

January 10, 2025

S. Brett Offutt
Chief Legal Officer/Policy Advisor
Packers and Stockyard Division
USDA AMS Fair Trade Practices Program
1400 Independence Avenue SW
Washington, DC 20250

RE: Comments of the National Pork Producers Council in Response to Advanced Notice of Proposed Rulemaking “Price Discovery and Competition in Markets for Fed Cattle” (AMS-FTPP-24-0013).

Dear Mr. Offutt:

The National Pork Producers Council (NPPC), which represents the interests of America’s more than 60,000 pork producers, submits the following comments on the Agricultural Marketing Service’s (AMS) Advanced Notice of Proposed Rulemaking “Price Discovery and Competition in Markets for Fed Cattle” (AMS-FTPP-24-0013).

To be clear, NPPC has no opinion on the proposals related to fed cattle markets. However, the use of marketing agreements and reliance on benchmarks reported by USDA to determine base prices is common practice in the pork industry. NPPC would like to highlight some key considerations for AMS if it should continue modifying regulations related to price discovery and competition. More specifically, NPPC would like to highlight historical trends in hog pricing and the important role of Livestock Mandatory Price Reporting (LMR) in providing timely and reliable market information.

NPPC supports the rights of all pork producers, of any size or type of production system, to market access and marketing opportunities. This includes supporting the rights of producers to enter into agreements of their choosing. NPPC also strongly advocates for timely, reliable, and accurate market information reported under LMR that enables producers to make informed marketing and contracting decisions. NPPC considers the information reported under LMR to be essential for conducting business in the pork industry and in ensuring the competitiveness of hog and pork markets.

Trends in Hog Pricing and Importance of Livestock Mandatory Price Reporting

Methods for buying and selling livestock and meat have evolved in recent decades. Since 2001, LMR reports have offered transparent and unbiased market information on price and volume trends, supply and demand indicators, and various purchase and sales methods. USDA currently publishes seven daily and two weekly reports for swine, as well as four daily and 12 weekly reports for wholesale pork, capturing

approximately 96% of the industry. These reports provide a window into the marketplace, allowing producers to better understand changes in supply and demand while capturing trends in hog and pork marketing over time.

The prices packers pay producers for their hogs are generally derived in a way that fits within one of four main LMR reporting categories: (1) Negotiated, or cash purchases; (2) Swine or Pork Market Formula, which are formula purchases that reference a hog or pork market price, usually a prior day cash price or pork cutout value; (3) Other Market Formula, which are formula purchases that reference a futures or options market; and (4) Other Purchase Arrangement, capturing purchases with formulas that do not fit into the other categories, including cost of production formulas or hogs with premiums for special attributes.

When examining the purchase type data reported through LMR, it is clear the number of negotiated purchases in the swine industry has declined over time, both in terms of the number of hogs negotiated and the percentage of total sales volume that takes place on the cash market. There are several factors contributing to what has been a decades-long trend toward lower cash volumes. First, lenders often encourage, or even require, producers to enter into marketing agreements and secure “shackle space” for their hogs. Second, the time and expense to producers and packers of negotiating each load of hogs are significant. Marketing agreements help mitigate these costs while providing certainty to producers and aiding in the price risk management process. Lastly, LMR provides trusted and reliable swine and pork market data that industry participants can freely use to formulate base prices. As AMS describes in the ANPR, marketing agreements yield significant benefits for producers, packers, and consumers.

AMS also correctly identifies the vulnerabilities that can arise when a large number of animals have formula prices that depend on a benchmark price that results from relatively few cash market transactions, including growing variance in the negotiated price. It is critical that the prices reported and used as benchmarks in pricing formulas are an accurate indicator of market conditions. However, as AMS also notes, several economic studies have concluded that legislative attempts to force a minimum level of cash trades could have severe adverse impacts on producers, perhaps without providing any substantial benefit to price discovery.

While USDA Swine Contract Library reports indicate that a portion of contract formulas continue to reference USDA reported cash prices for at least some portion of the base price, LMR data also indicates increasing adoption of alternative benchmark markets. For example, since the addition of wholesale pork prices and volumes to LMR reporting in 2013, producers and packers have increasingly used USDA’s calculated pork cutout value as a pricing mechanism for hogs. The pork cutout serves as an important indicator of supply and demand for wholesale pork, and over time it has been less variable than average negotiated hog prices. Other alternative benchmarks include CME Lean Hog futures and options and the CME Lean Hog Index, a two-day weighted average of national negotiated, negotiated formula¹, and swine or pork formula net prices reported daily under LMR.

¹ Negotiated formula is a purchase type category that is similar to the negotiated purchase category in that there is an interaction between buyer and seller within 14 days of delivery, but in this case a formula is used as the agreed upon base price. This category has little volume and is often not published.

NPPC works very closely with the USDA AMS Livestock, Poultry, and Grain Market News Service (LPGMN) to ensure a shared understanding of marketing methods, usage of swine and pork reports, and to assess potential changes to LMR information that will ensure it remains an accurate reflection of the marketplace. A recent example of this collaboration is the LMR Swine and Pork Stakeholder Meeting that was held in Des Moines, Iowa in August 2024. Supporting USDA price and volume reporting and efficient and effective price discovery have long been top priorities for NPPC's Board of Directors and producer-led Competitive Markets Committee.

Conclusion

To reiterate, NPPC does not have any position on the proposals outlined in the ANPR related to fed cattle markets. NPPC also supports the full enforcement of the Packers and Stockyards Act to ensure fair markets and competitive opportunities for all producers. As AMS continues to consider regulations under the authority of the PSA, particularly those related to price discovery, market transparency, and the use of benchmarks for formula base prices, NPPC asks that AMS consult with pork industry stakeholders before developing any proposals.

If you should have any questions as you consider these comments, please contact NPPC at 202-347-3600.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bryan Humphreys". The signature is fluid and cursive, written in a professional style.

Bryan Humphreys
CEO
National Pork Producers Council