

Discussion of Comments

On September 5, 2000, we published a proposal in the **Federal Register** (65 FR 53653–53679) to implement the swine contract library regulations as required by the Swine Packer Marketing Contracts subtitle of the LMRA. We solicited comments concerning our proposal for 30 days ending October 5, 2000. We received 11 comments by that date. The comments were from swine producers, swine producer groups, meat packers, meat packer groups, and a state Department of Agriculture. Seven comments supported the proposal in part. The comments raised some questions and concerns about parts of the proposed rule. These questions and concerns and our response to those comments, including changes we are making to the rule, are discussed below.

Packer Reporting Clarifications

Comment: The use of the terms “type of contract” and “example contract” needs clarification.

Response: There was apparent confusion caused by the use of the terms “type of contract” and “example contracts” in the proposed rule. The

term “type of contract” is used, as it is in the legislation, to define contract categories. The term “example contract” is used to identify the contracts that packers will submit to GIPSA.

“Type of contract” refers to the categories that will be used throughout the swine contract library to group contracts. The term “type of contract” was used and defined in the LMRA; in order to eliminate confusion we will use the term “contract type” in its place in this document and the rule. As defined by the LMRA, the contract type categories are identified by the way in which base price is determined and by the presence or absence of a ledger account.⁴ The categories will be used for aggregating data on contracts and contract information in the swine contract library. The six contract type categories used in the swine contract library are:

- (1) Swine or pork market formula purchases with a ledger,
- (2) Swine or pork market formula purchases without a ledger,
- (3) Other market formula purchases with a ledger,

(4) Other market formula purchases without a ledger,

(5) Other purchase arrangements with a ledger, and

(6) Other purchase arrangements without a ledger.

GIPSA will sort packers’ contracts into these six categories; the use of contracts in different categories will vary by packer. For example, one packer’s contracts may all fit into one category while another packer’s contracts may fit into three of the six categories.

In the proposed rule, “type of contract” was defined in section 206.1. The definition specified the six categories. For clarity, we changed the term “type of contract” to “contract type” throughout the rule. These changes appear in paragraphs 206.2(f), 206.3(c)(2), (3), (5), 206.3(g)(ii), (iii), and (v). In addition, we corrected the definition of the term by adding a comma after the word packer in the first sentence. Due to additional changes in response to another comment, the changes for paragraphs 206.3(c)(2) and (g)(ii) are shown following the other comment.

Text of the regulation as proposed	Text of the regulation as revised
<p><i>Type of Contract.</i> The classification of contracts or risk management agreements for the purchase of swine committed to a packer by the determination of the base price and the presence or absence of an accrual account or ledger (as defined in this section). The type of contract categories are: * * *</p> <p>206.2(f) <i>What information from the swine packer marketing contract library will be made available to the public?</i> GIPSA will summarize the information it has received on contract terms, including, but not limited to, base price determination and the schedules of premiums or discounts. GIPSA will summarize the information by region and type of contract as defined in §206.1. Geographic regions will be defined in such a manner as to avoid divulging data on individual firms’ operations and the parties to contracts will not be identified.</p> <p>206.3(c)(3) <i>Estimates of committed swine.</i> The packer’s estimate of the total number of swine committed under contract for delivery to each plant for slaughter within each of the following 12 calendar months beginning with the 1st of the month immediately following the due date of the report. The estimate of total swine committed will be reported by type of contract as defined in §206.1.</p> <p>206.3(c)(5) <i>Maximum estimates of swine.</i> The packer’s estimate of the maximum total number of swine that potentially could be delivered to each plant within each of the following 12 calendar months, if any or all the types of expansion provisions identified in accordance with the requirement in paragraph (c)(4) of this section are executed. The estimate of maximum potential deliveries must be reported by type of contract as defined in §206.1.</p> <p>206.3(g)(3)(iii) The sum of packers’ reported estimates of total number of swine committed by contract for delivery during the next 6 and 12 months beginning with the month the report is published. The report will indicate the number of swine committed by geographic reporting region and by type of contract.</p>	<p><i>Contract type.</i> The classification of contracts or risk management agreements for the purchase of swine committed to a packer, by the determination of the base price and the presence or absence of an accrual account or ledger (as defined in this section). The contract type categories are: * * *</p> <p>206.2(f) <i>What information from the swine contract library will be made available to the public?</i> GIPSA will summarize the information it has received on contract terms, including, but not limited to, base price determination and the schedules of premiums or discounts. GIPSA will make the information available by region and contract type as defined in §206.1, for public release one month after the initial submission of contracts. Geographic regions will be defined in such a manner to provide as much information as possible while maintaining confidentiality.</p> <p>206.3(c)(3) <i>Estimates of committed swine.</i> Each packer must provide an estimate of the total number of swine committed under existing contracts for delivery to each plant for slaughter within each of the following 12 calendar months beginning with the 1st of the month immediately following the due date of the report. The estimate of total swine committed will be reported by contract type as defined in §206.1.</p> <p>206.3(c)(5) <i>Maximum estimates of swine.</i> The packer’s estimate of the maximum total number of swine that potentially could be delivered to each plant within each of the following 12 calendar months, if any or all of the types of expansion clauses identified in accordance with the requirement in paragraph (c)(4) of this section are executed. The estimate of maximum potential deliveries must be reported for all existing contracts by contract type as defined in §206.1.</p> <p>206.3(g)(3)(iii) The sum of packers’ reported estimates of the total number of swine committed by contract for delivery during the next 6 and 12 months beginning with the month the report is published. The report will indicate the number of swine committed by geographic reporting region and by contract type.</p>

⁴ A ledger or accrual account is an account held by the packer on behalf of a producer that accrues

a running positive or negative balance as a result of a pricing determination included in a contract

that establishes a minimum and/or maximum level of base price paid.