

## Regulatory Roundup

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## **LIVESTOCK**

### **Changes to Packers and Stockyards Act in 2024**

In 2024 the United States Department of Agriculture (USDA) has made several changes to the Packers and Stockyards Act (P&S Act). The P&S Act, originally passed in 1921, is the piece of legislation that gives the USDA authority to regulate the poultry, livestock and meat industries. Since Jan. 1 of this year, there have been four proposed rule changes to the act.

#### **USDA Transparency in Poultry Grower Contracting and Tournaments**

Finalized on Feb. 12, the Transparency in Poultry Grower Contracting and Tournaments is a significant regulatory update that aims to enhance transparency and fairness in the poultry industry by imposing specific requirements on live poultry dealers (LPD) engaged in broiler production.

There are two parts to the key provisions of the P&S Act. First, the new regulation lays out disclosure requirements

LPDs must provide for growers contracted to grow broiler chickens. LPDs (including integrators) must provide essential information to poultry growers with whom they establish poultry growing arrangements including financial details related to the grower's business relationship with the dealer, inputs received by growers and comparisons with other growers in the same tournament.

The second part of the regulation deals with the poultry grower ranking systems, or Tournament System. For live poultry dealers using poultry grower ranking systems to determine settlement payments for broiler growers, additional disclosure requirements apply. LPDs must provide the distribution of inputs across the tournament, house specifications for all growers in a tournament and the actual figures used to rank the tournaments.

These requirements aim to bring transparency to the market for grower services, preventing deceptive practices related to broiler contracting and performance. The addition to the P&S Act safeguards fair trade, financial integrity, and competitive markets for livestock, meat and poultry. By mandating disclosures and transparency, this rule intends to help poultry growers to make informed decisions and aims to ensure a level playing field.

A few other key points are:

- The final rule only applies to those involved in broiler production and does not address layer or turkey operations.
- Contracts need to be given to growers at least 14 calendar days in advance.
- The final rule does not include payment information for every complex the integrator owns or operates. It will only apply to the local complex.
- The LPD must provide information on grower turnover for the last calendar year and the average grower turnover for the preceding 5 years on the local and national level

Due to an increase in record keeping requirements, some LPDs have elected to go away from the tournament system and have opted for a square foot model.

The complete rule can be read [here](#).

### **Inclusive Competition and Market Integrity under the Packers and Stockyards Act**

Finalized May 6, this rule established standards under the P&S Act prohibiting practices relating to discrimination, retaliation and deception in contracting. The rule:

- Prohibits the adverse treatment of livestock producers and poultry growers based on race, color, religion, national origin, sex (including pregnancy, sexual orientation and gender identity), disability, marital status or age. It also prohibits discrimination against a livestock and poultry producer cooperative.
- Prohibits retaliation against producers and growers for their engaging in certain protected activities: lawful communications or refusals to communicate, assertion of contractual and P&S Act rights, participation in associations and cooperatives, exploring or entering a business relationship with a competing packer/swine contractor/live poultry dealer, and certain other protected activities.
- Prohibits employing false or misleading statements or omissions of material information in contract formation, performance and termination; and prohibits regulated entities from providing false or misleading representations regarding refusal to contract.
- Supports USDA monitoring, evaluation and enforcement of compliance with aspects of this rule through certain recordkeeping requirements.

The complete rule can be read [here](#).

### **USDA Poultry Grower Payment and Capital Improvement Proposal**

On June 10, USDA proposed regulations designed to enhance fairness and transparency within poultry contracting. The proposal, named Poultry Grower Payment Systems and Capital Improvement Systems, aimed at addressing payment system concerns, especially the Tournament-Style systems that dictate payment based on flock performance comparisons as well as requirements required of LPDs when requiring updates to facilities by contracted growers.

Key proposals include:

- Prohibiting LPDs, also referred to as integrators, from discounting or reducing a grower's rate of compensation as disclosed in the broiler growing arrangement based on the grower's grouping, ranking or comparison to others.
- Requires fair comparison by LPDs when operating their broiler grower ranking systems. Factors LPDs must consider include the distribution of inputs and flock production practices, age at slaughter, the conditions and circumstances for the comparison and the reasonableness of efforts to resolve disputes.
- Requires LPDs to establish and maintain written documentation of their processes for the design and operation of a broiler grower ranking system that is consistent with the duty of fair comparison, review their compliance with these processes not less than once every two years and retain all relevant written records for five years.
- Requires LPDs to provide a grower with a Capital Improvement Disclosure Document when an LPD requests that the grower make an additional capital investment.

The USDA, in collaboration with the Department of Justice, will enforce the provisions of the P&S Act concerning unfair practices.

The comment period for this proposal ends Aug. 9.

The complete proposal can be found [here](#).

### **USDA Proposal: Fair and Competitive Livestock and Poultry Markets**

On June 28, USDA proposed a new rule, Fair and Competitive Livestock and Poultry Markets. This proposal is intended to supplement the P&S Act, and defines what constitutes unfair practices in the livestock and poultry markets, specifying harmful conduct toward market participants and the market itself.

The proposal delineates the term "unfair practice" in two aspects: pertaining to market participants and the markets themselves:

- For market participants, an "unfair practice" is defined as a practice that inflicts or is likely to inflict substantial harm on one or more market participants. This harm must be unavoidable for the participant(s) and unjustifiable by the regulated entity that has engaged in the act, even when considering any countervailing benefits to the market participant(s) or to market competition that outweigh the substantial harm or likelihood of substantial harm.
- In the context of the markets themselves, an "unfair practice" is characterized as a collusive, coercive, predatory, restrictive, deceitful or exclusionary method of competition that could adversely impact

competitive conditions.

The comment period for this proposal ends Aug. 27.

A complete copy of the proposal can be found [here](#).

### **USDA-APHIS Cattle Electronic Identification Rule**

In the spring of 2024, USDA-APHIS released a rule that will require some cattle to be equipped with electronic identification (EID) ear tags in order to cross state lines. The final rule on this issue came after several years of industry input on the subject and is aimed at better improving the U.S. animal disease traceability programs.

Cattle and bison will be required to have EID tags when crossing state lines if:

- Sexually intact and older than 18 months of age;
- A dairy cow or come from a dairy facility;
- Used for rodeo, exhibition or livestock shows, regardless of age.

There are several exemptions to the rule that allow cattle to cross state lines without the tags in place, including brands, tattoos, group/lot identification documents and some instances when animals cross state lines but do not change ownership.

The rule amends a previous ruling by APHIS that set metal or “visual” ear tags as the official standard for identification. Starting Nov. 5, the only approved ear tags for cattle and bison required to participate must be both visually and electronically readable. An animal disease traceability frequently asked question sheet can be found [here](#) and the entire final rule can be found [here](#).

### **California Proposition 12**

In 2018, California voters passed Proposition 12 (Prop 12), also known as the Farm Animal Confinement Initiative. This measure aims to set minimum space requirements for certain farm animals, specifically egg-laying hens, breeding pigs, and veal calves. It mandates that all products sold in California, irrespective of their production location, adhere to these animal welfare standards.

Prop 12 has been met with legal challenges from agricultural and industry groups, who contend that it places excessive burdens on interstate commerce and violates the rights of out-of-state producers. Compliance necessitates substantial investment in infrastructure to meet the space requirements for animals, posing a significant financial strain, particularly on smaller or outdated farms.

The law was upheld by the Supreme Court, affirming California’s authority to regulate product standards within its jurisdiction. This decision has prompted legislative action, with the House of Representatives proposing Section 12007 in the farm bill. This section aims to safeguard the unhindered interstate commerce of livestock-derived products, promote a unified national market and ensure adherence to international trade obligations. It asserts a federal right for producers to raise and market livestock across state lines without facing disparate state regulations.

The passage of a comprehensive farm bill remains essential for providing relief to producers.

## ROW CROP AND FORESTRY

### European Union Deforestation Regulation (EUDR)

As part of the European Union's (EU) effort to make Europe the first climate-neutral continent by 2050, the European Parliament and Council formally adopted the EU Deforestation-free Regulation (EUDR) on June 29, 2023. This new regulation, which replaces the EU Timber Regulation (EUTR) established in March 2013, mandates that all importers of timber or timber products in the EU implement a due diligence system that ensures transparency and traceability throughout the supply chain.

The main driver behind these processes is the expansion of agricultural land linked to the production of commodities such as cattle, wood, cocoa, soy, palm oil, coffee, rubber, and their derived products, including leather, chocolate, tires, and furniture. Under the EUDR, "deforestation-free" means that these products must come from land where no deforestation or forest degradation, as defined by the regulation, has occurred since Dec. 31, 2020.

The EUDR covers a range of forest products, including sawn timber, wood-based materials, paper and furniture. As a major economy and consumer of these commodities, the EU recognizes its role in the problem of deforestation and aims to lead the way in addressing it. According to the regulation, any operator or trader who places these commodities on the EU market, or exports from it, must prove that the products do not come from recently deforested land and have not contributed to forest degradation.

The regulation will go into effect on Dec. 30. In response, Archer Daniels Midland (ADM) and the Farmers Business Network (FBN) have launched a Deforestation-Free Soybean Program to comply with the new requirements. This mandate will affect all elevators selling soybeans to Europe, prompting the establishment of additional verification platforms across the U.S.

For Southern soybean producers, selling to ADM may require enrollment in ADM's Deforestation-Free Soybean Program via the FBN website or app by June 1, and the submission of field boundary data by July 15. Enrollment is free and FBN will use satellite imagery to verify that the soybeans were grown on land not deforested after Dec. 31, 2020.

### H-2A New Final Rule

The Department of Labor (DOL) announced the issuance of the final rule, "Improving Protections for Workers in Temporary Agricultural Employment in the United States". It went into effect on June 28. Some of the highlights from the 600-page document are listed below.

- Updated AEWRs will be effective on the day of publication in the Federal Register
- A five-part criteria established for terminating an employee for cause;
- An explicit right for H-2A employees to accept and invite guest to employer-furnished housing;
- Establishes seatbelt requirement for employee transportation;
- New disclosure requirements on recruiter information, as well as the name, location, and contact information of workplace owners, operators, and managers.

A Congressional Review Act was recently introduced by Representative C. Scott Franklin (R-Fla.), that offers a mechanism for congressional disapproval of the DOL's rule. You can review it [here](#).

Click [here](#) for more information on DOL Final Rule.

### Corporate Transparency Act

As of Jan. 1, most small entities, including single-member LLCs, are required to submit online reports to the federal

government, disclosing details about their beneficial owners. Entities established prior to Jan. 1, have until Jan. 1, 2025, to submit their initial beneficial ownership reports. Entities formed or registered in 2024 must file their reports within 90 days of establishment. Additionally, all filers are obligated to update their information within 30 days. Existing and new entities will need to file a Beneficial Ownership Information report with **FinCen**.

### Deal with Dicamba

In reaction to a decision by the Federal Court of Arizona that vacated the registration of all over-the-top (OTT) dicamba products, Environmental Protection Agency (EPA) has issued an Existing Stocks Order allowing OTT dicamba products that were already in the supply chain or in farmer possession to be used during the 2024 crop year. It is important for cotton farmers to note Arkansas dicamba regulations supersede the federal label, so the cutoff date for application on cotton is June 30, NOT July 31 as stated in Existing Stocks Order. All Arkansas regulations, including restrictions on burndown, tank mixes and all buffer zones, are in effect for all OTT dicamba applications during the 2024 crop year. The EPA has opened a 30-day comment period on the application to register Bayer XtendiMax for the 2025 growing season. Among other issues, EPA is proposing a 75-degree temperature cutoff for over-the-top dicamba applications due to volatility concerns.

### BWE Deadlines Approaching

Arkansas cotton growers had until June 30, to report all cotton acreage to the Arkansas Boll Weevil Eradication Program. Any acreage reported after that date will incur a \$3/acre fine for late reporting. Assessments are due by Aug. 15, and can be paid online or mail. For more information, see the program [website](#).



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