

November 7, 2022

Dr. Michael Carter
Commodity Policy Advisor
Strategy and Policy, Veterinary Services
4700 River Road
Riverdale, MD 20737

RE: Docket No. APHIS-2021-0010, “Animal and Plant Health Inspection Service Indemnity Regulations.”

Dear Dr. Carter:

The National Pork Producers Council (NPPC), which represents the interest of more than 66,000 U.S. pork producers, submits the following comments on USDA APHIS’s Advanced Notice of Proposed Rulemaking published in the *Federal Register* on September 7, 2022. NPPC appreciates the opportunity to submit comments on a new approach to indemnity value determination and new framework for indemnity regulations.

Introduction

The U.S. pork industry is a global supplier of pork and a major contributor to the U.S. economy. Based on 2021 levels of production, the pork industry supports more than 613,000 U.S. jobs, nearly \$180 billion in gross output and over \$57 billion in value-added GDP. Pork exports account for roughly 25 percent of annual pork production and added nearly \$63 per head in value to each hog marketed in the U.S. in 2021.

A foreign animal disease (FAD) outbreak, such as African swine fever (ASF) or foot and mouth disease (FMD) would be a devastating animal health crisis that would threaten producer livelihoods and close export access for U.S. pork. Pork producers care deeply about the health and welfare of their animals and are committed to disease prevention and preparedness efforts. Part of an effective preparedness plan is establishing clear indemnity policies that ensure some certainty and financial support for pork producers who must depopulate affected animals during an outbreak.

NPPC supports APHIS efforts to achieve consistency across disease programs and agrees that the use of a standardized value table would facilitate more timely and complete appraisals during an outbreak. NPPC also supports the proposed approach to consolidate all indemnity regulations within the Code of Federal Regulations, provided there is sufficient consideration for differences that exist across various species and diseases.

Applicability

NPPC supports APHIS’ proposal to establish a list online of covered foreign and emerging diseases for which the agency will pay indemnity and further support the regular updating of this list. APHIS states that the list of foreign and emerging diseases will, as a baseline, contain those diseases currently listed

in part 53 (foot and mouth disease, contagious pleuropneumonia, Newcastle disease, high-pathogenic-avian influenza, infectious salmon anemia and spring viremia of carp), as well as classical bovine spongiform encephalopathy. NPPC encourages USDA to also include other FADs of significant concern to the pork industry such as ASF.

In addition, there are emerging diseases that the industry is monitoring around the world. As APHIS moves forward with this rulemaking, we would encourage the agency to ensure that its process for adding diseases to the list of covered foreign and emerging diseases is clear and expeditious. It is important that APHIS' list stays current and can be rapidly updated as new foreign and emerging disease threats are identified.

Determination of Indemnity

NPPC supports the use of a standard value table while offering several considerations for swine value determination. The current APHIS commercial livestock value table uses the prior-year annual average price for six weight categories of swine. This calculation is straightforward and verifiable, though it may not accurately represent an animal's fair market value a given time in the current year.

Hog prices and producer profitability often follow seasonal patterns based on supplies of market-ready hogs and demand for pork. Indemnifying producers using an annual average price does not allow these market realities to be reflected, and as a result could significantly under-value livestock that were depopulated in the summer and over-value livestock depopulated in the winter. Additionally, prior year prices are not a reliable indicator of current year market prices. For example, the average selling price for market hogs in September 2022 was 25 percent higher than it was in September 2021, and the cost of production also increased nearly 20 percent.¹

To achieve a set of standard values that better reflects the fair value of animals at a given time, APHIS could consider implementing a set of seasonally adjusted values for market-weight hogs or updating the average value table more than once per year. NPPC also encourages the Department to consider adjusting its value determination method for breeding animals as current value tables do not account for the breeding value and future breeding potential that may be destroyed during depopulation. The cost of replacing these animals and the value they bring to the operation is significantly greater than the value a farmer would receive if the sows were to be sold to market.

Additionally, pork producers across the country engage in a variety of production styles to serve different consumer markets (e.g., organic, antibiotic free, etc.). These producers may not be properly indemnified using standard commercial values and would likely request in-person appraisals to receive fair market value for their animals. NPPC encourages APHIS to consider creating additional specialty indemnity values for value-added production styles as data availability allows.

APHIS should also consider how it would calculate the fair market value for swine in the event of a foreign animal disease outbreak that causes severe market shocks. For example, confirmed positive cases of African swine fever would result in a loss of export market access and an estimated 40-50 percent drop in live hog prices. APHIS demonstrated the ability to account for abnormal market conditions by altering the data source used after the COVID-19 market disruptions. The same considerations would be important when calculating table values for the year following an African swine fever or another foreign animal disease outbreak.

¹ <http://www2.econ.iastate.edu/estimated-returns/>

Finally, APHIS mentions a desire to harmonize its standardized value table with the table used by the Farm Service Agency (FSA) for payments under the Livestock Indemnity Program (LIP). FSA uses a similar approach for calculating swine values, though its table contains only four animal size categories where the current APHIS table uses six. Too much aggregation results in lower values for producers whose animals fall on the heavier end of a very broad size category. For example, a 450-pound animal has a significantly higher value and cost of production than a 150-pound animal, though producers would receive the same indemnity payment for each under LIP. As APHIS works to harmonize value determination with FSA, it should ensure that values are aggregated in a way that reasonably groups animals of similar size and input requirements.

Joint Ownership/Contract Raisers

The current regulations use a formula based on total contract value and number of days to split indemnity payments between growers and owners in the poultry industry. Because of the significant differences between the poultry tournament system and hog contract growing, it would not be appropriate to expand the poultry approach to the swine industry.

In the pork industry, pig owners and contract growers have agreed upon terms by which the contract grower is typically paid a fixed rate per pig space per year. In some cases, but not all, growers may have the potential to earn bonuses for feed efficiency or low death loss. This system guarantees a steady source of income to the grower without the grower having to face output or market risk.

In the case of a foreign animal disease outbreak, the terms of the owner-grower contract would likely protect the contract grower because the owner continues to pay for the pig spaces regardless of if those spaces are occupied. This scenario often plays out on a smaller scale when pig owners face disease-related productivity challenges and may see a gap in available weaned pigs to fill finisher barns. As the contract grower continues to receive payment, indemnity for depopulated animals should be directed to the owner who will continue to fulfill their contractual obligation to the grower.

Destruction and Disposal

NPPC supports the harmonization of destruction and disposal language for covered diseases and supports APHIS' proposal to harmonize what materials at an infected premises qualifies for destruction and indemnification. Some FADs, such as ASF, can persist in feed and other materials for weeks or months and present a continuing risk of reinfection of future animals or herds. Proactively establishing a list of materials to be destroyed and indemnified provides an additional measure of certainty and guidance to producers and may help destruction and disposal proceed expeditiously.

Cleaning and Disinfection of Premises, Conveyances, and Materials

NPPC also supports the harmonization of the cleaning and disinfection language across commodities. Providing consistency in the cleaning and disinfection regulations for all diseases will make it easier for producers to know what costs are covered in the event of a disease outbreak and may help expedite the process.

Pre-Exposure Biosecurity Requirements for Herds/Flocks

The poultry industry's National Poultry Improvement Plan (NPIP) Program Standards 14-point Biosecurity Principles Audit Guidelines have recently shown to be an effective approach to reducing lateral transmission of HPAI; thus, justifying indemnity payments to a producer who's flock contracts a disease, despite sound biosecurity measures.

When looking to a similar approach for the swine industry, there is one key difference to be considered. The swine industry is in the very early stages of the Swine Health Improvement Plan, which has lower participation than that of the NPIP program. However, the swine industry has increasing adoption of the Secure Pork Supply Plan, which includes science-based, risk-based, and industry supported biosecurity requirements. Additionally, the SHIP program is looking to adopt the Secure Pork Supply biosecurity requirements. For these reasons, we would recommend that pre-exposure biosecurity requirements be consistent with the Secure Pork Supply program requirements, which will continue reflecting best practices over time.

Post-Exposure Biosecurity Requirements

A recent policy implemented by USDA during the 2022 HPAI outbreak required a premises in the buffer zone to submit a biosecurity plan and have a virtual audit performed by either a state or federal regulatory official to be eligible for indemnity if the premises subsequently became infected with HPAI. Premises in the infected zone were not eligible for indemnity from USDA APHIS VS if the State allowed restocking.

When considering post-exposure biosecurity requirements for a premises that has been infected, depopulated and is looking to restock, we support the requirement of biosecurity measures that are consistent with the Secure Pork Supply 'enhanced' program requirements. This would allow for harmonization of biosecurity requirements that are already utilized by the industry, while still decreasing the risk of a transmission event to higher risk farms located in the control zone.

Conclusion

NPPC appreciates the opportunity to submit comments on the Department's new approach to indemnity structure and value determination. If you have any questions about the submitted comments, please do not hesitate to contact NPPC Staff Economist Holly Cook at cookh@nppc.org or NPPC Science and Technology Legal Counsel Andrew Bailey at baileya@nppc.org.

Sincerely,



Terry Wolters

President

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