

needed.<sup>5</sup> The timing and method of notification will vary, in part, depending on how many example contracts we receive that need to be categorized and how long that takes. We will provide each packer with notification of the categories for each example contract at least 2 weeks before the monthly reports are due.

*Comment:* Do packers need to report ledger balances for the swine contract library?

*Response:* No. Contracts with ledgers or accrual accounts will specify the way ledgers or accrual accounts are applied in the contract, for example, the conditions of the ledger and formulas or methods for crediting or debiting ledger accounts. Therefore, we did not make any changes in response to this comment.

#### *Reported Contract Information*

*Comment:* Only publish information for available and existing contracts; do not publish information about contracts that are no longer available or existing. What contract information will GIPSA publish?

*Response:* We will publish information on available and existing contracts. Within the library that GIPSA is required to maintain, previously available contracts will be maintained, but will not be included in the publicly reported information after the packer notifies GIPSA that the contract is no longer available or has expired.

GIPSA will remove the previously submitted example contract information from the publicly reported information when a packer submits a replacement example contract, or notifies GIPSA that a contract has expired or a contract has been withdrawn. Therefore, we did not make any changes in response to this comment.

*Comment:* Release redacted contracts.

*Response:* The amendment to the P&S Act that creates the swine contract library requires the Secretary to make information concerning contract types, not the contracts themselves, available to producers and other interested parties. We considered the alternative of redacting the identity of persons (including parties to the contract) and any proprietary business information from the contracts and releasing the redacted contracts. Publishing redacted contracts could inadvertently allow the identity of a packer to be determined. For example, it may not be clear that

information on the device used to estimate lean percent would need to be redacted, but if only one packer is using a specific device to estimate lean percent, then the packer could be identified from the contract. If contracts were redacted to a level of detail to ensure that confidentiality is preserved, then very little information would be released. Therefore, we did not make any changes in response to this comment.

*Comment:* Change the format of the information GIPSA reports by linking the reported contract terms to the base price.

*Response:* In designing the contract summary reports, one of our concerns was how to provide as much information as possible and comply with the confidentiality provision in the P&S Act. We concluded that if we linked the terms from a contract together with the base price information, it would be possible to identify an individual packer based on the combination of that information. Therefore, we did not make any changes in response to this comment.

*Comment:* All carcass and noncarcass merit premiums and discounts, not just those on a grid, should be reported by the packer and by GIPSA. For example, contract terms that were categorized as "other contract terms" in the proposed rule, such as length of contract, genetics, type of feed, and medication are specified in contracts as requirements and therefore should be treated as premiums. Contract requirements, other than pricing terms identified in the proposed rule should be reported; for example, genetic requirements to qualify for a contract. Some carcass merit requirements are specifications that are not included on a grid; these specifications should be included in the contract library. Packers should have to report all terms of agreement for a contract so producers can analyze the information and make a marketing decision.

*Response:* As specified in the definition of "noncarcass merit premium or discount" in the regulation, a premium is an increase in the price for the purchase of swine offered by a packer based on a factor other than a carcass characteristic if the actual amount of the premium is known before the purchase and delivery of the swine. If a packer includes an increase in price for any contract term other than a term that specifies a carcass characteristic, it will be treated as a premium.

It appears that there was some confusion about what we will publish in the swine contract library. The sample report shown in the proposed rule was

a one-page sample highlighting the types of information that we proposed to publish. As we stated in the preamble of the proposed rule (65 FR 53664):

The example contracts would provide the contract library with unique base price determinations, the application of ledgers or accrual accounts, carcass merit premium and discount schedules, and the use and amount of noncarcass merit premiums. Other contract terms that could be reported include a variety of terms that could affect producer's marketing decisions, such as quality and weight restrictions, length of contract, and use of packer specified genetics. These other contract terms would not be included in the criteria used to identify example contracts. Therefore, the information contained in the contract library on such other contract terms may not represent the full range of alternatives that packers are offering or have offered. We propose to summarize information on contract terms from the example contracts contained in the contract library to provide as much information about contract terms as possible, subject to the confidentiality protections.

It is our intention to publish as much information from the contract terms as possible. In addition to the price information, the sample showed categories for Quality and Weight Restrictions and Other General Contract Terms. Due to the large volume of information that will be published and for ease of access to the information on the Web site, we changed the format in the following manner:

- In the proposed rule, the sample report showed the base price determination as a combination of five to six pieces of information (65 FR 53663). This was intended to show a variety of the pieces of information that are used to determine the base price for a contract. Generally, the base price is calculated based on a reported price. To simplify the presentation of the base price determination information, on the Web site, base price determination will be presented as a list showing combinations of four key pieces of information, which will identify the reported price used. The remaining details used to determine each of the base prices will be provided under the unique combinations of those four key pieces of information. The four key pieces of information are:

—*Name:* The title or reference to a published or private report (for example, the Agricultural Marketing Service (AMS) Western Cornbelt Lean Hog, plant price, AMS Omaha Corn, or CME lean hog).

—*Version:* Typically, named reports will have more than one version; for reports released more than once a day, the version is the release time

<sup>5</sup> The regulation will require a total of 33 pork packing companies (packers) to report for 53 plants that have the slaughtering capacity specified in the definition of "packer" in section 206.1, based on data including 2002, the most recent year for which complete data are available.