

substantive changes made by the Department upon review of the proposed procedures for the conduct of the referendum. Also, the Department has made other minor changes of a nonsubstantive nature for purposes of clarity and accuracy. For the reader's convenience, the discussion is organized by the topic headings of the proposed rule.

Definitions

Section 1280.621 Raw Wool

Twenty commenters suggested that the definition of "raw wool" should include wooltop, noils of wool, and wool waste. The Department finds that wooltop, noils of wool, and wool waste result from the processing of raw wool as defined in the Act and that to expand the definition would not be consistent with the intent of the Act. Accordingly, this suggestion is not adopted in the final rule.

Section 1280.624 Representative Period

Twenty-one commenters suggested that the representative period should be the 1995 calendar year. The Department has determined that the representative period should be the 12 consecutive months of calendar year 1994 to ensure that importers have ample opportunity to calculate their "volume of production" prior to casting a ballot. This is particularly true for those persons voting absentee. Accordingly, this suggestion is not adopted.

Section 1280.631 Volume of Production

Four commenters suggested that the importer's volume of production should be based on imports for a single consecutive 30-day period within the 12-month representative period, because domestic production is based on a 30-day period. The commenters were concerned that basing importer's volume of production on imports for an entire year would provide importers with an advantage over domestic producers. The Department finds that basing importer's volume of production on import volume for a calendar year is consistent with § 6(c)(4) of the Act. Accordingly, this suggestion is not adopted.

One commenter suggested that lambs younger than 6 months of age should be counted toward a producer's or feeder's volume of production total because all imported sheep products are used to calculate importers' live animal equivalents for the 12-month representative period. The Department determined that this suggestion has

merit because all sheep and lambs in the inventory are subject to sale during a calendar year and many are marketed at less than 6 months of age. Accordingly, this suggestion is adopted and we have amended § 1280.631, Volume of Production, to reflect this change.

One commenter questioned whether domestic producers would be required to use a conversion factor to determine domestic volume of production. The Department has determined that domestic volume of production would be based on the number of live sheep owned continuously during a single period of at least 30 days during calendar year 1994, and located in the United States. Accordingly, no conversion factors are necessary for domestic producers or feeders. Two commenters suggested that the Department review the definition of volume of production and revise it to include an actual head count to establish volume of production. The commenter believed this would more accurately reflect the annual flock size of each producer. The Department reviewed this definition and determined that the basis for establishing volume of production is consistent with the intent of the Act. Accordingly, this suggestion is not adopted.

Referendum

Section 1280.650 General

One commenter asked whether two-thirds of the production represented by those persons voting in the referendum, or whether 51 percent of the simple majority vote could approve or defeat the Order. The Act provides that the final Order will become effective if it is approved by either a simple majority of the producers, feeders, and importers voting in the referendum or by those voting who account for at least two-thirds of the production represented by persons voting in the referendum.

One commenter suggested that the simple majority vote and the eligibility requirements that allow any sheep owner to participate in the referendum could mean that a disproportionately high number of hobby sheep owners will participate in the referendum and might lead to the adoption of an Order commercial producers, feeders, and importers are not in favor of it. The Act provides that each person who markets sheep and sheep products is subject to the assessment provisions of the Act. Therefore, all persons who are required to pay an assessment would be entitled to vote in the referendum regardless of the number of sheep they owned. Accordingly, this suggestion is not adopted.

One commenter suggested that the Order should not become operative unless the Secretary finds that at least 40 percent of those eligible to vote have participated in the referendum and that: (1) 65 percent of those voting cast votes in favor of implementation of the Order, and those so voting own the majority of the total quantity of sheep and sheep products in the preceding year owned by all who voted in the referendum, and (2) a majority of those who voted in favor of implementation of the Order, and those so voting owned 65 percent or more of the total quantity of sheep and sheep products in the preceding year owned by all who voted in the referendum. The Act provides that all persons who were engaged in the production, feeding, or importation of sheep or sheep products will be eligible to vote and that each person may cast a vote. Additionally, the Act provides that for the Order to become effective, it has to be approved by either a simple majority of the producers, feeders, and importers voting in the referendum or by those voting who account for at least two-thirds of the production represented by those persons voting in the referendum. Accordingly, this suggestion is not adopted.

Section 1280.652 Eligibility

Twenty-four commenters suggested either that no person under the age of 18 should be allowed to vote or that there should be some age limitation on eligibility to vote in the referendum. The Department finds that any person who is subject to the assessment should be entitled to vote. Accordingly, this suggestion is not adopted.

Nineteen commenters asked if producers who also qualify as feeders could vote once as a producer and once as a feeder. Section 1280.652 of the rule specifically states that each producer, feeder, and importer entity shall be entitled to cast only one ballot in the referendum. The intent is that there is only one vote per individual or legal entity. Thus, an individual who is both a producer and a feeder would have only one vote unless the individual represents more than one legal entity.

One commenter suggested that a person who collects a wool incentive check should be the only person eligible to vote. The Act specifically designates and establishes the requirements of those persons who are eligible to vote in the referendum. Receiving a wool incentive check under the National Wool Act of 1954 is not a requirement of eligibility to vote in the referendum. The Department believes that each person who is subject to the assessment should be entitled to cast a vote.