

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 65

[Doc. No. AMS-LPS-16-0014]

#### Addition of Mandatory Country of Origin Labeling Requirements for Venison

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) proposes to amend the country of origin labeling (COOL) regulation to add muscle cuts of venison and ground venison to mandatory COOL requirements. AMS is issuing this proposed rule to conform to amendments to the Agricultural Marketing Act of 1946 (Act) as mandated by the Agricultural Act of 2014 (2014 Farm Bill), that added muscle cuts of venison and ground venison to the list of covered commodities subject to mandatory COOL.

**DATES:** Submit comments on or before March 14, 2017. Pursuant to the Paperwork Reduction Act, comments on the recordkeeping burden that would result from this proposal must be received by March 14, 2017.

**ADDRESSES:** All comments should reference the docket number AMS-LPS-16-0014; the date of submission; and the page number of this issue of the **Federal Register**. Comments may also be submitted to: Julie Henderson, Director, COOL Division; Livestock, Poultry, and Seed Program, Agricultural Marketing Service, U.S. Department of Agriculture (USDA); Room 2614-S, STOP 0216; 1400 Independence Avenue SW., Washington, DC 20250-0216. AMS will make the comments available for public inspection at the above address during regular business hours or via the Internet at [www.regulations.gov](http://www.regulations.gov).

Pursuant to the Paperwork Reduction Act (PRA), send comments regarding the

accuracy of the burden estimate, ways to minimize burden, including the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information to the above address.

Comments concerning the information collection under PRA also should be sent to the Desk Office for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Please be advised that all comments submitted in response to this proposed rule will be included in the record without change and will be made available to the public on the Internet at [www.regulations.gov](http://www.regulations.gov). The identity, including any personal information provided, of the individuals or entities submitting the comments will be made public.

**FOR FURTHER INFORMATION CONTACT:** Julie Henderson, Director, COOL Division; Livestock, Poultry, and Seed Program, Agricultural Marketing Service, USDA; Room 2614-S, STOP 0216; 1400 Independence Avenue SW., Washington, DC 20250-0216; telephone (202) 720-4486; or email [COOL@ams.usda.gov](mailto:COOL@ams.usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This proposed rule has been determined to be not significant for purposes of Executive Order 12866 or Executive Order 13563. Accordingly, the Office of Management and Budget (OMB) has waived the review process.

##### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not intended to have a retroactive effect. The Act prohibits states or political subdivisions of a state to impose any

requirement that is in addition to, or inconsistent with, any requirement of the Act. There are no civil justice implications associated with this proposed rule.

#### Executive Order 13132

This proposed rule has been reviewed under Executive Order 13132, Federalism. This Order directs agencies to construe, in regulations and otherwise, a Federal statute to preempt state law only where the statute contains an express preemption provision. No federalism implications are associated with this proposed rule.

With regard to consultation with states, as directed by Executive Order 13132, AMS previously consulted with the states that have country of origin labeling programs. Currently, AMS has cooperative agreements with 47 states to assist in the enforcement of the COOL program and has communications with all 50 states on a regular basis.

#### Background and Proposed Revisions

AMS is proposing to add venison and ground venison to the list of covered commodities subject to mandatory COOL regulation in conformance to section 12104(b) of the Agricultural Act of 2014 (2014 Farm Bill) (Pub. L. 113-79). Retailers and suppliers would subsequently be required to keep records and provide their customers notification of the country of origin of muscle cuts and ground venison that they sell. Individuals that supply venison, whether directly to retailers or indirectly through other participants in the marketing chain, would be required to establish and maintain country of origin information for venison and supply this information to retailers. As a result, producers, handlers, manufacturers, wholesalers, importers, and retailers of venison would be affected.

This proposed rule would amend the country of origin labeling regulations (7 CFR part 65). AMS proposes to add definitions for *cervidae* (§ 65.117), *ground venison* (§ 65.178), and *venison* (§ 65.270). The proposed rule would amend definitions for *covered commodity* (§ 65.135(a)(1) and (2)), *production step* (§ 65.230), *raised* (§ 65.235), *slaughter* (§ 65.250), and *United States country of origin* (§ 65.260(a)) by adding references to venison. AMS proposes to amend *country of origin notification*

(§ 65.300(h)) to add references to ground venison, and *responsibilities of suppliers* (§ 65.500(b)(1)) to include references to venison and cervidae.

Additional administrative changes are necessary to reflect the withdrawal of beef and pork commodities from the COOL regulations as published in the **Federal Register** on March 2, 2016 (81 FR 10761). Therefore, AMS is proposing to amend *production step* (§ 65.230), *raised* (§ 65.235), and *United States country of origin* (§ 65.260) by removing references to *beef* and *pork* from these definitions.

AMS is seeking comments on the aforementioned definitions and requirements. AMS also invites comments concerning potential economic and other effects of this proposed rule.

### Initial Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Administrator of AMS has considered the economic effect of this action on small entities and has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened.

#### Venison Industry

In general, the supply chain for venison and ground venison consists of: Producers (ranchers); slaughterhouses, processors, importers, wholesalers, and distributors (intermediary firms); and retailers. Under this proposed rule, all entities in the supply chain would be affected. Because the venison industry is very small at all levels of the supply chain, the overall impact of this proposed rule would be insignificant. According to the 2014 North American Deer Farmers Association's Venison Council, most venison is sold to restaurants, which are not subject to COOL requirements.

The proposed rule would impose recordkeeping requirements on venison producers and intermediary firms selling venison destined for retail channels. Individual retailers selling venison would also be subject to point of sale labeling and recordkeeping requirements. Each participant in the venison supply chain would bear recordkeeping costs as well as costs associated with modifications to their business practices.

#### Producers

USDA's National Agricultural Statistics Service (NASS) estimated that, in 2012, there were 4,042 deer farms and 1,199 elk farms, totaling 5,241 venison farms, in the U.S. This is a decrease from 7,571 in 2007. Of the venison producers identified in a Texas A&M University 2007 study,<sup>1</sup> 32 percent of survey respondents were breeding and hunting operations and 7 percent were hunting-only operations. Moreover, the trophy-hunting segment of the venison industry represents the primary end market for the breeding stock industry. Breeding and hunting and hunting-only operations are not considered to be producers of venison for consumption that are subject to COOL. Relying on the NASS and Texas A&M data, AMS assumes that 60 percent of the ranches, or 3,144 producers, raise animals for meat consumption. Virtually all venison-producing operations that would be subject to the amended COOL regulations are small businesses under the criteria established by the Small Business Administration (SBA) [13 CFR 121.201]. SBA defines small agricultural producers as those having annual receipts of less than \$750,000.

While AMS believes that venison producers already maintain birth and raising records on each animal (which may include ear tagging, radio frequency identification devices, and other related means of identification on either an animal or a lot basis) as a normal part of business operations and animal husbandry practices, venison producers may use an affidavit to proclaim where the animals they produce are born and raised, not by individual but for the whole herd. Two factors drive the cost to venison producers to comply with this proposed rule: The time to create the initial affidavit and the time to administer and maintain the affidavit annually. AMS estimates it will take each venison producer 15 minutes (0.25 hours) to create and sign the initial affidavit used to substantiate country of origin claims and carry out the purposes of this regulation. If producers sign an affidavit of country of origin on all animals in the herd, the affidavit will suffice to achieve the purposes of this regulation even if some of the venison produced ultimately is not sold to retail establishments covered by the regulation.

<sup>1</sup> Anderson, D.P., Frosch, B.J., and Outlaw, J.L. Economic Impact of the United States Cervid Farming Industry. APFC Research Report 07–4, August 2007. Agricultural & Food Policy Center. Texas A&M University: College Station, TX.

For venison producers, it is assumed that the added work needed to generate an affidavit from an existing recordkeeping system for country of origin is primarily a bookkeeping task. This task may be performed by an independent bookkeeper, or in the case of operations that perform their own bookkeeping, an individual with equivalent skills. The Bureau of Labor Statistics (BLS) publishes wage rates for bookkeepers, accounting, and auditing clerks. In estimating recordkeeping costs, May 2015 wage rates and benefits published by BLS from the National Compensation Survey are used. It is assumed that this wage rate represents the cost for venison producers to hire an independent bookkeeper. In the case of venison producers who currently perform their own bookkeeping, it is assumed that this wage rate represents the opportunity cost of the producers' time for performing these tasks. The May 2015 wage rate is estimated at \$23.23 per hour. For this analysis, an additional 33 percent is added to the wage rate to account for total benefits, which include Social Security, unemployment insurance, workers compensation, etc. resulting in \$30.90 per hour. Recordkeeping time for venison producers to generate and sign a producer affidavit is estimated at 15 minutes (0.25 hours) per operation. This 0.25 hours multiplied by 3,144 producers at a cost of \$30.90 per hour results in approximately \$24,287 to generate affidavits to substantiate country of origin claims. Annual maintenance is estimated to take 5 minutes (0.083 hours) for each of the 3,144 operations at a cost of \$30.90 per hour for total annual costs of \$8,063. Therefore, the total cost estimates for producers are \$32,351, or approximately \$10.29 per firm.

#### Intermediary Firms

Any establishment that supplies retailers with venison or ground venison would be required to provide country of origin information to retailers. This includes importers, slaughterhouses, processors, wholesalers, and distributors.

From 2011 to 2015, USDA's Foreign Agricultural Service (FAS) reported venison imports of 21.78 million pounds valued at \$79.3 million. For those years, the average annual venison imports were 4.356 million pounds valued at \$15.86 million, or \$3.64 per pound. During this period, the United States saw a dramatic increase in venison imports, with virtually all of it originating from New Zealand. For an imported venison covered commodity, the importer of record must ensure that

records provide clear product tracking from the port of entry into the U.S. to the immediate subsequent recipient. In addition, the records must accurately reflect the country of origin in relevant U.S. Customs and Border Protection entry documents and information systems. Regulated firms must maintain records to verify the accuracy of COOL declarations for a period of one year from the date of the transaction (purchase or sale of animals for slaughter, or venison meat at each point in the supply chain). AMS expects that importers already maintain records mandated by other Federal Statutes (e.g., Bioterrorism Act of 2002; Tariff Act of 1930) that would be sufficient to verify compliance with COOL.

Of intermediaries potentially affected by the proposed rule, SBA classifies as small those manufacturing firms with less than 500 employees and wholesalers with less than 100 employees. Therefore, approximately 93 percent of the general-line grocery wholesalers are small businesses. According to NASS' 2012 Economic Census, there were a total of 2,162 meat and meat products specialty wholesaler firms. Of these, 2,043 firms had less than 100 employees, meaning approximately 95 percent of meat wholesalers are small firms. That same Census reported that 2,354 out of 2,629 (90 percent) livestock processing and slaughtering firms were in operation and classified as small businesses. USDA's Food Safety Inspection Service (FSIS) reported that 577 FSIS-inspected establishments (22 percent) in the U.S. process (i.e., slaughter and process or process-only) non-amenable species, which include venison.

Intermediaries are generally assumed to have prior experience with COOL compliance and are expected to have lower costs needed to meet the requirements of this proposed rule than they did when COOL was first implemented. Wholesalers would incur recordkeeping costs, costs associated with supplying country of origin information to retailers, costs associated with segmenting products by country of origin, and additional handling costs. Given that venison is such a small percentage of proteins on the market, it is estimated that few intermediaries handle venison meat for sale to retail.

Since virtually all intermediary firms are assumed to already have a recordkeeping system in place for other COOL covered commodities, it is estimated that one (1) hour will be required to add venison to the design at a cost of \$45 per firm. The initial recordkeeping costs are estimated by using the Label Cost Model developed

for the Food and Drug Administration (FDA) by RTI International for including additional country of origin information to a livestock processor's records (\$33.75 per hour with an additional 33 percent added to cover benefit costs for a total of \$45.00 per hour). While the cost will be higher for some firms and lower for others, it is believed that \$45 per hour represents a reasonable estimate of average cost for all firms. Based on this calculation, it is estimated that the initial recordkeeping costs for the 577 firms specializing in livestock processing and slaughtering of non-amenable species will be approximately \$25,965. Intermediaries such as handlers, processors, importers and wholesalers (except livestock processing and slaughtering) are considered to already have sufficient recordkeeping and documentation systems in place to convey COOL information for venison products. Thus, no recordkeeping, set-up, and maintenance burden is estimated for these entities.

Maintenance activities will include inputting, tracking, and storing country of origin for venison. Since this is mostly an administrative task, the cost is estimated by using the May 2015 BLS wage rate from the National Compensation Survey for administrative support occupations (\$17.40 per hour with an additional 33 percent added to cover benefit costs for a total of \$23.14 per hour). This occupation category includes stock and inventory clerks and record clerks. Annual maintenance for venison processing and slaughter facilities is estimated to take 5 minutes (0.083 hours) at a cost of \$23.14 per hour, for a total annual cost of \$1,108. Total initial and maintenance costs for 577 livestock processing firms are estimated to be \$27,073, or \$46.92 per firm.

#### *Retailers*

According to the definition of *retailer* under the Perishable Agricultural Commodities Act of 1930, the number of retailers that would be affected by this proposed rule is considerably smaller than the total number of retailers nationwide. There are 4,504 retail firms subject to mandatory COOL regulations. An estimated 88 percent (3,964 out of 4,504) of retail firms are considered small businesses.

Only a small percentage of the producers identified by the previously mentioned Texas A&M University 2007 study actually sell venison and an even smaller percentage sell venison products to retail stores subject to COOL. Venison meat is available through some specialty grocers and national chains that focus on 'natural'

meats. USDA's Economic Research Service supermarket sales data for venison and elk meat show that a total of 350,404 pounds were sold in supermarkets (the regulated retail firms subject to COOL) during the 5-year period from 2008 through 2012, or an average of 70,081 pounds per year. Average annual retail sales of venison are less than 2 percent of annual venison imports (70,000 divided by 4.4M pounds) without even accounting for domestic production. Most venison meat is consumed in restaurants, which are not subject to COOL requirements.

The number of retailers selling venison is a small subset of the COOL-regulated retailer population. Retailers choosing to carry venison products would accrue additional recordkeeping costs associated with supplying country of origin information to consumers as well as additional handling costs. USDA estimates that 3 percent of retailers (135 firms out of 4,504 retailers in the U.S.) will carry venison. AMS estimates that 88 percent of these retailers will be small businesses, consistent with the overall retailer population.

It is estimated that each of the 135 retail firms will require one (1) hour to add venison to existing data management systems. The initial recordkeeping costs for retailers are estimated by using the same Label Cost Model developed for FDA by RTI International for including additional country of origin information to a retailer's records. It is assumed that limited information, such as one-color redesign of a paper document, will be sufficient to comply with the rule's recordkeeping requirements (total salary and benefit costs of \$45.00 per hour). Based on one hour per firm at \$45 per hour and 135 firms, initial recordkeeping costs at retail are estimated to be approximately \$6,075. The yearly storing and maintenance cost for retailers is estimated by using the May 2015 BLS wage rate from the National Compensation Survey for administrative support occupations (\$23.14 for wages plus benefits per hour). Annual maintenance for retail firms is estimated to take 30 minutes (0.5 hours) on average for 135 retail firms, because only a small subset, about 3 percent, of the 4,504 retailers will sell venison, at a cost of \$23.14 per hour for total annual maintenance costs of \$1,562. Total initial and maintenance costs for 135 retailers are estimated to be \$7,637.

Accordingly, the Administrator of AMS has conducted this Initial Regulatory Flexibility Analysis and has determined that this proposed rule will not have a significant economic impact

on a substantial number of small entities. However, AMS invites comments concerning potential effects of this proposed rule.

AMS has considered any significant alternatives to this proposal that accomplish the statutory objectives and minimize the significant economic impact of the proposal on small entities. AMS does not believe there are other Federal rules that may duplicate, overlap, or conflict with the proposed rule. The effect of this proposed rule would be limited to a small number of firms that produce, process, and market venison. The only effective means of achieving the results mandated by the 2014 Farm Bill is through this proposed regulatory action.

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA), AMS is requesting OMB approval for a new information collection to add venison as a COOL covered commodity. The overall total burden for initial set-up, annual storage, and maintenance to comply with reporting and recordkeeping requirements for 3,856 recordkeepers is estimated to be 1,873 hours. OMB previously approved information collection requirements associated with all other COOL covered commodities and regulated firms and assigned OMB control number 0581–0250. This proposed rule would increase the overall reporting and recordkeeping burden due to the anticipated increase in number of respondents from the venison industry. Therefore, a NEW information collection is required to carry out the requirements of this proposed rule. AMS intends to merge

this new information collection, upon OMB approval, into the approved 0581–0250 collection.

Below, AMS has described and estimated the annual burden, *i.e.*, the amount of time and cost of labor, for entities to prepare and maintain information to participate in this proposed mandatory labeling program. AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to government information and services, and for other purposes. As with all mandatory regulatory programs, recordkeeping burdens are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. The Act, as amended, provides authority for this action.

*Title:* Mandatory Country of Origin Labeling Requirements for Venison Meat.

*OMB Number:* 0581–NEW.  
*Type of Request:* This is a NEW collection.

*Abstract:* The information collection requirements are essential to carry out this rule.

COOL provisions of the Act require retailers and suppliers of COOL covered commodities to verify the accuracy of COOL claims. Only records maintained in the course of the normal conduct of the business are required to serve as verification. This proposed rule would add this recordkeeping requirement for producers, intermediaries, and retailers of venison meat. This public reporting burden is necessary to ensure conveyance and accuracy of country of origin and method of production

declarations relied upon at the point of sale at retail. The public reporting burden also assures that all parties involved in supplying venison and ground venison meat to retail stores maintain and convey accurate information as required.

AMS believes that typical venison ranching operations have already developed much of the necessary recordkeeping (for example, birth, health, feeding records, and other documentation used to manage and identify the flock or herd) through normal animal husbandry and business practices. Furthermore, producer affidavits shall also be considered acceptable records that suppliers may utilize to initiate origin claims. Therefore, the estimated incremental costs for venison producers to supplement existing records with country of origin information will be relatively small per firm. Examples of initial or start-up costs would be any additional recordkeeping burden to record the required country of origin information and transfer this information to handlers, processors, wholesalers, or retailers via records used in the normal course of business.

Table 1 displays the estimated annual costs associated for venison producers, intermediaries, and retailers. This public reporting burden is necessary to ensure conveyance and accuracy of country of origin and method of production declarations relied upon at the point of sale at retail. The public reporting burden also assures that all parties involved in supplying covered commodities to retail stores maintain and convey accurate information as required.

**TABLE 1—ESTIMATED INITIAL SET-UP AND ESTIMATED ANNUAL STORAGE MAINTENANCE COSTS ASSOCIATED WITH PAPERWORK BURDEN**

Initial & set-up costs (incurred one time only)	Firms	Initial costs
Venison Producers .....	3,144	\$24,287
Handlers, Processors, Importers & Wholesalers (except livestock processing & slaughtering) .....	0	0
Livestock Processing & Slaughtering (non-amenable species) .....	577	25,965
Retailers .....	135	6,075
<b>Total Initial &amp; Set-Up Costs .....</b>	<b>3,856</b>	<b>56,327</b>
Annual Storing & Maintenance Costs (yearly maintenance cost burden)	Firms	Maintenance costs
Venison Producers .....	3,144	8,063
Handlers, Processors, Importers & Wholesalers (except livestock processing & slaughtering) .....	0	0
Livestock Processing & Slaughtering (non-amenable species) .....	577	1,108
Retailers .....	135	1,562
<b>Total Annual Storing &amp; Maintenance Costs .....</b>	<b>3,856</b>	<b>10,694</b>
<b>Total Estimated Set-Up and Annual Maintenance Costs .....</b>	<b>.....</b>	<b>67,061</b>

The request for approval of the new information collection is as follows:

*Estimate of Burden:* Public reporting burden for initial set-up, recordkeeping, storage, and maintenance is estimated to average 14 minutes (0.24 hours) per response from all respondents (venison producers, livestock processors and slaughterers, and retailers).

**Initial Set-Up Burden**

*Respondents:* Producers, processors, slaughterhouses, handlers, wholesalers, importers, and retailers of venison and ground venison meat.

*Estimated Number of Respondents:* 3,856.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Responses:* 3,856.

*Estimated Total Annual Burden on Respondents:* 1,498 hours.

**Annual Storage Maintenance Burden**

*Respondents:* Producers, processors, slaughterhouses, handlers, wholesalers, importers, and retailers of venison and ground venison meat.

*Estimated Number of Respondents:* 3,856.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Responses:* 3,856.

*Estimated Total Annual Burden on Respondents:* 376 hours.

*Comments are invited on:* (1) Whether the proposed collection of information is necessary for the proper performance of the functions of AMS, including whether the information will have practical utility; (2) the accuracy of AMS' estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. A 60-day period is provided to comment on the information collection burden.

Comments should reference OMB No. 0581-NEW and be sent to Julie Henderson, Director, COOL Division; Livestock, Poultry, and Seed Program, Agricultural Marketing Service, USDA; Room 2614-S, STOP 0216; 1400 Independence Avenue SW.,

Washington, DC 20250-0216; telephone (202) 720-4486; or email *COOL@ams.usda.gov*. All comments received will be available for public inspection. All responses to this proposed rule will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Comments concerning the information collection under PRA should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

**List of Subjects in 7 CFR Part 65**

Agricultural commodities, Food labeling, Meat and meat products, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, AMS proposes to amend 7 CFR part 65 as follows:

**PART 65—COUNTRY OF ORIGIN LABELING OF LAMB, CHICKEN, GOAT, AND VENISON MEAT, PERISHABLE AGRICULTURAL COMMODITIES, MACADAMIA NUTS, PECANS, PEANUTS, AND GINSENG**

■ 1. The authority citation for 7 CFR part 65 continues to read as follows:

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

■ 2. Revise the part heading of 7 CFR part 65 as set forth above.

■ 3. Add § 65.117 to read as follows:

**§ 65.117 Cervidae.**

*Cervidae* means any one of the various species that are raised for the production of venison meat, such as whitetail deer, elk, fallow deer, axis deer, sika, red deer (maral), musk deer, rusa deer, antelope, nilgai, pronghorn, reindeer, and caribou.

■ 4. Amend § 65.135 by revising paragraphs (a)(1) and (2) to read as follows:

**§ 65.135 Covered commodity.**

(a) \* \* \*

(1) Muscle cuts of lamb, chicken, goat, and venison;

(2) Ground lamb, ground chicken, ground goat, and ground venison;

\* \* \* \* \*

■ 5. Add § 65.178 to read as follows:

**§ 65.178 Ground Venison.**

*Ground venison* means comminuted venison of skeletal origin that is produced in conformance with all applicable Food Safety and Inspection Service labeling guidelines.

■ 6. Revise § 65.230 to read as follows:

**§ 65.230 Production step.**

*Production step* means, in the case of lamb, chicken, goat, and venison, born, raised, or slaughtered.

■ 7. Revise § 65.235 to read as follows:

**§ 65.235 Raised.**

*Raised* means, in the case of lamb, chicken, goat, and venison, the period of time from birth until slaughter or in the case of animals imported for immediate slaughter as defined in § 65.180, the period of time from birth until date of entry into the United States.

■ 8. Revise § 65.250 to read as follows:

**§ 65.250 Slaughter.**

*Slaughter* means the point in which a livestock animal (including chicken and cervidae) is prepared into meat products (covered commodities) for human consumption. For purposes of labeling under this part, the word *harvested* may be used in lieu of *slaughtered*.

■ 9. Amend § 65.260 by revising paragraph (a) to read as follows:

**§ 65.260 United States country of origin.**

\* \* \* \* \*

(a) Lamb, chicken, goat, and venison:

\* \* \* \* \*

■ 10. Add § 65.270 to read as follows:

**§ 65.270 Venison.**

*Venison* means meat produced from animals in the cervidae family.

■ 11. Amend § 65.300 by revising paragraph (h) to read as follows:

**§ 65.300 Country of origin notification.**

\* \* \* \* \*

(h) *Labeling Ground Lamb, Ground Goat, Ground Chicken, and Ground Venison.* The declaration for ground lamb, ground goat, ground chicken, and ground venison covered commodities shall list all countries of origin contained therein or that may be reasonably contained therein. In determining what is considered reasonable, when a raw material from a specific origin is not in a processor's inventory for more than 60 days, that country shall no longer be included as a possible country of origin.

\* \* \* \* \*

■ 12. Amend § 65.500 by revising paragraph (b)(1) to read as follows:

**§ 65.500 Recordkeeping requirements.**

\* \* \* \* \*

(b) \* \* \* (1) Any person engaged in the business of supplying a covered commodity to a retailer, whether directly or indirectly, must make available information to the buyer about the country(ies) of origin of the covered commodity. This information may be provided either on the product itself, on

the master shipping container, or in a document that accompanies the product through retail sale. In addition, the supplier of a covered commodity that is responsible for initiating a country(ies) of origin claim, which in the case of lamb, chicken, goat, and venison is the slaughter facility, must possess records that are necessary to substantiate that claim for a period of 1 year from the date of the transaction. For that purpose, packers that slaughter animals that are tagged with an 840 Animal Identification Number device without the presence of any additional accompanying marking (*i.e.*, “CAN” or “M”) may use that information as a basis for a U.S. origin claim. Packers that slaughter animals that are part of another country’s recognized official system (*e.g.* Canadian official system, Mexico official system) may also rely on the presence of an official ear tag or other approved device on which to base their origin claims. In the case of cervidae, producer affidavits shall also be considered acceptable records that suppliers may utilize to initiate origin claims, provided it is made by someone having first-hand knowledge of the origin of the covered commodity and identifies the covered commodity unique to the transaction.

\* \* \* \* \*

Dated: January 9, 2017.

**Bruce Sumners,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2017–00588 Filed 1–12–17; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1260

[No. AMS–LPS–16–0071]

#### Beef Promotion and Research; Reapportionment

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would adjust representation on the Cattlemen’s Beef Promotion and Research Board (Board), established under the Beef Promotion and Research Act of 1985 (Act), to reflect changes in domestic cattle inventories since January 1, 2013, as well as changes in levels of imported cattle, beef, and beef products that have occurred since December 31, 2012, which were the cut-off dates for data used by the Agricultural Marketing

Service (AMS) when the Board was last reapportioned in July 2014. These adjustments are required by the Beef Promotion and Research Order (Order) and, if adopted, would result in a decrease in Board membership from 100 to 99, effective with the U.S. Department of Agriculture’s (USDA) appointments for terms beginning early in the year 2018.

**DATES:** Submit comments on or before March 14, 2017.

**ADDRESSES:** Comments should be posted online at [www.regulations.gov](http://www.regulations.gov). Comments received will be posted without change, including any personal information provided. All comments should reference the docket number AMS–LPS–16–0071, the date of submission, and the page number of this issue of the **Federal Register**. Comments may also be sent to Mike Dinkel, Agricultural Marketing Specialist; Research and Promotion Division; Livestock, Poultry, and Seed Program, AMS, USDA; Room 2610–S, STOP 0249, 1400 Independence Avenue SW., Washington, DC 20250–0249; or via fax to (202) 720–1125. Comments will be made available for public inspection at the above address during regular business hours or via the Internet at [www.regulations.gov](http://www.regulations.gov).

#### FOR FURTHER INFORMATION CONTACT:

Mike Dinkel, Research and Promotion Division, at (301) 352–7497; fax (202) 720–1125; or by email at [Michael.Dinkel@ams.usda.gov](mailto:Michael.Dinkel@ams.usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule has been determined not to be significant for purposes of Executive Order 12866 or Executive Order 13563. Accordingly, the Office of Management and Budget (OMB) has waived the review process.

##### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. The Act prohibits states or political subdivisions of a state to impose any requirement

that is in addition to, or inconsistent with, any requirement of the Act. There are no civil justice implications associated with this proposed rule.

#### Regulatory Flexibility Act and Paperwork Reduction Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) [5 U.S.C. 601–612], the Administrator of AMS has considered the economic effect of this action on small entities and has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened.

In the February 2013 publication of “Farms, Land in Farms, and Livestock Operations,” USDA’s National Agricultural Statistics Service (NASS) estimated that the number of operations in the United States with cattle in 2012 totaled approximately 915,000, down from 950,000 in 2009. There are approximately 270 importers who import beef or edible beef products into the United States and 198 importers who import live cattle into the United States. It is estimated that the majority of those operations subject to the Order are considered small businesses under the criteria established by the Small Business Administration (SBA) [13 CFR 121.201]. SBA generally defines small agricultural service firms as those having annual receipts of \$7.5 million or less, and small agricultural producers are generally defined as those having annual receipts of less than \$750,000.

The proposed rule imposes no new burden on the industry. It only adjusts representation on the Board to reflect changes in domestic cattle inventory, as well as in cattle and beef imports. The adjustments are required by the Order and would result in a decrease in Board membership from 100 to 99.

AMS is committed to complying with the E-Government Act of 2002 to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to government information and services, and for other purposes.

USDA has not identified any relevant federal rules that duplicate, overlap, or conflict with this rule.

#### Background and Proposed Action

The Board was initially appointed on August 4, 1986, pursuant to the provisions of the Act [7 U.S.C. 2901–2911] and the Order issued thereunder. Domestic representation on the Board is