

Fresh Lamb and Mutton Series 200, and thin meats (e.g., inside and outside skirts, pectoral meat, cap and wedge meat, and blade meat) not older than 14 days from date of manufacture; fresh ground lamb, lamb trimmings, and boneless processing lamb not older than 7 days from date of manufacture; frozen primals, subprimals, cuts fabricated from subprimals, and thin meats not older than 180 days from date of manufacture; and frozen ground lamb, lamb trimmings, and boneless processing lamb not older than 90 days from date of manufacture.

In the period since the implementation of the LMR program on April 2, 2001, the current collection of boxed lamb cuts market information has prevented AMS from publishing meaningful market information on sales of imported and domestic boxed lamb cuts. Because of this, the current definitions of the terms "carlot-based" and "importer" under the LMR regulations need to be amended.

In the LMR regulations, the term "carlot-based" is defined as, "any transaction between a buyer and a seller destined for three or less delivery stops consisting of one or more individual boxed lamb items or any combination of carcass weights." However, in practice, the definition of carlot-based has resulted in having virtually all sales of boxed lamb cuts reported, including distributive-based transactions, as frequently packers of boxed lamb cuts do not know the exact number of stops a truck will make at the time that the prices are established and the sales are made.

Distributive-based sales are largely comprised of unique, value-added products in which prices often reflect added customer services. Because of the uniqueness of the distributive trade and the potential affect that the inclusion of such information might have on the aggregated reports AMS would publish, it was not intended to include the information in the LMR program. Such information may create a perception of wide price ranges in market reports for boxed lamb cuts and could send misleading signals to producers and packers as to the true direction of the market direction.

AMS has discussed and reviewed the issue of carlot-based and distributive-based transactions with lamb industry packers and processors. Based upon its review of this matter, including actual reporting on a 1,000 pounds or more basis, AMS believes that the 1,000 pound threshold is a more accurate dividing line between carlot-based sales and distributive-based sales and is

consistent with the original intent of the regulation.

In order to conform to the original intent of not including these types of transactions, AMS proposes amending the boxed lamb cuts portion of the definition of "carlot-based" (7 CFR 59.300) by limiting reportable sales of boxed lamb cuts to those consisting of 1,000 pounds or more of one or more individual boxed lamb items. The 1,000 pound threshold is intended to separate out distributive-based transactions. This proposal would amend the definition of "carlot-based" to read, "The term 'carlot-based', when used in reference to lamb carcass sales, means any transaction between a buyer and a seller destined for three or less delivery stops consisting of any combination of carcass weights, provided, however, that when used in reference to boxed lamb cuts sales, the term 'carlot-based' means any transaction between a buyer and a seller consisting of 1,000 pounds or more of one or more individual boxed lamb items."

AMS is proposing to establish the 1,000 pound threshold as the level dividing the majority of carlot-based sales from distributive-based sales. AMS believes that the 1,000 pound threshold would limit the submission of information on boxed lamb cut sales to more significant sales allowing AMS to publish more accurate and timely information on the boxed lamb cuts market while reducing the submission of information by covered lamb packers.

In the LMR regulations, the term "importer" (7 CFR 59.300) is defined as, "any person engaged in the business of importing lamb meat products that takes ownership of such lamb meat products with the intent to sell or ship in U.S. commerce. For any calendar year, the term includes only those that imported an average of 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years. Additionally, the term includes those that did not import an average of 5,000 metric tons of lamb meat products during the immediately preceding 5 calendar years, if USDA determines that the person should be considered an importer based on their volume of lamb imports."

Because imported products comprise over one-third of the U.S. market (based on U.S. Census Bureau data, 66,882 metric tons in 2002) and can affect prices for domestic lamb, lamb importers were included for more complete information on lamb meat products being imported into the U.S., including the types, quantities, and prices of these products.

In the comment period prior to the publication of the final rule for the LMR program, AMS received five comments expressing concern that the lamb import threshold of 5,000 metric tons and the domestic lamb packer threshold of an average 75,000 head per year for each of the preceding 5 years were not comparable. These commenters believed that the threshold for lamb importers was set too high in relation to the domestic packer threshold and should be lowered to ensure adequate coverage of the imported lamb market. At that time, AMS expressed concern that lowering the threshold would increase the number of smaller importers that would be required to report. AMS believed that the products imported by many of these operations were so unique that AMS would be unable to report them without disclosing proprietary information. AMS expected that the 5,000 metric ton lamb importer threshold would cover a comparable percentage of the lamb imports as slaughter and processing are being covered by the cattle, swine and lamb packer definitions, or approximately 80% of lamb imported into the U.S.

During the period since the implementation of the LMR program on April 2, 2001, AMS has determined that the 5,000 metric ton provision limits the number of covered importers to a level below that which is necessary to ensure confidentiality of published information. As a result, AMS has been unable to publish market information on sales of imported boxed lamb cuts.

When AMS formulated its initial estimates on the number of importers that would be required to report under LMR, it was anticipated that six companies would meet the 5,000 metric ton threshold. However, after implementation of the LMR program, it was determined that the 5,000 metric ton threshold did not cover a sufficient number of lamb importers necessary to publish market information on imported lamb in accordance with the confidentiality provisions of the Act. After analyzing U.S. Customs Service data for total lamb imported for each of the 5 years between 1998 and 2002, AMS believes that the proposed 2,500 metric ton threshold would cover eight lamb importers which would allow AMS to collect and publish market reports on the imported boxed lamb cuts market in accordance with the confidentiality provisions of the Act.

AMS proposes amending the definition of "importer" to lower the existing 5,000 metric ton provision to 2,500 metric tons. This proposal would amend the definition of "importer" to read, "The term 'importer' means any