

AFBF FEDERAL MILK MARKETING ORDER WORKING GROUP

BACKGROUND ON MANDATORY PRICE REPORTING REGULATIONS

SEPTEMBER 2019

Issue:

Under mandatory price reporting regulations, USDA is required to collect and report sales and pricing information for various livestock and dairy products. For dairy products, federal statute ([7 USC 1637b](#)) requires USDA to collect and release dairy product sales information for butter, cheddar cheese, dry whey and nonfat dry milk that meet certain product specifications. In general, the purposes of the requirements are to provide timely and accurate market information, facilitate more informed marketing decisions, and to promote competition in the dairy product manufacturing industry. Similarly, Livestock Mandatory Reporting was developed to facilitate open, transparent price discovery and provide all market participants with comparable levels of market information for slaughter cattle, swine, sheep, boxed beef, lamb meat and wholesale pork.

Background:

Dairy Mandatory Market Reporting

The Dairy Market Enhancement Act of 2000 required those engaged in manufacturing and the sale of selected dairy products to report certain information, including the price, quantity and moisture content of these products. USDA completed the rule making process in June 2008, creating the Dairy Products Mandatory Reporting Program. The purpose of this program is to collect, aggregate, verify and disseminate dairy product sales information to the public. In September 2010, the Mandatory Price Reporting Act of 2010 was passed, requiring USDA to release dairy product sales information on or before Wednesday at 3:00 p.m. The act also required the establishment of an electronic mandatory sales reporting system for dairy products that were required to be reported. Under the final rule, issued in February 2011, Agricultural Marketing Service developed an electronic system and assumed all data collection responsibilities for mandatory reporting of sales information for the required dairy commodities.

AMS publishes the weekly product prices and volumes in the [National Dairy Product Sales Report](#). The data contained in the NDPSR is used to calculate the monthly class and component prices under the FMMOs ([Background on how milk is priced](#)). Dairy mandatory market reporting does not authorize USDA to survey prices and sales volumes for any other dairy products such as whey protein concentrates, whole milk powder, caseins, buttermilk powder or lactose. Other dairy products are not authorized because they do not directly contribute to FMMO end-product pricing formulas.

NDPSR Survey Requirements

For the NDPSR each week USDA surveys dairy product manufacturers selling 1 million pounds or more of cheddar cheese, butter, dry whey and nonfat dry milk to determine

the sales price and volume of dairy products sold. The specific products and specifications are below:

- Salted butter (80% butterfat), fresh or storage, in 25-kilogram and 68-pound boxes meeting USDA Grade AA standards.
- Cheddar cheese in 40-pound blocks, colored between 6 and 8 on the National Cheese Institute color chart, meeting Wisconsin State Brand, USDA Grade A or better standards. Sales of cheddar cheese 4 to 30 days of age.
- Cheddar cheese in 500-pound barrels, white, meeting Wisconsin State Brand, USDA Grade A or better standards. Sales of cheddar cheese 4 to 30 days of age.
- Edible non-hygroscopic dry whey in 25-kilogram bags, 50-pound bags, totes and tankers meeting USDA Extra Grade standards. Dry whey must be less than 180 days old and must not be certified organic.
- Non-fortified, nonfat dry milk in 25-kilogram bags, 50-pound bags, totes and tankers meeting USDA Extra Grade or USPH Grade A standards. Nonfat dry milk must be less than 180 days old.

In addition to these packaging and color specifications, USDA also requests that manufacturers exclude product sold under the terms of a forward contract negotiated 30 or more days prior to the transaction, as well as any product sold for export and receiving export assistance payments, e.g., Cooperatives Working Together. Other value-added attributes such as faith-based production or certified organic are also not captured.

Livestock Mandatory Price Reporting

Throughout the 1990s, concerns grew within the livestock industry and other stakeholders about concentration and consolidation in the meat packing industry. During this time, the number of animals sold through spot purchases declined while the number of animals sold under alternative marketing arrangements, which were not publicly disclosed under voluntary reporting, increased. Many argued that the lack of publicly disclosed prices for such arrangements made it difficult for producers to determine a fair market price for livestock. In response, Congress passed the Livestock Mandatory Reporting Act of 1999, which mandated price reporting for cattle, boxed beef and swine, while allowing USDA to establish mandatory price reporting for lamb purchases. In April 2001, AMS implemented the Livestock Mandatory Reporting program.

Through LMR, packers and importers are required to submit information about purchases and sales of livestock and livestock products to AMS, which then issues weekly and daily reports detailing livestock and meat price trends, contracting agreements, and supply and demand conditions. In September 2004, AMS published a final rule amending LMR by modifying submission requirements for domestic and imported boxed lamb cuts. Additional changes have been made over the years as LMR must be reauthorized every five years. In September 2010, LMR was reauthorized while

adding mandatory reporting of wholesale pork cuts, with a final rule published in August 2012. The current LMR authority is set to expire on Sept. 30, 2020.

The LMR law requires that price reporting be confidential to protect packer identity, contracts and proprietary business information. AMS has adopted a “3/70/20” guideline for reporting. This requires that at least three entities report 50% of the time over the most recent 60-day period; no single reporting entity may account for more than 70% of reported volume; and no single entity may be the only reporting entity for more than 30% of a single report. AMS compliance staff enforces LMR through audits once every six months and does this by reviewing supporting documentation for randomly sampled lots. AMS then breaks out noncompliance into major and minor violations; major violations occur when packers do not submit information or submit incorrect information while minor violations occur when submissions have typographical or data entry errors.

Under LMR, livestock buyers and sellers of meat products are required to report prices and other characteristics of their transactions. Currently there are 10 types of transactions that are required to be reported for livestock:

- *Negotiated purchase*: a cash or spot market purchase by a packer of livestock from a producer.
- *Negotiated grid purchase (cattle)*: negotiation of a base price that premiums and discounts are then added and subtracted to/from.
- *Forward contract*: agreement for purchase of livestock made in advance of slaughter where the price is established by reference to publicly available prices.
- *Formula marketing arrangement*: advance commitment of livestock for slaughter by any means other than negotiated purchase, negotiated grid purchase, or forward contract in which the price is determined at a future date.
- *Swine or pork market formula purchase*: purchase of swine by a packer in which the pricing mechanism is a formula price based on a market other than futures and options.
- *Negotiated formula purchase (swine)*: a purchase of swine based on a swine/pork market formula that is negotiated lot-by-lot and scheduled for delivery and committed to the packer within 14 days of the negotiation. The sales are reported as producer- or packer-sold.
- *Other market formula purchase*: a purchase of swine by a packer in which the pricing mechanism is a formula price based on one or more futures or options contracts, and the sales are reported as producer- or packer-sold.
- *Other purchase arrangement*: a purchase of swine by a packer that is not a negotiated purchase, swine or pork market formula purchase, negotiated formula, or other market formula purchase and does not involve packer-owned swine. The sales are reported as producer- or packer-sold.
- *Packer-sold swine*: the swine that are owned by a packer for more than 14 days immediately before sale and sold for slaughter to another packer.
- *Packer-owned*: livestock that packers own for at least 14 days immediately before slaughter. Information such as weight and dressing percent is reported on packer-owned livestock.

The LMR also requires meat packers to report negotiated sales, formula sales and forward contracts for boxed beef, boxed lamb, carcass lamb and wholesale pork. There are four transaction types:

- *Negotiated sales*: a wholesale pork, boxed beef or boxed lamb trade in which a price is determined by seller and buyer and is scheduled for delivery no more than 14 days from the date the price is established.
- *Formula marketing arrangements*: agreements in which the price is determined based on publicly available quoted prices.
- *Forward sales*: a wholesale pork, boxed beef or boxed lamb sale in which the price is determined by seller and buyer and the delivery is scheduled beyond the time of a negotiated sale.
- *Export sales*: meats that are delivered outside the United States but not to Canada or Mexico.

Current Farm Bureau Policy:

- We support mandatory price reporting for the livestock industry.
- We support accurate and timely reporting of wholesale and retail meat prices.
- Price reporting programs should be administered by the Agricultural Marketing Service (AMS) of USDA.
- We support:
 - Price reporting information being provided to the Grain Inspection, Packers and Stockyards Administration to enhance enforcement of the Packers and Stockyards Act;
 - State and federal market reporting activities involving auction barns, special and seasonal feeder animal sales and beef, swine, poultry, dairy, lamb and goat breeding animals being continued;
 - USDA-AMS developing protocols and rules to allow auctions to self-report results and price information when conditions or funding prevent official reporters from attending individual auctions or sales;
 - Modernizing the livestock market reporting by the USDA for daily accurate and correct market information that will minimize the possibility of manipulation by market speculators;
 - USDA including in its monthly livestock reports, information indicating the number and origin of imported and destination of exported livestock;
 - USDA implementing publication rules that maintain confidentiality of individual and private business information; and
 - USDA developing better reporting mechanisms for sheep, lamb and goat market information.