

**DEPARTMENT OF AGRICULTURE****Grain Inspection, Packers and Stockyards Administration****9 CFR Part 206**

[PSA-2000-01-b]

RIN 0580-AA71

**Swine Packer Marketing Contracts; Contract Library****AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.**ACTION:** Final rule.

**SUMMARY:** We are establishing regulations to implement a swine contract library as required by the Swine Packer Marketing Contracts subtitle of the Livestock Mandatory Reporting Act of 1999. The regulations specify how we will establish a library or catalog of contract types that packers use to purchase swine for slaughter and make information about the contract terms available to the public. The regulations also establish monthly reports on the estimated number of swine committed for delivery to packers under existing contracts.

**DATES:** *Effective Date:* September 10, 2003.

*Compliance Dates:*

1. Each packer's initial submission of example contracts representing existing and available contracts is due November 3, 2003.

2. Each packer's initial submission of monthly reports is due December 15, 2003.

**FOR FURTHER INFORMATION CONTACT:** Dr. Stuart Frank, Supervisory Economist, USDA GIPSA, (515) 323-2579, Suite 317, 210 Walnut Street, Des Moines, IA 50309, or via e-mail at [SwineContractLibrary.Gipsa@usda.gov](mailto:SwineContractLibrary.Gipsa@usda.gov).

**SUPPLEMENTARY INFORMATION:****Congressional Mandate**

Congress passed the Livestock Mandatory Reporting Act of 1999<sup>1</sup> (LMRA), which includes requirements for mandatory price reporting by packers and requirements for reporting of certain information on the contract types used by packers for procurement of swine for slaughter. The LMRA also amended the Packers and Stockyards Act, as amended and supplemented (7 U.S.C. 181-229) (P&S Act) to require the Secretary to establish and maintain a library or catalog of the contract types

made available by certain packers to swine producers. The LMRA requires certain packers (specified below) to submit contracts to create the contract library. The amendment also requires the Secretary to make information concerning those contract types available to producers and other interested parties. Additionally, the Secretary is to obtain and report monthly information from certain packers concerning the estimated numbers of swine to be delivered under contractual arrangements for slaughter within the 6- and 12-month periods following each monthly report.

The LMRA also includes a section on the expiration of the authority granted by its provisions. Section 942 of the LMRA states that:

The authority provided by this title and the amendments made by this title terminate 5 years after the date of the enactment of this Act.

The President signed the appropriations act for Agriculture and other agencies on October 22, 1999. Therefore, the LMRA and the related amendments to the P&S Act will expire on October 22, 2004.

This rule sets forth the Grain Inspection, Packers and Stockyards Administration (GIPSA) regulations to implement section 934 of the LMRA, which amended the P&S Act to require the Secretary to establish and maintain a library or catalog of the types of contracts offered by certain packers to swine producers. We are implementing the new sections of the P&S Act in regulations as new Part 206 of Title 9 of the Code of Federal Regulations (the regulations, 9 CFR 206). The regulations are described below.

This regulatory program is intended to meet the purposes of providing to producers, packers, and other market participants information that can be readily understood with respect to swine marketing contracts. By providing this information, the swine contract library reports are intended to provide more transparency about contract terms and equalize access to market information for all market participants.

**Background**

On September 5, 2000, we published a proposed rule<sup>2</sup> in the **Federal Register** (65 FR 53653-53679) to implement the swine contract library amendments to the P&S Act. In broad terms, the proposed regulatory program can be summarized as follows. The proposed

rule contained three new regulatory sections that would appear in the Code of Federal Regulations at Part 206 of Title 9. The proposed first section, section 206.1, contained the definition of terms that would apply to the regulations. The definitions were, in the main, taken from the definitions in the LMRA. Proposed section 206.2, the contract library section of the regulations, required packers to file a copy of an example of each swine packer marketing contract currently in effect or available and an example of each new contract when it is offered. We proposed to publish a summary of contract terms from the example contracts that are available in each of five regions of the country and by contract type. Proposed section 206.3, the monthly report section, required packers to provide an estimate, by month, for the following 12 months, of the number of committed swine by the type of contract, as well as an estimate of the number of swine that could potentially be delivered if all existing expansion clauses in contracts are exercised. The information from the packer's monthly reports would be aggregated and reported by GIPSA on a regional basis. In the proposed rule, we indicated that both the summary of contract terms and the aggregated monthly report would be available on the Internet on the GIPSA Web site or at the GIPSA Regional Office in Des Moines, Iowa.

We received 11 comments during the 30-day comment period that ended on October 5, 2000. Along with reviewing the comments submitted, we reviewed the proposal to determine if changes should be made to make the final rule more clear and the reporting process more efficient. We will describe those changes and address the comments below.

*Definition of "Packer"*

While developing the swine contract library regulations, we identified 11 small packers that purchase a small number of swine and have them slaughtered at plants that are large enough to make these small packers fit the definition of "packer" as contained in the proposed rule. As reported to us on packer annual reports, in 2000, these 11 packers had a combined total of 164,516 hogs slaughtered for them by other packers, with the individual amounts from each of the 11 packers ranging from 181 to 69,262 hogs. Most of these packers purchase hogs from the spot market and do not use contracts to purchase hogs for slaughter. These 11 packers are not comparable in size to

<sup>1</sup> Title IX of the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriation Act of 2000 (Pub. L. 106-78).

<sup>2</sup> Refer to the proposal for a detailed explanation of (1) the requirements of the LMRA for the implementation of the swine contract library and (2) our interpretation of the requirements.