

Grain Inspection, Packers and Stockyards Administration, USDA

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any more time to issue a check than is provided in section 409(a).

(Approved by the Office of Management and Budget under control number 0580-0015)

(Sec. 401, 42 Stat. 168 (7 U.S.C. 221); sec. 407, 42 Stat. 169 (7 U.S.C. 228); sec. 409, as added by sec. 7, 90 Stat. 1250 (7 U.S.C. 228b); 7 CFR 2.17, 2.54; 42 FR 35625; Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*); 7 U.S.C. 222 and 228 and 15 U.S.C. 46)

[42 FR 49929, Sept. 28, 1977, as amended at 49 FR 39516, Oct. 9, 1984; 68 FR 75388, Dec. 31, 2003]

§ 203.17 Statement of general policy with respect to rates and charges at posted stockyards.

(a) Requests have been received from stockyard operators, market agencies, and livestock producers urging a reduction of rate regulation at posted stockyards. Their requests are based on the belief that competition among markets will set a level of rates and charges fair to both the market operator and to the livestock producer. Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) will accept for filing tariffs containing any level of charges after 10 days' notice to the public and to the Secretary as required by the Act.

(b) Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) will not investigate the level of rates and charges established by stockyard owners and market agencies for reasonableness except upon receipt of a valid complaint or under compelling circumstances warranting such an investigation. Stockyard owners and market agencies will have substantial flexibility in setting their own rates and charges.

(c) Complaints filed about the reasonableness of rates and charges will be investigated to determine the validity of such complaints and appropriate action taken if warranted.

(d) Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) will continue to insure that the schedules of rates and charges filed with the De-

partment are applied uniformly and in a nondiscriminatory manner.

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(7 U.S.C. 203, 204, 207, 217a, 222 and 228)

[49 FR 33004, Aug. 20, 1984, as amended at 68 FR 75388, Dec. 31, 2003]

§ 203.18 Statement with respect to packers engaging in the business of custom feeding livestock.

(a) In its administration of the Packers and Stockyards Act, the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) has sought to promote and maintain open and fair competition in the livestock and packing industries, and to prevent unfair or anticompetitive practices when they are found to exist. It is the opinion of the Administration that the ownership or operation of custom feedlots by packers presents problems which may, under some circumstances, result in violations of the Packers and Stockyards Act.

(b) Packers contemplating entering into such arrangements with custom feedlots are encouraged to consult with the Administration prior to the commencement of such activities. Custom feedlots are not only places of production, but are also important marketing centers, and in connection with the operation of a custom feedlot, it is customary for the feedlot operator to assume responsibility for marketing fed livestock for the accounts of feedlot customers. When a custom feedlot is owned or operated by a packer, and when such packer purchases fed livestock from the feedlot, this method of operation potentially gives rise to a conflict of interest. In such situations, the packer's interest in the fed livestock as a buyer is in conflict with its obligations to feedlot customers to market their livestock to the customer's best advantage. Under these circumstances, the packer should take appropriate measures to eliminate any conflict of interest. At a minimum, such measures should insure:

(1) That feedlot customers are fully advised of the common ties between the feedlot and the packer, and of their

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rights and options with respect to the marketing of their livestock;

(2) That all feedlot customers are treated equally by the packer/custom feedlot in connection with the marketing of fed livestock; and

(3) That marketing decisions rest solely with the feedlot customer unless otherwise expressly agreed.

(c) Packer ownership or operation of custom feedlots may also give rise to competitive problems in some situations. Packers contemplating or engaging in the business of operating a custom feedlot should carefully review their operations to assure that no restriction of competition exists or is likely to occur.

(d) The Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) does not consider the existence of packer/custom feedlot relationships, by itself, to constitute a violation of the Act. In the event it appears that a packer/custom feedlot arrangement gives rise to a violation of the Act, an investigation will be made on a case-by-case basis, and, where warranted, appropriate action will be taken.

(Approved by the Office of Management and Budget under control number 0580–0015)

(7 U.S.C. 203, 204, 207, 217a, 222 and 228)

[49 FR 33004, Aug. 20, 1984, as amended at 68 FR 75388, Dec. 31, 2003]

§ 203.19 Statement with respect to packers engaging in the business of livestock dealers or buying agencies.

(a) In its administration of the Packers and Stockyards Act, the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) has sought to prevent conflicts of interest and to maintain open and fair competition in the livestock and meat packing industries. The ownership or operation of livestock dealers or buying agencies by packers, under some circumstances, may result in violations of the Packers and Stockyards Act.

(b) Traditionally, livestock dealers and buying agencies purchase livestock for resale or to fill orders for farmers, ranchers, producers, other livestock firms and packers. When a livestock dealer or buying agency is owned or op-

erated by a packer, and when such packer is also buying livestock for its own operational requirements, there is a potential conflict of interest. Furthermore, the purchase and sale of livestock by meat packers may result in control of markets and prices which could adversely affect both livestock producers, competing packers, and consumers.

(c) Arrangements between packers and dealers or buying agencies which do not normally create a conflict of interest or result in a restraint of competition include:

(1) Operations utilizing different species or classes of livestock; (2) operations where the business activities are widely separated geographically; and (3) operations where tie-in purchases or sales are not involved. Packers contemplating engaging in the business of a livestock dealer or a buying agency are encouraged to consult with the Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs) prior to the commencement of such activities.

(d) In the event a packer/dealer or a packer/buying agency arrangement appears to give rise to a violation of the Act, an investigation will be made on a case-by-case basis and, where warranted, appropriate action will be taken.

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(7 U.S.C. 228, 228b, 222, 15 U.S.C. 46)

[49 FR 32845, Aug. 17, 1984; 54 FR 26349, June 23, 1989, as amended at 68 FR 75388, Dec. 31, 2003]

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AUTHORITY: 5 U.S.C. 552.

SOURCE: 49 FR 46528, Nov. 27, 1984, unless otherwise noted.