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## **DEPARTMENT OF AGRICULTURE**

### **Grain Inspection, Packers and Stockyards Administration**

#### **9 CFR Part 201**

**RIN: 0580-AB25**

#### **Scope of Sections 202(a) and (b) of the Packers and Stockyards Act**

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA

**ACTION:** Interim final rule; notice of delay of effective date and extension of comment period.

**SUMMARY:** Consistent with the memorandum of January 20, 2017, to the heads of executive departments and agencies from the Assistant to the President and Chief of Staff entitled “Regulatory Freeze Pending Review,” the Department of Agriculture’s Grain Inspection, Packers and Stockyards Administration (GIPSA) is extending the public comment period and delaying the effective date of the rule published on December 20, 2016. This interim final rule adds a paragraph to § 201.3 addressing the scope of sections 202(a) and (b) of the Packers and Stockyards Act, 1921, as amended and supplemented (P&S Act) in order to clarify that conduct or action may violate sections 202(a) and (b) of the P&S Act without adversely affecting, or having a likelihood of adversely affecting, competition. This rule was originally set to take effect on February 21, 2017.

**DATES:** Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the effective date of the interim final rule amending 9 CFR Part 201, published at 81 FR 92566, December 20, 2016 is delayed until April 22, 2017. Interested persons are invited to submit written comments on this interim final rule on or before March 24, 2017.

**ADDRESSES:** We invite you to submit comments on this interim final rule by any of the following methods:

- *Mail:* M. Irene Omade, GIPSA, USDA, 1400 Independence Avenue, SW., Room 2542A-S, Washington, DC 20250-3613.
- *Hand Delivery or Courier:* M. Irene Omade, GIPSA, USDA, 1400 Independence Avenue, SW., Room 2530-S, Washington, DC 20250-3613.
- *Internet:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

Instructions: All comments should make reference to the date and page number of this issue of the Federal Register. All comments received will be included in the public docket without change, including any personal information provided. Regulatory analyses and other documents relating to this rulemaking will be available for public inspection in Room 2542A-S, 1400 Independence Avenue, SW., Washington, DC 20250-3613 during regular business hours. All comments will be available for public inspection in the above office during regular business hours (7 CFR 1.27(b)). Please call the Management and Budget Services staff of GIPSA at (202) 720-8479 to arrange a public inspection of comments or other documents related to this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** S. Brett Offutt, Director, Litigation and Economic Analysis Division, P&SP, GIPSA, 1400 Independence Ave., SW, Washington, DC 20250, (202) 720-7051, [s.brett.offutt@usda.gov](mailto:s.brett.offutt@usda.gov).

## **SUPPLEMENTARY INFORMATION:**

Consistent with the memorandum of January 20, 2017, to the heads of executive departments and agencies from the Assistant to the President and Chief of Staff entitled “Regulatory Freeze Pending Review,” GIPSA is extending the public comment period and delaying the effective date of the interim final rule entitled “Scope of Sections 202(a) and (b) of the Packers and Stockyards Act” that was published in the *Federal Register* on December 20, 2016, 81 FR 92566.

This interim final rule states the interpretation that not all violations of the P&S Act require a showing of harm or likely harm to competition. Section 201.3(a) specifically provides that the scope of section 202(a) and (b) encompasses conduct or action that, depending on their nature and the circumstances, can be found to violate the P&S Act without a finding of harm or likely harm to competition. This interim final rule finalizes a proposed § 201.3(c) that GIPSA published on June 22, 2010, 75 FR 35338, with slight modifications in order to allow additional public comment on these provisions.

To the extent that 5 U.S.C. 553(b)(A) applies to this action, it is exempt from notice and comment rulemaking for good cause and for reasons cited above, GIPSA finds that notice and solicitation of comment regarding the brief extension of the effective date of the interim final rule are impracticable, unnecessary, or contrary to the public interest pursuant to 5 U.S.C. 553(b)(B). GIPSA believes that affected parties need to be informed as soon as possible of the extension and its length.

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Marianne Plaus  
Acting Administrator  
Grain Inspection, Packers and Stockyards Administration  
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