



May 21, 2012

Michael Lynch
Director; USDA, AMS, LS, LGMN Branch
1400 Independence Ave., SW
Room 2619-S
Washington, D.C. 20250

Re: [Doc. No. AMS-AMS-LS-11-0049] Federal Register, Vol. 77, No. 226, Page 16951, Friday, March 23, 2012. Proposed Comments Livestock Mandatory Reporting Program; Establishment of the Reporting Regulation for Wholesale Pork

The National Pork Producers Council (NPPC) appreciates the opportunity to comment on the establishment of reporting wholesale pork in the Livestock Mandatory Reporting law. NPPC is a national association representing 43 affiliated state associations and America's pork producers, who annually generate approximately \$15 billion in farm gate sales. The U.S. pork industry supports an estimated 550,000 domestic jobs and generates more than \$97 billion annually in total U.S. economic activity.

NPPC was very supportive of the Congress's directive that the wholesale pork reporting provisions should be determined by a Negotiated Rulemaking Committee because of the complex nature of using the wholesale pork cut as a basis for pricing live hogs. Further, NPPC was very pleased with the consensus reached by the Negotiated Rulemaking Committee, and we commend AMS and the other committee members for their part in developing a proposal that is very practical and workable while still meeting the needs of all interested parties. NPPC recognizes that significant resources were devoted by AMS and the other committee members to participate in the negotiated rulemaking process, and it affirms how pleased the organization is with the proposal that has been put forth. Outlined below are several minor suggestions to the proposed rule:

1. The freight rate computation on page 16954 appears overly simplistic. First, there are inherent costs associated with loading product that would not be included if a straight per-mile freight cost is used. These costs are no doubt considered by packers when quoting FOB plant costs. Excluding them from the FOB Omaha computations will understate the cost of short hauls and result in FOB Omaha prices that are higher than they should be. This issue could be resolved by either applying a minimum amount for transport costs or by using a formula that includes an intercept term as well as a per-mile component. A further issue is less-than-truckload (LTL) freight rates. USDA should provide rates for LTL's since a significant amount of product is shipped in LTL lots where freight rates are generally higher.

The Global Voice for the U.S. Pork Industry

2. The proposal to allow dual reporting of the mandatory and voluntary systems for only 6 months is insufficient. For example, a 6-month dual reporting system does not allow for observance of the seasonal differences that may exist between today's voluntary data and the data covering all pork products that will be available under this system. No one knows what those differences may be. Market participants need to observe the differences for one full year to know how to adjust price formulas to accurately reflect product values. While NPPC understands that additional costs will be involved in a 12-month dual reporting system, we believe it would allow for better observation of how these differences affect the new system.
3. In the definition for "Specialty pork product" on page 16964, USDA should consider inserting the phrase "but not limited to" between the word "as" and the word "genetically" to make the definition read "... such as, but not limited to, genetically-selected pork, ..." As proposed, this definition could be viewed as being limited to the three types of specialties listed in the definition. We do not think this is what the committee intended nor do we think it is wise. Making this addition will make it clear that other features may fall within this definition. Pork producers remain concerned about the scope of products that may be included in this category. Just what constitutes a "specialty program," since that is the criteria listed in the definition? One limitation may be to require that any product included here must be the result of a program that requires labeling, the meeting of certain specifications by the producer and authentication through an audit program. Alternatively, the definition could specify characteristics such as trim specifications, manufacturing processes and branding in the absence of a documented differentiation at the wholesale level that will not suffice to qualify a product to be defined as "Specialty pork product."
4. The definition for "Formula Marketing Arrangement" includes a phrase that was not approved by the committee and that could be quite problematic. That phrase is "... executed in advance of manufacture ..." The inclusion of this phrase seems to leave no place to report any formula-priced product whose sale is agreed upon following manufacture. A packer with an excess supply of any wholesale cut that agrees to sell the product at, for instance, "spot +\$2" two weeks hence could not report it as a "Formula Marketing Arrangement" since the deal was made post-manufacture. Nor could that party report it as "Forward Sale" or "Negotiated Sale" since the price is not yet determined as a requirement of both definitions. NPPC urges USDA to remove the phrase in question from this definition and use the language already agreed upon by the negotiated rule making committee.
5. Appendix A (the reporting form) contains no field for noting that a product is a "Specialty Pork Product." This is listed in 59.205 as one of the sale characteristics to be reported, but there is no place to make that distinction on the form.
6. USDA must be careful not to "over-specify" pork products to the degree that confidentiality issues prevent the publication of prices. The more tightly specified product specifications are, the more probable it is that only a few trades from only a few sellers will be reported, thus violating confidentiality parameters and causing no price to

be published. Conversely, broader specifications will result in more sales and sellers reporting but may dilute some of the details that could be useful. This issue is critical to the success of the program. It may require changes when problems arise or become pervasive. NPPC encourages USDA to work with packers and end users to develop and maintain accurate, meaningful groupings of cuts.

7. NPPC requests that a minimum period of 6 months be allowed between the time the final rule is issued and the new reporting system becomes effective. This period will be necessary to allow companies to establish their IT systems necessary for the reporting of product.

NPPC appreciates AMS considering these recommendations on the establishment of reporting wholesale pork in the Livestock Mandatory Reporting law. We look forward to participating in this process and to working with AMS in the future.

Regards,

A handwritten signature in cursive script that reads "RC Hunt".

RC Hunt
President
National Pork Producers Council