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A Review of the USDA Swine Contract Library: Usage and Application, Industry Reflections and Future Direction

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EXECUTIVE SUMMARY

A resource intended to house information about marketing contract arrangements established between swine producers and packers, the Swine Contract Library (SCL) has had an uneven history. As an amendment to the Packers and Stockyard Act, 1921, the Livestock Mandatory Reporting Act of 1999 (1999 Act) established the SCL, and the Grain Inspection, Packers and Stockyards Administration (GIPSA) implemented the SCL on Aug. 11, 2003. The 1999 Act lapsed on Sept. 30, 2005. GIPSA asked packers to voluntarily submit contracts and report estimated deliveries during this interim, but that request led to limited submissions.

On Oct. 5, 2006, the Livestock Mandatory Reporting Reauthorization Act extended the 1999 Act until Sept. 30, 2010, and amended the swine reporting requirements of the 1999 Act. A final rule on April 2, 2010, established regulatory authority for the SCL's continued operation. The final rule took effect on May 3, 2010. Certain changes included within the reauthorization act that impacted the SCL were implemented, and other changes intended to enhance SCL effectiveness and efficiency took effect. Effective in 2018, GIPSA was eliminated as a standalone agency and realigned to the Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture (USDA). The Packers and Stockyards Division (PSD) of AMS now implements the SCL. Since its inception, no funding has been specifically directed to SCL for development and maintenance. Therefore, it has functioned as an unfunded mandate.

The 1999 Act outlines confidentiality restrictions. As a result, the SCL does not publish contracts in full — whether redacted or unredacted — but summarizes contract information by contract type and region. The summaries share insights into four categories of specifications: base price determination, premiums and discounts, application of ledger and other provisions. “Other provisions” are not necessarily verbatim because any wording that potentially identifies a party to a contract is replaced with more generic terms. The SCL does not publish volume information associated with each contract, price formula or contract term. However, it does publish a monthly report of the projected number of swine committed and the maximum number of swine packers expect to receive during the next 12 months by contract type and region. Confidentiality restrictions often preclude monthly estimates from being released, especially regionally.

As a publicly available resource, the SCL intends to provide equal access to market information for all market participants. Its uses include aiding price discovery and allowing producers to investigate what contract terms and provisions packers offer. Building on knowledge gained from the SCL, producer negotiations may result in more favorable contracts with packers.

Since 2010, the SCL has provided market participants with uninterrupted access to information. However, little is known about how frequently market participants access the library and use information in it. Gaining understanding in these areas can yield important insights into whether the library collects relevant information from packers, whether it provides producers and other market participants with information they desire and the extent to which it has impacted the structure of swine marketing contracts and price discovery over time.

Our findings reflect our own observations of the data and information analyzed and are consistent with the near-consensus sentiment we received from market participants who offered feedback. This report presents our findings and considerations in no particular order. None of

our findings or considerations should materially alter the chief value derived from the SCL — that is, contract specification detail. We echo what we heard from industry participants that no material change to the library should interrupt industry participant access to contract specification insights. The detail on contract terms published in the library is paramount for the library to provide value in the swine marketing contract negotiation process.

Findings

The following key findings highlight the feedback gleaned from industry participants.

1. SCL information is used by industry participants when negotiating or renegotiating swine marketing contracts. To a much lesser extent, SCL information is useful for increasing market transparency, improving price discovery, and providing enhanced signals to producers with respect to industry output and better insights regarding hog market demand and supply.
2. Contract specifications provided in the SCL are valued by industry participants, whereas the monthly reports of estimated swine to be delivered — as they are published currently — have little to no perceived value to industry participants.
3. The format used by the SCL to share contract specifications limits industry uptake of information. There is support for updates at regular frequencies that aren't necessarily in real time. Furthermore, the lack of “volume” metrics limits user confidence in how prevalent certain contract specifications are in swine marketing contracts.
4. Both the structure of the industry and USDA agencies at the time of the 1999 Act signaled GIPSA as the appropriate administrator of the SCL. Since then, industry structure has changed; LPGMN has had ongoing industry engagement through managing Livestock Mandatory Reporting (LMR) of swine and pork; and GIPSA realigned into AMS in 2018.
5. We note there could be trade-offs associated with any of the action items below due to the costs of implementing any of the action items. Since its inception, no funding has been specifically directed to the SCL for development and maintenance. Therefore, it has functioned as an unfunded mandate.

Action Items for Consideration

Based on industry participant feedback and the authors' own observations, the following considerations represent points on which to reflect as Livestock Market Reporting Act reauthorization approaches and AMS evaluates how to best administer the SCL.

1. Related to SCL and Livestock Market Reporting Act Reauthorization
 - a. Realign SCL administrative authority to LPGMN of AMS. The Packers and Stockyards Act would continue to dictate SCL compliance and enforcement.

Transferring the SCL's administrative authority to a different AMS program or division would not require legislative change.

- b. Propose to stop collecting and publishing the monthly estimates of swine to be delivered under contract during the next six- and 12-month periods; allow industry to comment on this proposal during the comment period.
 - c. Report to what extent, if any, confidentiality restrictions prevent SCL regional or national inclusion of contract specifications. If preserving confidentiality at the regional level prevents including contract specifications at the national level, then discontinue regional reporting. In general, industry participants prefer more robust national contract information over less information from regional reports.
 - d. Assure future dialogue about updates to the SCL and adherence to a clear mission by forming an ad-hoc advisory committee to review the library the year prior to Livestock Market Reporting Act reauthorization.
 - e. Maintain the option to submit example contracts through non-electronic processes. However, stress a preference for electronic submissions because a standard, automated process will reduce the need to make "on-the-fly" SCL adjustments as personnel changes and other circumstances occur.¹
2. Related to Administration of Data Collection and Information Presentation
- a. Reorganize reports with in-document tables of contents and links to sections. For example, link referenced schedules between reports of base price determination and schedules referenced in the base price determination.
 - b. Add specificity about the frequency by which the SCL is updated to reflect changes in contract specifications. This could include a summary page of changes (e.g., number of contracts added, amended, retired) with each update. We suggest making updates at three- or six-month intervals.
 - c. Implement a standardized, electronic process for packers to submit SCL information. (See consideration 1e.)
 - d. Create a supplemental user-friendly dashboard to summarize contract specifications, such as a quantity, e.g., over twenty instances, of inclusion and a range for a specification.

¹For example, under LMR, "whenever information is required to be reported under this part, it shall be reported by electronic means and shall adhere to a standardized format established by the Secretary to achieve the objectives of this part, except in emergencies or in cases when an alternative method is agreeable to the entity required to report and AMS" (e-CFR, 2008).

- i. The dashboard should not be structured to position the SCL as a price discovery tool as this would duplicate information provided through LMR.
 - ii. The dashboard should not displace the current SCL's specificity and nuance but instead offer easy-to-understand summaries of contract specifications.
 - iii. The dashboard should be interactive and allow users to navigate different screens or views and switch between various contract specification snapshots. It should also allow users to download the data or access the data through an API.
- e. Provide timestamp details for when a new specification (e.g., new animal husbandry production practice) is added to or amended in the SCL and when a specification is retired from the library.
- f. Offer access to historical contract specification details. At a minimum, this could include archiving the schedules referenced, reports referenced, and contract summary reports and noting the retirement date of an example contract.
- g. Post confidentiality guidelines as well as examples for how contract specifications are assured confidentiality.
- h. Confirm confidentiality guidelines apply consistently across SCL reporting and livestock mandatory reporting of swine and pork (i.e., 6/30 and [3/70/20](#)).
- i. Assure entities that are mandated to report example contracts to the SCL and transactions to LMR swine and pork consistently categorize and report hogs contracted and marketed through cooperatives and where contractees are co-op member-owners.
- j. Create an educational tutorial to show how SCL data are collected, summarized, and published and how industry can better use reported information.

CHAPTER 1: Library Background and Study Objectives

This is the first comprehensive study of the Swine Contract Library (SCL) since the Livestock Mandatory Reporting Act of 1999 (1999 Act) that created the requirement and administrative structure for the SCL. Because the 1999 Act is nearly 25 years old, we offer background and history of the SCL and then outline the objectives for the study commissioned by the Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture (USDA).

1.1. Swine Contract Library Background

A resource intended to house information about marketing contract arrangements established between swine producers and packers, the SCL has had an uneven history. On Aug. 11, 2003, the Grain Inspection, Packers and Stockyards Administration (GIPSA) implemented the SCL. The 1999 Act is the SCL's statutory authority, but it lapsed on Sept. 30, 2005. GIPSA asked packers to voluntarily submit contracts and report estimated deliveries during this interim, but its request had limited success and led to limited submissions.

On Oct. 5, 2006, the Livestock Mandatory Reporting Reauthorization Act extended the 1999 Act until Sept. 30, 2010, and amended the swine reporting requirements of the 1999 Act. A final rule on April 2, 2010, established regulatory authority for the SCL's continued operation. The final rule took effect on May 3, 2010. Also, at this time, certain changes included within the reauthorization act that impacted the SCL were implemented, and other changes to enhance the SCL's overall effectiveness and efficiency took effect. Effective in 2018, GIPSA was eliminated as a standalone agency and realigned to the AMS — a USDA agency. Now, the Packers and Stockyards Division (PSD) of AMS implements the SCL. Since its inception, no funding has been specifically directed to SCL for development and maintenance. Therefore, it has functioned as an unfunded mandate.

Not all packers are required to report information for the SCL. To be subject to reporting, packers must purchase at least 100,000 head of swine (presumably barrows and gilts) per year and slaughter the swine at a federally inspected processing plant that meets one of these two conditions: 1) slaughtered at least 100,000 head of swine per year on average during the immediately preceding five calendar years with the average based on those periods in which the plant slaughtered swine or 2) has the capacity to slaughter at least 100,000 swine per year based on capacity information (Federal Register, 2010).²

The SCL contains information for about 55 packing plants. Approximately 33 packers own or use these plants, and these firms account for approximately 95% of U.S. federally inspected swine slaughter (USDA-AMS, 2018).

² Any packer purchasing at least 200,000 sows, boars or any combination per year on average and slaughtering at least 200,000 sows, boars or any combination on average at one or more federally inspected processing plants during the immediately preceding five calendar years with the average based on those periods in which the plant slaughtered swine is also required to report for the SCL (USDA-AMS, 2018).

Packers required to report for the SCL must provide an example of each contract currently available to producers at each plant they operate or each plant where they have swine slaughtered (Hopes, 2021). Criteria for distinguishing example contracts include the following:^{3,4}

1. ***Base price or determination of base price.*** Expressed in dollars per unit, a base price is the price paid for swine before applying premiums or discounts (Federal Register, 2010).
2. ***Application of a ledger or accrual account.*** Held by a packer on behalf of a producer, a ledger or accrual account holds a running positive or negative balance as a result of a pricing determination included in a contract that establishes a minimum or maximum level of base price paid. Credits or debits for amounts beyond the minimums or maximums are entered into the account. Further, the contract specifies how the account balance affects producer and packer rights and obligations (Federal Register, 2010).
3. ***Carcass merit premiums and discount schedules.*** The schedules include the determination of the lean percent or other carcass merits that are used to establish the amount of premiums and discounts and how those premiums and discounts are applied.
4. ***Use and amount of non-carcass merit premiums and discounts.*** Non-carcass merit premiums or discounts are price increases or decreases, respectively, for the purchase of swine made available by an individual packer or packing plant, based on any factor other than carcass characteristics — if the actual premium or discount amount is known before the swine's purchase and delivery (Federal Register, 2010).⁵

In the SCL, every existing marketing contract between swine producers and packers must be represented by an example contract. Packers must submit an initial example contract by the first business day of the month following the determination that a plant is required to report to the SCL. They then are required to submit an example of each new contract they make available to a producer or producers.

After a packer submits an initial example contract, it must submit subsequent example contracts within one business day of making the contract available at each plant. Packers do not need to submit example contracts continuously during negotiations. When a contract changes, packers need to submit a new example contract and specify whether it replaces a previously submitted example contract. For instance, if a packer and producer agree to change a specification in an existing contract and the packer continues to make the original example contract available to other producers, then the newly negotiated contract will be submitted as a new example contract. If, however, the packer no longer makes the original example contract available to any other producer and the example contract is no longer used, then the newly negotiated contract would

³ FAQ's - The Swine Contract Library available [here](#).

⁴ Verbal contracts must be documented with written descriptions for base price determination, application of ledger, carcass merit premiums and discounts, non-carcass merit premiums and discounts, length of agreement and other provisions. Instructions for documenting the basic set of verbal contract terms are available [here](#). In our discussions with AMS PSD personnel, we learned most verbal contract submissions relate only to base price determination.

⁵ In our discussion with AMS PSD personnel, we learned that most non-carcass merit premiums and discounts relate to off-hour delivery.

be submitted as an example contract to replace the previously submitted example contract. When a previously submitted example contract no longer represents any contracts, packers must notify SCL administrators that the example contract has expired. Furthermore, when a previously submitted example contract does not result in any contract agreements and no longer represents any available contracts at a plant, the packer is responsible for notifying SCL administrators that they have withdrawn the example contract.

The 1999 Act contains confidentiality restrictions. As a result, the SCL does not publish contracts in full — whether redacted or unredacted — but summarizes contract information by contract type and region. The summaries share insights into four categories of specifications: base price determination, premiums and discounts, application of ledger and other provisions. “Other provisions” reported in the SCL are not necessarily verbatim. Any wording that may identify a party to the contract is replaced with more generic verbiage. The SCL does not publish volume information associated with each contract, price formula or contract term.

The SCL publishes a monthly report of the projected number of swine committed and the maximum number of swine that packers expect to receive during the next six- and 12-month periods by these six contract types:

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 are purchased with a ledger.
6. Other purchase arrangement without a ledger.

The contract type classifications are the same as those used for determination of example contract submission. Packers are expected to estimate expected swine deliveries based on the best available information, such as a contracted producer’s current and projected swine inventories and planned production. Packers do not change previously reported monthly estimates. They base delivery estimates on the most accurate information available when they prepare the data. Packers must complete a separate monthly report for each plant that meets the “packer” definition. Monthly data are due from packers by the close of business on the 15th of each month, and the SCL intends to release its report on the first business day of the following month. If packers do not use marketing agreements to procure swine, then they may obtain a waiver from the monthly report requirement.

The SCL summarizes and publishes information about existing contract types and estimated deliveries by region (i.e., Eastern Cornbelt, Western Cornbelt, Iowa/Minnesota) and nationally.⁶ These regions are consistent with those used for livestock mandatory reporting (LMR).

The SCL has many intended uses. Producers may use it to investigate what terms and provisions packers offer in their marketing contracts and aid their price discovery research. Ultimately, they could use knowledge gained from the SCL to negotiate more favorable contracts with a packer. Producers may use the monthly report on swine contracted for future delivery in several ways.

⁶ Eastern Cornbelt covers these states: AL, CT, DE, FL, GA, IL, IN, KY, MA, MD, ME, MI, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WV and WI. Western Cornbelt covers these states: IA, KS, MN, MO, NE and SD.

Theoretically, examples include choosing how many sows to breed and deciding whether to contract with packers in regions where packers have fewer swine committed for delivery.

An early criticism of the SCL was that the contract details provided in it did not resolve the problems experienced with interpreting USDA market reports (Schroeder, Mintert, and Berg, 2004). No work has documented whether changes made to the SCL resolved these issues. In an Aug. 19, 2020, webinar hosted by the Iowa Pork Producers Association and Iowa State University, Tim Hughes with Commodity and Ingredient Hedging shared that people in the industry are unaware — for the most part — that the SCL is available.⁷ He said, “Very, very few producers we talked to even knew about its existence,” and “the problem is that no one really knew it existed. And even if they knew it existed, it is a very difficult library to read and glean anything out of.”

The Consolidated Appropriations Act of 2022 directed AMS to create a Cattle Contracts Library (CCL) Pilot Program and provided funds to support the CCL’s development and maintenance. The SCL has had no funding appropriated for its development and maintenance. The CCL pilot was modeled off the SCL but had some alterations.⁸ On Oct. 4, 2023, AMS announced it “will continue the Cattle Contracts Library Pilot Program in its present form in order to continue reporting vital market information for farmers and ranchers while gathering additional information on the effectiveness of the pilot.”⁹ Gathering lessons learned about the SCL can only benefit the CCL’s further development and administration.

1.2 Study Objectives

The SCL intends to deliver equal information access to all market participants, and it has provided market participants with uninterrupted access to information since 2010. However, little is known about how frequently market participants access the SCL and use the information in it. Therefore, understanding market participant usage and application of the SCL can yield important insights into whether the SCL collects relevant information from packers, whether the SCL provides producers and other market participants with information they desire and the extent to which the SCL has impacted the structure of swine marketing contracts and price discovery over time.

To investigate how market participants access the SCL, use the information in it and view opportunities for improving the SCL, this study had three specific objectives organized across two project phases:

Phase 1 – Current study

Objective 1. Via targeted interviews and an online survey, capture industry perspectives about the SCL’s collection and dissemination of marketing contracts-related information. Seek input from representatives at multiple stages in the supply chain, including swine producers and packers and stakeholders such as marketing and risk management advisers and state association

⁷ Evaluating Hog Supply Agreements: A Peek Inside the USDA's Swine Contract Library available [here](#).

⁸ House of Representative Report 117-203 on the Cattle Contract Library Act of 2021 available [here](#).

⁹ USDA Continues the Cattle Contracts Library Pilot Program available [here](#).

leaders who offer support services to the industry. Collect perspectives about a) use of currently available SCL information and b) interest in other information that would help market participants make decisions but extend beyond the data that current legislation requires to be reflected in the SCL.

Objective 2. Using professional opinion, relevant literature and industry input, prioritize opportunities for improving the SCL into one of three categories: high importance, medium importance or low importance. For opportunities of high importance, offer suggestions for improving example contract data collection and publishing data into usable information while maintaining confidentiality requirements.

Phase 1's scope of work included the following:

- 1) Synthesize contract information available from the SCL to develop an understanding of what information market participants use and in what form the information is being used. The focus will be on the usefulness of SCL information for enhancing swine marketing contract negotiations and the price discovery process. Analyses include identifying the following:
 - a. Contract specifications that market participants find most useful.
 - b. Market participant preferences for reporting format.
 - c. Potential confidentiality constraints involved with any recommended change in reporting format.
- 2) Determine how information from the SCL aligns with industry and market participant needs. Analyses include an assessment of the following:
 - a. Marketing contract information believed to enhance the SCL's value.
 - b. Possibly irrelevant, confusing or incomplete information provided currently in the SCL.
 - c. Similarities and differences between the USDA AMS LPGMN-managed CCL pilot and USDA AMS PSD-managed SCL (i.e., what information can be gleaned from the CCL pilot that could make the SCL more useful to market participants).
 - d. The desired frequency of example contract submissions and SCL publication.
- 3) Outline likely market participant responses to SCL adaptations. Analyses include an assessment of the following:
 - a. Potential changes in SCL use (e.g., use of information when negotiating swine marketing contracts).
 - b. Potential changes in efficiency when accessing information from the SCL.
 - c. Potential problems stemming from changes to the SCL (e.g., programs already set up to glean information from the SCL).

Phase 2 – Future study

Objective 3. Conduct a time-series analysis of swine marketing contracts' evolution to determine if, and to what extent, contract terms (e.g., allocation of value, risk, and decision rights) have changed since the SCL was made publicly available. Analysis will also determine whether monthly estimates of swine to be delivered under contract during the next six- and 12-month periods can be used to improve hog price forecasting and marketing decisions.

CHAPTER 2: Industry Trends

This chapter compares the pork industry's recent situation to the situation around the time of the 1999 Act. By evaluating how the industry has evolved during the past 24 years, we can understand whether industry changes should be reflected in the SCL or whether the library may need to evolve to account for ongoing and future industry changes.

2.1 Swine Industry Structure

The pork industry's structure has changed dramatically during the past two decades in terms of the number and size of hog operations, who owns them and how they relate to other firms in the pork value chain (Grimes and Plain, 2009; Plain, Lawrence, and Grimes, 2012).

Using U.S. Census of Agriculture data from USDA's National Agricultural Statistics Service (NASS), we compare hog operation sizes and sales for 2002, 2007, 2012, and 2017. Note, 2022 U.S. Census of Agriculture data were not available prior to this report's development.

By census year, Exhibit 2.1.1 shows the percentage of independent hog operations by size category. Other than for operations with fewer than 50 head sold per year, every other category shrunk over time. We anticipate that farms selling fewer than 200 head annually do so to fill niche, direct and wholesale market opportunities. These farms will not have a swine marketing contract. Although a small percentage of operations market between 200 head and 1,000 head per year, these operations likely don't have the scale to justify longer term (i.e., beyond 14-day) swine marketing contracts.

Shown in Exhibit 2.1.2, data for the percentage of swine marketed by independent operation size indicate — not surprisingly — that the large operations represent the industry's relative growth over time. Neither of these exhibits capture the growth of integrated producer-packers over time.

Data from the Successful Farming Pork Powerhouses printed for 1995, 2010 and 2022 suggest the scale of large independent versus large integrated production. Exhibit 2.1.3 indicates the approximate number of sows owned by the largest five, 10 and 20 producers in the observed years. We did our best to compute how many of the top 20 producers, by size, represent independent producers. More of the top 20 today appear to be represented by independent producers than during the time leading up to the 1999 Act's passage. Note, however, this caveat — independent farms that are member-owners in cooperative pork processing have grown and replaced the vertical-aligned packers that existed in 1995. For example, a cooperative, Triumph Foods formed in 2004 and then added a second facility that started processing in 2017.

For LMR swine, any operation with at least 5% ownership control in a packer is considered a packer, not independent.¹⁰ Therefore, we used LMR data to investigate the trend in the maximum number of swine that could be transacted with marketing contracts (Exhibit 2.1.4). Although the hog industry has grown since the SCL's inception, our data suggest that 70% of hogs reported within LMR were purchased with a marketing contract when the SCL began.

¹⁰ See Chapter 3 of Act for the definition of packer and affiliate [here](#).

Today, the percentage is closer to 50%. The total number of hogs purchased with a marketing contract remained the same in the 20-year period.

Exhibit 2.1.1. By Census Year, Percentage of Hog Operations by Size Category

(Source: USDA NASS U.S. Census of Agriculture; Independent Producers)

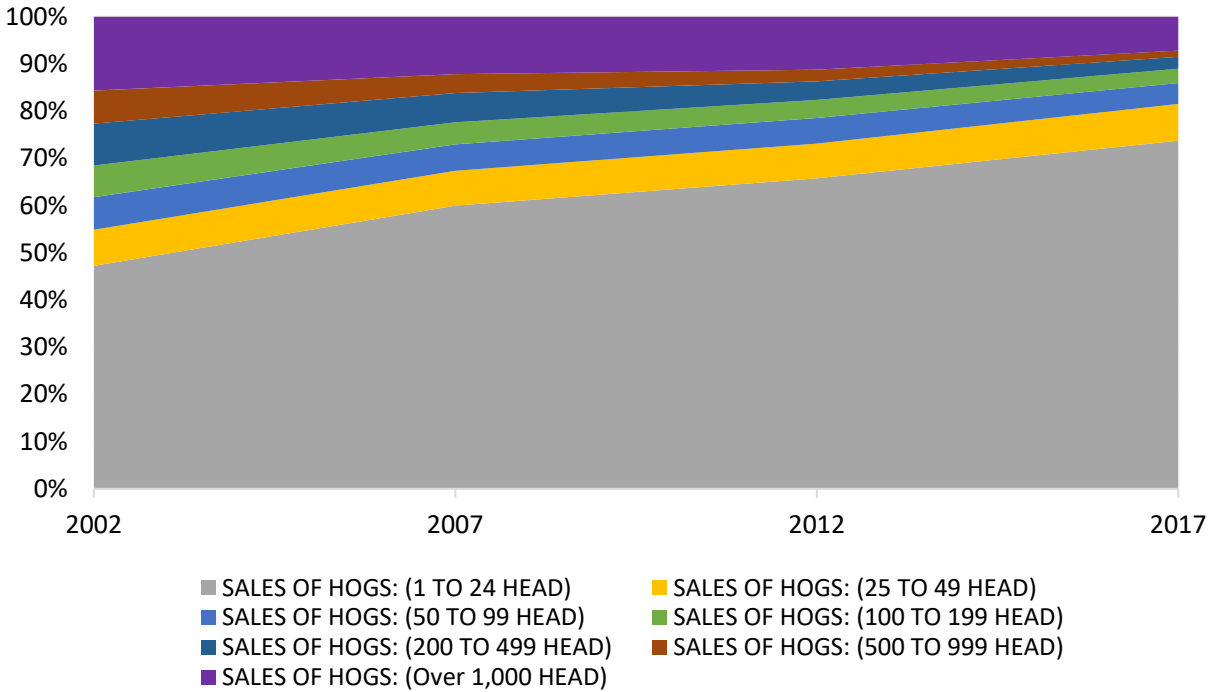


Exhibit 2.1.2. By Census Year, Percentage of Swine Marketed by Operation Size

(Source: USDA NASS U.S. Census of Agriculture; Independent Producers)

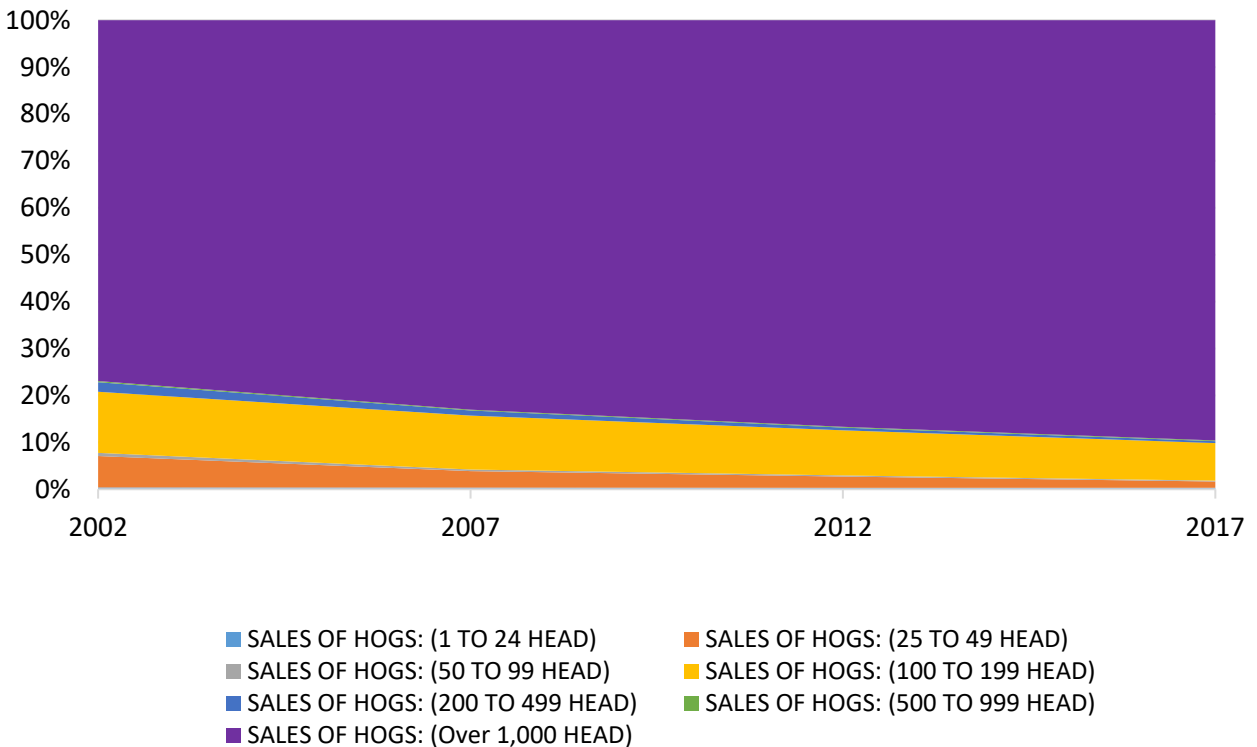


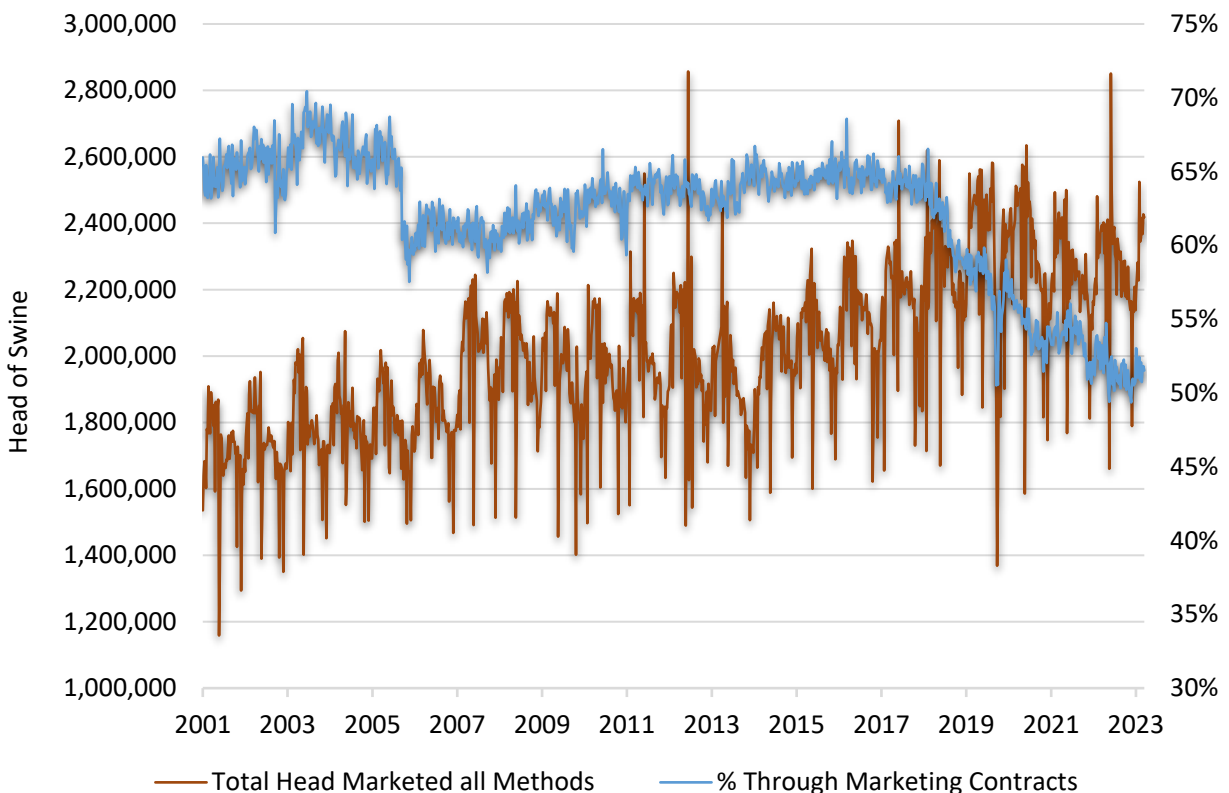
Exhibit 2.1.3. Approximate Number of Sows Accounted for by Largest U.S. Hog Producers
(Source: Successful Farming Pork Powerhouses)

	Number of Sows Owned by			Authors Estimated # of Top 20 Producers Classified as not a Packer
	Top 5	Top 10	Top 20	
1995	637,300	986,300	1,229,900	8
2010	1,758,904	2,301,904	2,782,904	11*
2022	2,075,070	2,880,470	3,610,274	8**

* Several of these entities excluded are cooperative member-owned processing with independent producers, which we assumed to be classified as having packer-owned hogs under the threshold used by LMR. Some of the included non-packer entities are management organizations representing the interest of independent producers.

** A change between 2010 and 2022 is that some independent farms previously aggregated under the Triumph co-op are separately broken out and occupy several spots in the top 20. Some of the included non-packer entities are management organizations representing the interest of independent producers.

Exhibit 2.1.4. Hogs Purchased From all Marketing Methods and Share of Hogs Sourced by Packers Through Marketing Contract Agreements, Weekly
(Source: USDA AMS Livestock Market News MPR Data Mart)



During the past two decades, states with the greatest share of market hogs sold were Iowa, Minnesota and North Carolina. Collectively, these three states captured a 56.5% market share in 2022 — up from a 52.3% share in 2000, according to USDA National Agricultural Statistics Service Hogs and Pigs reports. Exhibit 2.1.5 illustrates the change in state-by-state market share

2.2 Swine Marketing Methods

Structural change has influenced operations of hog farms and actions of pork value chain participants operating between the farm and consumers (e.g., Rhodes, 1995; Narrod and Fuglie, 2000; MacDonald et al, 2000; Ollinger et al, 2006; Nguyen and Ollinger, 2009; Davis et al., 2022; Nehring et al., 2019). It has been heavily studied for its implications on processors' pricing behavior (e.g., Azzam and Salvador, 2004; Perloff and Rauser, 1983; Martin, 1997; Lawrence, Muth, Taylor and Koontz, 2007; Lawrence and Grimes, 2007; Njoroge, 2003; Key, 2013).

The LM_HG201, *National Daily Direct Hog Prior Day Report – Slaughtered Swine* — often referred to as the “prior day slaughter report” — summarizes the volumes and prices of hogs slaughtered the previous business day. Exhibits 2.2.1 and 2.2.2 show total monthly hog volume (i.e., percentage of head count) by sale type. Appendix B describes each sale type. Observe the relationship between swine or pork market formula (SPMF) sales and other purchase arrangement (OPA) sales. These sale types trended toward each other — with SPMF decreasing in volume and OPA increasing in volume — starting in 2016. They nearly reached an inflection point in 2019. In April 2016, the immediate jump in OPA volume stemmed from USDA reclassifying hogs raised without ractopamine or antibiotics from SPMF to the OPA category (Butcher and Schulz, 2021). At this point, the number of hogs sold that had been raised with these production practices had likely gotten large enough to notice and mattered in aggregate to published prices. This is an example of AMS receiving stakeholder feedback and enhancing reports and published data to reflect industry dynamics and the value of market information.

The rationale for continued growth in OPA sales after 2016 is likely twofold. It indicates growing consumer demand for hogs that possess extrinsic attributes. For example, not until August 2017 did AMS begin publishing premiums for characteristics related to “animal welfare, antibiotic free, diet/feed, genetics, meat quality, process verified program, sow housing and weight” in the LM_HG250, *National Weekly Direct Swine Non-Carcass Merit Premium* report. Also, it is likely that new formula contracts for pricing swine have been introduced over the years that do not necessarily conform to traditional sales categories published by AMS. The OPA category is a catchall for methods that do not fit the other three sale types.

Another notable trend is the steady decline of negotiated sales. Negotiated head counts declined by 86.11% from 2002 to 2022 — roughly 13.17 million head in 2002 to 1.7 million head in 2022. Moreover, data from 2002 show that negotiated sales were used for 14.65% of all hogs reported compared with 1.48% in 2022.

The negotiated sales decline is important because their prices are used as a base in many formula contract hog sales. In 2022, 51.91% of producer-sold hogs (28.25% of all hogs) were priced based on a SPMF. Anecdotal evidence indicates that half of all SPMF-priced hogs use a negotiated swine price as the base price mechanism. As such, it is critical the negotiated price be representative and reliable as a market price that accurately reflects current supply and demand conditions. If it is not, then a large share of hogs will be valued at a base price that may not reliably indicate current market conditions. Also, negotiated prices and head counts fluctuate far more than they do for other pricing arrangements. With greater volume and consistency, negotiated sales would be a more reliable base for formula hog sales, but the present market for negotiated hogs is simply too thin to meaningfully indicate market conditions as a whole — particularly during market disruptions (Butcher and Schulz, 2021).

Packer-owned hogs accounted for 38.73% of 2022's total barrow and gilt volume. They represented 28.29% of market hogs in 2016. U.S. pork packing capacity was roughly 9.5% larger during spring 2019 than fall 2015 (Meyer, 2019). Two new pork processing plants opened in 2017, and another new plant opened in 2019 (Meyer, 2017, 2018, 2019). Producers own these plants. As such, hogs that were once categorized as producer-sold by USDA in LMR reports are now deemed packer-owned.

Exhibit 2.2.1. Head of Hogs Sourced by Packers by Marketing Method and in Total
 (Source: USDA AMS Livestock Market News MPR Data Mart)

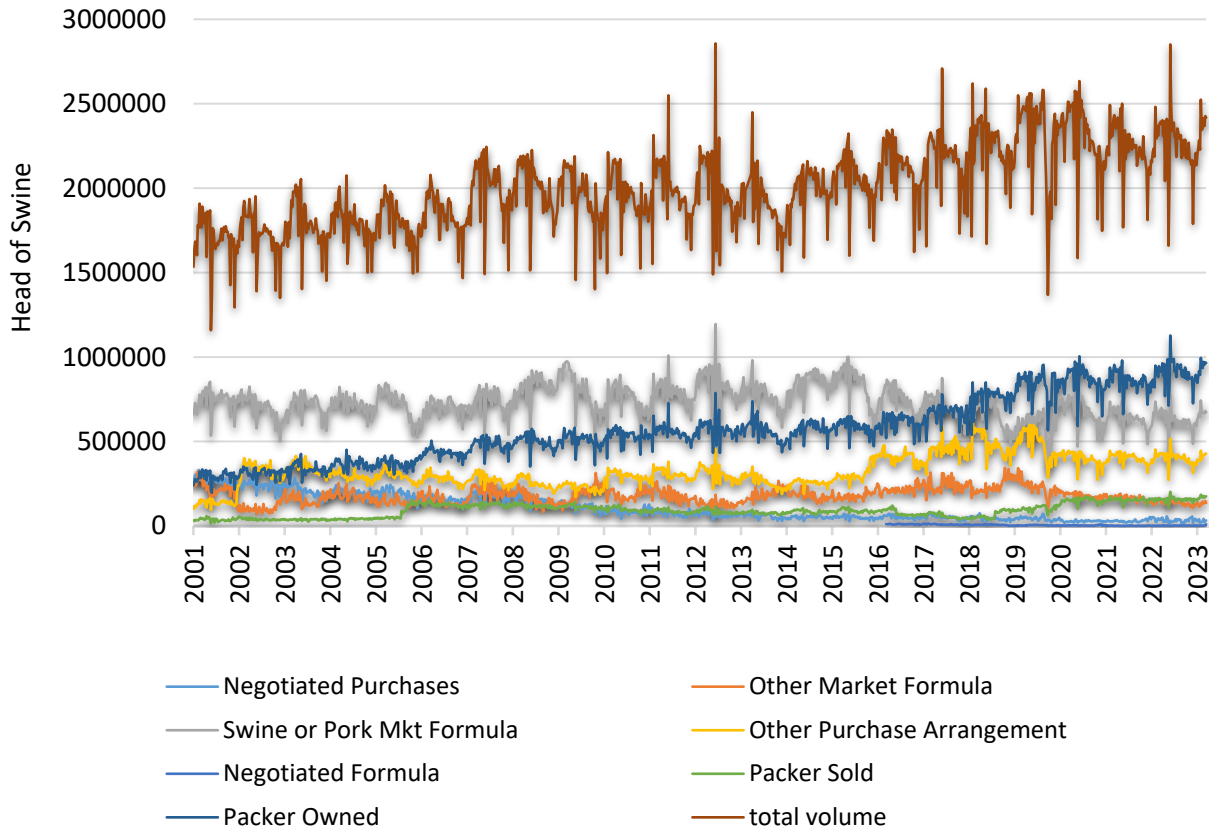
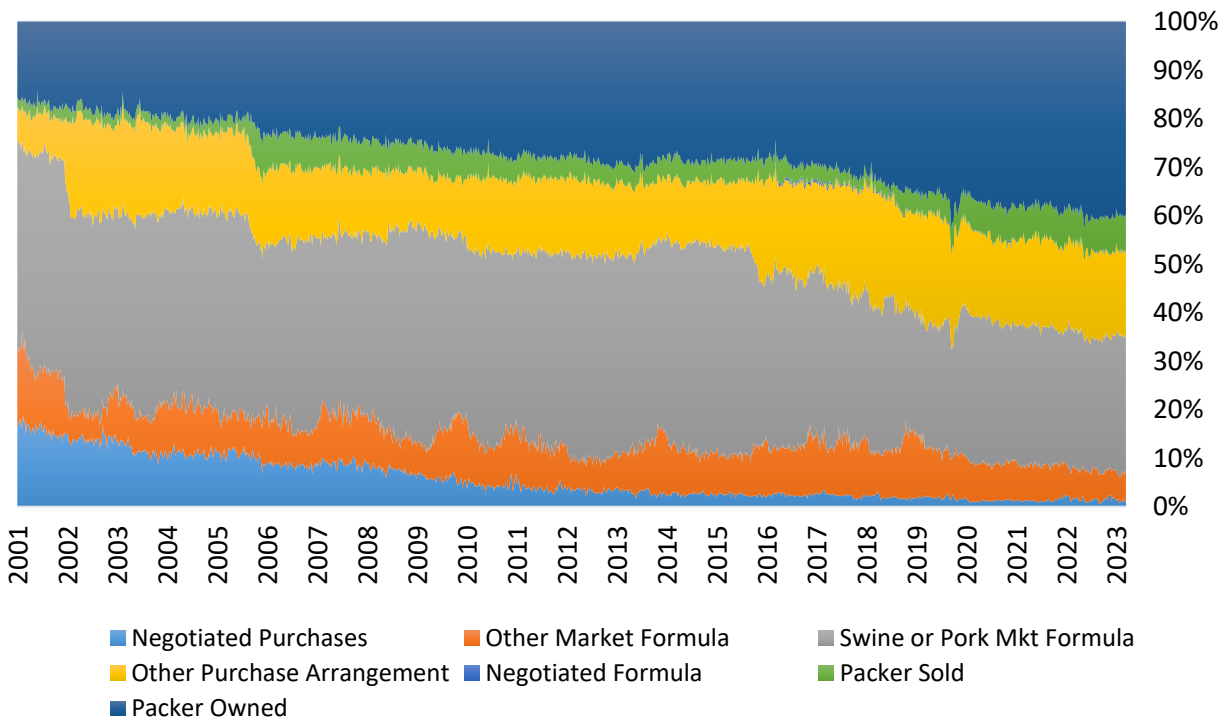


Exhibit 2.2.2. Packer Origination of Barrows & Gilts by Method Since LMR Began
 (Source: USDA AMS Livestock Market News MPR Data Mart)



2.3 Structural Change Implications for the Swine Contract Library

Production-level structural change is important to the SCL and USDA AMS for several reasons:

1. Large-scale producers will continue to grow and rely heavily on swine marketing contracts. Leading up to the 1999 Act, vertical integration occurred because of packers entering hog production. The current trend is that of hog producers vertically integrating to own packing and further processing using the collective action model. Much future production growth is likely to stem from producer-owner cooperatives, which could be a challenge for the SCL and underscore questions about whether to classify swine marketing contracts for these hogs as independent producer-owned or packer-owned.
2. Livestock and meat are marketed in dramatically different ways today than in the recent past. Negotiated trade has been rapidly replaced by formula pricing, forward markets and longer-term marketing agreements. The industry has also had an ongoing shift toward pricing livestock using meat values (Parcell, Tonsor, and Schroeder, 2016). Changes in animals being produced by packers and products being produced by packers through value-added efforts, branding, specialty programs and other differentiation will lead to more marketing contract clauses. For example, the number of animal confinement legislation-compliant merit premiums currently being submitted under LMR is now sufficient for this information to be published under a separate category in the LM_HG250, *National Weekly Direct Swine Non-Carcass Merit Premium* report.¹¹

¹¹ USDA Adds Swine Non-Carcass Merit Premium for Animal Confinement Legislation available [here](#).

3. The swine industry has reached a level of synergistic needs between producers and packers. It's increasingly difficult for one to [financially] survive without the other. Other than for the smallest categories of hog producers, swine marketing contracts provide a necessary means of commerce with packers.
4. Markets have globalized for products sold by the U.S hog industry. More than 25% of U.S. pork is now exported, which leaves the U.S. pork price exposed to global economic events that are more difficult to anticipate. As pork is a flow commodity, when export markets slow down buying, the industry has no extensive means to store pork while export markets recover. Dependence on global markets adds to the domestic pork industry's systematic price risk via the volume of hogs produced. At the start of LMR, packers and producers looked to swine marketing contracts to help in mitigating the systematic risk of hog volume while applying traditional methods for base price specification and premiums and discounts. We expect swine marketing contracts to evolve to include clauses that address revenue risk-sharing caused by the systematic risk of pork's global market.

CHAPTER 3: SWINE MARKETING CONTRACTS AND THE SWINE CONTRACT LIBRARY

A contract is a “legally enforceable promise” (Sykuta and Parcell, 2003, p. 334). From an economic perspective, a contract serves as a governance mechanism for a transaction because it outlines expected allocations of value (e.g., how is the net price determined), risk (e.g., who shoulders responsibility) and decision rights (e.g., who decides and who has authority). In short, the contract outlines agreed-upon “rules of the game” (Parcell and Sykuta, 2003, p. 334).

For contracts to adequately outline the governance terms by both parties, they require expected allocations of value, risk, and decision rights and responsibilities (Sykuta and Parcell, 2003). These elements ensure the parties understand how to price a transaction, who takes responsibility if certain circumstances unfold and who makes key decisions throughout the contract’s life. Many authors have noted that it’s impossible to write a complete contract because of the multitude of contingencies that may need to be addressed during a contract’s life (Crocker and Reynolds, 1990; Hart, 1998; Mahoney, 1992; Sykuta and Parcell, 2003; and Williamson, 1988).

Given its charge to share contract specification information, the SCL publishes example contracts formed between producers and packers. It reduces the transaction (i.e., search) costs for both buyer and seller in mitigating contingencies and leading to more complete contracts.

3.1 Origins of Swine Contract Library

The SCL was established to provide producers with access to information on swine marketing contract terms expressed between producers and packers — thereby evening information availability between the parties involved in a contract. The 1999 Act provided relatively simple guidelines for the Secretary of Agriculture to establish the SCL. Two sections of the 1999 Act [222 and 304] relate to the SCL. Section 251 provides guidance on confidentiality and minimum reporting thresholds for regional and national reports. Section 304 is a summary, and section 222 offers specific guidelines for information collection. Section 304 states:

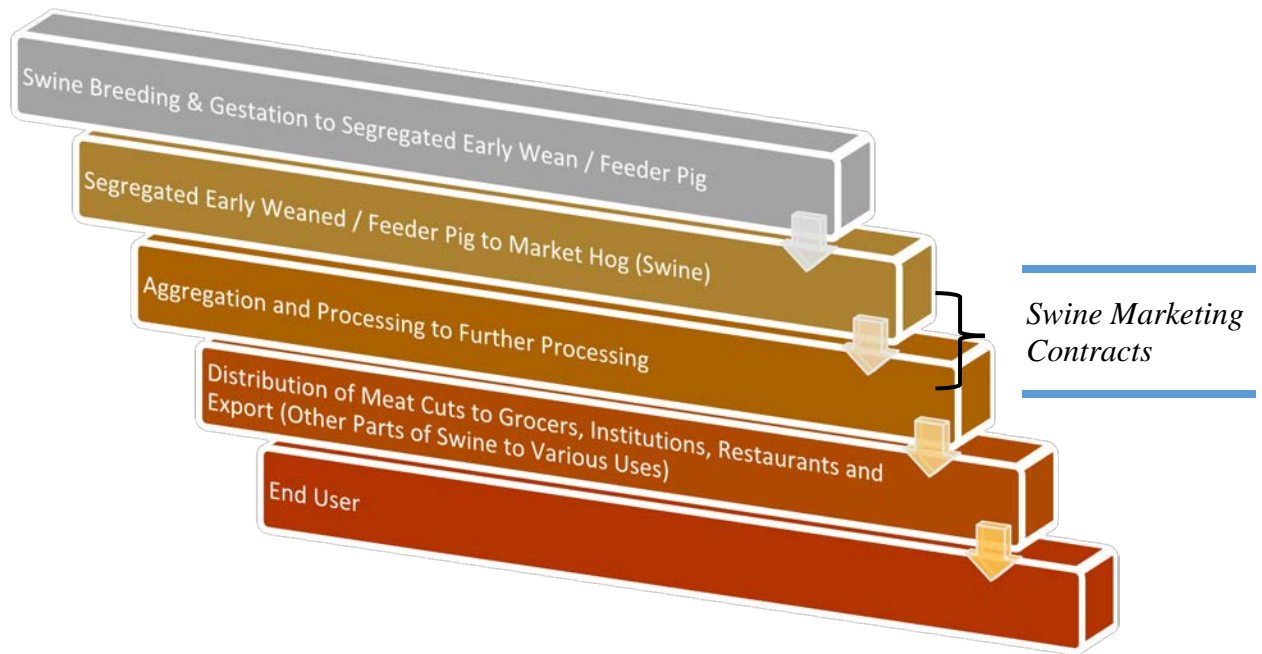
“Swine Packer Marketing Contracts Offered to Producers. Subject to the availability of appropriations, this section requires the Secretary to establish and maintain a library in which each type of contract that is offered by packers to swine producers for the purchase and slaughter of swine is catalogued. The terms of non-carcass premiums are also to be maintained. The Secretary is to make available to swine producers and other interested persons information on the types of contracts, and to ensure the confidentiality of the swine packer and producer. It will be unlawful and a violation of this subtitle for any packer to willfully fail or refuse to provide to the Secretary accurate information required under this section.”

Following the passage of the 1999 Act, swine packers first submitted [marketing] contracts to USDA around 2002, and the SCL posted information soon thereafter. Monthly summaries of estimated deliveries, as reported by packers, began at about the same time.

Exhibit 3.1 outlines where in the swine-pork supply chain that swine marketing contracts are used to add certainty and build understanding between buyers and sellers. These contracts are

agreements between producers and packers for the delivery of swine that meet specifications. Producers and packers adhere to these specifications over a contract's life.

Exhibit 3.1. Swine-Pork Supply Chain



In parallel to the SCL revealing information about swine marketing contracts, qualifying packers under LMR are required to report transaction volume, price and quality information on hogs and wholesale pork (added in 2012) to AMS. LPGMN manages data collection and compiles, summarizes and publishes market information in publicly available reports. Exhibit 3.2 compares and contrasts LMR and the SCL. It also notes distinctions between these two mandates and the CCL pilot.

Exhibit 3.2. Comparing and Contrasting Livestock Mandatory Reporting, the Swine Contract Library and the Cattle Contracts Library Pilot

	Livestock Mandatory Reporting	Swine Contract Library	Cattle Contracts Library Pilot
Statutory authority	Livestock Mandatory Reporting Act of 1999 amendments to the Agricultural Marketing Act of 1946	Livestock Mandatory Reporting Act of 1999 amendments to the Packers and Stockyards Act, 1921	Consolidated Appropriations Act of 2022
Agency oversight	Livestock, Poultry and Grain Market News	Packers and Stockyards	Livestock, Poultry and Grain Market News
Purpose	Establishes a program to provide information regarding the marketing of cattle, swine, lamb and the products of such livestock that producers can readily understand; improves USDA’s price and supply reporting services; encourages competition in the marketplace for livestock and livestock products.	Provide equal access to swine market information through publishing specifications and provisions named in packer contracts and releasing monthly estimates of swine to be delivered	Improve market transparency, price discovery and market signals by summarizing terms and prices in cattle contracts and detailing volumes of purchases tied to active contracts

LMR for swine and pork has been described as information in the rearview mirror — what has already occurred. Over time, however, as market information reports associated with LMR became more established, the use of LMR information became institutionalized and used for several purposes beyond the original emphasis on price discovery. In particular, LMR-published market information has gained considerable trust across industry stakeholders and other government agencies as a resource for enhancing price discovery by industry participants, providing a source for base prices used in marketing agreements, serving as settlement indexes on CME futures contracts, establishing insurance contracts, determining indemnity loss payments, providing foundational data for research, offering central information for market outlook and forecasting and informing policy analysis (Schulz and Schroeder, 2022). Following the car analogy, LMR pivoted into functioning more like side door mirrors.

With respect to SCL, it provides access to swine marketing contract specifications and, therefore, gives industry participants a view of forward-looking swine marketings. Again, the library’s intent was ensuring that both parties — buyers and sellers — would have adequate information when negotiating contracts.

3.2 SCL Submission Process, Presentation and Report Delivery

For the SCL to achieve its purpose, PSD accepts example contracts from packers, not every contract written; synthesizes the information in those submissions; and relays the contract specification information to the public. This four-step list details the process PSD uses to collect, prepare and present contract information to swine industry market participants.

- ***Step 1 – Packers submit example contracts, or contract clauses and specifications, following the requirement of the 1999 Act.*** The 1999 Act requires packers to report within a business day of offering a new contract to producer — with subsequent reporting requirements for contract updates when negotiations results in a new contract or when the existing example contract change (FAQ's - The Swine Contract Library [here](#)).
- ***Step 2 – PSD personnel review the submissions to identify example contract specifications.*** These four categories summarize the specifications of interest: base price determination, premiums and discounts, application of ledger and other provisions.
- ***Step 3 – PSD personnel follow internal guidelines to ensure confidentiality of information and protect against sharing proprietary information.***
- ***Step 4 – PSD personnel add example contract specifications to SCL reports.***

The following discussion summarizes several points PSD must manage to administer the SCL.

Confidentiality Guidelines

The 1999 Act provides authorities administering the SCL and LMR with authority to develop confidentiality guidelines. Following the 1999 Act, the confidentiality rule implemented by both administrative bodies had a “3/60” guideline.

This guideline requires meeting two conditions before information in packer submissions can be released. The first dictates that at least three reporting entities must be reflected in each category of data being reported during an individual reporting period. The second requirement is that no single reporting entity could account for 60% or more of the total volume reported in any single data category during an individual reporting period.

Note, the SCL uses a confidentiality standard different from the one followed by LPGMN.¹²

Monthly Reports of Swine to be Delivered Under Contract

Packers submit monthly data of swine to be delivered under contract via email. Packers use form P&SP-341 directly or provide the requested information in a spreadsheet. Section 1 of the form provides identification information. Report month and year refers to the month and year in which the report is due. For example, for a report due by Dec. 15, 2023, the report month and year would be 12/2023. Reports include the following identification information:

- Name of the reporting packer.

¹² Within six months of the start of AMS LPGMN receiving LMR data, it changed its confidentiality guideline from 3/60 to 3/70/20: “The guideline consists of three requirements: (1) At least three reporting entities need to provide data at least 50% of the time over the most recent 60-day time period, (2) no single reporting entity may provide more than 70% of the data for a report over the most recent 60-day time period, and (3) no single reporting entity may be the sole reporting entity for an individual report more than 20% of the time over the most recent 60-day time period.” Federal Register, May 16, 2008 (p. 28,618) and specific details are [here](#).

- Inspection or establishment number assigned to the plant by USDA’s Food Safety and Inspection Service (FSIS).
- Name of the specific plant for which the data are being submitted.
- City and state where the plant is located.
- Name, title and phone number of the person authorized to submit the data.
- Signature of the person authorized to submit the data.

In Section 2, a packer estimates the number of swine to be delivered under existing contracts. Packers first enter the month and year of the estimates being submitted. The starting month and year are the month following the report month and year (Section 1), and the month and year combination advances one month for each line of the report. For example, if the report month and year is 12/2023, then the month/year entry on the first line in Section 2 is 01/2024 and so forth. For all existing contracts of each contract type, packers report the number of swine expected to be delivered to the plant for each month and year.¹³ They need to report the number of swine committed for delivery under each contract type in effect, even if those contract types are not currently offered for renewal or to additional producers. They should enter zero if the plant does not have any existing contracts for a contract type. Finally, a packer indicates if it offers or makes available for renewal any contract of the corresponding contract type.

Section 3 of the form is where a packer estimates the maximum number of swine to be delivered under existing contracts. If existing contracts for a given contract type currently in effect have no expansion clauses, then maximum estimates would be the same as the estimates provided in Section 2. If contracts have expansion clauses, then packers provide the maximum number of swine that can be delivered to the plant for each month and year listed for all existing contracts of each contract type. Finally, packers indicate each expansion clause type that occurs in any existing contract under the corresponding contract type for which estimates are being reported. They choose from three expansion clause types: (1) clauses that allow for a range in the number of swine to be delivered, (2) clauses that require a greater number of swine to be delivered as the contract continues or (3) others that provide or allow for expansion in the numbers of swine to be delivered. Any combination of expansion clauses may be included in the estimates.

AMS PSD applies the 3/60 rule when tabulating monthly estimates of swine to be delivered under contract.¹⁴ First, no single reporting plant can account for 60% or more of the total slaughter in a region. Data used to calculate this threshold are from official FSIS counts of hogs slaughtered in federally inspected plants. The denominator is the area’s total slaughter, and the numerator is an individual plant’s slaughter. The calculation is done monthly but uses lagged slaughter data by one month, or two months, due to availability. According to SCL administrators, this constraint has been binding only a couple of times in the past three years. Second, as it relates to maintaining confidentiality, each month must have at least three reporting plants in a region or nationally for each contract type. The data used to calculate this threshold

¹³ Based on discussion with AMS PSD, few packers today report the use of ledger-type contracts. During this study’s second phase, we will review historical SCL submissions to better understand the changes in ledger contract use over time.

¹⁴ We note that the 3/60 rule as applied for the SCL differs from LMR. For LMR, the calculation of whether to print a value uses in the denominator only data from packers required to report following the 1999 Act. For the SCL, the denominator is all hogs processed under federal inspection. The SCL’s use of all hogs processed under federal inspection is a less restrictive value.

comes directly from the monthly estimates of swine to be delivered under contract provided by packers. This is the binding constraint when it comes to maintaining confidentiality.

Reauthorization

No recommended or authorized changes to the SCL have been made through Livestock Market Reporting Act authorizations.

Government Shutdowns

To the best of our knowledge, government shutdowns do not impact submission of contract information or SCL report updates. The 1999 Act requires packers submit new example contract clauses within a business day of the contract offering and additional updates as the contract is renegotiated following the 24-hour business day guideline. We believe most packers voluntarily report contracts negotiated during a government shutdown. The burden of proof associated with the timing of a swine marketing contract negotiation is too cumbersome relative to the cost of voluntary submission. (Note, see *Compliance and Auditing* subsection below.)

Reporting of monthly projected six- and 12-month swine expected deliveries could be impacted by a government shutdown if the shutdown overlapped with the reporting date. However, our findings suggest the monthly reports are not used by industry participants. Therefore, no disruption in commerce is created by missed reporting of expected deliveries. (See evidence of no monthly reports between May 2023 and October 2023 without calls to renew reporting.)

Website Use

We were unable to extract the exact number of visits to the SCL webpage. However, the number of visits is not a good indicator of the number of contracts written or the number of hogs covered, that benefit from access to contract specifications made available through the SCL.

Example Contracts Submitted and Expired

We worked with PSD personnel to arrive at the number of example swine marketing contracts, along with amendments, submitted between March 2016 and November 2023. We did not audit the submissions to verify exactness of data.

Swine contracts submitted: 4,872 — on average, 46 per month

Swine contracts expired: 1,378 — on average, 13 per month

The number of swine contracts submitted represents both new example contracts and amendments to existing example contracts. Averages do not mean much because submission is lumpy based on when existing bunches of contracts are amended, renegotiated or expired.

Although the 1999 Act requires packers to submit example contracts, it does not specify whether the entire contract or only contract clauses be submitted. PSD receives example contracts in the many forms including full contracts, redacted contracts, contract clauses and contract amendments. PSD personnel sort through the data and information submitted, apply confidentiality guidelines and publish required contract clauses in the relevant SCL reports.

Compliance and Auditing

PSD — and before that, GIPSA — has significant enforcement authority for monitoring industry activities and reviewing compliance with the Packers and Stockyards Act. The 1999 Act mandates submission of example swine marketing contracts and estimates of swine to be delivered under contract. However, we did not learn of a compliance or auditing process. This is not surprising because packers understand PSD could use the Packers and Stockyards Act, in conjunction with the LMR Act, to audit packers. Packers have every reason to comply with submitting information to the SCL.

We point out that AMS LPGMN does not have the Packers and Stockyards Act authorities of PSD. This is important because the market news division developed [compliance standards](#) and audit procedures for LMR. Both SCL and LMR approaches work effectively to assure compliance with the LMR Act.¹⁵

3.3 Industry Reflections of the Swine Contract Library

In our discussions with industry participants, a consensus by those using the SCL suggested continuing the SCL as it provides industry participants with public information to aid decision-making when negotiating swine marketing contracts. However, those that don't routinely use the SCL are okay with discontinuing the SCL.

We found consensus on the need to revamp the SCL website to allow users to comprehend more easily contract specification clauses, volume metrics and historical changes. Some users have developed processes to scrape SCL website data and convert datapoints into formats that better convey the range of contract specifications. These firms viewed the benefits of better access to SCL information as greater than any cost associated with their own competitive edge in the industry from translating current SCL reports.

The following summary details the SCL use cases and observations noted by industry stakeholders who contributed feedback for this project:

- The SCL offers reference information for many hogs transacted through swine marketing contracts. We emphasize “reference” because those we spoke with noted the SCL is only one point of information among the many points of information that go into negotiating swine marketing contracts.
- No concern was expressed that the SCL negatively impacts commerce.
- Individuals recognized that a packer may identify components of its own marketing agreements — for example, base price determination specifications — in the SCL.

¹⁵ We note that the 1999 Act and SCL require packers to report an example contract within one business day of a new contract being offered and then subsequently report updated examples once re-negotiated. We believe the requirement of reporting within a business day places an undue burden on packers and has little impact on the SCL's information value.

However, the SCL 3-60 confidentiality standard prevents a packer from definitively identifying its peers' contract specifications.

- As the SCL process is presently applied and administered, packers had no significant concern that the cost of submitting contract specifications sufficiently strained resources.
- In some instances, SCL information is referenced in the price discovery process. For example, risk managers will look to the SCL information for indications of changes in base price terms to understand the future frequency of risk mitigation usage (e.g., if more contracts specify the base price tied to a meat market formula, then this could signal lower hedging volume of CME Lean Hog Futures and Options Contracts).
- Regarding the desired frequency for updating SCL reports of contract specifications, the consensus was that these long-term swine marketing contract agreement specifications evolve over several months to a year. Although faster access to information is preferred, participants felt that publishing updated specifications more frequently than quarterly or semiannually would be an inefficient use of resources. Two sub-outcomes of this feedback:
 - This has implications for the timeline given to packers when submitting example contracts. Less frequently updating specification reports allows for packers submitting on the first of each month new contract examples or example specifications — or something along these lines.
 - In the second phase of our SCL project, we will analyze primary data collected. After that analysis, we will be in a better position to offer more specific details of the frequency of contract specification changes that materially matter.
- Industry participants acknowledged the need to quantify the frequency by which a contract specification is used. They addressed both the count of contracts being offered and measurement of “expected” hogs to be transacted under a contract. Industry participants noted that the volume-weighted representation of use is preferred, but they acknowledged the problems with a reliable estimated volume metric. An improvement in reporting would be the frequency of specifications occurring in sample contracts.
- Participants have a desire to access historical data, or metrics, that indicate the prevalence of certain contract specifications over time. Similarly, they would like to see a running total of new, amended and expired contracts (or specification clauses) submitted.
- Some in the industry recognize the potential for future disruptions in pricing methods, risks associated with hog production, and changes in business operations. Those familiar with LMR and LPGMN’s engagement with industry acknowledged this as a proactive model of communication that should be adopted by the SCL. It would advance SCL understanding and education. Another step would be authorizing the administering body of the SCL to form a working group to review the SCL at least 12 months prior to LMR reauthorization — with the understanding that discussions with industry and agencies happen before reauthorization.

- As the SCL process is presently applied and administered, a majority felt monthly reports of estimated swine to be delivered under contract had little value when negotiating contracts or discovering prices. Because most packers have standardized their monthly estimate reporting process, some felt it's OK to continue reporting. Others postured these points: Because these are estimates and so many factors influence actual deliveries, what is the packer liability of compliance, and how are "estimates" audited?
- Persons familiar with the CCL pilot offered four consistent comments relevant to the SCL. First, relative to the SCL's presentation of contract clauses, they preferred the CCL pilot's contract specifications presentation along with percent of contracts including the specifications. Second, they prefer how the CCL pilot presents historical figures and data. Third, they do not want the SCL to drift from its focus on contract specifications toward blending contract specifications and price discovery. For the most part, participants look to LMR for price discovery and feel SCL can add very little to real-time price discovery. Finally, participants appreciated that the CCL pilot presents a contract specification snapshot for a defined period. They indicated no affinity for a weekly update of the SCL. As noted above, those using the SCL feel that quarterly or semi-annual updates are sufficient.

3.4 Comparison to Cattle Contracts Library

One of the impetuses for the SCL review is the CCL Pilot Program's creation and a desire by some swine industry participants to learn from how the CCL pilot publishes information and then apply improved visualizations to the SCL's information presentation.

In January 2023, USDA first released its contracts library for cattle. A final rule published in December 2022 dictated that the library would be part of a pilot program to enhance awareness of cattle contract terms between producers and packers. Exhibit 3.4.1 details similarities shared by the swine and cattle contract libraries and their differences.

The CCL Pilot Program Final Rule references the SCL only one time and articulates that both programs shall be mandatory.

Exhibit 3.4.1. Features of Swine and Cattle Contract Libraries

	Swine Contract Library	Cattle Contracts Library
Agency oversight	Packers and Stockyards	Livestock, Poultry and Grain Market News
Packers required to respond	Buy at least 100,000 head of swine per year and slaughter swine at a federally inspected plant that 1) slaughtered at least 100,000 head per year on average during the previous five calendar years or 2) has the capacity to slaughter at least 100,000 swine per year	Slaughtered not less than 5% of fed cattle slaughtered nationally on average in previous five calendar years — in effect, the four largest by slaughter capacity
Contract specification detail	High	Low
Contract clauses printed	Yes	No
Visual presentation	Low	High
Usability	Low	High
Guidelines	More prescriptive	Less prescriptive
Geographic scope	Regional and national	National
Update frequency	As submitted for contracts; monthly for estimated deliveries	Weekly
Confidentiality protections	3-60 standard for reporting	Only publish if at least two of four packers submit a particular type of data; report base price, premium and discount specifications as averages, average 25th percentiles and average 75th percentiles
Extent of use by industry	Low	Low
Packer submissions	Example contracts; estimated deliveries	Spreadsheet entry forms; contract clauses
Volume data reported	No	Some

We engaged with the CCL Pilot Program review contractors to discuss their observations of the pilot program and industry observations of the pilot. Our SCL review team arrived at three broad observations of how the SCL might adopt practices from the CCL pilot.

1. The CCL Pilot Program dashboard effectively and efficiently offers visual appeal for synthesizing contract specifications. Examples include base price source (*page base price view1*), selling basis shipment (*page base price view1*), base price sources (*page base price view2*) and contract specifications (*page contract specs/premiums&discounts*).¹⁶
 - a. Most contracts contain multiple specifications. However, the CCL dashboard doesn't allow for ascertaining what combinations of specifications might exist in a single contract. This point was made in the CCL pilot review and would be a challenge for a SCL dashboard.
2. Base price source is an example of how a SCL dashboard could show historical volume of a contract specification. This would indicate trends in industry over time.
3. The CCL Pilot Program publishes a summary of contract specification features, not "other provisions" like is done for the SCL. Presenting a summary of all other contract provisions would be challenging because of the multitude of contingencies addressed through other provisions. Some of the most common other provision use could be quantified.¹⁷

¹⁶ Summary frequency statistics are shared on base price sources for active contracts and volumes of cattle marketed in the previous month. The only distinguishing characteristic on this volume is Base Price Source.

An important point to reinforce is that CCL pilot reported premium/discount values do not contain corresponding volume information. That is, there is no information contained summarizing the number of animals associated with each premium/discount. Information is reported in the CCL pilot on the percentage of active contracts that contain premium/discount specifications for broad categories of quality, weight, yield grade, etc.

¹⁷ See Appendix D for an example.

CHAPTER 4: KEY FINDINGS AND CONSIDERATIONS

The report authors conducted interviews with industry stakeholders, including producers, marketing and risk management consultants who advise producers on marketing agreements and packers. Additionally, some stakeholders provided input via a survey. The following discussion summarizes the perspectives shared through the interviews and survey.

4.1 Consensus Findings

Stakeholders participating in interviews and the survey who regularly use the SCL as an information source largely agreed that the SCL provides good information, but the information isn't presented very well. Those who either don't use the SCL or are unfamiliar with it are less supportive of maintaining the SCL.

- The format for sharing contract specifications limits industry uptake of SCL information. Furthermore, the lack of a “volume” metric limits user confidence in the prevalence of contract specifications being used in swine marketing contracts.
- They tended to support moving SCL jurisdiction from PSD to LPGMN. Stakeholders with experience of both SCL and LMR recognized that the mission and functions of today's LPGMN mandatory price reporting program aligns better with the industry needs of the SCL.

Both the structure of the industry and USDA agencies at the time of the 1999 Act signaled GIPSA as the appropriate administrator of the SCL. Since then, industry structure has changed; the Livestock Market Reporting Division has the appropriate industry engagement because of managing mandatory price reporting of swine and pork; and GIPSA realigned to AMS in 2018.

- Participants noted that adding a timestamp to track contract specifications' history and indicating the extent to packers use certain example contracts would add value.
- Participants shared they would appreciate SCL updates at regular frequencies that do not need to be real-time; however, they don't generally use the monthly reporting of estimated delivery volumes because the reports are not providing perceived value.

4.2 Mixed Findings

Individuals participating in this project's interviews or survey had less overwhelming agreement about the following points:

- The contract specifications provided by SCL reports are valued by industry participants, whereas the monthly report of swine estimates to be delivered has little to no value to industry participants. We did not hear from a stakeholder who relied on the estimates of future deliveries for meaningful decision making.

Due to the unique nature of each contract, it's hard for data users to discern valuable information from the broad categories covered by each contract reporting categories and because of the lack of reportable information due to confidentiality. Further separating the contract categories would only increase the impact of confidentiality restrictions and make the information useless.

- Regarding the value of the regional reports for the Eastern Cornbelt, Western Cornbelt and Iowa/Minnesota, stakeholders generally supported continuing reporting on a regional basis if confidentiality doesn't interfere with the ability to report at the national level. There is likely a direct correlation to the reference of LPGMN LMR reports (e.g., our analysis in Appendix E indicates that Eastern Cornbelt information is much less used than the other regional reports of LMR).
- Participants noted concern about the ability to maintain detailed reporting on contract specifications, not just price determinants. They favored preserving the granularity of contract specifications currently available in the SCL.
- The SCL confidentiality guidelines are generally not understood, and the implications of the confidentiality guidelines have not been assessed. Confidentiality restrictions have limited monthly reporting of swine for forward delivery, but it's unclear if changing the guidelines would lead to more frequent data availability and greater data use.
- Whether SCL has the flexibility to adapt or whether it is bound by the LMR Act to maintain reporting and publishing consistency into the future, stakeholders generally feel the more flexibility given by the Act, the better the opportunity to administratively change what packers report and how data are reported as information.
- SCL information is used by industry participants when negotiating or renegotiating swine marketing contracts. To a much lesser extent, the library has been useful for suggesting what the future holds for price discovery (e.g., origin of base price). Participants had mixed views on whether an overhauled SCL platform could help with price discovery.

4.3 Action Items

Based on industry participant feedback and the authors' own observations, the following considerations represent points on which to reflect as Livestock Market Reporting Act reauthorization approaches and AMS evaluates how to best administer the SCL. We note there could be trade-offs associated with any of the action items below due to the costs of implementing any of the action items. Since its inception, no funding has been specifically directed to the SCL for development and maintenance. Therefore, it has functioned as an unfunded mandate.

1. Related to SCL and Livestock Market Reporting Act Reauthorization

- a. Realign SCL administrative authority to LPGMN of AMS. The Packers and Stockyards Act would continue to dictate SCL compliance and enforcement. Transferring the SCL’s administrative authority to a different AMS program or division would not require legislative change.
 - b. Propose to stop collecting and publishing the monthly estimates of swine to be delivered under contract during the next six- and 12-month periods, and allow industry to comment on this proposal during the comment period.
 - c. Report to what extent confidentiality restrictions prevent SCL regional or national inclusion of contract specification information. If preserving confidentiality at the regional level prevents including specifications at the national level, then discontinue regional reporting. In general, industry participants prefer more robust national contract information over less information from regional reports.
 - d. Assure future dialogue about updates to the SCL and adherence to a clear mission by forming an ad-hoc advisory committee to review the library in the year prior to Livestock Market Reporting Act reauthorization.
 - e. Maintain the option to submit example contracts through non-electronic processes. However, stress a preference for electronic submissions because a standard, automated process will reduce the need to make “on-the-fly” SCL adjustments as personnel changes and other circumstances occur.
2. Related to Administration of Data Collection and Information Presentation
- a. Short-term (by April 2024) with the goal of enhancing usability.
 - i. Reorganize reports with in-document tables of contents and links to sections.
 1. *Other Provisions* report table of contents to use contract categories, regroup categories into themes and provide a link to each specification inside a theme. (See Appendix C.)
 2. *Schedules Referenced* report to include links between table of contents Schedule ID and its Schedule ID page in the report.
 3. Due to complex base price determination in the Swine Packer Marketing Contract Summary reports, we believe the best course of action is to not change the layout of these reports. Linking between the base price determination and *Schedules Referenced* would add to user convenience.
 - ii. Add specificity about the frequency at which the SCL is updated to reflect changes in contract specifications. This could include a summary page of changes (e.g., number of contracts added, amended, retired) with each update. We suggest making updates at three- or six-month intervals.

- iii. Provide timestamp details for when a new specification (e.g., new animal husbandry practice) is added to or amended in the SCL and when a specification is retired from the library.
 - 1. Sufficient documentation would include the year in which a base price determination was added to the library along with referenced schedules.
 - 2. Going forward, provide a quarterly breakdown of the number of base prices added to and removed from the library's reports.
- iv. Assure entities that are mandated to report example contracts to the SCL and transactions through LMR swine and pork consistently categorize and report hogs contracted and marketed through cooperatives and where contractees are co-op member-owners.
 - 1. We are unsure if packers consistently apply the definition of packer-owned when evaluating submission of example contracts that may only be for independent producers classified as packer-sold due to meeting the threshold of ownership in a pork processing cooperative.
- v. Confirm confidentiality guidelines apply consistently across SCL reporting and LMR swine and pork (i.e., 3/60 and [3/70/20](#)). Post confidentiality guidelines with an example.

b. Intermediate term (December 2024) with goal to enhance applicability.

- i. Implement a standardized, electronic process for packers to submit SCL information.
- ii. Create a supplemental user-friendly dashboard to summarize contract specifications, such as a "volume" metric and a premium range for a specification when applicable.
 - 1. The dashboard should not be structured to focus the SCL as a price discovery tool as this would duplicate information provided through LMR.
 - 2. The dashboard should preserve the specificity and nuance provided in the current SCL. It also should allow users to download the data or access the data through an API.

Appendix D shares an example dashboard with the key elements helpful for stakeholder decision-making. Based on stakeholder feedback and our own judgment, tracking and quantifying these specifications will benefit users of the SCL by reducing their information search costs. Appendix E offers a simple snapshot of information that a dashboard could make available and track

historically. It would provide valuable information to the industry in an accessible manner.

- ii. Offer access to historical contract specification details. At a minimum, this could include archiving the schedules referenced, reports referenced, and contract summary reports and noting the retirement date of an example contract. The ability to reflect on what contract specifications were discontinued has value in assuring use of unsuitable specifications do not persist, or recur, in the future.
- iii. Create an educational tutorial that explains how SCL information is collected and published and how stakeholders can use reported information.

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APPENDIX A

The Secretary is authorized to 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. Regarding the publication of information relative to swine, the Committee expects the information to be aggregated into, and published in, at least 2 geographic regions. In addition, the Committee understands that information will not be published on a regional basis if more than 50 percent of the information is obtained from a single packer.

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Section 304. Swine Packer Marketing Contracts. This section amends the Packers and Stockyards Act by adding:

Section 221. Definitions. This section defines terms used for the swine contract library.

Section 222. Swine Packer Marketing Contracts Offered to Producers. Subject to the availability of appropriations, this section requires the Secretary to establish and maintain a library in which each type of contract that is offered by packers to swine producers for the purchase and slaughter of swine is catalogued. The terms of non-carcass premiums are also to be maintained. The Secretary is to make available to swine producers and other interested persons information on the types of contracts, and to ensure the confidentiality of the swine packer and producer. It will be unlawful and a violation of this subtitle for any packer to willfully fail or refuse to provide to the Secretary accurate information required under this section.

SEC. 222. SWINE PACKER MARKETING CONTRACTS OFFERED TO PRODUCERS.

(a) In General.--Subject to the availability of appropriations to carry out this section, the Secretary shall establish and maintain a library or catalog of each type of contract offered by packers to swine producers for the purchase of all or part of the producers' production of swine (including swine that are purchased or committed for delivery), including all available noncarcass merit premiums.

(b) Availability.--The Secretary shall make available to swine producers and other interested persons information on the types of contracts described in subsection (a), including notice (on a real-time basis if practicable) of the types of contracts that are being offered by each individual packer to, and are open to acceptance by, producers for the purchase of swine.

(c) Confidentiality.--The reporting requirements under subsections (a) and (b) shall be subject to the confidentiality protections provided under section 251 of the Agricultural Marketing Act of 1946.

(d) Information Collection.--

(1) In general.--The Secretary shall--

(A) obtain (by a filing or other procedure required of each Individual packer) information indicating what types of contracts for the purchase of swine are available from each packer; and

(B) make the information available in a monthly report to swine producers and other interested persons.

(2) Contracted swine numbers.--Each packer shall provide, and the Secretary shall collect and publish in the monthly report required under paragraph (1)(B), information specifying--

(A) the types of existing contracts for each packer;

(B) the provisions contained in each contract that provide for expansion in the numbers of swine to be delivered under the contract for the following 6-month and 12-month periods;

(C) an estimate of the total number of swine committed by contract for delivery to all packers within the 6-month and 12-month periods following the date of the report, reported by reporting region and by type of contract; and

(D) an estimate of the maximum total number of swine that potentially could be delivered within the 6-month and 12-month periods following the date of the report under the Provisions described in subparagraph (B) that are included in existing contracts, reported by reporting region and by type of contract.

(e) Violations.--It shall be unlawful and a violation of this title for any packer to willfully fail or refuse to provide to the Secretary accurate information required under, or to willfully fail or refuse to comply with any requirement of, this section.

(f) Authorization of Appropriations.--There are authorized to be appropriated such sums as necessary to carry out this section.

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SEC. 251. 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.

APPENDIX B

For LMR reporting purposes, swine sales are described using the following categories.

1. **Negotiated:** A cash or spot market purchase by a swine packer from a producer under which the base price for the swine is determined or known (hard-priced) by seller-buyer interaction and agreement regardless of the price discovery method used on delivery day.
2. **Negotiated Formula:** Similar to a negotiated purchase, a purchase of swine by a packer where the buyer and seller interact to settle on a price, which is unknown at the time the contract is signed, but a formula is used as the base price.
3. **Other Market Formula (OMF):** A purchase of swine by a packer in which the pricing mechanism is a formula price based on one or more futures or option contracts.
4. **Swine or Pork Market Formula (SPMF):** A purchase of swine by a packer in which the pricing mechanism is a) a formula price based on a market for swine, pork or a pork product (e.g., CME Lean Hog Index or Pork Cutout Index) other than any formula purchase with a floor, window or ceiling price or b) a futures or options contract for swine, pork or a pork product.
5. **Other Purchase Arrangement (OPA):** A purchase of swine by a packer that is not a negotiated purchase, swine or pork market formula purchase or other market formula purchase. If a sale does not fit the other categories, then it is categorized as an other purchase arrangement.
6. **Packer Sold:** Swine that a packer or a packer's subsidiary or affiliate owns for more than 14 days immediately before sale or slaughter and sells for slaughter to another packer. Note, a packer-sold hog is priced using one of the first five sales types but not categorized as one of those sale types because of being owned by a packer and then sold to another packer.
7. **Packer Owned:** Swine that a packer or a packer's subsidiary or affiliate owns for at least 14 days immediately before slaughter. Price data are not reported for packer-owned swine because those hogs are transferred internally from one business unit of a company (i.e., hog feeding) to another (i.e., slaughter-processing).

For each producer-sold sale type — listed as No. 1 to No. 5 — and the packer-sold listing, which would be priced using one of the first five sale types, an average base price and net price is published in LMR reports. The base price is the price paid before applying any premiums or discounts. The net price differs from the base price due to myriad carcass quality differences and non-carcass merit attributes present, and paid for, in the pork industry.

LMR swine reports are based on two data sets provided by packers that meet reporting thresholds: purchase data and slaughter data. Purchase data represent hogs purchased during a specified time period. Data include base prices for carcass-purchased hogs and net prices and hog weights for any live hogs purchased. Slaughter data represent hogs that are harvested during a specified time period. Data include base prices, net prices, carcass weights and carcass characteristics.

APPENDIX C

Below is an example table of contents to add to the *Other Provisions* report. Categorized by the three contract elements — decision rights, risk and value — this table includes the different specifications now reported in an *Other Provisions* report, but it reorganizes them by contract element and further breaks down the decision rights and risk elements into themes. Each table of contents contract element category and theme would be linked to its respective section in the report to allow users to more easily navigate the extensive specification information included.

Decision rights contract specifications

- Production
 - Animal husbandry
 - Animal health
 - Country of origin
 - Drug usage or withdrawal
 - Facilities
 - Genetics
 - Meat quality or usability
 - Needles
 - Nutrition
 - Quality improvements or pork quality assurance
 - Quality/weight
 - Target weights

- Business practices
 - Assignment of agreement
 - Cancellations
 - Capital investments
 - Changes in evaluation, target weight or grades
 - Compliance with applicable laws and regulations
 - Data validation
 - Dispute resolution and arbitration
 - Employees
 - Financial
 - Jurisdiction
 - Ledger details
 - Notice and severability and termination
 - Other services - feed
 - Payment calculations and conditions
 - Pricing disputes
 - Records/documentation
 - Relationship of parties and third-party beneficiary
 - Revenue/cost calculations
 - Right of inspection
 - Rights/obligation of successors
 - Sale of facilities/operation
 - Survival
 - Third-party deductions
 - Transfer of title
 - Transmittal of payment

- Transactions
 - Changes in delivery schedule
 - Conditions
 - Delivery and scheduling
 - Documentation
 - Excess production/expansion
 - Failure to meet schedule
 - Fixed/flexible/buyers
 - Freight
 - Length/term of agreement
 - Location
 - Out hogs and off quality
 - Partial loads and reselling of animals
 - Period
 - Prior notice
 - Review or renewal
 - Right of first refusal
 - Scheduling
 - Volume

Risk-related contract specifications

- Financial
 - Clear title
 - Financial soundness and profitability
 - Third-party guarantees
- Confidentiality
- Liability
 - Default and default remedies
 - Force majeure “Act of God”
 - Hedged positions
 - Hog weight – failure to meet standards
 - Indemnity
 - Insurance
 - Performance
 - Penalties for failure to meet standards
 - Producer or packer damages
 - Remedies (general)
 - Waiver of enforcement
 - Warranties/guarantees

Value-related contract specifications

- Alternative pricing
- Basis
- Carcass evaluation program or matrix
- Forward contracts
- Lean percentage and yield
- Offsets/overpayments
- Weights used for payment

Definitions

- Animal definitions
- Contract terms and definitions
- Volume and delivery definitions

APPENDIX D

We created a representative summary dashboard to suggest how to visualize information collected through the SCL and the 1999 Act. The dashboard is meant to not displace but complement the SCL reports. It offers users a summary of swine marketing contract specifications, trends in specification use and general information about swine marketing contract uses.

Swine Contract Library Summary Dashboard

Mandated by the [Packers and Stockyards Act](#), the Swine Contract Library catalogs examples of contracts offered by packers to producers when purchasing swine, including animals to be delivered in the future. It also aids price discovery for producers and ensures equal access to market information for all market participants. This dashboard summarizes the example contracts submitted by packers.

Geography ▼
Report Date ▼
Read Confidentiality Guidelines
Watch Tutorial

Contract Counts

active

added

amended

retired

Reports Referenced for Base Price

History

Delivery Estimates

Contract Type ▼
Estimate Type ▼

Example: Swine or pork market formula *Estimate or maximum estimate*

6 month	
12 month	
Contract available	

Other Contract Provisions

Provision Type ▼
Category ▼

Examples: Business practices, Facilities, Quality/weight *Examples: Animal husbandry, Cancellation, Capital investment*

History

Premium/Discount Types

Contract Type ▼
History

Example: Swine or pork market formula

Footer
Logos, acknowledgements, disclaimers, contact information

APPENDIX E

We conducted a primary review to count occurrences of phrases mentioned in national contract summary reports to gain insights into how a dashboard would reflect usage, and change in usage, of reference reports for base price determination. In general, we counted all occurrences of a phrase. Each of the three reports analyzed — those for swine or pork market formula, other purchase arrangement and other market formula — list unique sample contracts used for base price determination. The bottom row of the summary table contains the total number of base price determination mentioned by report. Several times, a phrase was listed multiple times for a single base price determination. Therefore, our mentions are not exact other than for total at the bottom of the table. The term “basis” occurred several times for many different base price determinations, so we counted only unique occurrences of the term. To relay complexities of tracking use of base price references, we broke down the “CME” and “lean hog” phrases into categories. The phrase “lean hog” is a good example of where administration needs to create a list of definitions packers would use when submitting information.

National SCL reports and total number of occurrences reports referenced for report downloaded 1/1/2024

	Swine or Pork Market Formula	Other Purchase Arrangement	Other Market Formula
Daily Hog AMS Livestock Market News Reports			
(LM_HG200) National Daily Direct Hog Prior Day - Purchased Swine	27	2	4
(LM_HG201) National Daily Direct Hog Prior Day - Slaughtered Swine	43	19	0
(LM_HG202) National Daily Direct Hogs - Morning	6	0	1
(LM_HG203) National Daily Direct Hogs - Afternoon	112	17	5
(LM_HG204) Iowa/Minnesota Daily Direct Prior Day Hog - Purchased Swine	0	0	0
(LM_HG205) Iowa/Minnesota Daily Direct Hogs - Morning	21	1	0
(LM_HG206) Iowa/Minnesota Daily Direct Hogs - Afternoon	144	6	0
(LM_HG207) Eastern Cornbelt Daily Direct Prior Day Hog - Purchased Swine	4	11	0
(LM_HG208) Western Cornbelt Daily Direct Prior Day Hog - Purchased Swine	17	12	0
(LM_HG209) Eastern Cornbelt Daily Direct Hogs - Morning	5	0	2
(LM_HG210) Eastern Cornbelt Daily Direct Hogs - Afternoon	9	1	0
(LM_HG211) Western Cornbelt Daily Direct Hogs - Morning	0	0	0
(LM_HG212) Western Cornbelt Daily Direct Hogs - Afternoon	183	14	2
(LM_HG213) National Daily Base Lean Hog Carcass - Slaughter Cost	0	0	0

(LM_HG215) National Daily Net Price Distribution	0	0	0
(LM_HG216) Daily Direct Hogs – Morning	0	0	0
(LM_HG217) Daily Direct Hogs – Afternoon	0	0	0
(LM_HG218) Daily Direct Prior Day Hogs	0	0	0
Daily Sow and Boar AMS Livestock Market News Reports			
(LM_HG230) National Daily Direct Prior Day Sow and Boar - Purchased Swine	11	0	0
(LM_HG231) IA/Minnesota Daily Direct Prior Day Sow and Boar - Purchased	3	0	0
(LM_HG232) East Cornbelt Daily Direct Prior Day Sow and Boar - Purchased	0	0	0
(LM_HG233) West Cornbelt Daily Direct Prior Day Sow and Boar - Purchased	0	0	0
(LM_HG234) Daily Direct Prior Day Sow and Boar	0	0	0
Weekly Hog AMS Livestock Market News Reports			
(LM_HG214) Weekly National Direct Swine Report	0	0	0
(LM_HG250) National Weekly Direct Swine Non-Carcass Merit Premium	0	0	0
Chicago Mercantile Exchange (CME Group) Futures			
CME	91	21	88
CME day of	1	0	0
CME prior day	0	0	0
CME Index	8	0	2
CME Price	31	9	42
CME Settlement	0	2	0
CME Value	7	3	5
Lean hog	191	59	172
Nearby lean hog	31	21	71
Lean hog index	57	9	12
Basis	31	22	90
Daily Pork AMS Livestock Market News Reports			
(LM_PK602) National Daily Negotiated Pork Report - FOB Plant - Afternoon	183	38	9
(LM_PK603) National Daily Negotiated Pork Report - FOB Omaha - Afternoon	11	3	1
Week Pork AMS Livestock Market News Reports			
(LM_PK610) National Weekly Negotiated Pork Report - FOB Plant	3	0	2

(LM_PK611) National Weekly Negotiated Pork Report - FOB Omaha	0	0	0
(LM_PK620) National Weekly Formula Pork Report - FOB Plant	0	0	0
(LM_PK621) National Weekly Formula Pork Report - FOB Omaha	0	0	0
(LM_PK630) National Weekly Forward Pork Report - FOB Plant	0	0	0
(LM_PK631) National Weekly Forward Pork Report - FOB Omaha	0	0	0
(LM_PK680) National Weekly Comprehensive Pork Report - FOB Plant	0	0	0
(LM_PK681) National Weekly Comprehensive Pork Report - FOB Omaha	0	0	0
Retail	0	0	0
Unique contracts represented	640	106	83