

Calendar No. 296

106TH CONGRESS
1ST SESSION

S. 1672

[Report No. 106-168]

A BILL

To amend the Agricultural Marketing Act of 1946 to establish a program of mandatory market reporting for certain meat packers regarding the prices, quantities, and terms of sale for the procurement of cattle, swine, lambs, and products of such livestock, to improve the collection of information regarding the marketing of cattle, swine, lambs, and products of such livestock, and for other purposes.

SEPTEMBER 30, 1999

Read twice and placed on the calendar

Calendar No. 296106TH CONGRESS
1ST SESSION**S. 1672****[Report No. 106-168]**

To amend the Agricultural Marketing Act of 1946 to establish a program of mandatory market reporting for certain meat packers regarding the prices, quantities, and terms of sale for the procurement of cattle, swine, lambs, and products of such livestock, to improve the collection of information regarding the marketing of cattle, swine, lambs, and products of such livestock, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30, 1999

Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original bill; which was read twice and placed on the calendar

A BILL

To amend the Agricultural Marketing Act of 1946 to establish a program of mandatory market reporting for certain meat packers regarding the prices, quantities, and terms of sale for the procurement of cattle, swine, lambs, and products of such livestock, to improve the collection of information regarding the marketing of cattle, swine, lambs, and products of such livestock, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) IN GENERAL.—This Act may be cited as the
 5 “Livestock Mandatory Reporting Act of 1999”.

6 (b) TABLE OF CONTENTS.—The table of contents of
 7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—LIVESTOCK MANDATORY REPORTING

Sec. 101. Livestock mandatory reporting.

“Subtitle B—Livestock Mandatory Reporting

“CHAPTER 1—PURPOSE; DEFINITIONS

“Sec. 211. Purpose.

“Sec. 212. Definitions.

“CHAPTER 2—CATTLE REPORTING

“Sec. 221. Definitions.

“Sec. 222. Mandatory reporting for live cattle.

“Sec. 223. Mandatory packer reporting of boxed beef sales.

“CHAPTER 3—SWINE REPORTING

“Sec. 231. Definitions.

“Sec. 232. Mandatory reporting for swine.

“CHAPTER 4—LAMB REPORTING

“Sec. 241. Mandatory reporting for lambs.

“CHAPTER 5—ADMINISTRATION

“Sec. 251. General provisions.

“Sec. 252. Unlawful acts.

“Sec. 253. Enforcement.

“Sec. 254. Fees.

“Sec. 255. Recordkeeping.

“Sec. 256. Voluntary reporting.

“Sec. 257. Publication of information on retail purchase prices for rep-
 resentative meat products.

“Sec. 258. Suspension authority regarding specific terms of price reporting
 requirements.

“Sec. 259. Federal preemption.

Sec. 102. Unjust disqualification.

Sec. 103. Conforming amendments.

TITLE II—RELATED BEEF REPORTING PROVISIONS

- Sec. 201. Beef export reporting.
 Sec. 202. Export certificates for meat and meat food products.
 Sec. 203. Imports of beef, beef variety meats, and cattle.
 Sec. 204. Authorization of appropriations.

TITLE III—RELATED SWINE REPORTING PROVISIONS

- Sec. 301. Improvement of Hogs and Pigs Inventory Report.
 Sec. 302. Barrow and gilt slaughter.
 Sec. 303. Average trim loss correlation study and report.
 Sec. 304. Swine packer marketing contracts.
 Sec. 305. Authorization of appropriations.

TITLE IV—IMPLEMENTATION

- Sec. 401. Regulations.
 Sec. 402. Termination of authority.

1 **TITLE I—LIVESTOCK**
 2 **MANDATORY REPORTING**

3 **SEC. 101. LIVESTOCK MANDATORY REPORTING.**

4 The Agricultural Marketing Act of 1946 (7 U.S.C.
 5 1621 et seq.) is amended—

6 (1) by inserting before section 202 (7 U.S.C.
 7 1621) the following:

8 **“Subtitle A—General Provisions”;**

9 and

10 (2) by adding at the end the following:

11 **“Subtitle B—Livestock Mandatory**
 12 **Reporting**

13 **“CHAPTER 1—PURPOSE; DEFINITIONS**

14 **“SEC. 211. PURPOSE.**

15 “The purpose of this subtitle is to establish a pro-
 16 gram of information regarding the marketing of cattle,
 17 swine, lambs, and products of such livestock that—

1 “(1) provides information that can be readily
2 understood by producers, packers, and other market
3 participants, including information with respect to
4 the pricing, contracting for purchase, and supply
5 and demand conditions for livestock, livestock pro-
6 duction, and livestock products;

7 “(2) improves the price and supply reporting
8 services of the Department of Agriculture; and

9 “(3) encourages competition in the marketplace
10 for livestock and livestock products.

11 **“SEC. 212. DEFINITIONS.**

12 “In this subtitle:

13 “(1) **BASE PRICE.**—The term ‘base price’
14 means the price paid for livestock, delivered at the
15 packing plant, before application of any premiums or
16 discounts, expressed in dollars per hundred pounds
17 of carcass weight.

18 “(2) **BASIS LEVEL.**—The term ‘basis level’
19 means the agreed-on adjustment to a future price to
20 establish the final price paid for livestock.

21 “(3) **CURRENT SLAUGHTER WEEK.**—The term
22 ‘current slaughter week’ means the period beginning
23 Monday, and ending Sunday, of the week in which
24 a reporting day occurs.

1 “(4) F.O.B.—The term ‘F.O.B.’ means free on
2 board, regardless of the mode of transportation, at
3 the point of direct shipment by the seller to the
4 buyer.

5 “(5) LIVESTOCK.—The term ‘livestock’ means
6 cattle, swine, and lambs.

7 “(6) LOT.—The term ‘lot’ means a group of 1
8 or more livestock that is identified for the purpose
9 of a single transaction between a buyer and a seller.

10 “(7) MARKETING.—The term ‘marketing’
11 means the sale or other disposition of livestock, live-
12 stock products, or meat or meat food products in
13 commerce.

14 “(8) NEGOTIATED PURCHASE.—The term ‘ne-
15 gotiated purchase’ means a cash or spot market pur-
16 chase by a packer of livestock from a producer under
17 which—

18 “(A) the base price for the livestock is de-
19 termined by seller-buyer interaction and agree-
20 ment on a day; and

21 “(B) the livestock are scheduled for deliv-
22 ery to the packer not later than 14 days after
23 the date on which the livestock are committed
24 to the packer.

1 “(9) NEGOTIATED SALE.—The term ‘negotiated
2 sale’ means a cash or spot market sale by a pro-
3 ducer of livestock to a packer under which—

4 “(A) the base price for the livestock is de-
5 termined by seller-buyer interaction and agree-
6 ment on a day; and

7 “(B) the livestock are scheduled for deliv-
8 ery to the packer not later than 14 days after
9 the date on which the livestock are committed
10 to the packer.

11 “(10) PRIOR SLAUGHTER WEEK.—The term
12 ‘prior slaughter week’ means the Monday through
13 Sunday prior to a reporting day.

14 “(11) PRODUCER.—The term ‘producer’ means
15 any person engaged in the business of selling live-
16 stock to a packer for slaughter (including the sale of
17 livestock from a packer to another packer).

18 “(12) REPORTING DAY.—The term ‘reporting
19 day’ means a day on which—

20 “(A) a packer conducts business regarding
21 livestock committed to the packer, or livestock
22 purchased, sold, or slaughtered by the packer;

23 “(B) the Secretary is required to make in-
24 formation concerning the business described in
25 subparagraph (A) available to the public; and

1 “(C) the Department of Agriculture is
2 open to conduct business.

3 “(13) SECRETARY.—The term ‘Secretary’
4 means the Secretary of Agriculture.

5 “(14) STATE.—The term ‘State’ means each of
6 the 50 States.

7 **“CHAPTER 2—CATTLE REPORTING**

8 **“SEC. 221. DEFINITIONS.**

9 “In this chapter:

10 “(1) CATTLE COMMITTED.—The term ‘cattle
11 committed’ means cattle that are scheduled to be de-
12 livered to a packer within the 7-day period beginning
13 on the date of an agreement to sell the cattle.

14 “(2) CATTLE TYPE.—The term ‘cattle type’
15 means the following types of cattle purchased for
16 slaughter:

17 “(A) Fed steers.

18 “(B) Fed heifers.

19 “(C) Fed Holsteins and other fed dairy
20 steers and heifers.

21 “(D) Cows.

22 “(E) Bulls.

23 “(3) FORMULA MARKETING ARRANGEMENT.—
24 The term ‘formula marketing arrangement’ means
25 the advance commitment of cattle for slaughter by

1 any means other than through a negotiated purchase
2 or a forward contract, using a method for calcu-
3 lating price in which the price is determined at a fu-
4 ture date.

5 “(4) FORWARD CONTRACT.—The term ‘forward
6 contract’ means—

7 “(A) an agreement for the purchase of cat-
8 tle, executed in advance of slaughter, under
9 which the base price is established by reference
10 to—

11 “(i) prices quoted on the Chicago
12 Mercantile Exchange; or

13 “(ii) other comparable publicly avail-
14 able prices; or

15 “(B) such other forward contract as the
16 Secretary determines to be applicable.

17 “(5) PACKER.—The term ‘packer’ means any
18 person engaged in the business of buying cattle in
19 commerce for purposes of slaughter, of manufac-
20 turing or preparing meats or meat food products
21 from cattle for sale or shipment in commerce, or of
22 marketing meats or meat food products from cattle
23 in an unmanufactured form acting as a wholesale
24 broker, dealer, or distributor in commerce, except
25 that—

1 “(A) the term includes only a cattle proc-
2 essing plant that is federally inspected;

3 “(B) for any calendar year, the term in-
4 cludes only a cattle processing plant that
5 slaughtered an average of at least 125,000 head
6 of cattle per year during the immediately pre-
7 ceding 5 calendar years; and

8 “(C) in the case of a cattle processing
9 plant that did not slaughter cattle during the
10 immediately preceding 5 calendar years, the
11 Secretary shall consider the plant capacity of
12 the processing plant in determining whether the
13 processing plant should be considered a packer
14 under this chapter.

15 “(6) PACKER-OWNED CATTLE.—The term
16 ‘packer-owned cattle’ means cattle that a packer
17 owns for at least 14 days immediately before slaugh-
18 ter.

19 “(7) TERMS OF TRADE.—The term ‘terms of
20 trade’ includes, with respect to the purchase of cat-
21 tle for slaughter—

22 “(A) whether a packer provided any fi-
23 nancing agreement or arrangement with regard
24 to the cattle;

1 “(B) whether the delivery terms specified
2 the location of the producer or the location of
3 the packer’s plant;

4 “(C) whether the producer is able to uni-
5 laterally specify the date and time during the
6 business day of the packer that the cattle are
7 to be delivered for slaughter; and

8 “(D) the percentage of cattle purchased by
9 a packer as a negotiated purchase that are de-
10 livered to the plant for slaughter more than 7
11 days, but fewer than 14 days, after the earlier
12 of—

13 “(i) the date on which the cattle were
14 committed to the packer; or

15 “(ii) the date on which the cattle were
16 purchased by the packer.

17 “(8) TYPE OF PURCHASE.—The term ‘type of
18 purchase’, with respect to cattle, means—

19 “(A) a negotiated purchase;

20 “(B) a formula market arrangement; and

21 “(C) a forward contract.

22 **“SEC. 222. MANDATORY REPORTING FOR LIVE CATTLE.**

23 “(a) ESTABLISHMENT.—The Secretary shall estab-
24 lish a program of live cattle price information reporting
25 that will—

1 “(1) provide timely, accurate, and reliable mar-
2 ket information;

3 “(2) facilitate more informed marketing deci-
4 sions; and

5 “(3) promote competition in the cattle slaugh-
6 tering industry.

7 “(b) GENERAL REPORTING PROVISIONS APPLICABLE
8 TO PACKERS AND THE SECRETARY.—

9 “(1) IN GENERAL.—Whenever the prices or
10 quantities of cattle are required to be reported or
11 published under this section, the prices or quantities
12 shall be categorized so as to clearly delineate—

13 “(A) the prices or quantities, as applicable,
14 of the cattle purchased in the domestic market;
15 and

16 “(B) the prices or quantities, as applicable,
17 of imported cattle.

18 “(2) PACKER-OWNED CATTLE.—Information re-
19 quired under this section for packer-owned cattle
20 shall include quantity and carcass characteristics,
21 but not price.

22 “(c) DAILY REPORTING.—

23 “(1) IN GENERAL.—The corporate officers or
24 officially designated representatives of each packer
25 processing plant shall report to the Secretary at

1 least twice each reporting day (including once not
2 later than 10:00 a.m. Central Time and once not
3 later than 2:00 p.m. Central Time) the following in-
4 formation for each cattle type:

5 “(A) The prices for cattle (per hundred-
6 weight) established on that day, categorized
7 by—

8 “(i) type of purchase;

9 “(ii) the quantity of cattle purchased
10 on a live weight basis;

11 “(iii) the quantity of cattle purchased
12 on a dressed weight basis;

13 “(iv) a range of the estimated live
14 weights of the cattle purchased;

15 “(v) an estimate of the percentage of
16 the cattle purchased that were of a quality
17 grade of choice or better; and

18 “(vi) any premiums or discounts asso-
19 ciated with—

20 “(I) weight, grade, or yield; or

21 “(II) any type of purchase.

22 “(B) The quantity of cattle delivered to
23 the packer (quoted in numbers of head) on that
24 day, categorized by—

25 “(i) type of purchase;

1 “(ii) the quantity of cattle delivered
2 on a live weight basis; and

3 “(iii) the quantity of cattle delivered
4 on a dressed weight basis.

5 “(C) The quantity of cattle committed to
6 the packer (quoted in numbers of head) as of
7 that day, categorized by—

8 “(i) type of purchase;

9 “(ii) the quantity of cattle committed
10 on a live weight basis; and

11 “(iii) the quantity of cattle committed
12 on a dressed weight basis.

13 “(D) The terms of trade regarding the cat-
14 tle, as applicable.

15 “(2) PUBLICATION.—The Secretary shall make
16 the information available to the public not less fre-
17 quently than 3 times each reporting day.

18 “(d) WEEKLY REPORTING.—

19 “(1) IN GENERAL.—The corporate officers or
20 officially designated representatives of each packer
21 processing plant shall report to the Secretary, on the
22 first reporting day of each week, not later than 9:00
23 a.m. Central Time, the following information appli-
24 cable to the prior slaughter week:

1 “(A) The quantity of cattle purchased
2 through a forward contract that were slaugh-
3 tered.

4 “(B) The quantity of cattle delivered under
5 a formula marketing arrangement that were
6 slaughtered.

7 “(C) The quantity and carcass characteris-
8 tics of packer-owned cattle that were slaugh-
9 tered.

10 “(D) The quantity, basis level, and delivery
11 month for all cattle purchased through forward
12 contracts that were agreed to by the parties.

13 “(E) The range and average of intended
14 premiums and discounts that are expected to be
15 in effect for the current slaughter week.

16 “(2) FORMULA PURCHASES.—The corporate of-
17 ficers or officially designated representatives of each
18 packer processing plant shall report to the Sec-
19 retary, on the first reporting day of each week, not
20 later than 9:00 a.m. Central Time, the following in-
21 formation for cattle purchased through a formula
22 marketing arrangement and slaughtered during the
23 prior slaughter week:

24 “(A) The quantity (quoted in both num-
25 bers of head and hundredweights) of cattle.

1 “(B) The weighted average price paid for
2 a carcass, including applicable premiums and
3 discounts.

4 “(C) The range of premiums and discounts
5 paid.

6 “(D) The weighted average of premiums
7 and discounts paid.

8 “(E) The range of prices paid.

9 “(F) The aggregate weighted average price
10 paid for a carcass.

11 “(G) The terms of trade regarding the cat-
12 tle, as applicable.

13 “(3) PUBLICATION.—The Secretary shall make
14 available to the public the information obtained
15 under paragraphs (1) and (2) on the first reporting
16 day of the current slaughter week, not later than
17 10:00 a.m. Central Time.

18 “(e) REGIONAL REPORTING OF CATTLE TYPES.—

19 “(1) IN GENERAL.—The Secretary shall deter-
20 mine whether adequate data can be obtained on a
21 regional basis for fed Holsteins and other fed dairy
22 steers and heifers, cows, and bulls based on the
23 number of packers required to report under this sec-
24 tion.

1 “(2) REPORT.—Not later than 2 years after the
2 date of enactment of this subtitle, the Secretary
3 shall submit to the Committee on Agriculture of the
4 House of Representatives and the Committee on Ag-
5 riculture, Nutrition, and Forestry of the Senate a
6 report on the determination of the Secretary under
7 paragraph (1).

8 **“SEC. 223. MANDATORY PACKER REPORTING OF BOXED**
9 **BEEF SALES.**

10 “(a) DAILY REPORTING.—The corporate officers or
11 officially designated representatives of each packer proc-
12 essing plant shall report to the Secretary at least twice
13 each reporting day (not less than once before, and once
14 after, 12:00 noon Central Time) information on total
15 boxed beef sales, including—

16 “(1) the price for each lot of each negotiated
17 boxed beef sale (determined by seller-buyer inter-
18 action and agreement), quoted in dollars per hun-
19 dredweight (on a F.O.B. plant basis);

20 “(2) the quantity for each lot of each sale,
21 quoted by number of boxes sold; and

22 “(3) information regarding the characteristics
23 of each lot of each sale, including—

1 “(A) the grade of beef (USDA Choice or
2 better, USDA Select, or ungraded no-roll prod-
3 uct);

4 “(B) the cut of beef; and

5 “(C) the trim specification.

6 “(b) PUBLICATION.—The Secretary shall make avail-
7 able to the public the information required to be reported
8 under subsection (a) not less frequently than twice each
9 reporting day.

10 **“CHAPTER 3—SWINE REPORTING**

11 **“SEC. 231. DEFINITIONS.**

12 “In this chapter:

13 “(1) AFFILIATE.—The term ‘affiliate’, with re-
14 spect to a packer, means—

15 “(A) a person that directly or indirectly
16 owns, controls, or holds with power to vote, 5
17 percent or more of the outstanding voting secu-
18 rities of the packer;

19 “(B) a person 5 percent or more of whose
20 outstanding voting securities are directly or in-
21 directly owned, controlled, or held with power to
22 vote, by the packer; and

23 “(C) a person that directly or indirectly
24 controls, or is controlled by or under common
25 control with, the packer.

1 “(2) APPLICABLE REPORTING PERIOD.—The
2 term ‘applicable reporting period’ means the period
3 of time prescribed by the prior day report, the morn-
4 ing report, and the afternoon report, as required
5 under section 232(c).

6 “(3) BARROW.—The term ‘barrow’ means a
7 neutered male swine.

8 “(4) BASE MARKET HOG.—The term ‘base mar-
9 ket hog’ means a hog for which no discounts are
10 subtracted from and no premiums are added to the
11 base price.

12 “(5) BRED FEMALE SWINE.—The term ‘bred
13 female swine’ means any female swine, whether a
14 sow or gilt, that has been mated or inseminated and
15 is assumed, or has been confirmed, to be pregnant.

16 “(6) FORMULA PRICE.—The term ‘formula
17 price’ means a price determined by a mathematical
18 formula under which the price established for a
19 specified market serves as the basis for the formula.

20 “(7) GILT.—The term ‘gilt’ means a young fe-
21 male swine that has not produced a litter.

22 “(8) HOG CLASS.—The term ‘hog class’ means,
23 as applicable—

24 “(A) barrows or gilts;

25 “(B) sows; or

1 “(C) boars or stags.

2 “(9) NONCARCASS MERIT PREMIUM.—The term
3 ‘noncarcass merit premium’ means an increase in
4 the base price of the swine offered by an individual
5 packer or packing plant, based on any factor other
6 than the characteristics of the carcass, if the actual
7 amount of the premium is known before the sale and
8 delivery of the swine.

9 “(10) OTHER MARKET FORMULA PURCHASE.—

10 “(A) IN GENERAL.—The term ‘other mar-
11 ket formula purchase’ means a purchase of
12 swine by a packer in which the pricing mecha-
13 nism is a formula price based on any market
14 other than the market for swine, pork, or a
15 pork product.

16 “(B) INCLUSION.—The term ‘other market
17 formula purchase’ includes a formula purchase
18 in a case in which the price formula is based on
19 1 or more futures or options contracts.

20 “(11) OTHER PURCHASE ARRANGEMENT.—The
21 term ‘other purchase arrangement’ means a pur-
22 chase of swine by a packer that—

23 “(A) is not a negotiated purchase, swine or
24 pork market formula purchase, or other market
25 formula purchase; and

1 “(B) does not involve packer-owned swine.

2 “(12) PACKER.—The term ‘packer’ means any
3 person engaged in the business of buying swine in
4 commerce for purposes of slaughter, of manufac-
5 turing or preparing meats or meat food products
6 from swine for sale or shipment in commerce, or of
7 marketing meats or meat food products from swine
8 in an unmanufactured form acting as a wholesale
9 broker, dealer, or distributor in commerce, except
10 that—

11 “(A) the term includes only a swine proc-
12 essing plant that is federally inspected;

13 “(B) for any calendar year, the term in-
14 cludes only a swine processing plant that
15 slaughtered an average of at least 100,000
16 swine per year during the immediately pre-
17 ceding 5 calendar years; and

18 “(C) in the case of a swine processing
19 plant that did not slaughter swine during the
20 immediately preceding 5 calendar years, the
21 Secretary shall consider the plant capacity of
22 the processing plant in determining whether the
23 processing plant should be considered a packer
24 under this chapter.

1 “(13) PACKER-OWNED SWINE.—The term
2 ‘packer-owned swine’ means swine that a packer (in-
3 cluding a subsidiary or affiliate of the packer) owns
4 for at least 14 days immediately before slaughter.

5 “(14) PACKER-SOLD SWINE.—The term ‘pack-
6 er-sold swine’ means the swine that are—

7 “(A) owned by a packer (including a sub-
8 sidiary or affiliate of the packer) for more than
9 14 days immediately before sale for slaughter;
10 and

11 “(B) sold for slaughter to another packer.

12 “(15) PORK.—The term ‘pork’ means the meat
13 of a porcine animal.

14 “(16) PORK PRODUCT.—The term ‘pork prod-
15 uct’ means a product or byproduct produced or proc-
16 essed in whole or in part from pork.

17 “(17) PURCHASE DATA.—The term ‘purchase
18 data’ means all of the applicable data, including
19 weight (if purchased live), for all swine purchased
20 during the applicable reporting period, regardless of
21 the expected delivery date of the swine, reported
22 by—

23 “(A) hog class;

24 “(B) type of purchase; and

25 “(C) packer-owned swine.

1 “(18) SLAUGHTER DATA.—The term ‘slaughter
2 data’ means all of the applicable data for all swine
3 slaughtered by a packer during the applicable re-
4 porting period, regardless of when the price of the
5 swine was negotiated or otherwise determined, re-
6 ported by—

7 “(A) hog class;

8 “(B) type of purchase; and

9 “(C) packer-owned swine.

10 “(19) SOW.—The term ‘sow’ means an adult fe-
11 male swine that has produced 1 or more litters.

12 “(20) SWINE.—The term ‘swine’ means a por-
13 cine animal raised to be a feeder pig, raised for
14 seedstock, or raised for slaughter.

15 “(21) SWINE OR PORK MARKET FORMULA PUR-
16 CHASE.—The term ‘swine or pork market formula
17 purchase’ means a purchase of swine by a packer in
18 which the pricing mechanism is a formula price
19 based on a market for swine, pork, or a pork prod-
20 uct, other than a future or option for swine, pork,
21 or a pork product.

22 “(22) TYPE OF PURCHASE.—The term ‘type of
23 purchase’, with respect to swine, means—

24 “(A) a negotiated purchase;

25 “(B) other market formula purchase;

1 “(C) a swine or pork market formula pur-
2 chase; and

3 “(D) other purchase arrangement.

4 **“SEC. 232. MANDATORY REPORTING FOR SWINE.**

5 “(a) ESTABLISHMENT.—The Secretary shall estab-
6 lish a program of swine price information reporting that
7 will—

8 “(1) provide timely, accurate, and reliable mar-
9 ket information;

10 “(2) facilitate more informed marketing deci-
11 sions; and

12 “(3) promote competition in the swine slaugh-
13 tering industry.

14 “(b) GENERAL REPORTING PROVISIONS APPLICABLE
15 TO PACKERS AND THE SECRETARY.—

16 “(1) IN GENERAL.—The Secretary shall estab-
17 lish and implement a price reporting program in ac-
18 cordance with this section that includes the report-
19 ing and publication of information required under
20 this section.

21 “(2) PACKER-OWNED SWINE.—Information re-
22 quired under this section for packer-owned swine
23 shall include quantity and carcass characteristics,
24 but not price.

1 “(3) PACKER-SOLD SWINE.—If information re-
2 garding the type of purchase is required under this
3 section, the information shall be reported according
4 to the numbers and percentages of each type of pur-
5 chase comprising—

6 “(A) packer-sold swine; and

7 “(B) all other swine.

8 “(4) ADDITIONAL INFORMATION.—

9 “(A) REVIEW.—The Secretary shall review
10 the information required to be reported by
11 packers under this section at least once every 2
12 years.

13 “(B) OUTDATED INFORMATION.—After
14 public notice and an opportunity for comment,
15 subject to subparagraph (C), the Secretary shall
16 promulgate regulations that specify additional
17 information that shall be reported under this
18 section if the Secretary determines under the
19 review under subparagraph (A) that—

20 “(i) information that is currently re-
21 quired no longer accurately reflects the
22 methods by which swine are valued and
23 priced by packers; or

24 “(ii) packers that slaughter a signifi-
25 cant majority of the swine produced in the

1 United States no longer use backfat or
2 lean percentage factors as indicators of
3 price.

4 “(C) LIMITATION.—Under subparagraph
5 (B), the Secretary may not require packers to
6 provide any new or additional information
7 that—

8 “(i) is not generally available or main-
9 tained by packers; or

10 “(ii) would be otherwise unduly bur-
11 densome to provide.

12 “(c) DAILY REPORTING.—

13 “(1) PRIOR DAY REPORT.—

14 “(A) IN GENERAL.—The corporate officers
15 or officially designated representatives of each
16 packer processing plant shall report to the Sec-
17 retary, for each business day of the packer,
18 such information as the Secretary determines
19 necessary and appropriate to—

20 “(i) comply with the publication re-
21 quirements of this section; and

22 “(ii) provide for the timely access to
23 the information by producers, packers, and
24 other market participants.

1 “(B) REPORTING DEADLINE AND PLANTS
2 REQUIRED TO REPORT.—Not later than 7:00
3 a.m. Central Time on each reporting day, a
4 packer required to report under subparagraph
5 (A) shall report information regarding all swine
6 purchased, priced, or slaughtered during the
7 prior business day of the packer.

8 “(C) INFORMATION REQUIRED.—The in-
9 formation from the prior business day of a
10 packer required under this paragraph shall
11 include—

12 “(i) all purchase data, including—

13 “(I) the total number of—

14 “(aa) swine purchased; and

15 “(bb) swine scheduled for
16 delivery; and

17 “(II) the base price and purchase
18 data for slaughtered swine for which a
19 price has been established;

20 “(ii) all slaughter data for the total
21 number of swine slaughtered, including—

22 “(I) information concerning the
23 net price, which shall be equal to the
24 total amount paid by a packer to a
25 producer (including all premiums, less

1 all discounts) per hundred pounds of
2 carcass weight of swine delivered at
3 the plant—

4 “(aa) including any sum de-
5 ducted from the price per hun-
6 dredweight paid to a producer
7 that reflects the repayment of a
8 balance owed by the producer to
9 the packer or the accumulation of
10 a balance to later be repaid by
11 the packer to the producer; and

12 “(bb) excluding any sum
13 earlier paid to a producer that
14 must later be repaid to the pack-
15 er;

16 “(II) information concerning the
17 average net price, which shall be equal
18 to the quotient (stated per hundred
19 pounds of carcass weight of swine) ob-
20 tained by dividing—

21 “(aa) the total amount paid
22 for the swine slaughtered at a
23 packing plant during the applica-
24 ble reporting period, including all
25 premiums and discounts, and in-

1 including any sum deducted from
2 the price per hundredweight paid
3 to a producer that reflects the re-
4 payment of a balance owed by
5 the producer to the packer, or
6 the accumulation of a balance to
7 later be repaid by the packer to
8 the producer, less all discounts;
9 by

10 “(bb) the total carcass
11 weight (in hundred pound incre-
12 ments) of the swine;

13 “(III) information concerning the
14 lowest net price, which shall be equal
15 to the lowest net price paid for a sin-
16 gle lot or a group of swine slaughtered
17 at a packing plant during the applica-
18 ble reporting period per hundred
19 pounds of carcass weight of swine;

20 “(IV) information concerning the
21 highest net price, which shall be equal
22 to the highest net price paid for a sin-
23 gle lot or group of swine slaughtered
24 at a packing plant during the applica-

1 ble reporting period per hundred
2 pounds of carcass weight of swine;

3 “(V) the average carcass weight,
4 which shall be equal to the quotient
5 obtained by dividing—

6 “(aa) the total carcass
7 weight of the swine slaughtered
8 at the packing plant during the
9 applicable reporting period; by

10 “(bb) the number of the
11 swine described in item (aa);

12 adjusted for special slaughter situa-
13 tions (such as skinning or foot re-
14 moval), as the Secretary determines
15 necessary to render comparable car-
16 cass weights;

17 “(VI) the average sort loss,
18 which shall be equal to the average
19 discount (in dollars per hundred
20 pounds carcass weight) for swine
21 slaughtered during the applicable re-
22 porting period, resulting from the fact
23 that the swine did not fall within the
24 individual packer’s established carcass
25 weight or lot variation range;

1 “(VII) the average backfat, which
2 shall be equal to the average of the
3 backfat thickness (in inches) meas-
4 ured between the third and fourth
5 from the last ribs, 7 centimeters from
6 the carcass split (or adjusted from the
7 individual packer’s measurement to
8 that reference point using an adjust-
9 ment made by the Secretary) of the
10 swine slaughtered during the applica-
11 ble reporting period;

12 “(VIII) the average lean percent-
13 age, which shall be equal to the aver-
14 age percentage of the carcass weight
15 comprised of lean meat for the swine
16 slaughtered during the applicable re-
17 porting period, except that when a
18 packer is required to report the aver-
19 age lean percentage under this sub-
20 clause, the packer shall make avail-
21 able to the Secretary the underlying
22 data, applicable methodology and for-
23 mulae, and supporting materials used
24 to determine the average lean percent-
25 age, which the Secretary may convert

1 to the carcass measurements or lean
2 percentage of the swine of the indi-
3 vidual packer to correlate to a com-
4 mon percent lean measurement; and

5 “(IX) the total slaughter quan-
6 tity, which shall be equal to the total
7 number of swine slaughtered during
8 the applicable reporting period, in-
9 cluding all types of purchases and
10 packer-owned swine; and

11 “(iii) packer purchase commitments,
12 which shall be equal to the number of
13 swine scheduled for delivery to a packer for
14 slaughter for each of the next 14 calendar
15 days.

16 “(D) PUBLICATION.—The Secretary shall
17 publish the information obtained under this
18 paragraph in a prior day report not later than
19 8:00 a.m. Central Time on the reporting day on
20 which the information is received from the
21 packer.

22 “(2) MORNING REPORT.—

23 “(A) IN GENERAL.—The corporate officers
24 or officially designated representatives of each
25 packer processing plant shall report to the Sec-

1 retary not later than 10:00 a.m. Central Time
2 each reporting day—

3 “(i) the packer’s best estimate of the
4 total number of swine, and packer-owned
5 swine, expected to be purchased through-
6 out the reporting day through each type of
7 purchase;

8 “(ii) the total number of swine, and
9 packer-owned swine, purchased up to that
10 time of the reporting day through each
11 type of purchase;

12 “(iii) the base price paid for all base
13 market hogs purchased up to that time of
14 the reporting day through negotiated pur-
15 chases; and

16 “(iv) the base price paid for all base
17 market hogs purchased through each type
18 of purchase other than negotiated purchase
19 up to that time of the reporting day, un-
20 less such information is unavailable due to
21 pricing that is determined on a delayed
22 basis.

23 “(B) PUBLICATION.—The Secretary shall
24 publish the information obtained under this
25 paragraph in the morning report as soon as

1 practicable, but not later than 11:00 a.m. Cen-
2 tral Time, on each reporting day.

3 “(3) AFTERNOON REPORT.—

4 “(A) IN GENERAL.—The corporate officers
5 or officially designated representatives of each
6 packer processing plant shall report to the Sec-
7 retary not later than 2:00 p.m. Central Time
8 each reporting day—

9 “(i) the packer’s best estimate of the
10 total number of swine, and packer-owned
11 swine, expected to be purchased through-
12 out the reporting day through each type of
13 purchase;

14 “(ii) the total number of swine, and
15 packer-owned swine, purchased up to that
16 time of the reporting day through each
17 type of purchase;

18 “(iii) the base price paid for all base
19 market hogs purchased up to that time of
20 the reporting day through negotiated pur-
21 chases; and

22 “(iv) the base price paid for all base
23 market hogs purchased up to that time of
24 the reporting day through each type of
25 purchase other than negotiated purchase,

1 unless such information is unavailable due
2 to pricing that is determined on a delayed
3 basis.

4 “(B) PUBLICATION.—The Secretary shall
5 publish the information obtained under this
6 paragraph in the afternoon report as soon as
7 practicable, but not later than 3:00 p.m. Cen-
8 tral Time, on each reporting day.

9 “(d) WEEKLY NONCARCASS MERIT PREMIUM RE-
10 PORT.—

11 “(1) IN GENERAL.—Not later than 4:00 p.m.
12 Central Time on the first reporting day of each
13 week, the corporate officers or officially designated
14 representatives of each packer processing plant shall
15 report to the Secretary a noncarcass merit premium
16 report that lists—

17 “(A) each category of standard noncarcass
18 merit premiums used by the packer in the prior
19 slaughter week; and

20 “(B) the amount (in dollars per hundred
21 pounds of carcass weight) paid to producers by
22 the packer, by category.

23 “(2) PREMIUM LIST.—A packer shall maintain
24 and make available to a producer, on request, a cur-
25 rent listing of the dollar values (per hundred pounds

1 of carcass weight) of each noncarcass merit premium
2 used by the packer during the current or the prior
3 slaughter week.

4 “(3) AVAILABILITY.—A packer shall not be re-
5 quired to pay a listed noncarcass merit premium to
6 a producer that meets the requirements for the pre-
7 mium if the need for swine in a given category is
8 filled at a particular point in time.

9 “(4) PUBLICATION.—The Secretary shall pub-
10 lish the information obtained under this subsection
11 as soon as practicable, but not later than 5:00 p.m.
12 Central Time, on the first reporting day of each
13 week.

14 **“CHAPTER 4—LAMB REPORTING**

15 **“SEC. 241. MANDATORY REPORTING FOR LAMBS.**

16 “(a) ESTABLISHMENT.—The Secretary may establish
17 a program of mandatory lamb price information reporting
18 that will—

19 “(1) provide timely, accurate, and reliable mar-
20 ket information;

21 “(2) facilitate more informed marketing deci-
22 sions; and

23 “(3) promote competition in the lamb slaugh-
24 tering industry.

1 “(b) NOTICE AND COMMENT.—If the Secretary es-
 2 tablishes a mandatory price reporting program under sub-
 3 section (a), the Secretary shall provide an opportunity for
 4 comment on proposed regulations to establish the program
 5 during the 30-day period beginning on the date of the pub-
 6 lication of the proposed regulations.

7 **“CHAPTER 5—ADMINISTRATION**

8 **“SEC. 251. GENERAL PROVISIONS.**

9 “(a) CONFIDENTIALITY.—The Secretary shall make
 10 available to the public information, statistics, and docu-
 11 ments obtained from, or submitted by, packers, retail enti-
 12 ties, and other persons under this subtitle in a manner
 13 that ensures that confidentiality is preserved regarding—

14 “(1) the identity of persons, including parties to
 15 a contract; and

16 “(2) proprietary business information.

17 “(b) DISCLOSURE BY FEDERAL GOVERNMENT EM-
 18 PLOYEES.—

19 “(1) IN GENERAL.—Subject to paragraph (2),
 20 no officer, employee, or agent of the United States
 21 shall, without the consent of the packer or other per-
 22 son concerned, divulge or make known in any man-
 23 ner, any facts or information regarding the business
 24 of the packer or other person that was acquired
 25 through reporting required under this subtitle.

1 “(2) EXCEPTIONS.—Information obtained by
2 the Secretary under this subtitle may be disclosed—

3 “(A) to agents or employees of the Depart-
4 ment of Agriculture in the course of their offi-
5 cial duties under this subtitle;

6 “(B) as directed by the Secretary or the
7 Attorney General, for enforcement purposes; or

8 “(C) by a court of competent jurisdiction.

9 “(3) DISCLOSURE UNDER FREEDOM OF INFOR-
10 MATION ACT.—Notwithstanding any other provision
11 of law, no facts or information obtained under this
12 subtitle shall be disclosed in accordance with section
13 552 of title 5, United States Code.

14 “(c) REPORTING BY PACKERS.—A packer shall re-
15 port all information required under this subtitle on an in-
16 dividual lot basis.

17 “(d) REGIONAL REPORTING AND AGGREGATION.—
18 The Secretary shall make information obtained under this
19 subtitle available to the public only in a manner that—

20 “(1) ensures that the information is published
21 on a national and a regional or statewide basis as
22 the Secretary determines to be appropriate;

23 “(2) ensures that the identity of a reporting
24 person is not disclosed; and

1 “(3) conforms to aggregation guidelines estab-
2 lished by the Secretary.

3 “(e) ADJUSTMENTS.—Prior to the publication of any
4 information required under this subtitle, the Secretary
5 may make reasonable adjustments in information reported
6 by packers to reflect price aberrations or other unusual
7 or unique occurrences that the Secretary determines would
8 distort the published information to the detriment of pro-
9 ducers, packers, or other market participants.

10 “(f) VERIFICATION.—The Secretary shall take such
11 actions as the Secretary considers necessary to verify the
12 accuracy of the information submitted or reported under
13 chapter 2, 3, or 4.

14 “(g) ELECTRONIC REPORTING AND PUBLISHING.—
15 The Secretary shall, to the maximum extent practicable,
16 provide for the reporting and publishing of the information
17 required under this subtitle by electronic means.

18 “(h) REPORTING OF ACTIVITIES ON WEEKENDS AND
19 HOLIDAYS.—

20 “(1) IN GENERAL.—Livestock committed to a
21 packer, or purchased, sold, or slaughtered by a pack-
22 er, on a weekend day or holiday shall be reported by
23 the packer to the Secretary (to the extent required
24 under this subtitle), and reported by the Secretary,
25 on the immediately following reporting day.

1 “(2) LIMITATION ON REPORTING BY PACK-
2 ERS.—A packer shall not be required to report ac-
3 tions under paragraph (1) more than once on the
4 immediately following reporting day.

5 “(i) EFFECT ON OTHER LAWS.—Nothing in this sub-
6 title, the Livestock Mandatory Reporting Act of 1999, or
7 amendments made by that Act restricts or modifies the
8 authority of the Secretary to—

9 “(1) administer or enforce the Packers and
10 Stockyards Act, 1921 (7 U.S.C. 181 et seq.);

11 “(2) administer, enforce, or collect voluntary re-
12 ports under this title or any other law; or

13 “(3) access documentary evidence as provided
14 under sections 9 and 10 of the Federal Trade Com-
15 mission Act (15 U.S.C. 49, 50).

16 **“SEC. 252. UNLAWFUL ACTS.**

17 “‘It shall be unlawful and a violation of this subtitle
18 for any packer or other person subject to this subtitle (in
19 the submission of information required under chapter 2,
20 3, or 4, as determined by the Secretary) to willfully—

21 “(1) fail or refuse to provide, or delay the time-
22 ly reporting of, accurate information to the Sec-
23 retary (including estimated information);

24 “(2) solicit or request that a packer, the buyer
25 or seller of livestock or livestock products, or any

1 other person fail to provide, as a condition of any
2 transaction, accurate or timely information required
3 under this subtitle;

4 “(3) fail or refuse to comply with this subtitle;
5 or

6 “(4) report estimated information in any report
7 required under this subtitle in a manner that dem-
8 onstrates a pattern of significant variance in accu-
9 racy when compared to the actual information that
10 is reported for the same reporting period, or as de-
11 termined by any audit, oversight, or other
12 verification procedures of the Secretary.

13 **“SEC. 253. ENFORCEMENT.**

14 “(a) CIVIL PENALTY.—

15 “(1) IN GENERAL.—Any packer or other person
16 that violates this subtitle may be assessed a civil
17 penalty by the Secretary of not more than \$10,000
18 for each violation.

19 “(2) CONTINUING VIOLATION.—Each day dur-
20 ing which a violation continues shall be considered to
21 be a separate violation.

22 “(3) FACTORS.—In determining the amount of
23 a civil penalty to be assessed under paragraph (1),
24 the Secretary shall consider the gravity of the of-
25 fense, the size of the business involved, and the ef-

1 fect of the penalty on the ability of the person that
2 has committed the violation to continue in business.

3 “(4) MULTIPLE VIOLATIONS.—In determining
4 whether to assess a civil penalty under paragraph
5 (1), the Secretary shall consider whether a packer or
6 other person subject to this subtitle has engaged in
7 a pattern of errors, delays, or omissions in violation
8 of this subtitle.

9 “(b) CEASE AND DESIST.—In addition to, or in lieu
10 of, a civil penalty under subsection (a), the Secretary may
11 issue an order to cease and desist from continuing any
12 violation.

13 “(c) NOTICE AND HEARING.—No penalty shall be as-
14 sessed, or cease and desist order issued, by the Secretary
15 under this section unless the person against which the
16 penalty is assessed or to which the order is issued is given
17 notice and opportunity for a hearing before the Secretary
18 with respect to the violation.

19 “(d) FINALITY AND JUDICIAL REVIEW.—

20 “(1) IN GENERAL.—The order of the Secretary
21 assessing a civil penalty or issuing a cease and desist
22 order under this section shall be final and conclusive
23 unless the affected person files an appeal of the
24 order of the Secretary in United States district court

1 not later than 30 days after the date of the issuance
2 of the order.

3 “(2) STANDARD OF REVIEW.—A finding of the
4 Secretary under this section shall be set aside only
5 if the finding is found to be unsupported by substan-
6 tial evidence.

7 “(e) ENFORCEMENT.—

8 “(1) IN GENERAL.—If, after the lapse of the
9 period allowed for appeal or after the affirmance of
10 a penalty assessed under this section, the person
11 against which the civil penalty is assessed fails to
12 pay the penalty, the Secretary may refer the matter
13 to the Attorney General who may recover the pen-
14 alty by an action in United States district court.

15 “(2) FINALITY.—In the action, the final order
16 of the Secretary shall not be subject to review.

17 “(f) INJUNCTION OR RESTRAINING ORDER.—

18 “(1) IN GENERAL.—If the Secretary has reason
19 to believe that any person subject to this subtitle has
20 failed or refused to provide the Secretary informa-
21 tion required to be reported pursuant to this sub-
22 title, and that it would be in the public interest to
23 enjoin the person from further failure to comply
24 with the reporting requirements, the Secretary may
25 notify the Attorney General of the failure.

1 “(2) ATTORNEY GENERAL.—The Attorney Gen-
2 eral may apply to the appropriate district court of
3 the United States for a temporary or permanent in-
4 junction or restraining order.

5 “(3) COURT.—When needed to carry out this
6 subtitle, the court shall, on a proper showing, issue
7 a temporary injunction or restraining order without
8 bond.

9 “(g) FAILURE TO OBEY ORDERS.—

10 “(1) IN GENERAL.—If a person subject to this
11 subtitle fails to obey a cease and desist or civil pen-
12 alty order issued under this subsection after the
13 order has become final and unappealable, or after
14 the appropriate United States district court has en-
15 tered a final judgment in favor of the Secretary, the
16 United States may apply to the appropriate district
17 court for enforcement of the order.

18 “(2) ENFORCEMENT.—If the court determines
19 that the order was lawfully made and duly served
20 and that the person violated the order, the court
21 shall enforce the order.

22 “(3) CIVIL PENALTY.—If the court finds that
23 the person violated the cease and desist provisions of
24 the order, the person shall be subject to a civil pen-
25 alty of not more than \$10,000 for each offense.

1 **“SEC. 254. FEES.**

2 “The Secretary shall not charge or assess a user fee,
3 transaction fee, service charge, assessment, reimburse-
4 ment, or any other fee for the submission or reporting of
5 information, for the receipt or availability of, or access to,
6 published reports or information, or for any other activity
7 required under this subtitle.

8 **“SEC. 255. RECORDKEEPING.**

9 “(a) IN GENERAL.—Subject to subsection (b), each
10 packer required to report information to the Secretary
11 under this subtitle shall maintain, and make available to
12 the Secretary on request, for 2 years—

13 “(1) the original contracts, agreements, receipts
14 and other records associated with any transaction
15 relating to the purchase, sale, pricing, transpor-
16 tation, delivery, weighing, slaughter, or carcass char-
17 acteristics of all livestock; and

18 “(2) such records or other information as is
19 necessary or appropriate to verify the accuracy of
20 the information required to be reported under this
21 subtitle.

22 “(b) LIMITATIONS.—Under subsection (a)(2), the
23 Secretary may not require a packer to provide new or ad-
24 ditional information if—

25 “(1) the information is not generally available
26 or maintained by packers; or

1 “(b) INFORMATION.—The report published by the
2 Secretary under subsection (a) shall include—

3 “(1) information on retail prices for each rep-
4 resentative food product described in subsection (a);
5 and

6 “(2) information on total sales quantity (in
7 pounds and dollars) for each representative food
8 product.

9 “(c) MEAT PRICE SPREADS REPORT.—During the
10 period ending 2 years after the initial publication of the
11 report required under subsection (a), the Secretary shall
12 continue to publish the Meat Price Spreads Report in the
13 same manner as the Report was published before the date
14 of enactment of this subtitle.

15 “(d) INFORMATION COLLECTION.—

16 “(1) IN GENERAL.—To ensure the accuracy of
17 the reports required under subsection (a), the Sec-
18 retary shall obtain the information for the reports
19 from 1 or more sources including—

20 “(A) a consistently representative set of re-
21 tail transactions; and

22 “(B) both prices and sales quantities for
23 the transactions.

24 “(2) SOURCE OF INFORMATION.—The Sec-
25 retary may—

1 “(A) obtain the information from retailers
2 or commercial information sources; and

3 “(B) use valid statistical sampling proce-
4 dures, if necessary.

5 “(3) ADJUSTMENTS.—In providing information
6 on retail prices under this section, the Secretary
7 may make adjustments to take into account dif-
8 ferences in—

9 “(A) the geographic location of consump-
10 tion;

11 “(B) the location of the principal source of
12 supply;

13 “(C) distribution costs; and

14 “(D) such other factors as the Secretary
15 determines reflect a verifiable comparative retail
16 price for a representative food product.

17 “(e) ADMINISTRATION.—The Secretary—

18 “(1) shall collect information under this section
19 only on a voluntary basis; and

20 “(2) shall not impose a penalty on a person for
21 failure to provide the information or otherwise com-
22 pel a person to provide the information.

1 **“SEC. 258. SUSPENSION AUTHORITY REGARDING SPECIFIC**
2 **TERMS OF PRICE REPORTING REQUIRE-**
3 **MENTS.**

4 “(a) IN GENERAL.—The Secretary may suspend any
5 requirement of this subtitle if the Secretary determines
6 that application of the requirement is inconsistent with the
7 purposes of this subtitle.

8 “(b) SUSPENSION PROCEDURE.—

9 “(1) PERIOD.—A suspension under subsection
10 (a) shall be for a period of not more than 240 days.

11 “(2) ACTION BY CONGRESS.—If an Act of Con-
12 gress concerning the requirement that is the subject
13 of the suspension under subsection (a) is not enacted
14 by the end of the period of the suspension estab-
15 lished under paragraph (1), the Secretary shall im-
16 plement the requirement.

17 **“SEC. 259. FEDERAL PREEMPTION.**

18 “In order to achieve the goals, purposes, and objec-
19 tives of this title on a nationwide basis and to avoid poten-
20 tially conflicting State laws that could impede the goals,
21 purposes, or objectives of this title, no State or political
22 subdivision of a State may impose a requirement that is
23 in addition to, or inconsistent with, any requirement of
24 this subtitle with respect to the submission or reporting
25 of information, or the publication of such information, on

1 the prices and quantities of livestock or livestock prod-
2 ucts.”.

3 **SEC. 102. UNJUST DISQUALIFICATION.**

4 Section 202(b) of the Packers and Stockyards Act,
5 1921 (7 U.S.C. 192(b)), is amended by striking “whatso-
6 ever” each place it appears.

7 **SEC. 103. CONFORMING AMENDMENTS.**

8 (a) Section 416 of the Packers and Stockyards Act,
9 1921 (7 U.S.C. 229a), is repealed.

10 (b) Section 1127 of the Agriculture, Rural Develop-
11 ment, Food and Drug Administration, and Related Agen-
12 cies Appropriations Act, 1999 (7 U.S.C. 1421 note; Public
13 Law 105–277), is amended—

14 (1) by striking subsection (b) and inserting the
15 following:

16 “(b) EXPORT MARKET REPORTING.—The Secretary
17 shall—

18 “(1) implement a streamlined electronic system
19 for collecting export sales and shipments data, in the
20 least intrusive manner possible, for fresh or frozen
21 muscle cuts of meat food products; and

22 “(2) develop a data-reporting program to dis-
23 seminate summary information in a timely manner
24 (in the case of beef, consistent with the reporting

1 under section 602(a) of the Agricultural Trade Act
2 of 1978 (7 U.S.C. 5712(a)).”; and

3 (2) in subsection (c), by striking “this section
4 of the Act” and inserting “subsection (b)”.

5 **TITLE II—RELATED BEEF**
6 **REPORTING PROVISIONS**

7 **SEC. 201. BEEF EXPORT REPORTING.**

8 Section 602(a)(1) of the Agricultural Trade Act of
9 1978 (7 U.S.C. 5712(a)(1)) is amended by inserting
10 “, beef,” after “cotton”.

11 **SEC. 202. EXPORT CERTIFICATES FOR MEAT AND MEAT**
12 **FOOD PRODUCTS.**

13 Not later than 1 year after the date of enactment
14 of this Act, the Secretary of Agriculture shall fully imple-
15 ment a program, through the use of a streamlined elec-
16 tronic online system, to issue and report export certificates
17 for all meat and meat products.

18 **SEC. 203. IMPORTS OF BEEF, BEEF VARIETY MEATS, AND**
19 **CATTLE.**

20 (a) IN GENERAL.—The Secretary of Agriculture
21 shall—

22 (1) obtain information regarding the import of
23 beef and beef variety meats (consistent with the in-
24 formation categories reported for beef exports under
25 section 602(a) of the Agricultural Trade Act of 1978

1 (7 U.S.C. 5712(a))) and cattle using available infor-
2 mation sources; and

3 (2) publish the information in a timely manner
4 weekly and in a form that maximizes the utility of
5 the information to beef producers, packers, and
6 other market participants.

7 (b) CONTENT.—The published information shall in-
8 clude information reporting the year-to-date cumulative
9 annual imports of beef, beef variety meats, and cattle for
10 the current and prior marketing years.

11 **SEC. 204. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated such sums
13 as are necessary to carry out sections 202 and 203.

14 **TITLE III—RELATED SWINE**
15 **REPORTING PROVISIONS**

16 **SEC. 301. IMPROVEMENT OF HOGS AND PIGS INVENTORY**
17 **REPORT.**

18 (a) IN GENERAL.—Effective beginning not later than
19 90 days after the date of enactment of this Act, the Sec-
20 retary of Agriculture shall publish on a monthly basis the
21 Hogs and Pigs Inventory Report.

22 (b) GESTATING SOWS.—The Secretary shall include
23 in a separate category of the Report the number of bred
24 female swine that are assumed, or have been confirmed,
25 to be pregnant during the reporting period.

1 (c) PHASE-OUT.—Effective for a period of 8 quarters
2 after the implementation of the monthly report required
3 under subsection (a), the Secretary shall continue to main-
4 tain and publish on a quarterly basis the Hogs and Pigs
5 Inventory Report published on or before the date of enact-
6 ment of this Act.

7 **SEC. 302. BARROW AND GILT SLAUGHTER.**

8 (a) IN GENERAL.—The Secretary of Agriculture shall
9 promptly obtain and maintain, through an appropriate col-
10 lection system or valid sampling system at packing plants,
11 information on the total slaughter of swine that reflects
12 differences in numbers between barrows and gilts, as de-
13 termined by the Secretary.

14 (b) AVAILABILITY.—The information shall be made
15 available to swine producers, packers, and other market
16 participants in a report published by the Secretary not less
17 frequently than weekly.

18 (c) ADMINISTRATION.—

19 (1) IN GENERAL.—The Secretary shall admin-
20 ister the collection and compilation of information,
21 and the publication of the report, required by this
22 section.

23 (2) NONDELEGATION.—The Secretary shall not
24 delegate the collection, compilation, or administra-
25 tion of the information required by this section to

1 any packer (as defined in section 201 of the Packers
2 and Stockyards Act, 1921 (7 U.S.C. 191)).

3 **SEC. 303. AVERAGE TRIM LOSS CORRELATION STUDY AND**
4 **REPORT.**

5 (a) IN GENERAL.—The Secretary of Agriculture shall
6 contract with a qualified contractor to conduct a correla-
7 tion study and prepare a report establishing a baseline and
8 standards for determining and improving average trim
9 loss measurements and processing techniques for pork
10 processors to employ in the slaughter of swine.

11 (b) CORRELATION STUDY AND REPORT.—The study
12 and report shall—

13 (1) analyze processing techniques that would
14 assist the pork processing industry in improving pro-
15 cedures for uniformity and transparency in how trim
16 loss is discounted (in dollars per hundred pounds
17 carcass weight) by different packers and processors;

18 (2) analyze slaughter inspection procedures that
19 could be improved so that trimming procedures and
20 policies of the Secretary are uniform to the max-
21 imum extent determined practicable by the Sec-
22 retary;

23 (3) determine how the Secretary may be able to
24 foster improved breeding techniques and animal han-
25 dling and transportation procedures through train-

1 ing programs made available to swine producers so
2 as to minimize trim loss in slaughter processing; and

3 (4) make recommendations that are designed to
4 effect changes in the pork industry so as to achieve
5 continuous improvement in average trim losses and
6 discounts.

7 (c) SUBSEQUENT REPORTS ON STATUS OF IMPROVE-
8 MENTS AND UPDATES IN BASELINE.—Not less frequently
9 than once every 2 years after the initial publication of the
10 report required under this section, the Secretary shall
11 make subsequent periodic reports that—

12 (1) examine the status of the improvement in
13 reducing trim loss discounts in the pork processing
14 industry; and

15 (2) update the baseline to reflect changes in
16 trim loss discounts.

17 (d) SUBMISSION OF REPORTS TO CONGRESS, PRO-
18 DUCERS, PACKERS, AND OTHERS.—The reports required
19 under this section shall be made available to—

20 (1) the public on the Internet;

21 (2) the Committee on Agriculture of the House
22 of Representatives;

23 (3) the Committee on Agriculture, Nutrition,
24 and Forestry of the Senate;

25 (4) producers and packers; and

1 (5) other market participants.

2 **SEC. 304. SWINE PACKER MARKETING CONTRACTS.**

3 Title II of the Packers and Stockyards Act, 1921 (7
4 U.S.C. 191 et seq.) is amended—

5 (1) by inserting before section 201 (7 U.S.C.
6 191) the following:

7 **“Subtitle A—General Provisions”;**

8 and

9 (2) by adding at the end the following:

10 **“Subtitle B—Swine Packer**
11 **Marketing Contracts**

12 **“SEC. 221. DEFINITIONS.**

13 “Except as provided in section 223(a), in this sub-
14 title:

15 “(1) MARKET.—The term ‘market’ means the
16 sale or disposition of swine, pork, or pork products
17 in commerce.

18 “(2) PACKER.—The term ‘packer’ has the
19 meaning given the term in section 231 of the Agri-
20 cultural Marketing Act of 1946.

21 “(3) PORK.—The term ‘pork’ means the meat
22 of a porcine animal.

23 “(4) PORK PRODUCT.—The term ‘pork product’
24 means a product or byproduct produced or processed
25 in whole or in part from pork.

1 “(5) STATE.—The term ‘State’ means each of
2 the 50 States.

3 “(6) SWINE.—The term ‘swine’ means a por-
4 cine animal raised to be a feeder pig, raised for
5 seedstock, or raised for slaughter.

6 “(7) TYPE OF CONTRACT.—The term ‘type of
7 contract’ means the classification of contracts or
8 risk management agreements for the purchase of
9 swine by—

10 “(A) the mechanism used to determine the
11 base price for swine committed to a packer,
12 grouped into practicable classifications by the
13 Secretary (including swine or pork market for-
14 mula purchases, other market formula pur-
15 chases, and other purchase arrangements); and

16 “(B) the presence or absence of an accrual
17 account or ledger that must be repaid by the
18 producer or packer that receives the benefit of
19 the contract pricing mechanism in relation to
20 negotiated prices.

21 “(8) OTHER TERMS.—Except as provided in
22 this subtitle, a term has the meaning given the term
23 in section 212 or 231 of the Agricultural Marketing
24 Act of 1946.

1 **“SEC. 222. SWINE PACKER MARKETING CONTRACTS OF-**
2 **FERED TO PRODUCERS.**

3 “(a) IN GENERAL.—Subject to the availability of ap-
4 propriations to carry out this section, the Secretary shall
5 establish and maintain a library or catalog of each type
6 of contract offered by packers to swine producers for the
7 purchase of all or part of the producers’ production of
8 swine (including swine that are purchased or committed
9 for delivery), including all available noncarcass merit pre-
10 miums.

11 “(b) AVAILABILITY.—The Secretary shall make avail-
12 able to swine producers and other interested persons infor-
13 mation on the types of contracts described in subsection
14 (a), including notice (on a real-time basis if practicable)
15 of the types of contracts that are being offered by each
16 individual packer to, and are open to acceptance by, pro-
17 ducers for the purchase of swine.

18 “(c) CONFIDENTIALITY.—The reporting require-
19 ments under subsections (a) and (b) shall be subject to
20 the confidentiality protections provided under section 251
21 of the Agricultural Marketing Act of 1946.

22 “(d) INFORMATION COLLECTION.—

23 “(1) IN GENERAL.—The Secretary shall—

24 “(A) obtain (by a filing or other procedure
25 required of each individual packer) information
26 indicating what types of contracts for the pur-

1 chase of swine are available from each packer;
2 and

3 “(B) make the information available in a
4 monthly report to swine producers and other in-
5 terested persons.

6 “(2) CONTRACTED SWINE NUMBERS.—Each
7 packer shall provide, and the Secretary shall collect
8 and publish in the monthly report required under
9 paragraph (1)(B), information specifying—

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

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

16 “(C) an estimate of the total number of
17 swine committed by contract for delivery to all
18 packers within the 6-month and 12-month peri-
19 ods following the date of the report, reported by
20 reporting region and by type of contract; and

21 “(D) an estimate of the maximum total
22 number of swine that potentially could be deliv-
23 ered within the 6-month and 12-month periods
24 following the date of the report under the provi-
25 sions described in subparagraph (B) that are

1 included in existing contracts, reported by re-
2 porting region and by type of contract.

3 “(e) VIOLATIONS.—It shall be unlawful and a viola-
4 tion of this title for any packer to willfully fail or refuse
5 to provide to the Secretary accurate information required
6 under, or to willfully fail or refuse to comply with any re-
7 quirement of, this section.

8 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated such sums as necessary
10 to carry out this section.

11 **“SEC. 223. REPORT ON THE SECRETARY’S JURISDICTION,**
12 **POWER, DUTIES, AND AUTHORITIES.**

13 “(a) DEFINITION OF PACKER.—In this section, the
14 term ‘packer’ has the meaning given the term in section
15 201 of the Packers and Stockyards Act, 1921 (7 U.S.C.
16 191).

17 “(b) REPORT.—Not later than 90 days after the date
18 of enactment of this subtitle, the Comptroller General of
19 the United States shall provide to the Committee on Agri-
20 culture of the House of Representatives and the Com-
21 mittee on Agriculture, Nutrition, and Forestry of the Sen-
22 ate a report describing the jurisdiction, powers, duties,
23 and authorities of the Secretary that relate to packers and
24 other persons involved in procuring, slaughtering, or proc-

1 essing swine, pork, or pork products that are covered by
2 this Act and other laws, including—

3 “(1) the Federal Trade Commission Act (15
4 U.S.C. 41 et seq.), especially sections 6, 8, 9, and
5 10 of that Act (15 U.S.C. 46, 48, 49, 50); and

6 “(2) the Agricultural Marketing Act of 1946 (7
7 U.S.C. 1621 et seq.).

8 “(c) CONTENTS.—The Comptroller General shall in-
9 clude in the report an analysis of—

10 “(1) burdens on and obstructions to commerce
11 in swine, pork, and pork products by packers, and
12 other persons that enter into arrangements with the
13 packers, that are contrary to, or do not protect, the
14 public interest;

15 “(2) noncompetitive pricing arrangements be-
16 tween or among packers, or other persons involved
17 in the processing, distribution, or sale of pork and
18 pork products, including arrangements provided for
19 in contracts for the purchase of swine;

20 “(3) the effective monitoring of contracts en-
21 tered into between packers and swine producers;

22 “(4) investigations that relate to, and affect,
23 the disclosure of—

24 “(A) transactions involved in the business
25 conduct and practices of packers; and

1 “(B) the pricing of swine paid to producers
2 by packers and the pricing of products in the
3 pork and pork product merchandising chain;

4 “(5) the adequacy of the authority of the Sec-
5 retary to prevent a packer from unjustly or arbi-
6 trarily refusing to offer a producer, or disqualifying
7 a producer from eligibility for, a particular contract
8 or type of contract for the purchase of swine; and

9 “(6) the ability of the Secretary to cooperate
10 with and enhance the enforcement of actions initi-
11 ated by other Federal departments and agencies, or
12 Federal independent agencies, to protect trade and
13 commerce in the pork and pork product industries
14 against unlawful restraints and monopolies.”.

15 **SEC. 305. AUTHORIZATION OF APPROPRIATIONS.**

16 There are authorized to be appropriated such sums
17 as are necessary to carry out this title and the amend-
18 ments made by this title.

19 **TITLE IV—IMPLEMENTATION**

20 **SEC. 401. REGULATIONS.**

21 (a) IN GENERAL.—Not later than 180 days after the
22 date of enactment of this Act, the Secretary of Agriculture
23 shall publish final regulations to implement this Act and
24 the amendments made by this Act.

1 (b) PUBLICATION OF PROPOSED REGULATIONS.—
2 Not later than 90 days after the date of enactment of this
3 Act, the Secretary shall publish proposed regulations to
4 implement this Act and the amendments made by this Act.

5 (c) COMMENT PERIOD.—The Secretary shall provide
6 an opportunity for comment on the proposed regulations
7 during the 30-day period beginning on the date of the pub-
8 lication of the proposed regulations.

9 (d) FINAL REGULATIONS.—Not later than 60 days
10 after the conclusion of the comment period, the Secretary
11 shall publish the final regulations and implement this Act
12 and the amendments made by this Act.

13 **SEC. 402. TERMINATION OF AUTHORITY.**

14 The authority provided by this Act and the amend-
15 ments made by this Act terminate 5 years after the date
16 of enactment of this Act.