

PROPOSED GIPSA COMPETITION RULE

- Elimination of the competitive injury requirement will provide a disincentive for packer premiums and value-added contracts because of fear of litigation. The broad and general nature of the proposed rule will open the doors to frivolous lawsuits and provide ample opportunities for trial lawyers. If anyone can sue just because he or she thinks something is unfair, price differentiation based on added value will go away, and a return to a commodity market is inevitable.
- Opening cattle markets to trial lawyers is NOT in the best interest of the marketplace. NCBA does not support litigation as a means of securing producer profitability. This proposed regulation would allow any unhappy seller to cry “foul” without proof of injury or harm. This action is an Obama Administration end-run to overturn the decisions of eight U.S. Circuit Courts of Appeals.
- The proposed rule takes away the incentive to produce the beef products consumers prefer. Cattlemen have responded to consumer demands by finding innovative ways to develop and market premium quality and branded products. These alternative marketing arrangements have allowed cattlemen to get paid for the value they add. Without the contracted supply of cattle that meet the requirements of such programs, these programs will go away or be severely reduced in size and scope. This could have a huge impact on the choices our consumers make. Losing or limiting consumer-demanded product means loss of customers, which means a loss to cattle producers.
- The proposed rule takes away cattle producers’ ability and incentive to manage risks, finance production, and compete with one another to negotiate premiums. The regulations also take away producers’ ability to maintain the privacy of business transactions because all transactions will have to be reviewed by GIPSA and then posted on a government website open to public access.
- The proposed rule bans packer-to-packer sales of livestock. This applies to individual packers and any affiliates or subsidiaries they might own or be a part of. This will have severe unintended consequences, especially to smaller packers and dealers. First of all, if a packer selling to another packer has resulted in competitive injury to the marketplace then GIPSA should penalize violators and enforce existing regulations of the Packers & Stockyards Act. Secondly, prohibiting packer-to-packer sales would encourage consolidation and displace producer livestock. For example, there is a beef packer located in the Pacific Northwest that also owns a feedlot in southwest Kansas. Under this proposal, that company would be required to ship all of its Kansas feedlot cattle to Washington state for processing. Those cattle would displace the local cattle that typically supply that plant. The proposal would add inefficiencies for the feedlot through added transportation costs, which could result in the sale or liquidation of that feedlot, thereby driving consolidation and less competition.