to you today. I am Burton Pfliger, a sheep producer from North Dakota, and President of the American Sheep Industry Association, the oldest national livestock association in America, dating back to 1865, and celebrating our 150th year representing farmers and ranchers of America.

Livestock mandatory reporting is very important to our industry, and we strongly urge Congress to reauthorize the LMR Act before September 30, 2015. The sheep industry has experienced consolidation, and the processing sector has become more concentrated. One dynamic that is different in our industry, compared to beef and pork, is that imported lamb makes up fully ½ of what is available to the U.S. consumer today. This fact alone makes LMR data critically important to our industry.

Another difference is the statutory authority regarding lamb in the LMR Act is only one sentence long, and provides USDA with much discretion in providing price reporting information. ASI commissioned a study of LMR for lamb to find out what was working, what needed to be improved. In December 2012 the Livestock Marketing Information Center delivered a report to us. I am submitting a copy for the record. We are also submitting the final set of recommendations we provided to USDA–AMS. Many of these issues raised in the report are very important to ASI, and we are optimistically confident that USDA will include these changes in the final regulations. In the interest of maintaining USDA's broad discretionary authority to implement mandatory price reporting for the lamb, we are not requesting statutory authority requiring USDA to implement these many changes, however, there are a few that provide direction to USDA, either statutorily, or in report language, would be most helpful.

Briefly, at the top of our list of enhancements that are needed for LMR reporting for lamb are, first, lower the reporting threshold for imported and domestic lamb. As I mentioned earlier, ½ of the lamb sold in America is imported, and with the current reporting thresholds, we do not have a reasonable market test of many of the cuts of imported lamb.

Second, revise the confidentiality rules that are in place, and/or provide some alternative methods for reporting prices as the processing sector becomes more concentrated. One of the cases where LMR reporting on lamb was not available was due to one firm not voluntarily agreeing to report data during a lapse in statutory authority reauthorization, with the 3/70/20 rule being applied. This incident demonstrated to us how close our industry operates with the 3/70/20 rule. Surely there must be ways to protect confidentiality, yet provide the full intent of LMR, as we look ahead to how business and market dynamics may change now and into the future.

Third, revise the definition of *packer owned,* and build some flexibility into the regulation that will provide for price reporting as marketing arrangements change within the industry. Today about 30 percent of the U.S. lambs are processed by one cooperative, and because of the intricacies of their business model, USDA will not allow LMR on these lambs, even though they are recorded transactions, and the cooperative wants to report. And finally, to ensure that USDA has the ability to issue reports even during times of lapse in appropriations, such as an emergency furlough.

In summary, Mr. Chairman, we urge reauthorization of the LMR Act prior to September 30 so that there will not be a lapse in price reporting. And I would be happy to answer any questions you may have.

[The prepared statement of Mr. Pfliger follows:]

PREPARED STATEMENT OF BURTON PFLIGER, PRESIDENT, AMERICAN SHEEP INDUSTRY ASSOCIATION, CENTENNIAL, CO

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to speak with you today. I'm Burton Pfliger, a sheep producer from North Dakota and President of the American Sheep Industry Association (ASI). ASI is the national trade association for the U.S. sheep industry representing the 80,000 farm and ranch families who raise sheep.

Our association celebrates its 150th anniversary this year. ASI and our predecessor, the National Wool Growers Association, have continuously advocated for sheep ranchers since 1865, meaning we are among the oldest national livestock organizations in America.

The sheep industry of the United States produces lamb and wool in every part of the country. The industry provides nearly a billion dollars in farm and ranch gate sales to the American economy, and is a mainstay of the many rural communities in which sheep ranchers and farmers are foundational members.

Livestock Mandatory Reporting (LMR) is very important to our industry and we strongly urge Congress to reauthorize the LMR Act before September 30, 2015. There is unity across the various sectors (production, feeding, processing) of the U.S. sheep industry that LMR is essential for timely and transparent marketing and pricing information. USDA does a good job with the voluntary reporting program conducted by the Ag Marketing Service/Market News Division that is complimentary to LMR but history has proved that voluntary reporting is not sufficient in today's marketing environment without LMR. I remember that as USDA was in the process crossing the hurdles of implementing LMR originally in 2001 and when reauthorization lapsed twice since, timely market information was not available to the sheep industry trade and irrational price volatility occurred that can easily be correlated to the lack of market information during those periods.

As with the hog and cattle sectors, the sheep industry has experienced consolidation and the processing sector has become more concentrated. One dynamic that is different for our industry compared to beef and pork is that imported lamb makes up half of what is available to U.S. consumers today. This fact alone makes LMR data critically important to our industry.

As you know, the statutory authority regarding lamb in the LMR Act is only one sentence long and provides USDA with much discretion in providing price-reporting information. Thus, all of the lamb price reporting requirements have been done by regulation. The regulation for lamb reporting has been amended once over the years (2008). As we have watched industry dynamics change and as all sectors of the sheep industry have become more dependent upon LMR information, ASI decided to commission a study of LMR for lamb—what is working, what needs improving, *etc.* In December of 2012 the Livestock Marketing Information Center delivered a report to us (I'm submitting a copy for the record.) and we began an 18 month process of meeting weekly at times with USDA's Ag Marketing Service to work through the issues raised in the report. We believe this was a very helpful exercise for our industry and I believe it also served to bring some needed attention to the LMR regulations for lamb by AMS. In mid-2014 ASI, in consultation with LMIC, sent final recommendations to USDA/AMS (I'm submitting a copy of this document also for the record.) While we were hopeful that a proposed amendment to the LMR regulation for lamb would be published, we understand now that this process will be considered once the statute is reauthorized.

Many of the issues raised in the report are very important to ASI and we are optimistic/confident that USDA will include these changes in the final regulations. In the interest of maintaining USDA's broad discretionary authority to implement mandatory price reporting for lamb, we are not requesting statutory authority requiring USDA to implement many of these changes. However, there are a few that direction to USDA (either statutorily or in report language) would be most helpful. Briefly, at the top of our list of enhancements that are needed for LMR reporting for lamb are:

Lower the reporting thresholds for imported and domestic lamb meat. As I mentioned earlier, half of the lamb sold in the U.S. is imported and with the current reporting threshold we don't have a reasonable market test of many cuts of imported lamb. With domestic reporting, the larger processors are getting larger and there are several mid-size processors going into business. We believe the addition of the mid-size processors will add valuable price information. With both imported and domestic thresholds, we believe it is important to look prospectively at industry trends rather than only historic size levels.

Revise the confidentiality rules that are in place and/or provide for some alternative methods for reporting prices as the processing sector becomes more concentrated. One of the cases when LMR reporting on lamb was not available was due to one firm not voluntarily agreeing to report during a lapse in statutory reauthorization with the 3/70/20 rule being applied. This incident demonstrates how close to the line our industry is using the 3/70/20 rule. Surely there must be ways to protect confidentiality yet provide for the full intent of LMR as we look ahead to how businesses and market dynamics may change.

Revise the definition of "packer-owned" and build some flexibility in the regulation that will provide for price reporting as marketing arrangements change within the industry. The U.S. sheep industry is not necessarily unique in that the marketing continuum is not as linear as it once was. Processors and their suppliers and even their customers are engaging in marketing arrangements that are different than they were 50, 25 or even 15 years ago when LMR was authorized. Today about 30 percent of the U.S. lambs are processed by one cooperative and because of the intricacies of their business model, USDA will not allow LMR on their lambs even though there are recorded transactions and the coop wants to report!

Ensure that USDA has the ability to issue reports even during times of a lapse in appropriations (aka an emergency furlough). During the last shutdown of USDA when there was a lapse of appropriations, the Secretary determined that LMR was not an essential function. Therefore even though reporting is required under the LMR Act, no reports were issued which caused great consternation in the industry. Although we believe that current statutory authority is sufficient to allow the Secretary to continue reporting during such times, we support efforts to ensure that this situation does not reoccur—either statutory language or otherwise as the Committee determines most appropriate.

In summary, Mr. Chairman, we urge reauthorization of the LMR Act prior to September 30th so that there is not a lapse in price reporting. In addition, although not raised in previous discussions on reauthorization of LMR, given the market changes that are occurring in the sheep industry I believe that it would be prudent for the Committee to consider requiring USDA to conduct a study and issue a report that would be due 1 year prior to the next reauthorization date. The report should require USDA to consult with the livestock industry and make recommendations on how to better and more inclusively accomplish price reporting in the current industry and market environment.

Thank you again for the opportunity to speak and I'll be happy to answer any questions.

ATTACHMENT 1

Analysis of Mandatory Price Reporting System for Lamb

By: Livestock Marketing Information Center
For: American Sheep Industry Association
Submitted: December 20, 2012

The U.S. sheep and lamb industry has been evolving for several decades; recently it has become more concentrated at all levels of the production system, especially beyond the farm gate. Livestock Mandatory Price Reporting (LMR) was implemented by the Unites States Department of Agriculture (USDA) in 2001, with data collection focused on the processing level. Due to LMR rules and regulations, as the industry has consolidated an increasing amount of lamb market data cannot be reported by USDA's Agriculture Marketing Service (AMS) and/or is at risk of not being reported if the industry continues to consolidate. This has reduced the amount of market information available to sheep and lamb producers and decreased market transparency compared to the early years of LMR.

In response, American Sheep Industry Association requested an analysis of the current LMR system for Lamb. In particular, this analysis addresses four key areas focusing on current LMR guidelines. These items are:

(1) What is the appropriate tonnage threshold for reporting imported lamb cuts?
(2) What variation of confidentiality rules (3/70/20 or other system) will assure continued weekly reporting?
(3) What system of pelt price reporting will assure reporting of pelt prices?
(4) Are the data categories and reports currently reported under lamb LMR appropriate for the future; are there categories that should be modified or added?

This analysis provides a review of current lamb marketing data that are frequently unavailable and discusses some potential remedies to help correct the issues in an effort to improve lamb reporting under LMR. In addition, other comments, suggestions and recommendations are provided based on discussions with USDA–AMS staff, industry participants, and university Extension Specialists. These proposals include updating regulatory guidelines to better reflect the current industry structure, changing report categories and descriptors to represent current marketing practices in effort to provide more accurate and usable market information, and consolidating reports and/or sections of reports (internal and external) to ensure market data can be reported.

In highly concentrated sectors such as the lamb and processing sheep industry, it is apparent periodic action needs to be taken to ensure useful market related data (*i.e.,* volume, price) are reported under LMR. This analysis may also offer some insight into issues that may arise under LMR as other livestock and meat industries become more consolidated. Examples are already being seen in LMR reporting of hog market data, particularly for sows and the reporting of regional barrow and gilt markets.

Background on Mandatory Price Reporting

The Livestock Mandatory Reporting Act (LMR) of 1999 was established to provide timely, accurate, and reliable market information on the marketing of cattle, swine, lambs and related products (*i.e.,* meat). It was apparent that markets were transitioning and the traditional voluntary approach to price reporting had become difficult and that negotiated cash transactions were being replaced by alternative marketing arrangements such as formula and contract-based pricing. LMR was intended to improve the price and supply reporting services of USDA and encourage competition in the marketplace for livestock and related products.[1] Since the act did not specify the requirements for lamb price reporting, AMS staff established the mandatory lamb price reporting program based on their knowledge of the industry and markets. During the development of LMR for lamb, many definitions, guidelines, regulations, etc. established for beef served as a base for LMR of lamb.[2] The program was implemented by USDA–AMS in 2001. The act is reauthorized every 5 years, at which time industry can propose changes and modifications to the program. These changes are designed to enhance the transparency of market information and price discovery.

According to LMR regulations, a lamb packer whose Federally Inspected (FI) plant slaughters or processes an average of at least the equivalent of 75,000 lambs each year for the prior 5 calendar years is required to report under LMR. A lamb importer required to report under LMR is defined as an entity that imports an average of 2,500 metric tons of lamb meat products per year during the preceding 5 calendar years. Those firms meeting these guidelines are mandated to report the required market data under LMR.[3]

The Act requires USDA to publish mandatory data on livestock and meat price trends, contracting arrangements, and supply and demand conditions in a manner

[1] USDA–AMS. Livestock Mandatory Price Reporting General Information, Background. USDA–AMS. *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&navID=LSMNMainRN2L2&rightNav1=LSMNMainRN2L2&topNav=&leftNav=MarketNewsAndTransportationData&page=MPRinfo&resultType=&acct=lsmn*. Updated September 2009.

[2] Per discussions with USDA–AMS market reporting staff. November 2011.

[3] Refer to USDA–AMS Livestock Mandatory Price Reporting General Information, Livestock Mandatory Reporting Act of 1999. USDA–AMS. *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&navID=LSMNMainRN2L2&rightNav1=LSMNMainRN2L2&topNav=&leftNav=MarketNewsAndTransportationData&page=MPRinfo&resultType=&acct=lsmn*. Updated April 2012.

that protects the identity of reporting entities and preserves the confidentiality of propriety transactions.[4] A key aspect of this requirement is the 3/70/20 confidentiality guideline which requires the following:

(1) At least three reporting entities need to provide data at least 50% of the time over the most recent 60 day period.

(2) No single reporting entity may provide more than 70% of the data for a report over the most recent 60 day period.

(3) No single reporting entity may be the sole reporting entity for an individual report more than 20% of the time over the most recent 60 day time period.[5]

When the 3/70/20 guideline is not met for a particular commodity, that data cannot be reported by AMS. Often times, this occurs for a specific category such as a market transaction type (*i.e.,* formula live basis) or product item (*i.e.,* New Zealand Rack, Frenched, Cap-off, 12 oz./down) and the report is issued excluding that particular data. However, in some instances the 3/70/20 confidentiality guideline can apply to the entire report and AMS cannot issue a report until the confidentiality guideline is met. This has become increasingly the primary issue with lamb LMR in recent years. Therefore, there are major two LMR regulatory issues impacting lamb price reporting: (1) the guidelines determining who is and who is not eligible to report under LMR; and (2) confidentiality regulations pertaining to how those parties' data are reported.

The following reports are reported under mandatory lamb price reporting by AMS (weekly unless stated otherwise):

(1) LM_*LM302 National Daily Lamb Report (Negotiated and Formula Purchases)—Domestic Only.*

(2) LM_LM304 Western Daily Lamb Report (Negotiated and Formula Purchases)—Domestic Only.

(3) LM_LM350 Weekly Premium and Discount Report.

(4) LM_LM351 National Direct Lamb Report.

(5) LM_LM352 National Slaughter Sheep Review.

(6) LM_LM353 Western Slaughter Sheep Review.

(7) LM_LM354 Western Weekly Premium and Discount Report.

(8) LM_LM355 Western Direct Lamb Report.

(9) LM_XL500 National 5 Day Rolling Average Boxed Lamb Cuts—Negotiated Sales.

  (a.) An internal monthly report is generated and provided at request.

(10) LM_XL501 National Daily Lamb Carcass Report.

(11) LM_XL502 USDA Estimated National Lamb Carcass Cutout (5 Day Rolling Average).

  (a.) An internal monthly report is generated and provided at request.

(12) LM_XL552 National Lamb Carcass and Lamb Cuts—Imported Product.

(13) LM_XL555 National Comprehensive Lamb Carcass Report.

In addition, AMS continues to provide a number of feeder and slaughter lamb reports under voluntary price reporting. These are typically state based auction data and generally not the subject of this analysis. However, one such report is included in this analysis. That report is the NW_LS443 Weekly Lamb Pelts Price Report, Free on Board (FOB) Major Production Points. Although voluntary, its importance to the industry (*e.g.,* role in USDA livestock risk protection program) has prompted industry support to include pelt reporting under LMR for lamb.

[4] USDA–AMS. Livestock Mandatory Price Reporting General Information, Background. USDA–AMS. *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&navID=LSMNMainRN2L2&rightNav1=LSMNMainRN2L2&topNav=&leftNav=MarketNewsAndTransportationData&page=MPRinfo&resultType=&acct=lsmn.* Updated September 2009.

[5] USDA–AMS. Livestock Mandatory Price Reporting General Information, Confidentiality Guidelines. USDA–AMS. *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN &navID=LSMNMainRN2L2&rightNav1=LSMNMainRN2L2&topNav=&leftNav=MarketNewsAndTransportationData&page=MPRinfo&resultType=&acct=lsmn.* Updated April 2012.

Sheep and Lamb Industry Overview and Implications for LMR

Structural Change

The U.S. sheep and lamb industry has seen a decline in the national flock over several decades. The decrease in numbers is due to a variety of factors, the most significant being increasing production costs, predator losses, and demand changes. Although modest flock expansion efforts and improved lambing efficiencies have occurred, these gains have not been enough to offset the decline. As a result, the lamb and sheep industry has evolved into a highly concentrated industry in regards to the feeding and packing/processing sectors. At the same time, the U.S. sheep and lamb sector has become more focused on specialty products when compared to traditional commodity sectors such as cattle/beef and hogs/pork.

On January 1, 2012, USDA's National Agricultural Statistics Service (NASS) reported the total sheep and lamb inventory at 5.35 million head. That was down 2% from 2011 and the smallest flock on record. Since the introduction of LMR in 2001, the U.S. sheep and lamb inventory has declined 23% or 1.56 million head. As a result, the available supply of slaughter lambs and lamb in the U.S. has been on the decline as well. In 2001, FI lamb slaughter totaled 3.1 million head; by 2011 this number had fallen to two million, a 35% decline over 10 years. In terms of lamb production, supplies have dropped more than 34% over the 2001–2011 period. In 2011, FI lamb slaughter posted the largest yearly decline in over 3 decades, down 12%. For 2012, LMIC forecasts for FI lamb slaughter is to be down 1% to 2% with slightly larger year-over-year declines (2–4%) projected in 2013 and 2014. The U.S. sheep and lamb industry continues to face the challenges of changing markets and of shrinking inventory numbers.

As the U.S. sheep and lamb flock has contracted, the industry overall has become more consolidated. This is most visible in the packing stage. The majority of lambs are processed by a smaller number of large entities under the FI system. These larger companies are those that are eligible to report under LMR. According to USDA's Grain Inspection, Packers & Stockyards Administration (GIPSA), the market share of the four largest lamb packers has been in the 65 to 70 percent range over the last 10 years.[6] The sheep and lamb industry has seen an increase in the number of smaller, commercial packing entities in response to local, niche and non-traditional market demand. This is evidenced in a slight decline in the relationship between FI and Commercial sheep and lamb slaughter. However, in 2011 around 93% of lambs were processed in a FI plant and subject to reporting under LMR. Since the implementation of LMR, three lamb packing/processing companies are no longer in operation, while one company was sold to another larger party.

Recent market structure changes in the sheep and lamb industry have occurred in response to declining supplies, increased production costs (*i.e.,* feedstuff prices, predator loss), and greater market volatility. In a longer term context, packing plant economies of size continue to be important. These changes have mostly been in the purchasing methods and types of lambs. Slaughter lambs are transacted between producers and packers under a negotiated purchase, formula marketing arrangement, or a forward contract (LMR transaction types). These marketing arrangements can be either on a live weight or carcass weight basis. For example, in April 2009, the volume of lambs sold under a formula live basis was not large enough to satisfy LMR confidentiality guidelines and therefore AMS could not report market data for this type of transaction. The decline in the volume of lambs sold as formula live has continued with this type of transaction essentially non-reportable due to lack of use by the industry. Similarly, the use of forward contract market agreements is limited due to LMR definition. When used in reference to live lambs, the term "forward contract" means an agreement for the purchase of lambs, executed in advance of slaughter, under which the base price is established by publicly available prices.[7] The limitation on these types of transactions is that there are not many publicly available prices for lamb compared to other commodities which have the option to utilize Chicago Mercantile Exchange futures prices.

Similar changes in market structure and marketing practices between packers and meat buyers are also evidenced in the wholesale lamb market. At the wholesale level, lamb is sold as a carcass or as boxed lamb. LMR for lamb is the only commodity that reports a wholesale carcass value price. The meat industry has seen a

[6] USDA–GIPSA. 2011 P&SP Annual Report. USDA–GIPSA. *http://www.gipsa.usda.gov/Publications/pub_psp.html*. March 2012.

[7] USDA–AMS. 2008 Livestock Mandatory Price Reporting Final Rule. USDA–AMS. *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&navID=LSMNMainRN2L2&rightNav1=LSMNMainRN2L2&topNav=&leftNav=MarketNewsAndTransportationData&page=MPRinfo&resultType=&acct=lsmn*. May 2008.

trend over the last 10 years of moving rather quickly away from selling meat carcasses to boxed product (*i.e.,* primal cuts). In more recent years, this trend has grown to include the marketing of case ready products. The reasons behind this trend include factors such as lower costs (*e.g.,* transportation) and buyer preferences. In the lamb sector, some trading of lamb carcasses continues, which is why it is reported under LMR. Many of these carcass transactions are directed toward smaller retail outlets, niche marketing programs, or custom breakers/processors. However, as the meat industry continues to evolve and the costs of meat processing rise, it is expected the number of parties and volume of lamb carcass transactions will decline as more lamb product is sold in boxed form.

In an effort to provide a supply that meets U.S. market demand, lamb meat is imported to supplement U.S. production. The U.S. is a net importer of lamb (*i.e.,* imports exceed exports) with Australia and New Zealand accounting for nearly all of total U.S. lamb imports. Lamb imports are greatest in the spring (*i.e.,* Easter) and again in the fall quarter (*i.e.,* Christmas). Imports of lamb tend to consist mostly of lamb racks, shoulders, legs, and loins and have a tendency to be priced at a premium relative to domestic lamb. Imported lamb is also viewed as a different product (*i.e.,* grass fed, consistent product size, *etc.*). In the last few years, import tonnage has decreased compared to prior years. This decline is due to several factors including: (1) contraction in Australian and New Zealand sheep flocks; (2) emergence of competing export markets (*i.e.,* Middle East, Asia); and (3) exchange rates. Over the last decade (2001–2011), the Australian flock has declined more than 30%, while New Zealand's sheep inventory has seen a 15% decline since 2006.[8–9] Since the implementation of LMR in 2001, lamb imports have increased about 20%, however in the last 5 years (2007–2011), imports have fallen nearly 20%.[10] As of this analysis, year-to-date lamb imports (through September) for 2012 were down over 4%. Further, declines in world sheep numbers, continued growth in export markets such as the Middle East and Asia, and changing currency exchange rates will continue to impact the available supply of lamb to be imported from Australia and New Zealand.

Additional Challenges of 2011–12

Market conditions in 2011 and in 2012 were more challenging compared to prior years. In the latter part of 2011, customer resistance to soaring wholesale and retail lamb meat prices pressured feeding and packing margins and filtered down the production chain, resulting in an adjustment of slaughter lamb market prices downward. In addition, mild winter weather supported lamb performance in feedlots. As a result, slaughter lamb marketings slowed and supplies increased, creating a backlog of lambs. At the same time, higher and more volatile input costs (*i.e.,* corn, fuel, hay) combined with the 2011 and 2012 droughts resulted in much higher production costs for producers.

Lambs on feed for a longer number of days can be a challenge to the industry as: (1) increased weights add to tonnage on the market as slaughter lambs are typically marketed as yearlings or younger; and (2) carcass quality declines. The negative impact on lamb quality from the mismanagement of slaughter lamb supplies over the last year damaged product demand. This in turn caused prices to decline even further into 2012. The situation was prolonged into the fall of 2012, longer than the industry expected and resulted in record average lamb weights and an increase in the available supply of lamb product.

In addition, the pelt the market experienced a "stand-still" due to larger supplies of low quality pelts, soft demand from weakening domestic and global (*e.g.,* European Union, China) economic conditions, and lackluster demand for pelt products during the mild winter. There remains quite a bit of uncertainty within the lamb market regarding the upcoming marketing year as the impacts of the worst drought in 50 years and ongoing volatile domestic and international economic conditions continue.

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[8] Australian Bureau of Agricultural and Resource Economics and Sciences. Ag Commodities Statistics 2011. Department of Agriculture, Fisheries, and Forestry. *http://www.daff.gov.au/abares/publications_remote_content/sewarch?sq_content_src=+dXJsPWh0dHAlM0ElMkYlMkYx NDMuMTg4LjE3LjIwJTJGYW5yZGwlM kZEQUZGU2VydmljZSUyRmRpc3Bs YXkucGhwJTNGZ mlkJTN EcGVfYWdjc3RkOWFiY2M wMDIyMDExMjFkLnhtbCZhbGw9MQ==*. December 2011.

[9] Beef + Lamb New Zealand Economic Service. New Zealand Sheep Trend. Beef + Lamb New Zealand. 2001. *http://www.beeflambnz.com/information/on-farm-data-and-industry-production/industry-production-trends/*.

[10] USDA–ERS. Livestock & Meat International Trade Data. USDA–ERS. *http://www.ers.usda.gov/data-products/livestock-meat-international-trade-data.aspx*. December 2012.

As of this analysis, the industry has become more current in the supply of slaughter lambs as average dressed weights have declined. Market prices have stabilized and should improve in 2013. Slaughter lamb supplies and dressed weights are expected to further decline in 2013. However, the impacts on consumer demand and the speed at which the industry can recover will determine how high slaughter lamb prices will move over the next couple of years.

An understanding of the prevailing market conditions in 2011–2012 is important because it highlighted the need for LMR review. "Mismanagement" of lambs in 2011–2012 prompted the need for certain types of lamb market data that were either prohibited due to confidentiality reasons or simply not included, for example (lambs committed, heavy lamb weight categories) under current LMR regulations. Lambs already committed to a packer for sale and prices for heavy lamb weight categories are two examples of LMR deficiencies that became apparent in the 2011–2012 market. It is important not to misconstrue the term "mismanagement." The term, in this context does not imply wrong doing, but simply that individuals, in the lamb feeding and packing sectors, acting in their own economic best interest, responding to market incentives led to market conditions that were detrimental to the broader lamb market.

Implications for LMR

The sheep and lamb industry has changed drastically in the decade since the introduction of LMR and does not easily fit within the established regulatory guidelines. Still, farmers require unbiased and publicly available market reports. As a result, current LMR confidentiality guidelines for price reporting do not allow AMS to publish some market data. This situation has not changed as of this analysis. Consequently, the amount of market information and data reported under LMR has declined with many LMR reports providing limited market data. Further consolidation in the number of packers and processors has a number of implications for the availability of LMR lamb data reporting.

As noted above, the lamb packing industry has become more concentrated since the implementation of LMR. Since 2001, three packing plants have exited the lamb packing/processing sector—Chiappetti (Chicago, Illinois), Rancher's Lamb of Texas (San Angelo, Texas), and Strube Packing Company, (Ballinger, Texas). Structural change resulting in increased consolidation of the meat packing sector was rather abrupt in 2010, when Superior Farms purchased Iowa Lamb Corporation and closed their Iowa facility the following year. This has reduced the number of parties eligible to report under LMR regulations. In addition as these smaller, commercial packing/processing operations grow in number, current LMR regulations will not capture those lambs marketed and processed by these companies. Most of these are small multi-species plants that process a rather small number of lambs. These small meat packing entities do not fall under current LMR reporting guidelines.

According to LMR regulations, a lamb packer is required to report under LMR if the company plant slaughters or processes an average of at least the equivalent of 75,000 lambs each year for the prior 5 calendar years. As discussed in the industry overview section, the sheep and lamb industry as seen a 35% decline in the number of available slaughter lambs over the last decade. This has also been reflected in the number of lambs processed by firms reporting under LMR Lamb. According to AMS staff, there are currently less than five parties reporting live slaughter lamb data under LMR. Those less than five entities are processing anywhere from 100,000 to 700,000 lambs on an annual basis. Current LMR threshold levels need to be adjusted to reflect the current status of the industry and likely trends. Currently, any LMR reports containing data on the purchase or selling of live slaughter lambs is at risk (*i.e.,* LM_LM302, LM_LM351, LM_LM352) if one of these companies were to exit the industry and/or there were no others identified to replace and/or include under LMR.

As the industry continues to reduce slaughter numbers and firms opt to either consolidate or exit the industry, those LMR reports regarding slaughter lamb market data (*i.e.,* LM_LM302, LM_LM351, LM_LM352) will be more than likely prohibited under current LMR confidentiality guidelines. In order to prevent this from happening, both the 3/70/20 guideline and threshold levels need to be reevaluated and adjusted to accommodate smaller industries with a higher degree of concentration. If the threshold level is modified lower in terms of both average number slaughtered or processed as well as the number of calendar years, it could provide an opportunity for some additional lamb packing entities to report under LMR. These potential lamb packing/processing companies once considered small at the beginning of LMR are now more reflective of the current lamb packing/processing sector in terms of slaughter capacity.

If the FI packer slaughter and/or processing thresholds were adjusted downward to a range of 35,000 to 55,000 lambs it would be in-line with the current status of the industry. It would also allow for some continued decline in sheep inventory or stabilization in numbers when market and environmental conditions improve.

There are a growing number of smaller local and regional lamb packers and processors. The number of lambs processed by these entities can range anywhere from 5,000 to the suggested 35,000 range minimum per year. It would be ideal to have these smaller packing/processing companies captured under LMR. However, the cost for reporting under LMR may be a burden to these smaller parties and would need to be assessed by AMS as required under the Regulatory Flexibility Act (RFA). Reducing the number of prior calendar years to a possible 2 or 3 years would also allow for LMR guidelines to be more reflective of current market structure and allow for the potential of additional lamb packers/processors to be included under LMR. These changes seem feasible given the decline in number of lambs processed since the implementation of LMR and the projected numbers going forward under LMR.

Current LMR slaughter/processor and importer thresholds were determined in accordance with the RFA. This Act requires government agencies to consider the economic impact of a proposed regulatory rule on small business entities, to analyze effective alternatives that minimize impacts on small entity, and to make their analyses available for public comment. The Office of Management and Budget (OMB) oversees this Act as well as reviews all proposed regulatory rules to guarantee there is minimal burden to small businesses and society.[11] A potential alternative to ease the impact on these smaller parties is to amend the LMR reporting requirements. In the 2008 LMR reauthorization, AMS amended the packer/processor threshold level lower in effort to capture more sow slaughter/processing companies under LMR for swine. These firms were smaller entities relative to those at the higher threshold level. To help minimize the additional cost burden, AMS reduced the LMR reporting requirement from having to report three times a day to once a day. With respect to LMR for lamb, reducing threshold levels from a daily to weekly basis many need to be considered in an effort to ease the burden on smaller parties.[12]

There is a growing number lambs in today's lamb industry that are being processed on a custom basis. These lambs are not captured in LMR data for live slaughter lamb market transactions or lamb carcass sales but are accounted for in those data for boxed lamb product sales. Under LMR regulations, the term "packer" means "any person engaged in the business of buying lambs in commerce for purposes of slaughter, of manufacturing or preparing meats or meat food products from lamb for sale or shipment in commerce, or of marketing meats or meat food products from lamb in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce." For any calendar year, the term includes only a FI lamb processing plant which slaughtered or processed the equivalent of an average of 75,000 head of lambs per year during the immediately preceding 5 calendar years. Additionally, the term includes a lamb processing plant that "did not slaughter or process an average of 75,000 lambs during the immediately preceding 5 calendar years if the Secretary determines that the processing plant should be considered a packer after considering its capacity." [13]

AMS does not have a definition for custom slaughtered livestock. However, in the 2000 final rule for LMR there was a question pertaining to the definition of type of purchase which addressed custom processing. The question was "One commenter expressed concern regarding the definition of the term 'type of purchase'. The commenter included as an example a packer who serves only as a 'custom' processor of a producer's swine and does not take ownership of the swine. The commenter wondered how such arrangements would be reported and how other new and innovative methods would be reported." AMS's response was "As defined, 'type of pur-

[11] USDA–AMS. 2008 Livestock Mandatory Price Reporting Final Rule. USDA–AMS. *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&navID=LSMNMainRN2L2&rightNav1=LSMNMainRN2L2&topNav=&leftNav=MarketNewsAndTransportationData&page=MPRinfo&resultType=&acct=lsmn*. May 2008.

[12] USDA–AMS. 2008 Livestock Mandatory Price Reporting Final Rule. USDA–AMS. *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&navID=LSMNMainRN2L2&rightNav1=LSMNMainRN2L2&topNav=&leftNav=MarketNewsAndTransportationData&page=MPRinfo&resultType=&acct=lsmn*. May 2008.

[13] Refer to USDA–AMS Livestock Mandatory Price Reporting General Information, Livestock Mandatory Reporting Act of 1999. USDA–AMS. *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&navID=LSMNMainRN2L2&rightNav1=LSMNMainRN2L2&topNav=&leftNav=MarketNewsAndTransportationData&page=MPRinfo&resultType=&acct=lsmn*. Updated April 2012.

chase' refers only to those purchases of swine by a packer from a producer. In the commenter's example, the packer never 'purchases' the swine from the producer and therefore would not be required to report that as a transaction. AMS does not believe this suggestion merits a change in the definition of the term 'type of purchase' nor does AMS believe that reporting custom slaughter costs was contemplated by the Act."[14] Although this refers to LMR for swine, AMS does apply the same rules, regulations, and reason to all LMR livestock reporting. Thus this would apply to LMR for lamb. Since an increasing number of lambs are being processed under a custom slaughter arrangement, a review of the accounting for custom livestock processing under LMR definition for 'type of purchase' or other transaction type should be considered.

The types of, and changes in, slaughter lamb marketing practices and transactions are a result of the structural changes that have occurred in the industry since 2001. These changes are expected to continue as the industry becomes more concentrated over time. A more concentrated industry impacts what types of market data can be reported and how those data will be pertinent to the industry under LMR.

For example, the data reported in the LM_LM351 National Weekly Direct Lamb Report the "Prior Week Slaughter Head Count, Domestic, Forward Contract" category has become, essentially, nonexistent. This also applies to the "Prior Week Slaughter Head Count, Imported Forward Contract" and "Prior Week Slaughter Head Count, Imported, Formula Arrangements" categories. Since 2001, in LM_LM352 National Weekly Slaughter Sheep Review the number of slaughter lamb transactions between producers and packers on a Formula Price, Live Basis has declined. Based on discussions with AMS staff lambs sold on a formula live basis (as defined under LMR) has decreased significantly and, on average, may represent about 1% to 2% of the total number of slaughter lamb transactions reported under LMR. This category as of mid-November 2012 is now being reported as "No reportable trades" revealing the lack of use by the industry. Likewise, other categories such as "Negotiated Dressed Sales" and "Imported" categories for both Negotiated and Formula purchase lambs have seen data essentially cease due to a lack of reportable trades.

One reason for the lack of data reporting is that the LMR forward contract definition does not allow for the reporting of these types of transactions for slaughter lambs. As defined, when used in reference to live lambs, the term "forward contract" means an agreement for the purchase of lambs, executed in advance of slaughter, under which the base price is established by publicly available prices.[15] Because the issue is the lack of publicly available prices for lamb, it would serve the sheep and lamb industry better for the LMR definition of a forward contract to be either amended or replaced with another transaction definition. For comparison, the cattle and hog industries have publicly available prices, like the CME futures prices, on which to base a forward contract. The lack of a publicly available price in the lamb industry means that the standard forward contract definition is ineffective for the lamb market.

In regards to the absence of data on imported live slaughter lambs over time, most imports are in carcass or box (*i.e.,* lamb cut) form. This has been an ongoing trend for the past decade and one that will continue as the industry becomes more cost effective and efficient in meeting lamb demand. The sheep and lamb industry does not import live slaughter lambs, as is common practice in the cattle and hog industries, and is common in price reporting for those commodities.

In the 2008 reauthorization, AMS deleted the definitions for the terms "lambs committed" in an effort to reduce the reporting burden on lamb packers.[16] However, given the industry supply and market related issues of 2011 and 2012 (*i.e.,* backup of slaughter lambs) a possible replacement definition may be needed. As defined for cattle under LMR, the term "cattle committed" means cattle that are scheduled

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[14] USDA–AMS. Livestock Mandatory Reporting, Final Rule. Federal Register. *https://www.federalregister.gov/articles/2000/12/01/00-29987/livestock-and-grain-market-news-branch-livestock-mandatory-reporting#h-104*. December 2000.

[15] USDA–AMS. 2008 Livestock Mandatory Price Reporting Final Rule. USDA–AMS. *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&navID=LSMNMainRN2L2&rightNav1=LSMNMainRN2L2&topNav=&leftNav=MarketNewsAndTransportationData&page=MPRinfo&resultType=&acct=lsmn*. May 2008.

[16] Refer to USDA–AMS Livestock Mandatory Price Reporting General Information, Livestock Mandatory Reporting Act of 1999. USDA–AMS. *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&navID=LSMNMainRN2L2&rightNav1=LSMNMainRN2L2&topNav=&leftNav=MarketNewsAndTransportationData&page=MPRinfo&resultType=&acct=lsmn*. Updated April 2012.

to be delivered to a packer within the 7 day period beginning on the date of an agreement to sell the cattle. Thus, for lambs, the term "lambs forward priced" would mean lambs that are scheduled to be delivered to a packer within the 7 day period beginning on the date of an agreement to sell the lambs. This term, or definition, would better reflect current marketing transactions of slaughter lambs and provide the industry with information on the number of forward priced lambs for delivery at a future point in time. Since USDA–NASS does not report a monthly Lambs on Feed report as it does for cattle, reporting the number of lambs forward priced would provide some insight into this important sector of the sheep and lamb industry. It is possible that the 7 day period as it is applied to cattle committed may not be appropriate for slaughter lambs. The time period would need to be evaluated with a possible committed period of 14 day or 21 days more reflective of current marketing practices.

The emergence of the non-traditional and the natural, organic, local, and other niche markets has created a greater demand for light weight carcasses that may not be fully included in the current weight category data for slaughter lambs. Likewise, there is a continued demand for heavier weight lambs for markets that demand a specific lamb cut size (*i.e.,* minimum loin eyes sizes), while improvements in sheep genetics have allowed for heavy weight lambs with high yielding caresses.

The events of 2012 market supply issues resulted in a much heavier slaughter lamb carcass weights that were beyond the reporting range on the LMR reporting forms. The effects of these market changes and events in terms of lighter and heavier lamb/carcass weights and their impacts on slaughter and lamb meat prices are probably not being fully captured in current LMR lamb reporting. These slaughter lamb and carcass weight trends are expected to continue.

There are concerns regarding the usefulness of the carcass data reported (LM_XL501 National Daily Lamb Carcass Report and LM_XL555 National Weekly Comprehensive Lamb Carcass Report). AMS expects parties to report data as required by LMR rules and guidelines as designated on the reporting form categories. Based on individual company business practices, the data received by AMS spans from very detailed *i.e.,* specific yield grade and carcass weight category to rather broad *i.e.,* lot basis where "lot" refers to a large number of lambs averaged together, two or three weight categories. When the data received varies greatly so that some data is too wide-ranging then AMS must adjust the data avoid the complete loss of the information. For example, when a packer submits LMR data for carcass lots covering multiple weight ranges, AMS proportionately divides the volume into applicable weight categories. As a result, the data is not as representative of the market because the actual sale data does not fit in the reporting categories established under LMR. The reported prices for each carcass category and the differences between each carcass weight categories may be more or less than currently reported. This influences the amount of or lack thereof of the price volatility of lamb carcass prices and may be an issue as the industry moves towards value based pricing of slaughter lambs.

As the industry has consolidated, selling lamb in the box as a primal, or case ready cut, rather than a whole carcass has become a more widely employed practice. The need for carcass price, or value, reporting may not be as important as when LMR was implemented. As the industry moves to a more boxed market and case ready market, AMS review of the calculations (*i.e.,* industry cutting yields, *etc.*) used to determine the estimated carcass cutout (LM_XL502 USDA Estimated National Lamb Carcass Cutout) may be needed more often to reflect those changes taking place in the lamb packing sector. Whether or not these reviews result in any adjustments, review is needed because factors used to estimate the lamb cutout have not been updated for some time despite industry changes in terms of carcass size.

In conjunction with the trend to more boxed and case ready product, the growth in company or program type branded products continues in the meat and lamb industry. Currently, LMR reports data for carcass sales identified as "Certified Fresh American Lamb" (LM_XL555 National Weekly Comprehensive Lamb Carcass Report). Since the report was introduced, there has been a decline in the number of carcass sale data for this product category, with essentially no data reported since 2008. Given the lack of and/or incomplete data, this category may no longer be needed and/or not representative of current industry practices. However, the industry continues to work on marketing strategies for U.S. lamb and "Certified Fresh American Lamb" could be a strategy that may be reintroduced or further developed. Whether or not this is a branding strategy that is expected to grow in popularity long-term may determine the importance of this category to the industry and if it should continue to be reported under LMR Lamb.

Imported lamb data (LM_XL552 National Weekly Lamb Carcass and Lamb Cuts—Imported Product) show the number of firms currently eligible to report under LMR has been rather consistent in terms of meeting or not meeting the confidentiality guidelines in terms of number of parties, threshold levels, and average years. For the most part, these guidelines are frequently met and data reported mostly with respect to Australian product data. But, this is not the case with New Zealand import data which, for the majority of data received, is currently being limited due to 3/70/20 LMR confidentiality guidelines. Looking ahead, if any importing company currently under LMR were to cease operations, import less than the current import volume threshold, and/or import volumes continue to decline, as seen since in the past 5 years, reporting of import data could be in jeopardy.

According to discussions with AMS staff, there is one entity that is providing all or most of the data for the majority of the time for New Zealand lamb imported into the U.S. As a result, the 3/70/20 guideline prohibits specific import product data (*e.g.,* New Zealand Rack, Frenched, Cap-off, 12 oz./down) from being reported. Because of the seasonal aspects of lamb demand and production, at times, data can be reported under the current confidentiality guidelines when there are more parties importing specific New Zealand lamb cuts (*e.g.,* Easter). This issue also applies to Australian product at times as well. As a result, the data is often disjointed due to the inability to report on a weekly basis. Total imported volume (fresh and frozen) reported is not an issue because it includes both Australia and New Zealand product.

There are, in essence two primary issues prohibiting imported lamb product data from being reported. The first is the average import amount threshold and the second is the 5 year time threshold. Lowering the imported average amount threshold should be considered. Another option is to change the guideline from the past 5 years to 2 or 3 years to better reflect current and future import volumes. Although, lowering the import threshold or average number of years will not eliminate the problem of only one firm importing a particular product (*i.e.,* rack or leg) and/or the primary source of the product (*i.e.,* Australia or New Zealand). It will, however, reflect current declines in import tonnage and preempt any future impacts of continued reductions as these two countries focus on other emerging export markets. AMS's practice of providing detailed market data may not be ideal for imported lamb product. In this instance the report may be too narrow in the type and amount of data to be reported, contributing to the inability to report data. Thus, a possible solution would be to make the report more broad in an effort to meet the confidentiality guidelines and provide more data, making it a more valuable report.

LMR Lamb Market Reporting Analysis and Discussion

The number of entities eligible to report under LMR guidelines continues to decline. As a result the amount of market information and data reported under LMR has been reduced and may not be reportable if further consolidation in the number of packers and processors continues. In some instances data for specific categories cannot be reported, while in other cases, for some reports, confidentiality guidelines prohibit the publication of an entire report.

1. Those reports for which confidentiality of data prohibits the publication of an entire report are as follows:

a. LM_LM302 National Daily Lamb Report (Negotiated and Formula Purchases)—Domestic Only

The National Daily Lamb Report (LM_LM302) is subject to not having enough trades slaughter lamb trades on a given day to meet LMR confidentiality guidelines. Thus, the report varies on a daily basis in terms of when the 3/70/20 rule is met. In adjusting the threshold levels of the number of lambs slaughtered and the average time period, there is the possibility of identifying more parties that would be eligible to report under LMR. This should help in satisfying the confidentiality guidelines by including more parties and trades, and therefore reporting of data. However, because it is a daily report, as the industry continues to consolidate the issue of not enough trades to meet the LMR confidentiality guidelines could continue. To avoid this possibility, this report could be modified into a weekly report, in which the data is compiled over a 5 day period *versus* daily. This would be considered a "whole report" and under current LMR regulations, if a weekly report existed it would meet current confidentiality guidelines. Therefore, for the short term, a weekly report would eliminate the issue of not meeting guidelines and allow data to be reported. Long term, changing this to a weekly report and adjusting LMR eligibility regulations downward to increase the number of parties and trades, would help ensure the data can continue to be reported.

b. LM_LM304 Western Daily Lamb Report (Negotiated and Formula Purchases) Domestic Only

c. LM_LM353 Western Weekly Slaughter Sheep Review

d. LM_LM355 Weekly Western Direct Lamb Report

For the three reports listed above, the confidentiality issue arose when in 2010 Superior Farms purchased Iowa Lamb Corporation and closed the Iowa slaughter facility in 2011. This left two parties reporting data and prohibited publication under the 3/70/20 guideline. Reporting ceased in mid-November 2010 for the three reports identified above as b, c, and d. At this time, given the number of slaughter entities and ongoing industry consolidation, any possibility of the three reports above being able to meet current confidentiality guidelines is highly unlikely. The ability to meet the confidentiality rules for the daily report (LM_LM304) is even more improbable. Any changes to the entity threshold level in either the number of lambs slaughtered or average time period may help to identify other potential firms that purchase lambs in the western region. However, if no other parties are identified, these three reports will be prohibited because there are only two companies eligible to report data in the western U.S.

2. The reports for which confidentiality of data prohibits the publication of specific categories or items is as follows:

a. LM_XL552 National Weekly Lamb Carcass and Lamb Cuts—Imported Product

According to discussions with AMS staff, there is one entity providing all or most of the data for the majority of the time for New Zealand lamb imported into the U.S. As a result, the 3/70/20 guideline prohibits specific import product data, for example New Zealand Rack, Frenched, Cap-off, 12 oz./down from being reported. In 2009 (report began in mid-2008), 20 different product items out of a total of 41 New Zealand products listed were reported (0–21 days category). Of that total, four were fresh items, with the remaining 16 items frozen. No item was reported consecutively during the year. In 2011, there were a total of 18 product items reported for New Zealand, with frozen items again accounting for 16 of the total and none being reported for every week in the given year.

The approach by AMS has been to provide detailed market data. However, this approach is more than likely constraining this report because it may be too narrow in the type and amount of data of product categories reported. A possible and rather reasonable solution would be to make the report more wide-ranging in an attempt to meet the confidentiality guidelines and provide more data, making it a more functional report. The options for a more broad based report that may improve the amount of data reported include:

(1) Discontinue the separation of Australia and New Zealand combining the two countries into one regional category called Oceana. The combination would help to eliminate the current issues of only one reporting party for any country and/or product items. Analysis by AMS staff shows that even when the two countries are combined, there are times when there is still one party importing the majority of a product and prohibited under the 3/70/20 rule.

(2) Continue the separation of Australia and New Zealand, but combine fresh and frozen product. Again, the issue of one party being the major importer continues to arise for some products and times of the year.

(3) Combine Australia and New Zealand into one category (Option No. 1) and combine fresh and frozen product. Based on AMS staff analysis this does help in meeting LMR guidelines and allowing for some more data to be reported.

(4) Reevaluate the current product categories for (a) current import product descriptors and (b) reduce the number of product item categories that pertain to one meat cut such as racks. Currently there are 13 different meat item categories for Australian racks and 11 for racks imported from New Zealand. There are also 44 different product categories for Australian items and 41 for New Zealand. Making the categories more wide-ranging could result in more data reported.

(5) Combine Option No. 3 and Option No. 4.

In regards to the options listed above, data prohibition due to the 3/70/20 rule will continue under Options No. 1 and No. 2, and less often under Option No. 5. Analysis of Option No. 5 which combines countries, fresh and frozen product, and reduces the number of product categories indicates that it would help in meeting the 3/70/20 guideline. However, for some product items it still remains rather close due to one party still dominating the import volumes for particular product items.

3. Current reports for which data is not being reported due to changes in market structure and/or irrelevance to the sheep and lamb industry are

as listed below with further explanation and discussion pertaining to each report.

a. LM_LM302 National Daily Lamb Report (Negotiated and Formula Purchases)—Domestic Only

A recommendation for this report is to expand the number of live and carcass weight ranges reported. According to AMS staff, a 170 pound and heavier category for slaughter lambs sold as a "Negotiated Purchase, Live Basis" is already in process. However, for "Formula Purchases, Carcass Basis", nothing has been addressed. It is suggested an additional formula purchased weight category of "95 pounds and over" be added. This would require changing the current weight category of "over 85 pounds" to "85–95 pounds." This would provide data for very heavy weight carcasses that are being directed to markets demanding a minimum product size, genetics that allow for heavier weight, and higher yielding lambs, and for those lambs whose carcass quality and yield are often times discounted. This change would allow for more pricing data according to lamb weights as the industry potentially moves towards value based pricing of slaughter lambs. Based on discussions with AMS staff, the burden of such a change on both lamb packers/processors and AMS staff is rather minimal.

b. LM_LM351 National Weekly Direct Lamb Report

As discussed above regarding LM_LM302 National Daily Lamb Report (Negotiated and Formula Purchases)—Domestic Only, recommendations regarding the addition of a heavier formula carcass weight category would also apply to the National Weekly Direct Lamb Report. Another category change for consideration is the "Prior Week Slaughter Head Count, Domestic, Forward Contract." The last time data was reported for this category was in May 2004, with the only year to have weekly consecutive data being 2002. This also applies to the "Prior Week Slaughter Head Count, Imported Forward Contract" and "Prior Week Slaughter Head Count, Imported, Formula Arrangements" categories. Data for imported forward contracts were only reported four times; all occurring during 2001 and 2002, since then nothing has been reported. For imported formula arrangements, the last time data was reported was in December 2003, with weekly consecutive data only reported from 2001 through May 2003. Since data, largely, has not been reported in the last 10 years it would suggest these categories may no longer reflect current marketing practices and are not as beneficial to the industry compared to when LMR began.

c. LM_LM352 National Weekly Slaughter Sheep Review

Because it is a weekly report, LM_LM352 continues to meet LMR confidentiality guidelines. However, further industry concentration in the number of lamb packers/processors, as well as continued declines in inventory levels, will put LM_LM352 at risk. At this time, the concerns are in regards to categories that may no longer reflect current marketing transactions and may not be needed.

Based on discussions with AMS staff, lambs sold on a formula live basis have declined significantly and, on average, may represent only 1% to 2% of the total number of slaughter lamb transactions reported under LMR. In 2009, the number reported had fallen so low that data on these types of transactions could not be reported. Consistently, since the beginning in April 2009, no transactions have been reported for formula live slaughter lambs due to lack of compliance with 3/70/20 guidelines. This category, as of mid-November 2012 is not being reported as "No reportable trades" reflecting the lack of use by the industry.

The "Negotiated Dressed Sales" category has been reported as "No sales reported" since August 2008 with data reported inconsistently since the beginning of LMR. Weekly data was reported steadily from 2001–2003, but since has declined. Data was reported in 2004, for 1 week in 2005, 8 weeks in both 2006 and 2007. Negotiated dressed sales were last reported in 2008. The lack of data in recent years implies negotiated dressed sales are no longer being utilized by the sheep and lamb industry by any significant amount current LMR guidelines and/or in general practice. Therefore, this category may not be needed. If threshold levels were adjusted lower, it may still not have a large enough number of reportable trades. This type of marketing transaction may not be used much and eliminating it may better represent current industry marketing practices.

Data for the "Imported Negotiated Purchase" category essentially stopped late May 2003. However, in mid-April 2011 data was reported for 2 consecutive weeks. This was the first time in 7 years and data has not been reported since due to insufficient trades. "Imported Formula Purchase" data was reported during the first few years of LMR but ceased in June 2003 due to no reportable trades. As discussed in prior sections these categories may no longer be necessary given the lack of reportable data and the absence of importing significant numbers of slaughter lambs.

d. LM_XL501 National Daily Lamb Carcass Report

This report continues to meet LMR confidentiality guidelines. As a daily report, continued industry consolidation may eventually lead to a lack of enough trades to meet the LMR confidentiality guidelines. The corresponding weekly report (LM_XL555) would likely continue to meet the confidentiality guidelines (a "whole report" being weekly vs. daily). However, for the long term, changing structure of the sheep and lamb sector, adjusting LMR regulations to include more firms or the confidentiality rule would help in data continuing to be reported.

The data received by AMS for this report ranges from very detailed in specific yield grade and carcass weight to rather general by lot basis only and two or three weight categories. The report provides carcass sales data based for six carcass weights, in 10 pound increments (*i.e.,* 45-down, 45–55 pounds, *etc.*). But, if one party submits carcass sales data only for 65 pound-down and 65-up, in order to report the data in 10 pound increments the data has to be modified by AMS. When data that is too wide-ranging is received AMS proportionately divides the volume into applicable weight categories to avoid the complete loss of the information. As a result, the data is not as representative of the market because the actual sale data is not in accordance with the reporting categories established under LMR. The reported prices for each carcass category and the changes between each carcass weight categories may be more or less than currently reported.

e. LM_XL502 Estimated National Lamb Carcass Cutout

The last time AMS reviewed and updated the calculations used to determine the estimated carcass cutout was in April 2006. Likewise, in April 2006 was the last time a reassessment of the process/packaging per hundredweight cost used to approximate a net carcass value to depict current industry practices. An earlier process cost assessment was performed in January 2002 following the introduction of the report under LMR in October 2001. Whether or not this reassessment results in any changes, a timelier evaluation (such as every 2 or 3 years) appears to be needed given the rate of changes taking place in the lamb packing sector.

f. LM_XL555 National Weekly Comprehensive Lamb Carcass Report

This report is based on the LM_XL501 report and, the same issues apply. If reporting entities (current and future) were to provide more detailed data (*i.e.,* 10 pound weight incremental data) or AMS was to be more stringent in reporting requirements accuracy and reliability of the data would improve. Similarly, as the industry consolidates, the practice of selling lamb in the box as a primal or cut and as case ready instead of as a whole carcass becomes a more generally employed practice, this report will probably be at risk of not meeting LMR guidelines. More than likely, report loss will be the result of fewer companies eligible to report. Adjusting the threshold will help to identify more eligible reporting parties under LMR and help to avoid prohibition of reporting due to the 3/70/20 guideline.

Discussions with AMS staff indicated that since the report was introduced, there has been a decline in the number of carcass sale data submitted as "Certified Fresh American Lamb." The report started in August 2006 with only the number of head being reported. The last time data was reported was in July 2008. Thus for this category only 2 years of limited data has been reported. Given the lack of and/or incomplete data, this category may no longer be necessary.

g. LM_LM350 National Weekly Carcass Premiums and Discounts for Slaughter Lambs

This report is currently not available on the AMS website as AMS staff have determined this report of little value given the amount of data reported, the current grading system for lamb, and the lack of data that can be reported. The majority of lamb carcasses grade as Choice and Prime, Yield Grade 1–4. At this time, the industry has not adopted value based pricing on a large scale. Industry participants have added value based pricing are either below the LMR threshold levels or are providing small amounts of data. Based on a report run from October 1 through mid-November 2012, the only data that was or could be reported over that 45 day period were two quality discounts and one yield discount. All three items reported had the same value. This report in terms of data reported is reflective of past reports. Also, these discounts reflected the issues of the past year in terms of heavy weight, over finished lambs, old crop lambs. In this case, the recommendation is to readdress this report once the industry reexamines the lamb carcass grading system and/or adopts value based marketing on an industry wide basis.

Following the market collapse of 2012 the industry has renewed interest in value based marketing and other changes to try to prevent a re-occurrence of 2012 market conditions. This report provides the mechanism to report premiums and discounts should industry changes occur. It is possible that this report could become more important in the future.

h. Other Items

Under the 2008 reauthorization of LMR, the industry requested and AMS approved requiring packers to submit information on their carcass purchases.[17] This information is intended to capture data for firms that only purchase lamb carcasses, for example breakers or custom slaughter agreements for which the only data captured previously under LMR for these types of entities is on wholesale lamb cuts volume and prices. The intent was to create a report to accompany the LM_XL501 National Daily Lamb Carcass Report and LM_XL555 National Weekly Comprehensive Lamb Carcass Report. However, after a review of the additional data collected, AMS staff determined the report was not providing any new or additional information. Several reasons were cited including: (1) low volume of data reported; (2) those reporting entities cannot determine and/or agree upon a FOB price; (3) very little difference and redundancy in the data collected compared to that already reported in the LM_XL501 and LM_XL555 reports; and (4) not providing any additional new information. In an effort to improve upon LMR for lamb and minimize any issues that may arise from either reporting parties and/or AMS if there are future changes in the type of data or collection process that may arise in the next reauthorization it is suggested that the collection of this data be discontinued.

Lamb Pelt Market Price Reporting

Similar to the lamb market, the pelt market and pelt marketing practices have changed over the past decade. Lamb pelt prices are reported by AMS under the voluntary market reporting program. In recent years, changes in the method lamb pelts are traded have been a factor in reported prices becoming increasingly static. In the spring of 2012, pelt prices were not reported for several consecutive weeks. Non-reporting was due to a number of factors, one being a relatively small number of firms trading in the wholesale pelt market. Because pelt prices are under the voluntary market reporting program, data is not subject to any confidentiality or regulatory guidelines.

Background: Lamb Pelt Market

Pelt value determinants have and continue to change as the world market for wool-on pelts and lamb leather continues to evolve and adapt to changes in technology and consumer demand. Like wool, pelts are not very perishable and can be stored at various levels of processing for at least several months. However, pelt processors try to manage supplies as fashion trends change rapidly and late-product processes tend to limit flexibility in finished products, while large supplies damper prices. Pelt quality is negatively impacted by factors related to pelt size. Pelt size is affected by heavy weight lambs. The majority of U.S. pelts and finished pelt products are exported to cold climate markets as U.S. pelts are best suited for cold climate apparel. Current industry descriptors for lamb pelt prices vary and industry transaction practices may not be captured in current pelt reporting by AMS.

Currently, under voluntary price reporting method, pelt prices are those reported between packer and pelt processor/wholesaler. On a weekly basis, AMS reporters contact industry pelt packers/sellers and processors/buyers for their transactions prices. Consolidation in the industry has reduced the number of companies available and willing to report to AMS. This presents a challenge in that those pelt processors/wholesales may not be accessible to provide data to AMS in a timely manner for the weekly report or may opt not to provide data if they know they may be the only party reporting data. Because this is a voluntary report the LMR confidentiality regulations do not apply.

Pelt Price Reporting: Analysis and Discussion

There are many issues surrounding the current AMS reporting of lamb pelt prices. Those issues include (1) increasingly small number of data source entities, (2) outdated pelt category descriptors, (3) variability of pelt classifications among in-

[17] Refer to USDA–AMS Livestock Mandatory Price Reporting General Information, Livestock Mandatory Reporting Act of 1999. USDA–AMS. *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&navID=LSMNMainRN2L2&rightNav1=LSMNMainRN2L2&topNav=&leftNav=MarketNewsAndTransportationData&page=MPRinfo&resultType=&acct=lsmn*. Updated April 2012.

dustry, and (4) quality of data. These issues are ongoing challenges for AMS and the industry regarding pelt price reporting.

The pelt price reflects the price paid by pelt processors/wholesalers to the lamb packer. There are a relatively small number of pelt processors/wholesalers in the U.S. It is likely that the number of processors with decline as the industry becomes more concentrated. The prices reported to AMS vary across reporting parties as some are based on quality, some are an average lot price, while others are a contract price which may span a rather long period of time from 6 months to a year. These differences can impact reported pelt prices causing prices to be higher or lower than the market is actively trading resulting in rather wide price ranges. In conjunction, as the pelt market has evolved, quality grading and pelt transaction methods have changed and they vary among all market parties. For example, the use of “pelt credits” has increased. However, the definition of what is a “pelt credit” varies between individual parties, the industry, and AMS. In regards to contract prices, AMS does not include nor expects to include those prices as current pelt reporting is for spot market transactions. This further complicates matters in regards to reporting a pelt price that best reflects today’s pelt market.

Under current LMR guidelines, lamb packers are required to report the pelt type on lambs purchased under a negotiated purchase, formula marketing arrangement, or forward contract (AMS reporting form LS–121). Given the issues surrounding the current pelt reporting process a plausible solution is to change from collecting pelt prices between packer and pelt processor/wholesaler to reporting the estimated value paid for pelts by packers on slaughter lambs purchased on a negotiated, formula, or contract basis. Since lambs are purchased on either a live and carcass basis as well as on an individual and lot basis, an estimated average pelt value would be reported to AMS. This would enable AMS to report an average pelt value (all grades/types) as well as a low to high pelt value range. This should eliminate many of the issues discussed above, including differences in pelt grading descriptors and the types of purchase transactions utilized across parties. This would also remove the need to update the current pelt grading system to better align with current market practices. Such an undertaking would be costly and require financial support from the industry. According to AMS staff this would require a minimal code change to the current reporting form submitted by packers to AMS, reducing the burden on lamb packers/processors as well as AMS.

During discussions with AMS staff regarding pelt prices it was noted that there has been an increasing number of hair-sheep pelts being reported. These pelts are valued differently than wool-sheep pelts across markets, reporting a separate wool-type and hair-type estimated average pelt value may be an item for the industry to consider. This would also be a nominal code change to existing forms, reducing the burden on both packers and AMS staff. The reporting on the two types of pelts would be in addition to an estimated weekly average pelt value and value range.

Currently this report is provided under the voluntary reporting system. If it were to become a mandatory report under LMR, it would be subjected to the same guidelines and regulations and problems discussed above. However, if those regulations are changed as discussed and proposed in this analysis, concerns of not being able to report due to threshold levels or confidentiality issues should not obstruct the reporting of pelt values.

LMR Lamb Market Reporting Recommendations

Many types of transactions for slaughter lambs and lamb products may no longer be practiced to the extent seen when LMR was introduced in 2001. Other types of transactions and related data may be more suitable given industry changes over the last 10 years. Because of this, LMR guidelines pertaining to eligibility of parties under LMR and confidentiality regulations for lamb need to be updated to reflect the structural changes that have and will continue to occur in the sheep and lamb industry to ensure the continuation of lamb market data reporting.

Based on this analysis, recommendations to help correct the problems described concerning the lamb LMR reported market data and to improve lamb market data reporting are:

(1) Recommend adjusting current FI packer slaughter and/or processing thresholds to better align and reflect current and future industry slaughter lamb supply levels. Current LMR guidelines require an average of at least 75,000 lambs each year for the prior 5 calendar years. To better reflect current and projected slaughter lamb supplies, an adjustment downward to a range of 35,000 to 55,000 lambs each year would be considered. This would account for the 35% decline in FI slaughter lambs over the time period since LMR implementation in 2001 to current levels and future forecasted declines of 1% to 3% over the next 5 years. If the sheep and lamb industry continues to

struggle in increasing or at least stabilizing the flock size, this range may need to be reevaluated in 2 or 3 years to reflect industry capacity at that time.

(2) Consider amending current daily to weekly LMR reporting guidelines if current FI packer slaughter and/or processing thresholds were reduced, in an effort to ease the added burden on smaller lamb packing and processing entities.

(3) Amending current importer thresholds to better reflect current industry import levels. Current guidelines require an average of at least 2,500 metric tons of lambs each year for the prior 5 calendar years. Given the significant decline in imported lamb in the last 5 years (down 20% from 2007–2011), it is recommended that the imported volume level be adjusted downward to 1,500 metric tons each year. This range would be more feasible given the reduction in imported volumes, global sheep and lamb numbers since the beginning of LMR in 2001 and the projected import trend over the next 5 years.

(4) Adjusting current LMR regulations for slaughter and/or processing entities and importers from a prior 5 calendar years to 2 or 3 calendar years to better capture ongoing structural changes in terms of industry size, trade volumes, and market transactions. As the U.S. and global sheep and lamb industry continues to become even more concentrated in terms of inventory and firm numbers these structural changes will occur at a much faster rate than in other commodities and changes need to be incorporated under LMR regulations in a timelier manner.

(5) Changing the LM_LM302 National Daily Lamb Report (Negotiated and Formula Purchases)—Domestic Only to a weekly report if recommendations No. 1 and No. 4 do not improve reporting of data on a daily basis.

(6) Consider discontinuing the reporting of LM_LM304 Western Daily Lamb Report (Negotiated and Formula Purchases) Domestic Only, LM_LM353 Western Weekly Slaughter Sheep Review, and LM_LM355 Weekly Western Direct Lamb Report. At this time the only possible solution to restore these three reports are: (1) changes to the entity threshold level as discussed in No. 1 and No. 3 that may help to identify other potential parties that purchase lambs in the western region, and/or (2) allow for informed consent of those two entities to restore these three reports.

(7) Propose for LM_XL552 National Weekly Lamb Carcass and Lamb Cuts—Imported Product, to combine the two countries into one regional category called Oceana. This would help mitigate the current issues of only one reporting party for a country and/or product items. By making this report more broad in terms of one region it should help to satisfy current LMR regulations and 3/70/20 guidelines allowing for more imported lamb cut data to be reported.

(8) For LM_XL552 National Weekly Lamb Carcass and Lamb Cuts—Imported Product, consider combining fresh and frozen product.

(9) Suggest for LM_XL552 National Weekly Lamb Carcass and Lamb Cuts—Imported Product, to reduce the amount of detail in regards to the number of product item categories reported. This would also allow for more imported lamb product data to be reported. In addition, this change would also require a reevaluation in the product item categories currently being reported and those actually being used in today's marketplace.

(10) Recommend for LM_LM302 National Daily Lamb Report (Negotiated and Formula Purchases)—Domestic Only, an additional formula purchased weight category of "95 pounds and over" be added. This would require changing the current weight category of "over 85 pounds" to "85–95 pounds."

(11) Propose for LM_LM351 National Weekly Direct Lamb Report the following: (1) an additional formula purchased weight category of "95 pounds and over" be added. This would require changing the current weight category of "over 85 pounds" to "85–95 pounds" and (2) reassess the usefulness of the categories "Prior Week Slaughter Head Count, Domestic, Forward Contract", "Prior Week Slaughter Head Count, Imported Forward Contract" and "Prior Week Slaughter Head Count, Imported, Formula Arrangements" as the amount and type of date reported has declined significantly due to either LMR regulations and/or lack of use in the sheep and lamb industry.

(12) Suggest the current LMR forward contract definition be reassessed to determine if it can be amended, replaced with another type of transaction such as "lambs forward priced," or removed.

(13) Recommend for LM_LM351 National Weekly Direct Lamb Report to change "Prior Week Slaughter Head Count, Domestic, Forward Contract." category to "Prior Week Slaughter Head Count, Domestic, Lambs Forward Priced." Suggest further analysis of slaughter lamb transactions to determine if a 7 day committed period is appropriate or if it should be extend to a committed period of 14 day or 21 days.

(14) Suggest for LM_LM352 National Weekly Slaughter Sheep Review discontinuing the category "Formula Price, Live Basis" due to structural changes that have resulted in this type of transaction being rarely utilized within the lamb industry.

(15) Suggest for LM_LM352 National Weekly Slaughter Sheep Review the following being reassessed "Negotiated Dressed Sales, Domestic", "Imported Negotiated Sales," and "Imported Formula Purchase" categories as the amount and type of date reported has declined significantly due to either LMR regulations and/or lack of use in the lamb industry.

(16) Recommend reviewing current calculations used to determine the LM_XL502 Estimated National Lamb Carcass Cutout in a timelier manner, such as every 2 years. This would also include a review of the process/packaging per hundredweight cost used to estimate the reported net carcass value.

(17) Propose further evaluation of LM_LM350 National Weekly Carcass Premiums and Discounts for Slaughter Lambs report when the industry reexamines the lamb carcass grading system and/or adopts value based marketing on an industry wide basis.

(18) Suggest further discussions regarding the usefulness of submitted carcass purchase data as authorized under the 2008 reauthorization of LMR.

(19) Suggest a review of the AMS/LMR definition for "custom processing" as a growing percentage of slaughter lambs are being processed under these types of programs.

(20) Propose adjusting pelt price reporting to that of reporting an estimated value paid for all pelts by packers on slaughter lambs purchased on a negotiated, formula, or contract basis. This would include the reporting of an average low/high pelt value range. This would help to eliminate and minimize many of the issues regarding current pelt reporting such as the number of reporting entities, accuracy of pelt grading descriptors, and purchase transactions types.

(21) Suggest LMR participants provide and submit market data in the required LMR reporting formats to improve the market reporting for lamb.

(22) Request AMS to consider more detailed reporting enforcement of LMR participants similar to that described for other commodities in the reporting of data under LMR to avoid AMS staff from having to amend data for current LMR reports.

Of the listed recommendations, those with the highest priorities are those that address LMR regulations that prohibit data from being reported. This would include:

- Adjusting current FI packer slaughter/processing and importer volume thresholds to better reflect current and future industry levels.
- Changing current LMR regulations for slaughter and/or processing entities and importers from a prior 5 calendar years to 2 or 3 calendar years to better capture ongoing structural changes in terms of industry size (*i.e.,* inventory levels, number of entities at packing, processing and wholesale), trade volumes, and market transactions.
- Improving the reporting of imported lamb product and modifying the current reporting to be more broad-based in an effort to provide more data (and in some cases any data) for the industry.
- Addressing current pelt price reporting problems and consider changing to an estimated value paid for all pelts by packers on slaughter lambs purchased on a negotiated, formula, or contract basis, given its importance to the industry (*e.g.,* role in USDA livestock risk protection program) and other issues surrounding the current report.

Changes in lamb LMR have become necessary due to changes in the industry over the decade since LMR implementation. Industry marketing adjustments have been driven by consolidation in the number of traditional participants, but also by an increase in the importance of niche markets, new branded products, custom packing, and non-traditional consumers. Non-traditional U.S. market consumers include ethnic consumers, whose demand for lamb has increased the number of small packers and live and meat outlets.

These changes have far reaching implications for price reporting and data needed by the industry. For example, pelt prices are used in the USDA Livestock Risk Protection (LRP) Lamb program in projecting lamb prices for insurance coverage. The change, or loss, of that data has had a large impact on the ability of lamb producers to manage price risk. It is critical to understand that the AMS generated LMR data for lamb are used and matters greatly for industry success.

Concluding Comments

AMS has done a good job in acting in the best interests of the livestock industry in the development, implementation, and maintenance of mandatory price reporting. Despite the challenges over the last decade, AMS has generally adapted LMR to meet current industry needs and practices. The lamb sector has faced significant changes since the implementation of LMR in 2001. AMS has been, and continues to be willing to work with the industry on adjusting current LMR to improve the market reporting for lamb. According to AMS staff, many of the suggestions in this analysis would help in providing more information and transparency on the slaughter lamb and lamb meat market. Many changes would probably require minimal code changes to the current reporting forms submitted by packers to AMS and may require some changes in reporting guidelines (*i.e.,* data submittal), reducing the burden on all parties. A list of the packer/processor reporting forms that are submitted to AMS under LMR and the corresponding LMR reports are provided in the attached *Appendix.*

At this time, based on conversations with AMS staff, AMS has been advised that the 3/70/20 confidentiality is to be applied across all commodities reported under LMR. Whether or not changes can be made for individual commodities is unknown. Currently, under LMR, there is not an alternative to the 3/70/20 rule when there are only one or two eligible entities to report data (*e.g.,* LM_LM304, import product categories). Of note, USDA's National Agriculture Statistics Service (NASS) does experience this issue when collecting voluntary agricultural statistical data. NASS may release data with permission pertaining to that sole individual party, if the quality of the data is acceptable and of use to the objective of the report. This is referred to as an "Informed Consent" in which permission to report data is in writing and signed by the party.[18] This agreement is renewed every 5 years and the party may revoke permission at any time. Since the nature of the data collected and purpose of each agency differs this may or may not be a viable alternative for AMS to consider.

Highly concentrated sectors, such as the sheep and lamb industry, should be required to report useful data in a timely fashion to assist market function and transparency. It is imperative that actions are taken to ensure all market related volume and price data are reported under LMR. This analysis provides a review of current lamb marketing data that are frequently unavailable and discusses some potential remedies to help improve LMR. In addition, other comments, suggestions and recommendations are provided based on discussions with USDA–AMS staff. These solutions include updating regulatory guidelines to better reflect the current industry structure, changing report categories and descriptors to reflect current marketing practices in effort to provide more accurate and usable market information, and consolidating reports and/or sections of reports (internal and external) to ensure market data is reported.

Looking ahead, as the industry prepares for the next reauthorization of LMR in 2015; it may be of use to continue discussions with AMS staff with regard to what changes to current lamb LMR reporting forms would be required if any of the changes discussed in this analysis are requested by the industry. The price reporting system cannot be static in a changing marketplace, periodic industry input and monitoring is required.

Appendix: LMR Reporting Form and Corresponding LMR Lamb Report

LS_121	LM_LM302	National Daily Lamb Report (Negotiated and Formula Purchases)—Domestic Only
LS_121	LM_LM304	Western Daily Lamb Report (Negotiated and Formula Purchases)—Domestic Only
LS_121	LM_LM352	National Weekly Slaughter Sheep Review
LS_121	LM_LM353	Western Weekly Slaughter Sheep Review
LS_123A	LM_LM351	National Weekly Direct Lamb Report
LS_123A	LM_LM355	Weekly Western Direct Lamb Report
LS_123B	LM_LM351	National Weekly Direct Lamb Report
LS_123B	LM_LM355	Weekly Western Direct Lamb Report

[18] USDA–NASS. Policy and Standards Memorandum, No. PSM–CS–4. April 2010.

Appendix: LMR Reporting Form and Corresponding LMR Lamb Report—Continued

LS_123C	LM_LM351	National Weekly Direct Lamb Report
LS_123C	LM_LM355	Weekly Western Direct Lamb Report
LS_124	LM_LM351	National Weekly Direct Lamb Report
LS_124	LM_LM355	Weekly Western Direct Lamb Report
LS_125	LM_LM350	Weekly Premium and Discount Report
LS_125	LM_LM354	Western Weekly Premium and Discount Report
LS_128	LM_XL500	National 5 Day Rolling Average Boxed Lamb Cuts—Negotiated Sales
LS_128	LM_XL502	USDA Estimated National Lamb Carcass Cutout (5 Day Rolling Average)
LS_128	LM_XL552	National Weekly Lamb Carcass and Lamb Cuts—Imported Product
LS_129	LM_XL501	National Daily Lamb Carcass Report
LS_129	LM_XL555	National Weekly Comprehensive Lamb Carcass Report

ATTACHMENT 2

ASI's Proposed Amendments to Livestock Mandatory Reporting for Lamb

- Add the following definitions to the 1999 Act: Lambs Committed, Formula Marketing Arrangement, Forward Contract, Packer, and Packer-Owned Lamb.
- Define in the 1999 Act/Amend LMR Regulations: "Lambs Committed" as lambs that are intended to be delivered to a packer beginning on the date of an agreement to sell the lambs.
- Amend "Importer" LMR Regulation as follows: 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.
- Define in the 1999 Act/Amend LMR Regulations for "Packer" as follows:
    - Any person or entity with 50 percent or more ownership in a facility engaged in the business of buying lambs in commerce for purposes of slaughter, manufacturing/preparing meats/meat food products from lambs, or of marketing meats/meat food products from lambs in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce.
    - For any calendar year, the term lamb packer includes any federally inspected lamb processing plant that slaughtered or processed the equivalent of an average of 35,000 head of lambs per year for the immediately preceding 5 calendar years.
- Define in the 1999 Act/Amend LMR Regulations "Packer-Owned Lamb" as lambs that a packer owns for at least 28 days immediately before slaughter. Also revise the definition so that the base or average lot price will be reported as a "type of purchase" and provide USDA/AMS with the flexibility to report transactions when non-traditional "marketing arrangements" are used.
- Include in the 1999 Act/Amend LMR Regulations such that information required for packer-owned lamb shall include an estimated average price.
- Include in the 1999 Act/Amend LMR Regulations to allow for the mandatory reporting and publication of a Weekly Lamb Pelt Report as follows:
    - The value paid by packers for slaughter lambs purchased on a negotiated, formula, or contract basis.
    - Classifications that may include, but is not limited to: Shorn, Unshorn, Supreme, Premium, Standard, Fair, Mixed Class, Damaged, and Puller,
    - Descriptors that may include, but is not limited to: Square Footage Grey/Black Fiber, Manure/Seed Free, Staple Length, Micron Length, and Processing Defects.
- Add to the 1999 Act/Amend LMR Regulations such that boxed lamb cutout calculations are reviewed every other year.
- Review and amend the 3/70/20 confidentiality guideline as applied to LMR-Lamb as appropriate in order to both protect confidentiality and yield the maximum amount of price data.

The CHAIRMAN. Thank you very much. Mr. Greiman?

STATEMENT OF EDWARD C. GREIMAN, CHAIRMAN, CATTLE MARKETING AND INTERNATIONAL TRADE COMMITTEE, NATIONAL CATTLEMEN'S BEEF ASSOCIATION, GARNER, IA

Mr. GREIMAN. Mr. Chairman, Ranking Member Costa, my name is Ed Greiman. I am a cattleman from Iowa. I am also Chairman of NCBA's Cattle Marketing and International Trade Committee. I have led our efforts on discussing mandatory price reporting over the past 4 years. We have spent those years looking at price discovery, and the overall market conditions we are seeing across the country. The bottom line is that MPR is an important tool for overall market transparency, and we support its reauthorization.

NCBA is a strong supporter of mandatory price reporting because it is a valuable tool to cattle producers, who rely on it to get a feel for what their cattle may be worth. It allows them to formulate their marketing plan. The cattle price transparency that comes from mandatory price reporting is an important component in formulating price discovery, as well as enhancing competition in the marketplace.

While NCBA is supportive of reauthorizing mandatory price reporting, we would like to see mandatory price reporting made an essential function of government, so the reports will continue in the event of another government shutdown. These reports have significant impact on the bottom line for many of our producers. To go without them leaves producers in a situation where it is much harder to understand what is taking place in the market.

As an owner and manager of a relatively small beef operation, I am not engaged in the beef market 100 percent of the time. The beef market is a complex and volatile place. Prices are influenced not only by supply and demand of beef, but also by the world economy. With a market so diverse, it is hard to stay up on the current prices of beef and fed cattle. The market information supplied by MPR is valuable, in that it gives me the ability to make informed decisions.

Many small producers do not have the exposure to the daily complexities of cattle trade. There are times in a year that I am looking at opportunities to sell a large portion of my fed cattle to a packer. At these times I need to be able to reference what has been done by other producers and packers, and to get an understanding of what the market is looking at. Though the information is very general in nature, it gives me a starting point to evaluate from.

Mandatory price reporting allows all cattle producers a chance to competitively sell into this complex market. Twice a year I find myself having to sell cull cows from our cow/calf side of the operation. Our cows are above average, so selling directly to the packer is advantageous. However, when one only visits this marketplace twice a year, it is impossible to stay in touch. Mandatory price reporting allows me to get a bid from a packer, then take a look at past marketings to see if it is competitive. Mandatory price reporting doesn't necessarily get me more money, but it allows free access to the information, and more fair trade.

In summary, NCBA strongly supports reauthorization of mandatory price reporting, and we look forward to working with you to further improve the program. Thank you.

[The prepared statement of Mr. Greiman follows:]

PREPARED STATEMENT OF EDWARD C. GREIMAN, CHAIRMAN, CATTLE MARKETING AND INTERNATIONAL TRADE COMMITTEE, NATIONAL CATTLEMEN'S BEEF ASSOCIATION, GARNER, IA

Mr. Chairman, Ranking Member Costa, my name is Ed Greiman and I am a cattle feeder from Iowa. I also chair NCBA's Cattle Marketing and International Trade Committee and have led our efforts on discussing Mandatory Price Reporting for 4 years. We spent those 4 years looking at price discovery and the overall market conditions we are seeing across the country. The bottom line is that MPR is an important tool for overall market transparency and we support its reauthorization.

The National Cattlemen's Beef Association (NCBA) is a strong supporter of the Livestock Mandatory Reporting program which was authorized as part of the original Livestock Mandatory Reporting Act of 1999. Mandatory price reporting is a valuable tool to cattle producers who rely on it to get a feel for what their cattle may be worth, and it allows them to better formulate their marketing plan. The cattle price transparency that comes with mandatory livestock price reporting is an important component in formulating price discovery, as well as enhancing competition in the marketplace.

While NCBA is supportive of reauthorizing Mandatory Price Reporting, we would like to see mandatory price reporting made an essential function of government so the reports will continue in the event of another government shutdown. These reports have a significant impact on the bottom line for many producers. To go without them leaves producers in a situation where it is much harder to discern what is taking place in the market.

As an owner and manager of a relatively small beef operation, I am not engaged in the beef market 100 percent of the time. The beef market is complex and volatile. Prices are influenced by not only the supply and demand of fed cattle, but also the world economy. With a market so diverse, it is hard to stay up on the current prices of beef and fed cattle. The market information supplied by MPR is valuable in that it gives me the ability to make informed decisions. Many smaller producers don't have exposure to the daily complexities of cattle trade. There are times in the year that I am looking at opportunities to sell a large portion of my fed cattle with a packer. At these times I need to be able to reference what has been done by other producers and packers to get an understanding of what the market is. Though the information is general in nature, it gives me a starting point to evaluate from. MPR allows all cattle producers the chance to competitively sell into this complex market. Once a year I find myself having to sell cull cows from our cow/calf side of the operation. Our cows are above average, so selling direct to the packer is advantageous. However, when one only visits this market twice a year, it is impossible to stay in touch. MPR allows me to get a bid from a packer and then take a look at past marketings to see if it is competitive. MPR doesn't necessarily get me more money, but allows free access to information and fair trade.

In summary, NCBA strongly supports reauthorization of Mandatory Price Reporting, and we look forward to working with you to further improve the program.

The CHAIRMAN. Thank you very much. We will now move into a period of questions. Members will have 5 minutes each to ask questions of their choice. I am going to start with Mr. Dopp, with the Meat Institute.

Can you shed some light on the nature and substance of the discussion that the Meat Institute has held with livestock producers regarding reauthorization?

Mr. DOPP. Well, Mr. Chairman, we have had an opportunity to meet with representatives of all three industries so far, and have looked at some concept papers, in at least one instance, some draft legislative language. But that has pretty much been the extent of it.

The CHAIRMAN. Do you all have an opinion regarding the substance of the livestock producer groups' proposals as a whole?

Mr. DOPP. We have had an opportunity to converse with our members about some of these concepts. Some of the ideas that have been advanced we have no objection to, and there are some that are troubling.

The CHAIRMAN. Which ones do you find troubling?

Mr. DOPP. Well, Mr. Chairman, there are a couple ideas that have been advanced by the cattle industry. And if I told you I understood all of the nuances of the proposal, that would be untrue. One of the things I learned when I had the opportunity to participate in the origins of the statute, the framework back in 1999, I spent a lot of time, as did some other people in the room, putting this together, and then again, when we worked through the negotiated rulemaking process for wholesale pork cuts. All of this is extremely complicated, so if you are looking for me to explain to you all the nuances and issues that are attendant to that. I'm a food and drug lawyer. I am not the person who buys pork. I am not a person who buys hogs or buys cattle, so I would be unable to answer that question, if that is what you are asking.

The CHAIRMAN. We all have our areas of expertise, I understand.

Mr. Heimerl, as a North Carolina native, and, of course, I represent southeastern North Carolina, and, more specifically, I have a couple of the top hog producing counties in the country, in fact, I wanted to ask a few questions regarding the pork industry's provisions that you are looking at. Does the pork industry proposal to add a purchase category for negotiated formula sales and purchases present any problems for the industry as a whole?

Mr. HEIMERL. No, none at all. We think it would be very advantageous to the industry, and the market outlook would be great for us to do that.

The CHAIRMAN. Along those lines, does the pork industry proposal to add a provision to include late day purchases, and subsequent day's reporting present any problems for the industry?

Mr. HEIMERL. No. We think it would be a great opportunity. It would help on our confidentiality, and have more pigs come to the market, and have more market opportunities for us to use.

The CHAIRMAN. Can you also elaborate a bit on how purchasing—pardon me, on how adding a purchase agreement or a purchase category for negotiated formula sales and purchases would better serve the pork industry?

Mr. HEIMERL. Yes. We think that would add—like I said in my statement, it would add at least two to four percent more by adding those hogs that are being under-negotiated. We definitely need to have more negotiated hogs that have a more proven market for each day for us to trade with. And by adding that to that column, we would pick up another 50 to 100 percent. That is a big number, but that is a project we have. So we think we could double the amount of hogs that are going into that column.

The CHAIRMAN. I will yield back my time, and turn to Mr. Costa, if he has some questions.

Mr. COSTA. All right. Thank you very much, Mr. Chairman. I was listening to the gentleman from Iowa, and was reminded of how much our industries have changed. The collective representation that you have there, I am more familiar with the cattle industry, and the poultry industry in California than I am with the hog industry. But the video of markets that take place daily, in which a lot of cattle is traded, is far different than 10 years ago, 15 years ago.

Mr. Dopp, can you discuss what the cost is to your industry for the different reporting requirements? Has NAMI done a survey on that, and how do you look at it, in terms of the breakdown of the costs and evaluate it?

Mr. DOPP. Mr. Costa, we have not done that analysis. What I can tell you is that when the program was initiated, the statute was originally enacted in 1999, it probably took a couple years, if I remember correctly, for the rulemaking process to finish. I know this, the companies that are required to report, that initial investment, that initial capital investment, if you will, was several million dollars, I am sure, for the companies, they had to reconfigure their computer programs. There are, I am sure, some ongoing costs because, if I remember correctly, with some degree of regularity, and Dr. Morris probably knows better than I, the agency occasionally makes some software changes, and other changes, such that companies have to adjust accordingly. What those numbers are at this point, I can't tell you. We haven't done the economic analysis at this point. It is 15 years after the fact, and those costs are sunk.

Mr. COSTA. No, I understand. That is why I want to go back and get some information from my local folks, to see what suggestions that they might have as well. Tell me, during the government shutdown, and a lot of us were very frustrated during that whole process, it should have never happened, it was irresponsible, but having said that, what happened within the industry? Did you evaluate the impacts when those services were deemed not essential, and how it dealt with the lack of information that has been provided now for 15 years?

Mr. DOPP. Well, if you are asking, again, whether any sort of economic analysis was done, the answer is no, at least not by us. What I can tell you is that everybody needs to remember, not only does the producer community not have access to that information, the packers who are required to report not only what they pay for their livestock, but also what they receive for the boxed product, either beef or pork. Many of their sales, their customer relationships, are also tied to this information. It is fair to say, at least from my opinion, the producer and the packer/processor community were sort of operating in the dark collectively.

Mr. COSTA. For that period of time.

Mr. Greiman, do you care to comment? I mean, you are kind of where the rubber meets the road, as you described your own circumstance.

Mr. GREIMAN. Yes, I can comment on the government shutdown. In working with a packer right now, currently our operation is sending cattle out there to one of the packers on what we call a grid, and so I am getting paid based on the value of the cattle, and what they are worth to the packer. Those cattle are also going into a branded product line, and so when you do that, I am buying these cattle 6 to 8 months ahead of a time, knowing that they are going to go to that packer, and we have already agreed on a formula to price them, which at that point in time was the Nebraska weighted average.

When we no longer received the Nebraska weighted average, all of a sudden we are kind of in limbo, because we have—these cattle are still going to market, the trade is still going on. We are still—the packers are still taking cattle, and I am still——

Mr. COSTA. You operate through a feedlot——

Mr. GREIMAN. Yes, these were operated through a feedlot, but I also still have the cow/calf, and so these——

Mr. COSTA. Do you have a cow/calf operation?

Mr. GREIMAN. We have both. Yes, we have both, yes. So, at that point in time, all of a sudden we had to have a phone call in terms of how are we going to price these cattle? It is okay to do that maybe for 1 week with a government shutdown, to say, "Okay, we are not going to have a third party verification of how these cattle will be priced," so we had to agree on a price. But they are—all of a sudden the branded products like that kind of find themselves in limbo, because I am committed to deliver the cattle, they are committed to take them, but we don't know how to price them.

Mr. COSTA. Yes. Well, it just kind of shows, as I said earlier, the complexity, and how much has changed over the last 10, 15 years. And for some of your operators, some of the folks in my area that have markets in Asia, obviously this has an impact there, because we have product that you have a customer, and you want to satisfy your customer, and it all comes together.

My time has expired, Mr. Chairman, but I thank the witnesses, and if we have another round, I will take another shot at them.

The CHAIRMAN. Thank you, Mr. Costa. I want to recognize the gentlelady from Missouri, Mrs. Hartzler, for any comments, or any questions, that she might have.

Mrs. HARTZLER. Sure. I appreciate that, Mr. Chairman, and, as a pork producer most of my life, and a person that is raising cattle, cow/calf operation today, this is certainly an important topic for all of us. And, in Missouri's Fourth District, we have a lot of cattle, a lot of livestock of all kinds.

Just quickly, does anyone on the panel not support timely reauthorization of Livestock Mandatory Reporting Act? Okay, we are all on board. I thought so, but I wanted to verify that. And we are aware that there have been ongoing negotiations within and between each of the industry groups represented here today. So, of the proposals that have been highlighted, are there any that are problematic for any of your organizations? Could this be a non-controversial issue here on Capitol Hill? Mr. Chairman, this would be amazing.

My last question goes to Mr. Pfliger. Your testimony suggested the Committee consider requiring USDA report 1 year prior to the next reauthorization date that would provide recommendations on how to "better and more inclusively accomplish price reporting in the current industry and market environment." So I was just wondering, has that suggestion been included as a part of your proposal for reauthorization, and do you have any particular issues in mind that you hope would be addressed by the report?

Mr. PFLIGER. This recommendation, that has not been part of our discussions, but was developed as we prepared our testimony, we would ask that the Committee consider the inclusion of the report requirement in order to better focus on all the parties' needs, and the improvements for mandatory price reporting to the reauthorization.

Three years ago ASI commissioned a study by the Livestock Marketing Information Center to review MRP, how it could be improved. ASI spent about 18 months working with AMS, addressing the recommendations from the study, which have not been finalized. The LMIC report, and ASI's final report as a result of this process, are being submitted for part of the record. Many of the LMIC recommendations are not included in the ASI statutory reauthorization to the Committee, because we are still hopeful, and expect USDA to implement some of these recommendations. However, there is no assurance that USDA will.

For instance, one of our more important issues that we believe should be addressed is that AMS have some flexibility in how prices are reported for the modern marketing arrangements between packers and producers, and how this change interprets the packer owned category. For example, one U.S. firm has a marketing arrangement with producers who owns the lambs all the way through, from the producer, through the wholesaler, to the retail product. And this firm handles about ⅓ of the lambs in this country, and yet they are not allowed to report that lamb, even though the prices are recorded, because of AMS's definition of a *packer*.

So if USDA is required to issue a report in consultation with the industry, all interested parties would have a much better view of where the issues stand prior to reauthorization, and which, in turn, would allow the Committee to focus on these issues needing attention.

Mrs. HARTZLER. Sounds good. Could you please get the Committee that language that you would like to have included in there? Could you——

Mr. PFLIGER. I am——

Mrs. HARTZLER. Could you get us the information that you would like to have included, the language?

Mr. PFLIGER. Absolutely.

Mrs. HARTZLER. Okay. Thank you very much. I appreciate that. I yield back.

The CHAIRMAN. I will yield to Mr. Costa.

Mr. COSTA. Thank you very much. Just a couple quick questions here, Mr. Chairman.

Dr. Morris, as we discussed earlier, the industries that are testifying here this afternoon have changed dramatically in the last 15 years, in terms of the processing, the marketing, and the markets that drive so much of the technology. The United States Department of Agriculture provides a great deal of information that provides an important role. Could you talk about some of the data that is being reported under this program to give Members of the Subcommittee here a sense of just how significant this information is that you provide?

Dr. MORRIS.* You bet. Livestock Mandatory Reporting Program is a very powerful tool. Unlike the market reporting activities the Department carries out for a vast majority of the other commodities, which are collected through voluntary means, the LMR program requires, essentially, the nation's largest beef packers, pork packers, lamb packers, and lamb importers to transmit to USDA

* **Editor's note:** Dr. Morris did not testify, or submit a prepared statement; therefore, he is not listed in the Table of Contents.

up to several times per day all of their purchases of livestock and sales of meat, in the case of importers, the imported product.

In terms of what we are capturing, we are right now publishing, through the LMR program, fully 80 percent of the slaughter cattle in the United States, fully 93 percent of the boxed beef trade in the United States, fully 94 percent of the hog slaughtered in the United States, 56 percent of the lamb slaughtered in the United States, 46 percent of the boxed lamb meat that enters commerce, and 87 percent of the wholesale pork that enters commerce.

We communicate that information to producers through 62 different daily reports in 47——

Mr. COSTA. And in real time?

Dr. MORRIS. In virtually real time. It is within an hour of the time that we receive the information. We have made an investment in an IT system that then compiles that data. We have trained *Market News* reporters that then review that data, look for anomalies——

Mr. COSTA. Which gives the cattlemen, which gives the feedlot operator, which gives the packer all important information, in terms of how they best deal with their product.

Dr. MORRIS. Absolutely true, and it depends on the commodity in question, but certainly, on one extreme, you would have the swine industry, that we aren't really reporting a price of what has occurred, as often is the case with the market reports we put out. The prices we are publishing actually derive the price for those livestock going to market.

Mr. COSTA. From the USDA's perspective, do you have a comment with regards to the impacts that the market felt as a result of the government shutdown, and this important service deemed as not essential?

Dr. MORRIS. Without question, price discovery in the livestock sector was significantly impacted by the 17 days loss of data due to the shutdown. The broad impact, we believe, was clearly the unavailability of market use data for producers, growers, small farmers. Producers effectively had no market price information to determine the value for their livestock, which are perishable commodities. When animals are ready for market, they really need to be shipped at that point.

Mr. COSTA. I am glad you underlined that, because so much of what we produce in America, sadly, the consumer thinks it comes from the grocery store, and these are all perishable items that have a limited shelf life in the market—in the store that they purchase these at, and perishable nature is an important part of this all.

Dr. MORRIS. The entire system is built upon the fact that they are ready for market at a certain time.

Mr. COSTA. Well, I have some other questions, Mr. Chairman, that are more of a technical nature that I would like to submit to the USDA at the appropriate time, I will do that, and I will yield back the balance of my time, and I thank you for holding this hearing. And we will take the information not only from our witnesses this afternoon, but I will go back home and ask my folks if they have any other thoughts on how we can build a better mousetrap, so to speak. And we hope to—I am certain—that we will see bipartisan effort on this legislation.

The CHAIRMAN. Absolutely. Thank you, Mr. Costa. I will now yield to Mr. Newhouse, if he has any comments and/or questions.

Mr. NEWHOUSE. Thank you, Mr. Chairman. Short on comments, but just a couple of questions, thank you. Thank you all for being here this afternoon. First of all, to start with a fellow farmer, and I am sorry I wasn't here for part of the testimony, so if you have covered this in other questions, my apologies, but, Mr.—could you pronounce your name for me?

Mr. HEIMERL. Heimerl.

Mr. NEWHOUSE.—producers of my state probably fall in the same category that you do, as being a rancher that you described a relatively small operation. So could you help me understand, by describing from your perspective the benefits you may see in a mandatory price reporting system, and also, maybe on the converse side, what issues you could see that would improve the system to make it better for small operations?

Mr. HEIMERL. Well, a mandatory pricing system is, to me, an absolute. If you go back to the voluntary, it was kind of one-sided, whatever the packer, or the person that was recording it wanted to give and take, I guess. Mandatory, it gives all cuts, and all the record are all kept as needed, and, I guess I should say, are authenticated. And when it was voluntary, we didn't know what we were getting. Sometimes you only get what people wanted you to hear, I guess. Under mandatory, we know that it is a reliable source. The voluntary, you go back before 1999, it was whatever the person wanted to trade in, or give the information to. So I don't think there is anything but mandatory that we can accept in this day and age to be acceptable.

To update it and make it better, we worked as a group here, and with AMS, in saying that there are different reports as—we brought in a report today, three different items. This is an essential thing we have to have. We can't afford another shutdown within the system, as we did in 2013. But there are several things we always can tweak to go into the future, because markets do change. As far as different reports, we want the 24 hour report to make it into the next day reporting, and things like that. There is always tweaking we can do as the markets change through modernization and so forth, and new markets coming forward.

Mr. NEWHOUSE. Yes.

Mr. HEIMERL. But mandatory is the only way that it can go. It is just an absolute for us in our business.

Mr. NEWHOUSE. Thank you very much. Mr. Dopp, if you could perhaps put on your consumer hat, and speak from a perspective of what kinds of benefits American shoppers could anticipate under a mandatory price reporting system?

Mr. DOPP. I look at it this way: The greater the transparency, in terms of what the information that the producer gathers, the information that the packer/processor gathers, and the information, frankly, that my members, customers, gather hopefully provides for a more efficient, more effective marketplace, and hopefully that results in lower prices to the consumer. And that is what this system, I believe, is intended to create. That all flows to the—ultimately it is supposed to flow to the benefit of the consumer, I believe. Have I answered your question?

Mr. NEWHOUSE. Yes, I think so.

Mr. DOPP. Thank you.

Mr. NEWHOUSE. Yes. Thank you. Quickly, Dr. Morris, could you talk specifically about what steps are taken to protect buyer and seller identity in the price reporting process?

Dr. MORRIS. We are required under statute to protect the confidentiality of those packers and lamb importers that are required to report. We basically subject all of the information that we receive to a statistical test that was referenced earlier in the testimony that ensures that. That has withstood external review from a variety of groups. We have worked closely, as, especially the sheep industry, has seen consolidation in the packing sector, and in the firms that are required to report, to see if there are modifications that can be made to that, and we are willing to look into those issues for sure.

Price reporting is a very powerful tool. You are, to those firms that are required to report, exposing essentially all of their business practices. As Mr. Dopp referenced, hopefully that brings a much more efficient and effective marketplace, to the benefit of consumers, but it is incumbent on us to ensure that that information also protects the business interests of those packers, which are required to essentially disclose information that other market participants are not.

Mr. NEWHOUSE. Okay. Thank you very much, Mr. Chairman, and appreciate the opportunity. I yield back.

The CHAIRMAN. Thank you, Mr. Newhouse. Unless my friend Mr. Costa has another question, I am going to say a few closing remarks, and then yield to Mr. Costa for any closing remarks he may have.

Let me just thank all the witnesses for your willingness to come before the Committee today. I appreciate your willingness to work in good faith on this issue. It is very important that we work together—packer, and producer, and everybody at the table—and do everything possible to come to a consensus that is a win-win across the board, and we are well on our way to that. We still have a little bit of work to do, but I look forward to clearing that hurdle soon, and I appreciate and commend you for your dedication, and your willingness to work with us to get this reauthorization underway.

Mr. Costa, I will yield to you, if you have any closing comments.

Mr. COSTA. Thank you very much, Mr. Chairman. I just want to thank you, and Members of the Subcommittee, for holding this hearing. I think it is our important role, as the Committee of oversight, to provide the due diligence, to gather the information, to provide the reauthorization. Look forward to working with you on this important legislation to America's livestock industry. And I thank the witnesses for your testimony, and we will continue to work together. Thank you very much.

The CHAIRMAN. Under the rules of the Committee, the record of today's hearing will remain open for 10 calendar days to receive additional material and supplementary written responses from the witnesses to any questions posed by a Member. This Subcommittee on Livestock and Foreign Agriculture hearing is now adjourned.

[Whereupon, at 3:27 p.m., the Subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

H.R. 2051, MANDATORY PRICE REPORTING ACT OF 2015, SUBMITTED BY HON. DAVID ROUZER, A REPRESENTATIVE IN CONGRESS FROM NORTH CAROLINA

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114TH CONGRESS
1ST SESSION

H. R. 2051

To amend the Agricultural Marketing Act of 1946 to extend the livestock mandatory price reporting requirements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2015

Mr. CONAWAY (for himself, Mr. PETERSON, and Mr. ROUZER) introduced the following bill; which was referred to the Committee on Agriculture

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A BILL

To amend the Agricultural Marketing Act of 1946 to extend the livestock mandatory price reporting requirements, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE .

This Act may be cited as the ''Mandatory Price Reporting Act of 2015''.

SEC. 2. EXTENSION OF LIVESTOCK MANDATORY REPORTING.

(a) EXTENSION OF AUTHORITY.—Section 260 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636i) is amended by striking "September 30, 2015" and inserting "September 30, 2020".

(b) EMERGENCY AUTHORITY.—Section 212(12)(C) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635a(12)(C)) is amended by inserting ", including any day on which any Department employee is on shutdown or emergency furlough as a result of a lapse in appropriations" after "conduct business".

(c) CONFORMING AMENDMENT.—Section 942 of the Livestock Mandatory Reporting Act of 1999 (7 U.S.C. 1635 note; Public Law 106–78) is amended by striking "September 30, 2015" and inserting "September 30, 2020".

SEC. 3. SWINE REPORTING.

(a) DEFINITIONS.—Section 231 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635i) is amended—

(1) by redesignating paragraphs (9) through (22) as paragraphs (10) through (23), respectively;

(2) by inserting after paragraph (8) the following new paragraph:

"(9) NEGOTIATED FORMULA PURCHASE.—The term 'negotiated formula purchase' means a purchase of swine by a packer from a producer under which—

"(A) the pricing mechanism is a formula price for which the formula is determined by negotiation on a lot-by-lot basis; and

"(B) 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.";

(3) in paragraph (12)(A) (as so redesignated), by inserting "negotiated formula purchase," after "pork market formula purchase,"; and

(4) in paragraph (23) (as so redesignated)—

(A) in subparagraph (C), by striking "and" at the end;

(B) by redesignating subparagraph (D) as subparagraph (E); and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) a negotiated formula purchase; and".

(b) DAILY REPORTING.—Section 232(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635j(c)) is amended—

(1) in paragraph (1)(D), by striking clause (ii) and inserting the following new clause:

"(ii) PRICE DISTRIBUTIONS.—The information published by the Secretary under clause (i) shall include—

"(I) a distribution of net prices in the range between and including the lowest net price and the highest net price reported;

"(II) a delineation of the number of barrows and gilts at each reported price level or, at the option of the Secretary, the number of barrows and gilts within each of a series of reasonable price bands within the range of prices; and

"(III) the total number and weighted average price of barrows and gilts purchased through negotiated purchases and negotiated formula purchases."; and

(2) in paragraph (3), by adding at the end the following new subparagraph:

"(C) LATE IN THE DAY REPORT INFORMATION.—The Secretary shall include in the morning report and the afternoon report for the following day any information required to be reported under subparagraph (A) that is obtained after the time of the reporting day specified in such subparagraph.''.

SEC. 4. LAMB REPORTING.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall revise section 59.300 of title 7, Code of Federal Regulations so that—

(1) the definition of the term ''importer''—

(A) includes only those importers that imported an average of 1,000 metric tons of lamb meat products per year during the immediately preceding 4 calendar years; and

(B) may include any person that does not meet the requirement referred to in subparagraph (A), if the Secretary determines that the person should be considered an importer based on their volume of lamb imports; and

(2) the definition of the term ''packer''—

(A) applies to any entity with 50 percent or more ownership in a facility;

(B) includes 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; and

(C) may include any other lamb processing plant that did not meet not meet the requirement referred to in subparagraph (B), if the Secretary determines that the processing plant should be considered a packer after considering its capacity.

SEC. 5. STUDY ON LIVESTOCK MANDATORY REPORTING.

(a) IN GENERAL.—The Secretary of Agriculture, acting through the Agricultural Marketing Service in conjunction with the Office of the Chief Economist and in consultation with cattle, swine, and lamb producers, packers, and other market participants, shall conduct a study on the program of information regarding the marketing of cattle, swine, lambs, and products of such livestock under subtitle B of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635 et seq.). Such study shall—

(1) analyze current marketing practices in the cattle, swine, and lamb markets;

(2) identify legislative or regulatory recommendations made by cattle, swine, and lamb producers, packers, and other market participants to ensure that information provided under such program—

(A) can be readily understood by producers, packers, and other market participants;

(B) reflects current marketing practices; and

(C) is relevant and useful to producers, packers, and other market participants;

(3) analyze the price and supply information reporting services of the Department of Agriculture related to cattle, swine, and lamb; and

(4) address any other issues that the Secretary considers appropriate.

(b) REPORT.—Not later than January 1, 2020, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the findings of the study conducted under subsection (a).

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