ISSUES&INSIGHTS

GIPSA Rule

SITUATION

In the 2008 Farm Bill, Congress directed USDA to issue rules under the Packers and Stockyards Act (PSA) of 1921 to address perceived unfair business practices related to livestock and poultry production. In 2010, the USDA's **Grain Inspection, Packers and Stockyards Administration (GIPSA)** had proposed new regulations – collectively known as the GIPSA Rule – that went well beyond the Farm Bill mandates, even including provisions Congress considered and rejected during debate on that bill. Two important changes to the PSA – which GIPSA had no authority to make – were eliminating the need to prove that an action harmed competition and making all contract breaches federal PSA violations. (Contract disputes between individuals or entities are usually state matters.) In the waning days of the Obama administration, USDA issued these rules as midnight regulations. NPPC opposed the GIPSA rule as it negatively impacted a highly competitive U.S. pork industry by encouraging frivolous litigation – serving only the interests of trial lawyers – and because it would lead to increased industry consolidation.

The incoming Trump administration initially stayed, and ultimately rescinded, the GIPSA rule. In September 2018, during litigation challenging the decision to rescind the rule, the Department of Justice promised the federal court hearing the dispute that USDA intended to issue new GIPSA rules. In 2019, USDA initiated work on a GIPSA rule.

NPPC POSITION

NPPC opposes the development of a GIPSA rule that interferes with pork producer rights to freely enter into contractual business relationships or otherwise restrict producers' ability to sell and packers' ability to buy livestock and which could lead to further consolidation of the livestock industry.

FAST FACTS

- The previous GIPSA rule would unduly burden the pork industry by interfering with innovative business practices developed in a competitive market, imposing one size fits all rules that have no relation to the unique structure of each individual livestock sector, or the realities and unique structure of each producers individual business relationship and needs with a packer.
- The rule would have been a bonanza for trial lawyers.
- According to a 2017 study from Informa Economics, the rule would have cost the pork industry more than $420 million annually.
- The U.S. pork industry is highly competitive. The previous GIPSA rule would inhibit competition, leading to a reduction in innovation and market contraction.
    - Over the past three years, packer ownership has significantly diversified as both individual producers, and groups of producers, have made significant investments in new packing plants, increasing competitive options.

NATIONAL PORK PRODUCERS COUNCIL

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