



April 21, 2022

Mr. Bruce Summers, Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
1400 Independence Ave SW
Washington, DC 20250

Responding to a Notice to Trade dated April 11, 2022, entitled "USDA to Host Listening Session on Cattle Contracts Library Pilot Program Development"

Submitted to: Wash.LPGMN@usda.gov

RE: NCBA Stakeholder Feedback on Cattle Contracts Library Pilot Program

Dear Administrator Summers:

The National Cattlemen's Beef Association (NCBA) appreciates this opportunity to provide stakeholder feedback to the Agricultural Marketing Service (AMS) as the Agency develops a Cattle Contracts Library (CCL) pilot program pursuant to Division A, Title VII, Section 779 of the *Consolidated Appropriations Act of 2022* (Pub.L. 117-103). NCBA is the oldest and largest national trade association representing the interest of the U.S. cattle and beef industry, with over 250,000 members represented both through direct membership and 44 state affiliate associations. In addition to our feedback below, NCBA encourages the Agency to consider those comments submitted by our various state affiliate associations throughout this process.

Background

As part of our efforts to increase transparency in the marketplace, NCBA has long supported the concept of a CCL. At the Cattle Industry Summer Business Meeting in July 2020, our members adopted policy advocating the creation of such a database to be housed at USDA. In 2021, at our annual convention, a working group was formed to further evaluate the CCL concept and provide more specific recommendations for how the program should be established and maintained. That working group, made up of cattle producers from over 25 states, delivered its report to NCBA's Live Cattle Marketing Committee at the 2022 Cattle Industry Convention last February. As a result, the Committee adopted new policy, reaffirming NCBA's support of the CCL and outlining additional recommendations regarding its implementation. These policies served as the basis of NCBA's support for various legislative efforts on Capitol Hill, including the *Cattle Contract Library Act* (117th Cong., H.R. 5609) which passed the House of Representatives with a vote of 411-13 on December 8, 2021, and also serve as the basis for the recommendations contained in these comments.

General Provisions

NCBA was pleased congressional appropriators directed the CCL pilot program to be administered by the Livestock, Poultry, and Grain Market News (LPGMN) Division at AMS, rather than the Packers and Stockyards Division (PSD) which administers the Swine Contract Library. As the entity charged with administering the Livestock Mandatory Reporting (LMR) program, NCBA believes LPGMN is uniquely qualified to receive high volumes of complex data, and report it to the public in a user-friendly manner which does not disclose proprietary business information. Further, maintaining the CCL pilot program within the LPGMN allows the PSD to better focus resources toward its mission as an enforcement bureau.

Information Reported in the Library

The CCL is intended to be used as a market transparency tool, providing cattle producers with information about possible trading methods which may increase opportunities to capture previously unrealized value. However, it should not be utilized as a means to scrutinize the minute details of another producer's marketing arrangements. As such, NCBA believes that the library should contain summaries of the types of contracts offered by meatpackers to cattle producers for the procurement of fed cattle. At no point should individual contracts, regardless of any effort made to conceal the parties thereto, be made available for public access.



Further, NCBA believes that pricing mechanisms which influence the final net price paid for cattle should be the only contract terms reported in the CCL pilot program. This includes any freight costs associated with transporting cattle (e.g., "F.O.B." or "delivered"). Contract specifications which are not associated with a premium or discount to the base price, including but not limited to financing arrangements, production practices, certification requirements, etc., should not be included in the CCL. In NCBA's opinion, terms of this nature constitute proprietary business information.

Differentiation of Contract Types

NCBA believes that the various contract types maintained within the CCL pilot program should be easily differentiated based on similarities in the establishment of a base price and/or the types of pricing mechanisms which influence the final net price. Additionally, contracts which are no longer offered by a meatpacker to a cattle producer should be clearly labeled as "inactive" and, to the maximum extent practicable, noted as such in the maintenance report published most closely following deactivation. Further, contracts which cover an unspecified volume of cattle, or allow for a nonspecific delivery time within a broad period (i.e., "open contracts"), should be reported and maintained separately.

Confidentiality

NCBA respects the appropriate privacy of all cattle market participants, and thus strongly supports the strictest protection of proprietary business information. In establishing and maintaining the CCL pilot program, USDA-AMS must adhere to the relevant statutory and regulatory requirements, as well as longstanding Agency guidance, related to confidentiality¹. Contract types included in the library should be aggregates of individual contracts with similar terms. In the event an individual contract is reported to the Agency but cannot be reasonably summarized with similar contract types, the contract should be deemed noncompliant with the Agency's confidentiality rules and not be reported to the public or maintained in the CCL.

Producer Education

The CCL pilot program has the potential to be a highly useful tool for cattle producers at every segment of the supply chain, but only if producers can easily comprehend and navigate the information contained therein. As appropriations and resources allow, the Agency should provide educational outreach to cattle producers about the CCL pilot program. The Agency may utilize existing programs, such as the Cattle and Carcass Training program, or develop new modules to teach producers how to navigate the library. The Agency may also consider strategic partnerships with land-grant universities, cooperative extension, or other entities to combine technical explanations with practical applications for using the information contained in the CCL to make business decisions.

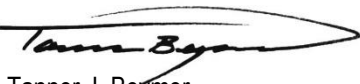
Analysis and Recommendations

Shortly following the conclusion of the CCL pilot program, the Agency should publish a thorough analysis of the program. This analysis should include any demonstrable market effects, challenges associated with data collection and dissemination, recommendations for potential improvements, stakeholder feedback regarding program efficacy and usefulness, and a potential regulatory framework for CCL implementation in the event the program is permanently authorized. This report should be delivered to Congress, including the Senate and House Committees on Appropriations, and made publicly available on the Agency's website.

Conclusion

Thank you for allowing us to submit feedback on behalf of America's cattle producers. As the Agency develops the CCL pilot program, please do not hesitate to contact the NCBA Center for Public Policy if we can ever be of assistance.

Sincerely,



Tanner J. Beymer
Senior Director, Government Affairs
National Cattlemen's Beef Association

CC: Jennifer Porter, Deputy Administrator, USDA-AMS
Taylor Cox, Associate Deputy Administrator, USDA-AMS
Michael Sheats, Director, LPGMN Division, USDA-AMS

¹ See 7 U.S.C. § 2276(a); 7 U.S.C. § 1622(g); 7 U.S.C. § 1636(a) et seq; 66 Fed. Reg. 41194; et al.