



United States Department of Agriculture

October 13, 2016

Office of the Secretary
Washington, D.C. 20250

Mr. Kendall Frazier
Chief Executive Officer
National Cattlemen's Beef Association
1275 Pennsylvania Avenue, NW.
Suite 801
Washington, D.C. 20004

Dear Mr. Frazier:

Thank you for your letter of September 19, 2016, cosigned by your colleagues, regarding the current rulemaking effort by the U.S. Department of Agriculture's (USDA) Grain Inspection, Packers and Stockyards Administration (GIPSA). The "Farmer Fair Practices Rules" will seek to help balance the relationships between livestock producers, swine production contract growers, and poultry growers and the packers, swine contractors, and live poultry dealers with whom they interact. GIPSA has worked extensively to examine the 2010 rulemakings and make adjustments where appropriate. Currently, three separate rulemakings are under development. These will include an interim final rule addressing the scope of Sections 202(a) and (b) of the Packers and Stockyards Act; a proposed rule to address unfair practices and undue preferences in violation of the Packers and Stockyards Act; and a proposed rule addressing poultry grower ranking systems.

USDA appreciates the concerns expressed regarding a meaningful opportunity for comment. Consistent with statements made before the Senate Agriculture Committee, USDA will not publish any rules without providing further opportunity to the public to review, understand, and provide feedback.

Regarding the rule clarifying the scope of Sections 202(a) and (b) of the Packers and Stockyards Act, USDA plans to issue an interim final rule to establish our interpretation of the statute, which will then be entitled to judicial deference. Given the significant level of interest in this provision, and in the interests of an open and transparent government, the agency will provide an additional opportunity for public comment. USDA will consider all comments received and intends to publish a document that will include a discussion of any comments and whether any amendments will be made to the rule.

USDA appreciates the updated economic analysis included with your letter. In developing the rules, GIPSA looked extensively at the economic impacts and worked closely with the Office of the Chief Economist. It is important to note that some of the assumptions in the economic analysis you shared will not apply to the rules currently under development. There are several provisions that were proposed in 2010 that USDA is considering excluding from the current rulemaking in order to improve the regulation and reduce overall burden. These provisions include: applicability to livestock production and marketing contracts, including formula and forward contracts; the requirement that packers, swine contractors, or live poultry dealers maintain written records that provide justification for differential pricing or any deviation from standard price or contract terms; the requirement that packers refrain from entering into exclusive agreements with livestock dealers; prohibiting packers from purchasing livestock from other packers; requirements that packers and live poultry dealers submit sample contracts to GIPSA for posting to the public.

Again, thank you for your letter. We look forward to the comments and analyses of your organizations regarding the Farmer Fair Practices Rules, once those rules are available for comment. A similar response is being sent to your colleagues.

Sincerely,

A handwritten signature in blue ink that reads "Thomas J. Vilsack".

Thomas J. Vilsack
Secretary