

The Agricultural Marketing Act (Sections 212, 231 and 251)

MADE APPLICABLE TO SUBTITLE B—SWINE PACKER MARKETING CONTRACTS (SWINE CONTRACT LIBRARY), PURSUANT TO SECTION 221, SUBSECTIONS (2) AND (8) [7 U.S.C. 198(2) and (8)] AND SECTION 222, SUBSECTION (C) [7 U.S.C. 198a (C)] OF THE PACKERS AND STOCKYARDS ACT

Section 212. [7 U.S.C. 1635a]

DEFINITIONS.

In this subtitle:

- (1) **BASE PRICE**—The term “base price” means the price paid for livestock, delivered at the packing plant, before application of any premiums or discounts, expressed in dollars per hundred pounds of carcass weight.
- (2) **BASIS LEVEL**—The term “basis level” means the agreed-on adjustment to a future price to establish the final price paid for livestock.
- (3) **CURRENT SLAUGHTER WEEK**—The term “current slaughter week” means the period beginning Monday, and ending Sunday, of the week in which a reporting day occurs.
- (4) **F.O.B.**—The term “F.O.B.” means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer.
- (5) **LIVESTOCK**—The term “livestock” means cattle, swine, and lambs.

(6) LOT—The term “lot” means a group of one or more livestock that is identified for the purpose of a single transaction between a buyer and a seller.

(7) MARKETING—The term “marketing” means the sale or other disposition of livestock, livestock products, or meat or meat food products in commerce.

(8) NEGOTIATED PURCHASE—The term “negotiated purchase” means a cash or spot market purchase by a packer of livestock from a producer under which—

(A) the base price for the livestock is determined by seller-buyer interaction and agreement on a day; and

(B) the livestock are scheduled for delivery to the packer not later than 14 days after the date on which the livestock are committed to the packer.

(9) NEGOTIATED SALE—The term “negotiated sale” means a cash or spot market sale by a producer of livestock to a packer under which—

(A) the base price for the livestock is determined by seller-buyer interaction and agreement on a day; and

(B) the livestock are scheduled for delivery to the packer not later than 14 days after the date on which the livestock are committed to the packer.

(10) PRIOR SLAUGHTER WEEK—The term “prior slaughter week” means the Monday through Sunday prior to a reporting day.

(11) PRODUCER—The term “producer” means any person engaged in the business of selling livestock to a packer for slaughter (including the sale of livestock from a packer to another packer).

(12) REPORTING DAY—The term “reporting day” means a day on which—

(A) a packer conducts business regarding livestock committed to the packer, or livestock purchased, sold, or slaughtered by the packer;

(B) the Secretary is required to make information concerning the business described in subparagraph (A) available to the public; and

(C) the Department of Agriculture is open to conduct business.

(13) SECRETARY—The term “Secretary” means the Secretary of Agriculture.

(14) STATE—The term “State” means each of the 50 States.

(Aug. 14, 1946, ch. 966, title II, §212, as added Pub. L. 106–78, title IX, §911(2), Oct. 22, 1999, 113 Stat. 1188 .)

Section 231. [7 U.S.C. 1635i]

DEFINITIONS

In this chapter:

(1) AFFILIATE—The term “affiliate”, with respect to a packer, means—

(A) a person that directly or indirectly owns, controls, or holds with power to vote, 5 percent or more of the outstanding voting securities of the packer;

(B) a person 5 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the packer; and

(C) a person that directly or indirectly controls, or is controlled by or under common control with, the packer.

(2) APPLICABLE REPORTING PERIOD—The term “applicable reporting period” means the period of time prescribed by the prior day report, the morning report, and the afternoon report, as required under section 232(c).

(3) BARROW—The term “barrow” means a neutered male swine.

(4) BASE MARKET HOG—The term “base market hog” means a barrow or gilt for which no discounts are subtracted from and no premiums are added to the base price.

(5) BOAR—The term “boar” means a sexually-intact male swine.

(6) FORMULA PRICE—The term “formula price” means a price determined by a mathematical formula under which the price established for a specified market serves as the basis for the formula.

(7) GILT—The term “gilt” means a young female swine that has not produced a litter.

(8) HOG CLASS—The term “hog class” means, as applicable—

(A) barrows or gilts;

(B) sows; or

(C) boars or stags.

(9) **NONCARCASS MERIT PREMIUM**—The term “noncarcass merit premium” means an increase in the base price of the swine offered by an individual packer or packing plant, based on any factor other than the characteristics of the carcass, if the actual amount of the premium is known before the sale and delivery of the swine.

(10) **OTHER MARKET FORMULA PURCHASE**—

(A) **IN GENERAL**—The term “other market formula purchase” means a purchase of swine by a packer in which the pricing mechanism is a formula price based on any market other than the market for swine, pork, or a pork product.

(B) **INCLUSION**—The term “other market formula purchase” includes a formula purchase in a case in which the price formula is based on one or more futures or options contracts.

(11) **OTHER PURCHASE ARRANGEMENT**—The term “other purchase arrangement” means a purchase of swine by a packer that—

(A) is not a negotiated purchase, swine or pork market formula purchase, or other market formula purchase; and

(B) does not involve packer-owned swine.

(12) **PACKER**—The term “packer” means any person engaged in the business of buying swine in commerce for purposes of slaughter, of manufacturing or preparing meats or meat food products from swine for sale or shipment in commerce, or of marketing meats or meat food products from swine in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce, except that—

(A) the term includes only a swine processing plant that is federally inspected;

(B) for any calendar year, the term includes only—

(i) a swine processing plant that slaughtered an average of at least 100,000 swine per year during the immediately preceding five calendar years; and

(ii) a person that slaughtered an average of at least 200,000 sows, boars, or any combination thereof, per year during the immediately preceding five calendar years; and

(C) in the case of a swine processing plant or person that did not slaughter swine during the immediately preceding 5 calendar years, the Secretary shall consider the plant capacity of the processing plant or person in determining whether the processing plant or person should be considered a packer under this chapter.

(13) **PACKER-OWNED SWINE**—The term “packer-owned swine” means swine that a packer (including a subsidiary or affiliate of the packer) owns for at least 14 days immediately before slaughter.

(14) **PACKER-SOLD SWINE**—The term “packer-sold swine” means the swine that are—

(A) owned by a packer (including a subsidiary or affiliate of the packer) for more than 14 days immediately before sale for slaughter; and

(B) sold for slaughter to another packer.

(15) **PORK**—The term “pork” means the meat of a porcine animal.

(16) PORK PRODUCT—The term “pork product” means a product or byproduct produced or processed in whole or in part from pork.

(17) PURCHASE DATA—The term “purchase data” means all of the applicable data, including weight (if purchased live), for all swine purchased during the applicable reporting period, regardless of the expected delivery date of the swine, reported by—

- (A) hog class;
- (B) type of purchase; and
- (C) packer-owned swine.

(18) SLAUGHTER DATA—The term “slaughter data” means all of the applicable data for all swine slaughtered by a packer during the applicable reporting period, regardless of when the price of the swine was negotiated or otherwise determined, reported by—

- (A) hog class;
- (B) type of purchase; and
- (C) packer-owned swine.

(19) SOW—The term “sow” means an adult female swine that has produced one or more litters.

(20) SWINE—The term “swine” means a porcine animal raised to be a feeder pig, raised for seedstock, or raised for slaughter.

(21) SWINE OR PORK MARKET FORMULA PURCHASE—The term “swine or pork market formula purchase” means a purchase of swine by a packer in which the pricing mechanism is a formula

price based on a market for swine, pork, or a pork product, other than a future or option for swine, pork, or a pork product.

(22) TYPE OF PURCHASE—The term “type of purchase”, with respect to swine, means—

- (A) a negotiated purchase;
- (B) other market formula purchase;
- (C) a swine or pork market formula purchase; and
- (D) other purchase arrangement.

(Aug. 14, 1946, ch. 966, title II, §231, as added Pub. L. 106–78, title IX, §911(2), Oct. 22, 1999, 113 Stat. 1193 ; amended Pub. L. 109–296, §2, Oct. 5, 2006, 120 Stat. 1464 ; Pub. L. 114–54, title I, §102(a), Sept. 30, 2015, 129 Stat. 513 .)

Section 251. [7 U.S.C. 1636]

GENERAL PROVISIONS

(a) CONFIDENTIALITY—The Secretary shall make available to the public information, statistics, and documents obtained from, or submitted by, packers, retail entities, and other persons under this subtitle in a manner that ensures that confidentiality is preserved regarding—

- (1) the identity of persons, including parties to a contract; and
- (2) proprietary business information.

(b) DISCLOSURE BY FEDERAL GOVERNMENT EMPLOYEES—

- (1) IN GENERAL—Subject to paragraph (2), no officer, employee, or agent of the United States shall, without the consent of the packer or other

person concerned, divulge or make known in any manner, any facts or information regarding the business of the packer or other person that was acquired through reporting required under this subtitle.

(2) EXCEPTIONS—Information obtained by the Secretary under this subtitle may be disclosed—

(A) to agents or employees of the Department of Agriculture in the course of their official duties under this subtitle;

(B) as directed by the Secretary or the Attorney General, for enforcement purposes; or

(C) by a court of competent jurisdiction.

(3) DISCLOSURE UNDER FREEDOM OF INFORMATION ACT— Notwithstanding any other provision of law, no facts or information obtained under this subtitle shall be disclosed in accordance with section 552 of title 5, United States Code.

(c) REPORTING BY PACKERS—A packer shall report all information required under this subtitle on an individual lot basis.

(d) REGIONAL REPORTING AND AGGREGATION— The Secretary shall make information obtained under this subtitle available to the public only in a manner that—

(1) ensures that the information is published on a national and a regional or statewide basis as the Secretary determines to be appropriate;

(2) ensures that the identity of a reporting person is not disclosed; and

(3) conforms to aggregation guidelines established by the Secretary.

(e) ADJUSTMENTS—Prior to the publication of any information required under this subtitle, the Secretary may make reasonable adjustments in information reported by packers to reflect price aberrations or other unusual or unique occurrences that the Secretary determines would distort the published information to the detriment of producers, packers, or other market participants.

(f) VERIFICATION—The Secretary shall take such actions as the Secretary considers necessary to verify the accuracy of the information submitted or reported under chapter 2, 3, or 4.

(g) ELECTRONIC REPORTING AND PUBLISHING—

(1) IN GENERAL—The Secretary shall, to the maximum extent practicable, provide for the reporting and publishing of the information required under this subtitle by electronic means.

(2) IMPROVEMENTS AND EDUCATION—

(A) ENHANCED ELECTRONIC

PUBLISHING—The Secretary shall develop and implement an enhanced system of electronic publishing to disseminate information collected pursuant to this subtitle. Such system shall—

(i) present information in a format that can be readily understood by producers, packers, and other market participants;

(ii) adhere to the publication deadlines in this subtitle;

(iii) present information in charts and graphs, as appropriate;

(iv) present comparative information for prior reporting periods, as the Secretary considers appropriate; and

(v) be updated as soon as practicable after information is reported to the Secretary.

(B) EDUCATION—The Secretary shall carry out a market news education program to educate the public and persons in the livestock and meat industries about—

(i) usage of the system developed under subparagraph (A); and

(ii) interpreting and understanding information collected and disseminated through such system.

(h) REPORTING OF ACTIVITIES ON WEEKENDS AND HOLIDAYS—

(1) IN GENERAL—Livestock committed to a packer, or purchased, sold, or slaughtered by a packer, on a weekend day or holiday shall be reported by the packer to the Secretary (to the extent required under this subtitle), and reported by the Secretary, on the immediately following reporting day.

(2) LIMITATION ON REPORTING BY PACKERS—A packer shall not be required to report actions under paragraph (1) more than once on the immediately following reporting day.

(i) EFFECT ON OTHER LAWS—Nothing in this subtitle, the Livestock Mandatory Reporting Act of 1999, or amendments made by that Act restricts or modifies the authority of the Secretary to—

(1) administer or enforce the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.);

(2) administer, enforce, or collect voluntary reports under this title or any other law; or

(3) access documentary evidence as provided under sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50).

(Aug. 14, 1946, ch. 966, title II, §251, as added Pub. L. 106–78, title IX, §911(2), Oct. 22, 1999, 113 Stat. 1200 ; amended Pub. L. 110–234, title XI, §11001(a)(1), May 22, 2008, 122 Stat. 1350 ; Pub. L. 110–246, §4(a), title XI, §11001(a)(1), June 18, 2008, 122 Stat. 1664 , 2112.)

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