Livestock Mandatory Reporting Act of 1999

Remarks of Kenneth C. Clayton
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Introduction

In the next few minutes, I'll try to summarize 23 pages of statutory language and 20 pages of report language. To put what I'm about to describe to you in context, at least to those of us who have been in the daily price reporting business for a long time…we are talking revolution, not evolution. Hopefully, my fellow panelists will help to address the significance of this change, but I can tell you that, from a programmatic point of view, mandatory price reporting represents a "sea-change" in price reporting for AMS.

Background

Mandatory reporting for livestock transactions first recommended by the Secretary's Advisory Committee on Concentration in June, 1996. The advisory committee, followed by the National Small Farms Commission, articulated the concerns of many livestock producers that, with a growing share of transactions occurring through contracts, the cash market would be reduced to a residual claimant, to the financial detriment of producers trading in cash markets.

Producers engaging in contract transactions argued that a more reliable benchmark was needed to enable them to evaluate the terms they were being offered. The cash market alone was not viewed as acceptable; more complete information was said to be necessary for markets to be efficient and competitive.

Studies by USDA's Grain Inspection, Packers and Stockyards Administration (GIPSA) and GAO, among others, raised concerns about cash markets for livestock.

Until last fall, the Department did not have the legislative authority to mandate price reporting. While Secretary Glickman strongly encouraged voluntary reporting after the advisory committee made their recommendations, he also stated that he would embrace the authority to mandate price reporting if that is what it took to ensure that livestock markets are open, fair, and competitive.

At the same time, the move to expand market information has been evolving since 1996. AMS made several modifications and enhancements to its Market News program for livestock:

- We expanded our boxed beef report; initiated a regional slaughter report including carcass grades;
- We increased our coverage of the volumes of cattle moving under market arrangements outside of cash or spot markets;

- We initiated a live animal crossing report to cover cattle and hogs moving over the Canada and Mexico borders; and
- We initiated a report for premiums and discounts based on yield-grade factors (the value-based marketing report).

Also since 1996, five states have passed mandatory price reporting legislation, including Iowa, Minnesota, Missouri, Nebraska, and South Dakota, although only Minnesota and South Dakota are collecting price information currently.

In addition to States' legislation, there has been strong Congressional support for mandatory price reporting; prior to passage of the Livestock Mandatory Reporting Act, several bills were drafted that incorporated mandatory price reporting as a provision. And many grass roots, producer, and farm organizations pushed for some form of mandatory price reporting to address concerns over price discovery and packer concentration.

Overview of the Act

When Congress passed the mandatory price reporting legislation, it amended the Agricultural Marketing Act of 1946 -- the law that authorizes USDA to collect and disseminate market information. Under the Act, price reporting will become mandatory for slaughter cattle and hogs, for boxed beef sales, and for lamb and mutton.

Congress also defined the size of packers, including their plants that are required to report or would be exempted from mandatory reporting requirements. This reduces the burden on small businesses, but it also complicates our overall market news reporting, because we still have voluntary reporting by smaller packers and plants.

Ideally, we would like to develop a program that will allow us to provide information from both sources, without confusing the market. We hope to continue to report voluntarily collected information that is not duplicative of information that must be reported under the mandatory program. However, any duplication will be resolved by discontinuing the voluntary report.

Mandatory reporting will also be in near "real time." In most cases, packers or their plants must report twice daily, in the morning and afternoon, with AMS providing public reports fairly immediately thereafter. In the case of hogs, an early morning report will cover transactions from the immediately preceding day.

Other Provisions & Responsible Agencies

A number of other provisions of the Act either expand or enhance market information collected and disseminated by several other USDA agencies. The Economic Research Service (ERS) will assume responsibility for reporting monthly retail prices for beef, pork, lamb, chicken, turkey, and veal, as well as develop a meat price spreads report. The Foreign Agricultural Service (FAS) will develop a report for meat exports.

The Food Safety and Inspection Service (FSIS) will provide information on meat imports as well as barrow and gilt slaughter.

The Animal and Plant Health and Inspection Service (APHIS) will develop a live animal import data base and make it available through AMS reports. USDA's National Agricultural Statistics Service (NASS) will increase the frequency of its Hog and Pig Inventory Report, from its current quarterly report to monthly. A Trim Loss study and report must be conducted. Finally, GIPSA will establish and maintain a library of swine packer contracts offered to producers and prepare a monthly report of contracted swine numbers.

Slaughter Cattle

For slaughter cattle, plants that slaughter 125,000 or more head per year must report the terms of negotiated trades, formula marketing arrangements, and forward contracts.

AMS estimates that approximately 30 companies representing 50 beef packer plants (out of a total of 800 plants) are covered under the mandatory reporting requirements for slaughter cattle. This means that 94 percent of plants will be exempt from mandatory reporting (although voluntary reporting will still occur from these exempted plants). However, we estimate that 90 percent or more of slaughter will be reported.

In the Act, Congress defined *negotiated transactions* as those in which the base price is determined by buyer and seller agreement on a day, and for cattle that are not scheduled for delivery more than 14 days after they have been committed to the packer. In other words, negotiated transactions are cash sales.

A *forward contract* is an arrangement that defines an advance agreement for purchase before slaughter, in which the base price is established related to prices quoted on the Chicago Mercantile Exchange or other comparable prices available publicly.

A *formula marketing arrangement* means an advance commitment of cattle for slaughter, not transacted through negotiation or forward contracting, but using a method to calculate the price in which the price is determined at some future date.

Packer-owned cattle are defined as cattle owned for at least 14 days prior to slaughter. Only volumes and carcass characteristics are required to be reported for packer-owned cattle; price is not required. In all other cases, prices and quantities must be reported.

For forward contract and formula-priced cattle, the "terms of trade" that must be reported include: any packer financing that is provided; whether the producer can choose the date and time for delivery for slaughter; whether delivery terms specify the location of the producer or the packer's plant; and, the percentage of cattle purchased by a packer that are delivered after 7 days, but less than 14 days, after they were either committed to or purchased by the packer.

A packer is defined as any person engaged in the business of buying cattle in commerce for slaughter or for manufacturing or preparing meat that moves in interstate commerce. Although Congress set slaughter thresholds for defining which packers must report market information, Congress also provided that a packer may be required to report even if the packer slaughters fewer than the number specified in the Act, but has the capacity to slaughter the minimum number of cattle defined in the Act.

<u>Boxed Beef</u>

Boxed beef sales have been reported by AMS on a voluntary basis. In 1996, AMS expanded its coverage of boxed beef sales from 14 business days forward to 21 business days, effectively increasing the volumes reported to approximately 40 percent.

The Act now makes reporting mandatory, and prohibits plants from selectively reporting sales. Boxed beef reports will provide information on prices, quantities, and characteristics including USDA grade, the cut of beef, and the trim specification.

Retailers are not covered by the Act, but are strongly encouraged to verify sales when contacted by Market News reporters.

<u>Slaughter Hogs</u>

For slaughter hogs, plants that slaughter 100,000 or more head per year are required to report terms of negotiated trades, swine or pork market formula purchases, and other market formula purchase terms.

AMS estimates that approximately 29 companies representing 50 pork packer plants (out of a total of 750 plants) are affected by the Act. This means that 93 percent of pork packer plants are exempt from the mandatory reporting requirements. As in the case of cattle, we expect to cover some 90 percent of slaughter.

As with slaughter cattle, packer-owned swine are defined by greater than 14-day ownership before slaughter. And only quantity and carcass characteristics are required to be reported for packer-owned swine.

For other slaughter hogs, quantities and prices must be reported; and terms of purchase and sale arrangements must also be provided. Definitions for formula purchases and market arrangements are analogous to those for slaughter cattle.

Also to be reported are noncarcass merit premiums which are defined as an increase in the base price of swine offered by a packer or packer-plant based on any factor other than the characteristics of the carcass if the actual amount of the premium is known before the sale and delivery. If market formulas are tied to futures contract prices, those terms must be reported also.

Lamb Reporting

We are also in the process of developing reporting requirements for lamb and mutton, although Congress did not provide the same level of specificity for lamb reporting as for cattle and hogs.

In fact, the Act leaves this portion of the mandatory reporting program to the discretion of the Secretary. We anticipate addressing lamb reporting along with reporting requirements for cattle and hogs in the forthcoming proposed rule with the opportunity for public comment on all of the provisions.

Preemption of State Laws

Congress also included a provision to preempt States from passing reporting requirements that are in addition to or inconsistent with the requirements under the Federal law.

As we have been developing implementing regulations, we have held informal discussions with States -- particularly the five States that have already passed similar reporting requirements -- and they are aware of the provisions of the Federal law mandating price reporting. We will be expressly inviting States to comment on our proposed rule.

Implementation & Funding

Congress built in a timeline for implementing the mandatory price reporting program. Right now, the proposed rule is in final clearance. Congress mandated a 30-day comment period on the proposed regulations, and that 60 days after the comment period closes, the final regulations are to be published. Congress further provided that authority for the mandatory program will expire five years after enactment, which would be October 22, 2004.

AMS is in the process of hiring staff, developing software, and purchasing equipment needed to implement the new reporting requirements. Industry also will need some time to reconfigure its computers to accommodate the new reporting requirements. This will be a particularly crucial step as the reporting timeframes required by the Act will necessitate that most data be provided electronically. Realistically then, we're looking at implementation in mid- to late-summer of this year.

To get the mandatory reporting program up and running this year, AMS has been provided $4.7 million. To support continued operation of the program in fiscal year

2001, the President has included a request for $5.5 million in his budget that was recently submitted to the Congress.

Summary

Let me close by saying that although we are moving ahead aggressively to implement mandatory reporting, we are doing so being mindful that the point of this effort is not simply to add reporting burdens.

Rather, our objective is to design and implement a price reporting program that will improve transparency in livestock markets and enhance the market information available to industry participants.

Thank you.