United States Department of Agriculture
Agricultural Marketing Service




PACKERS AND STOCKYARDS PROGRAM
Annual Report 2017

Protecting fair trade practices, financial integrity, and competitive markets for livestock, meat and poultry.

TABLE OF CONTENTS

PACKERS AND STOCKYARDS PROGRAM OVERVIEW

On November 14, 2017, the Packers and Stockyards Program was reorganized as a new Division within the Agricultural Marketing Service (AMS) Fair Trade Practices Program. The activities and structure of the Packers and Stockyards Program described in this Annual Report are based on its status as of September 30, 2017, and do not reflect subsequent changes to the organization.

The Packers and Stockyards Program (P&SP) operates under the authority of the Packers and Stockyards Act of 1921 (P&S Act) (7 U.S.C. § 181 et seq.), which makes it unlawful for packers, live poultry dealers, market agencies selling or buying on commission, dealers, and swine contractors to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device.. In fiscal year (FY) 2017, P&SP's budget was $23.0 million, unchanged from 2016, and 2015. At the close of FY 2017, P&SP had 137 full-time staff and 9 vacancies for a total of 146 full-time positions. P&SP's three regional offices and the headquarters division are shown below.

- Eastern Regional Office in Atlanta, Georgia
- Midwestern Regional Office in Des Moines, Iowa
- Western Regional Office in Aurora, Colorado
- Litigation and Economic Analysis Division (LEAD) in Washington, D.C.

Each regional director manages its geographic area. Together, they supervise a staff of auditors, marketing specialists, resident agents, economists, attorneys, and administrative support staff who work from the regional office or various field locations throughout the region.

Staff members in the regional offices and field locations conduct investigations and regulatory activities These include business audits, weighing verifications, and day-to-day industry monitoring. Their work often takes them to the business locations of the regulated entities. A Central Reporting Unit located in the Western region processes annual reports filed by entities subject to the P&S Act.

LEAD provides litigation support by reviewing investigations and preparing sanction and stipulation recommendations. It also assists the USDA Office of General Counsel and the Department of Justice in preparing for hearings and negotiating settlements and testifying at hearings. LEAD also processes and summarizes industry data, develops P&SP policy, and prepares information materials, press releases, and notices and regulations under the P&S Act.

REGIONAL EXPERTISE

In addition to its geographic area, each P&SP regional office maintains expertise in one or more species of livestock or poultry. The Eastern Regional Office focuses on poultry, the Midwestern Regional Office on hogs, and the Western Regional Office on cattle and sheep.

At the end of FY 17, P&SP had 137 full-time staff which included 71 office staff and supervisors in headquarters and in the regional offices. P&SP also had 43 resident agents, four resident auditors, and one market inspector who report to the regional offices and are located throughout the country to provide core services nationwide. Each regional office has agent supervisors who manage teams of agents, marketing specialists, and auditors.

The geographically dispersed resident employees enable P&SP to maintain close contact with the entities P&SP regulates as well as livestock producers and poultry growers (see Appendix B, figure 8).

PACKERS AND STOCKYARDS PROGRAM OVERVIEW

OVERVIEW OF P&SP AUTHORITIES AND RESPONSIBILITIES

Under the P&S Act, the Secretary of Agriculture (Secretary) regulates specified activities of businesses engaged in the marketing of livestock, meat, and poultry. P&SP fulfills these responsibilities under the Act by overseeing the regulated business entities including:

- Livestock market agencies (both livestock auctions selling on commission and commission buyers)
- Livestock dealers
- Stockyards
- Packers
- Swine contractors
- Live poultry dealers (those who obtain poultry for slaughter either by purchase or under poultry growing arrangements).

P&SP does not have jurisdiction over livestock producers, feedlots, poultry growers, or most retailers. The Act describes unlawful behavior, and its regulations mandate certain business practices by regulated entities. These include mandatory registration of market agencies and dealers.

Market agencies, packers whose annual livestock purchases exceed $500,000, and dealers must secure bonds or bond equivalents to protect livestock sellers. Market agencies selling livestock on commission are required to establish and maintain a separate bank account designated as a "custodial account for shippers proceeds" and deposit into that account the proceeds from the sale of livestock. Regulated buyers must pay promptly for livestock.

P&SP uses its authority to investigate alleged violations of the P&S Act and regulations. USDA's Office of the General Counsel represents the Secretary in enforcement actions under the P&S Act and regulations. The Office of the General Counsel takes administrative action when P&SP identifies violations of the P&SP Act. The Office of the General Counsel may also refer matters to the Department of Justice for prosecution, when warranted.

TRUST PROVISIONS

To protect unpaid cash sellers of livestock, the P&S Act makes packers subject to trust provisions.

An unpaid cash seller of livestock triggers these provisions by filing a written claim with both the packer and P&SP.

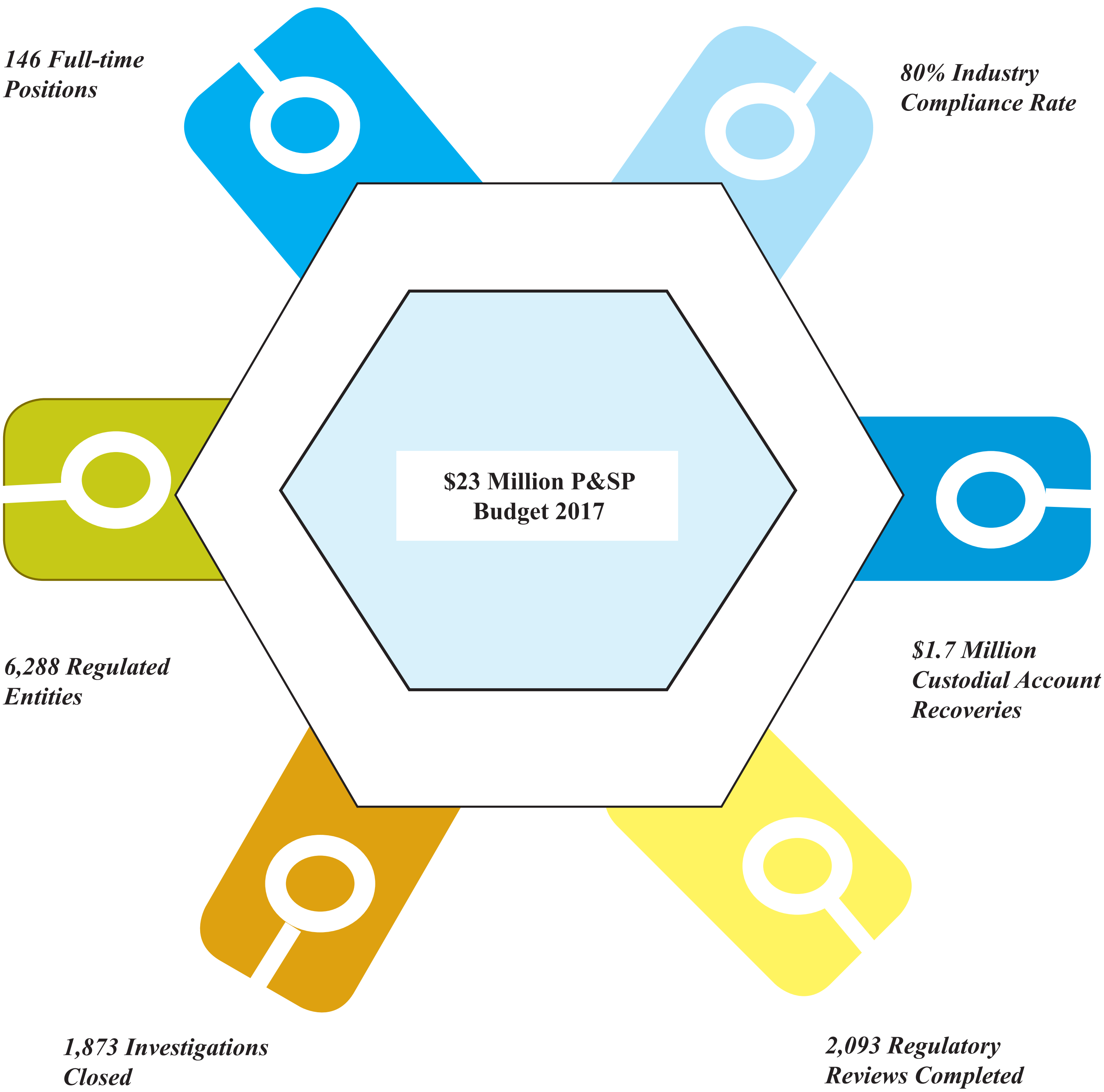
After receiving a claim, the packer must hold in trust livestock inventories and receivables, and proceeds from meat, meat food products, or livestock products until it makes full payment to all unpaid cash sellers.

P&SP can penalize a packer for failing to pay for livestock in violation of the P&S Act and for dissipation of trust assets.

A similar provision applies to live poultry dealers.

PACKERS AND STOCKYARDS PROGRAM SNAPSHOT

P&SP benefits America's agriculture and consumers by enforcing provisions for fair trade, prompt payment, and competition in the marketing of livestock, meat, and poultry. Below is a snapshot of the agency in 2017 and its accomplishments in promoting industry compliance with the P&S Act.



ECONOMIC STATE OF THE LIVESTOCK AND POULTRY INDUSTRIES

Section 415 of the P&S Act (7 U.S.C. § 228d) requires P&SP to make an annual assessment of the cattle and hog industries. The first part of this section assesses the general economic state of the industries that are regulated by P&SP. This includes trends in the number of entities, financial conditions, and market share of the four largest packers by type of livestock (market concentration). The second part examines changing business practices of entities in the regulated industries. This includes pricing and procurement methods, and the volume marketed through market agencies and direct purchases. Finally, this section outlines specific concerns about the events and conditions in the industries regulated under the P&S Act.

P&SP relies on data from reports that regulated entities are required to file with P&SP each year. The annual reports for the 2017 calendar-reporting year are not due until April 15, 2018. As a result, most data series in this section end with the 2016 reporting year. There are exceptions. These include statistics on entities currently bonded and/or registered as recorded in P&SP databases, USDA Agricultural Census statistics on swine contractors, and statistics on types of procurement methods compiled from data reported to AMS under the provisions of the Livestock Mandatory Reporting Act (LMR) (7 U.S.C. § 1635 et seq.).

The following entities are subject to the P&S Act:

- **All packers operating in interstate commerce** are subject to the unfair and deceptive practices provisions and prompt payment provisions of the P&S Act. Packers that purchase $500,000 or more of livestock for slaughter annually are required to be bonded and file annual reports. Bonded packers include entities operating federally inspected plants as well as some entities operating State-inspected plants. Some packers that purchase less than $500,000 of livestock voluntarily obtain bonds.
- **Live poultry dealers** include persons who purchase poultry for slaughter and poultry integrators who contract with producers for grower services to raise chicks or poults to slaughter weight.
- **Livestock dealers** purchase livestock for resale on their own accounts, or they may purchase or sell as the agent or representative of another entity.
- **Market agencies** are engaged in the business of buying or selling livestock in commerce on a commission basis.
- **Posted stockyards** are physical facilities and are not necessarily separate businesses. Livestock auctions, which are market agencies are usually located at posted stockyards.
- **Swine contractors** contract with hog producers to care for and raise the contractors' hogs for slaughter.

ECONOMIC STATE OF THE LIVESTOCK AND POULTRY INDUSTRIES

The number of entities subject to the P&S Act varies somewhat from year to year. The number of bonded packers and bonded market agencies increased in 2017. The number of bonded livestock dealers and live poultry dealers declined slightly from the prior year [1] (Table 1).

[1] Data sources for all tables and figures are listed in Appendix A.

Table 1. Number of Bonded Packers, Livestock Dealers, Market Agencies, Posted Stockyards and Live Poultry Dealers Reporting to P&SP

Year	Bonded Packers	Bonded Livestock Dealers and Market Agencies Buying on Commission	Bonded Market Agencies Selling on Commission	Live Poultry Dealers
2008	281	4,685	1,326	126
2009	284	4,529	1,225	125
2010	233	4,468	1,205	117
2011	258	4,572	1,220	136
2012	295	4,619	1,234	133
2013	297	4,639	1,216	136
2014	295	4,650	1,202	137
2015	303	4,607	1,224	133
2016	294	4,660	1,221	132
2017	304	4,634	1,223	129

At the end of fiscal year 2017, there were 304 bonded packers, 129 live poultry dealers, 4,634 registered livestock dealers, and 1,223 market agencies that were subject to the P&S Act. There were also just over 500 swine contractors (Table 2) as of 2012. From 2007 to 2012, the total number of hog farms declined from 74,789 to 55,882. This represented a decline of 18,907 farms or 25.3 percent. The number of contractors and contract growers also declined from 2007 to 2012. When slaughter hogs are grown under contract, swine contractors typically own the hogs and sell the finished hogs to pork packers. The swine contractors typically provide feed and medication to the contract growers who own the growing facilities and provide growing services. P&SP regulates the business practices of swine contractors, but swine contractors are not required to register with P&SP or maintain bonds.

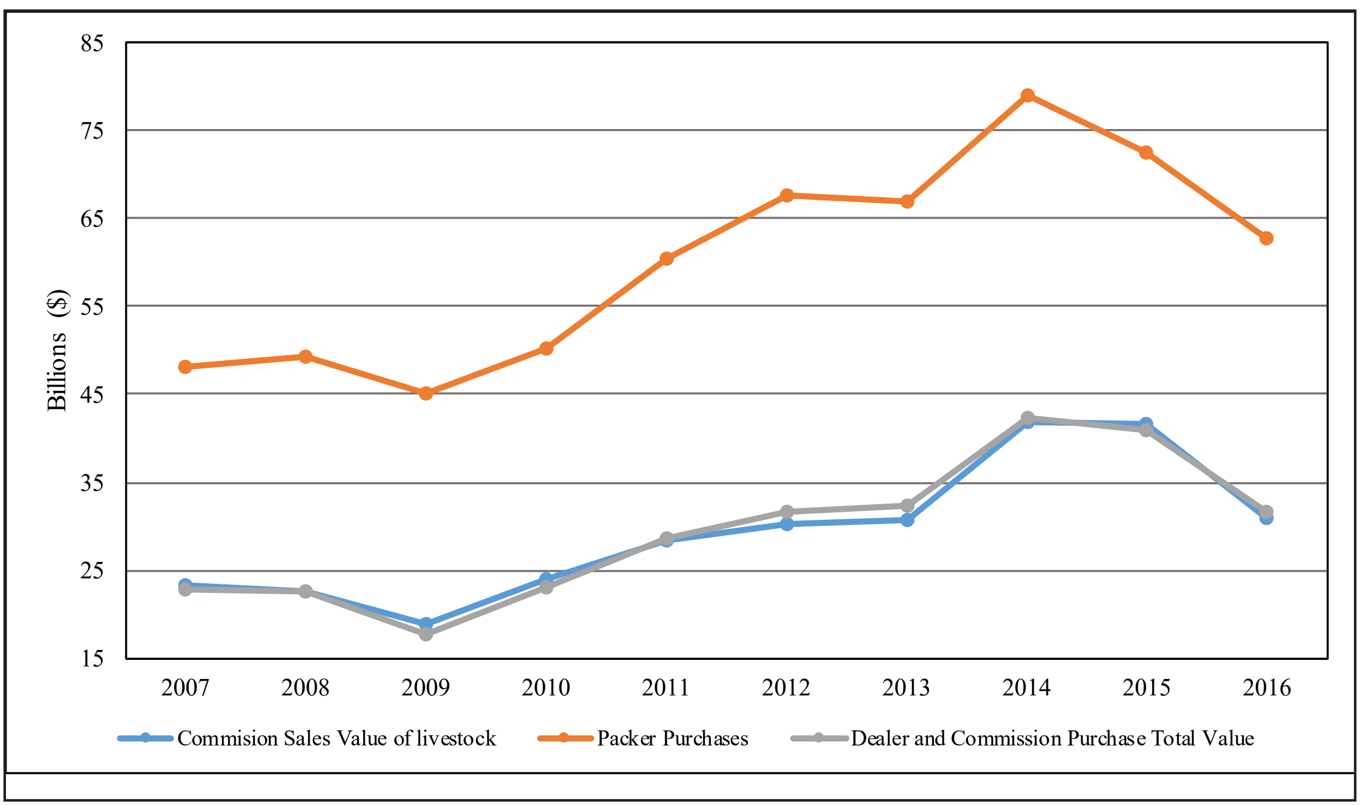
ECONOMIC STATE OF THE LIVESTOCK AND POULTRY INDUSTRIES

Table 2. Number of Farms by Swine Grower/ Producer Type

Grower Producer type	2007	2012
Independent Grower	65,067	47,336
Contractor or Integrator	737	515
Contract (contract grower)	8,995	8,031
Total	74,789	55,882

Packers' livestock purchases decreased to $62.8 billion in 2016 from $72.5 billion in the previous year and $79.0 billion in 2014 (see Figure 1). The dollar volume for entities selling on commission and for entities operating as dealers or commission buyers also declined. Fed cattle prices increased to more than $170 per hundredweight in late 2014 but had fallen to less than $100 per hundredweight in late 2016. Hog prices also reached a record high in late 2014, but the decline in hog prices was even more steep than for cattle.

Figure 1. Value of Livestock Purchased by Packers, Value of Livestock Purchased by Dealers and Market Agencies Buying on Commission, and Value of Livestock Sold through Market Agencies Selling on Commission



ECONOMIC STATE OF THE LIVESTOCK AND POULTRY INDUSTRIES

P&SP requires packers with livestock purchases that equal or exceed $500,000 per year to report the number of head slaughtered annually. The number of cattle slaughtered by packers reporting to P&SP declined from over 33.8 million head in 2011 to just over 28 million head in 2015 but increased somewhat in 2016 (Table 3). Total cattle includes fed steers and fed heifers, cows, and bulls, but excludes calves. In most, but not all cases, plants that report to P&SP slaughter either fed cattle or cows and bulls.

The number of hogs slaughtered increased each year from 2007 to 2009, then declined by around 3 percent or 3.1 million head in 2010 and another 2 percent or 1.2 million head in 2011. Hog slaughter reached the highest level in the past decade in 2014, at over 122 million head, then fell to less than 114 million in 2015. In 2016 the number increased to over 116 million (Table 3).

Sheep and lamb slaughter has been close to 2 million head in most years since 2007, except for 2013 when it was at its highest level of 2.7 million head, 17 percent above the prior year. In 2016, the number of sheep and lambs slaughtered by packers reporting to P&SP decreased to 2.0 million head from 2.1 million in the prior year.

Poultry processors reporting to P&SP slaughtered an estimated 54.1 billion pounds of chicken and 7.3 billion pounds of turkey in 2016. This is the highest level reported for chicken in the past decade while turkey slaughter reported to P&SP has fluctuated between 6.6 billion and 7.5 billion pounds.

Table 3. Annual Volume of Livestock and Poultry Purchased for Slaughter Packers and Live Poultry Dealers Reporting to P&SP

(Million Head)				(Billion lbs.)	
Year	Cattle	Hogs	Sheep and Lambs	Broilers	Turkeys
2007	33.0	108.6	2.5	45.6	6.6
2008	32.0	109.0	1.8	46.2	7.4
2009	32.1	113.2	2.0	46.4	6.9
2010	33.0	110.1	1.9	48.4	7.2
2011	33.8	108.9	1.8	49.0	7.1
2012	33.5	110.1	2.1	49.4	7.5
2013	31.8	113.3	2.7	52.1	7.4
2014	30.0	122.3	2.3	50.1	7.2
2015	28.1	113.7	2.1	52.2	6.8
2016	29.3	116.3	2.0	54.1	7.3

ECONOMIC STATE OF THE LIVESTOCK AND POULTRY INDUSTRIES

The number of hog plants increased slightly in 2016 while the total count of cattle and sheep plants declined from 2015. Although the number of plants slaughtering sheep and lambs has increased significantly since 2008, many of these are small multispecies plants that slaughter only a few sheep and lambs (Table 4). Poultry plant counts are available only for the most recent years.

Table 4. Yearly Number of Slaughter Plants Operated by Packers and Live Poultry Dealers Reporting to P&SP

Year	Cattle	Hogs	Sheep and Lambs	Poultry
2007	165	165	56	NA
2008	135	126	52	NA
2009	133	134	54	NA
2010	135	129	59	NA
2011	147	136	70	NA
2012	168	157	81	NA
2013	166	143	79	NA
2014	163	125	72	230
2015	161	138	81	240
2016	150	141	73	220

On Table 5, data on Total Value Purchases is the total dollar value of livestock purchases reported to P&SP on packer annual reports filed with P&SP each year. Data on total head of steers and heifers, cows and bulls, hogs, and sheep and lambs are from federally inspected slaughter plants. Data on broiler and turkey slaughter are total slaughter reported to P&SP on live poultry dealer annual reports filed with P&SP each year.

The four largest packers' share of industry expenditures on livestock for slaughter has ranged from 66 to 71 percent for the past decade (Table 5). The four largest packers that slaughter steers and heifers accounted for 84 percent of total steer and heifer slaughter in 2016, a slight decrease from the previous year. Prior to 2009, concentration in steer and heifer purchases had remained around 80 percent.

ECONOMIC STATE OF THE LIVESTOCK AND POULTRY INDUSTRIES

Cow and bull slaughter has consistently been less concentrated than fed cattle slaughter. The four-firm concentration ratio increased to its highest level of 60 percent in 2013, declined to 57 percent in 2014 and has been 58 percent for the past 2 years. The four-firm concentration ratio for hog slaughter has remained in the low to mid-60's range for the last 10 years.

Due to the small total slaughter volume for sheep and lambs, moderate volume adjustments by any of the largest four packers can result in relatively large changes in market shares. The four-firm concentration ratio in the sheep and lamb market was between 60 and 70 percent from 2007 through 2012. The share decreased to less than 60 percent in 2013, declined further to 55 percent in 2014 but increased to 59 percent in 2016. The market shares and other concentration measurements likely overstate concentration in the lamb market because non-traditional markets account for as much as one-third of the lambs slaughtered in the United States and are not included in the totals.

Concentration in broiler slaughter has been between 50 and 51 percent for the past 3 years, a sharp decline from the 57 percent level seen in 2007 and 2008. The share of production accounted for by the four largest turkey slaughter firms ranged from 57 to 58 percent from 2014 to 2016.

Table 5. Annual Four-Firm Concentration Ratios Among Meat Packing and Poultry Processing - Federally Inspected Plants

Year	Total Value Purchases (Total $ Value) %	Steers & Heifers (Total Head) %	Cows & Bulls (Total Head) %	Hogs (Total Head) %	Sheep & Lambs (Total Head) %	Broilers (Total Lbs.) %	Turkeys (Total Lbs.) %
2007	66	80	55	65	70	57	52
2008	68	79	55	65	70	57	51
2009	71	86	55	66	68	53	58
2010	67	85	53	65	65	51	56
2011	67	85	52	64	67	52	55
2012	68	85	57	64	62	51	53
2013	67	85	60	64	59	54	53
2014	67	83	57	62	55	51	58
2015	68	85	58	66	56	51	57
2016	67	84	58	66	59	50	57

CHANGING BUSINESS PRACTICES IN THE LIVESTOCK AND POULTRY INDUSTRIES

PROCUREMENT AND PRICING METHODS

The pricing method that sellers and purchasers agree to use for a transaction is a fundamental characteristic of any market transaction. For livestock, pricing methods are most often divided into two categories: live-weight and carcass pricing methods.

In live-weight purchasing of livestock, the final payment is based on the weight of the live animal. Transactions that use some variation of live-weight purchasing are usually on an “as-is” basis with a single price per pound for all animals in the entire transaction. The price may be fixed by negotiation in advance, or established by formula from prices reported by AMS or a market price reporting service when the animals are delivered or slaughtered. In some instances, provisions may be made for paying different prices for animals that differ significantly from other animals in the transaction (e.g., animals that are much smaller than the average for the transaction may receive a different price).

In a carcass-based purchase, the final payment is based on each animal’s hot carcass weight, which is the weight of the carcass after the animal has been slaughtered and eviscerated. Carcass-weight transactions can involve a single price per hundredweight for all of the carcasses in a lot. They can also involve schedules of premiums or discounts based on the quality of the carcasses. These may be referred to as "carcass-merit" transactions. The price of carcasses can also be determined by other features, such as time of delivery and number of animals in the transaction. The price before premiums or discounts is referred to as the base price. One benefit of carcass-based pricing is the ability to convey market signals to livestock producers through premiums and discounts. The proportion of cattle purchased on a carcass basis has varied over the last 10 years with no obvious trend, ranging from around 57 percent to 64 percent of total purchases. The proportion of calves purchased on a carcass-weight basis is considerably less than the percentage of cattle, but has also exhibited a mixed pattern (Table 6).

**Table 6. Percentage of Livestock Purchases on a Carcass-Weight Basis
Packers Reporting to P&SP**

Year	Cattle %	Calves %	Hogs %	Sheep and Lambs %
2007	57.2	38.9	78.6	46.6
2008	62.3	46.1	87.8	55.2
2009	61.8	27.5	76.5	30.6
2010	59.1	36.2	77.5	31.6
2011	59.2	44.0	76.0	40.8
2012	60.6	28.9	76.4	36.2
2013	63.9	35.7	83.1	27.5
2014	62.9	38.7	76.9	26.5
2015	63.1	42.4	82.1	29.2
2016	66.1	41.3	82.3	30.4

CHANGING BUSINESS PRACTICES IN THE LIVESTOCK AND POULTRY INDUSTRIES

Carcass-based purchases have become the predominant procurement method of buying and selling hogs for slaughter and has comprised between 76 and 88 percent of the total over the last decade (Table 6).

The proportion of sheep and lambs purchased on a carcass basis fell to about 31 percent of the total in 2009, followed by an increase of nearly 10 percentage points in 2011, and was just over 30 percent in 2016.

The number of cattle sold through livestock auctions declined from 35.3 million head in 2007 to less than 33 million head in 2016 (Table 7). Stockers (heifers and/or steers that are being raised on pasture or other forage for sale later) and feeders (weaned calves that have been raised to a certain weight and then sent to feedlots to be fattened) make up the majority of cattle sold. Breeding stock, such as replacement heifers, young cows, and bulls, tend to sell through livestock auctions. Livestock auctions also sell a significant number of slaughter cows and bulls (beef or dairy cows and bulls that are no longer needed for breeding or milk production).

The volume of hogs marketed by market agencies selling hogs on commission from 2007 to 2016 has been between 7 and 9 million head in most years. The highest level of 9 million head occurred in 2009, but since then, volume declined most years to 7.7 million head in 2016 (Table 7).

The volume of sheep and lambs sold through market agencies selling on commission has varied slightly over the past 10 years, but remained close to 3 million head in most years (Table 7).

Table 7. Volume of Livestock Marketed Through Market Agencies Selling on Commission Reporting to P&SP (Thousand Head)

Year	Cattle	Hogs	Sheep and Lambs
2007	35,263	8,395	2,772
2008	32,792	7,553	2,872
2009	33,214	9,047	2,883
2010	35,623	8,471	2,974
2011	34,956	8,919	3,046
2012	33,683	8,119	2,857
2013	33,690	7,319	3,162
2014	33,426	7,185	3,079
2015	31,650	7,453	3,015
2016	32,970	7,662	3,416

CHANGING BUSINESS PRACTICES IN THE LIVESTOCK AND POULTRY INDUSTRIES

Packers use multiple direct exchange procurement methods to obtain livestock for slaughter. The methods commonly fall into two categories: (1) cash or "spot" sales for immediate delivery or delivery within 14 days, and (2) "committed procurement" arrangements that commit the livestock to a particular packer more than 14 days prior to delivery.

Committed procurement usually uses some form of formula pricing. In cash sales, the prices generally are negotiated, although the transaction may include grids to establish premiums and discounts after the transfer. Important components of committed procurement are "packer fed" livestock, "forward contracts" and "marketing agreements." P&SP defines "packer fed" livestock as all livestock obtained for slaughter that a packer, a subsidiary of the packer, the packer's parent firm, or a subsidiary of the packer's parent firm owns, in whole or part, for more than 14 days before the packer slaughters the livestock.

P&SP considers "forward contracts" to be agreements between packers and sellers for deliveries more than 14 days in the future of specific lots or quantities of livestock. The price of the livestock in a forward contract can be set at the time of the contract or determined upon delivery based upon an agreed pricing arrangement.

The term "marketing agreements" includes a variety of arrangements that establish an ongoing relationship for trading multiple lots of livestock rather than negotiating single lots. In these arrangements, the seller agrees to deliver livestock to the packer at a future date, with the price generally determined by some type of formula pricing mechanism. The price is often based on the reported cash market or meat price at the time of delivery, with premiums or discounts determined by evaluation of carcass characteristics.

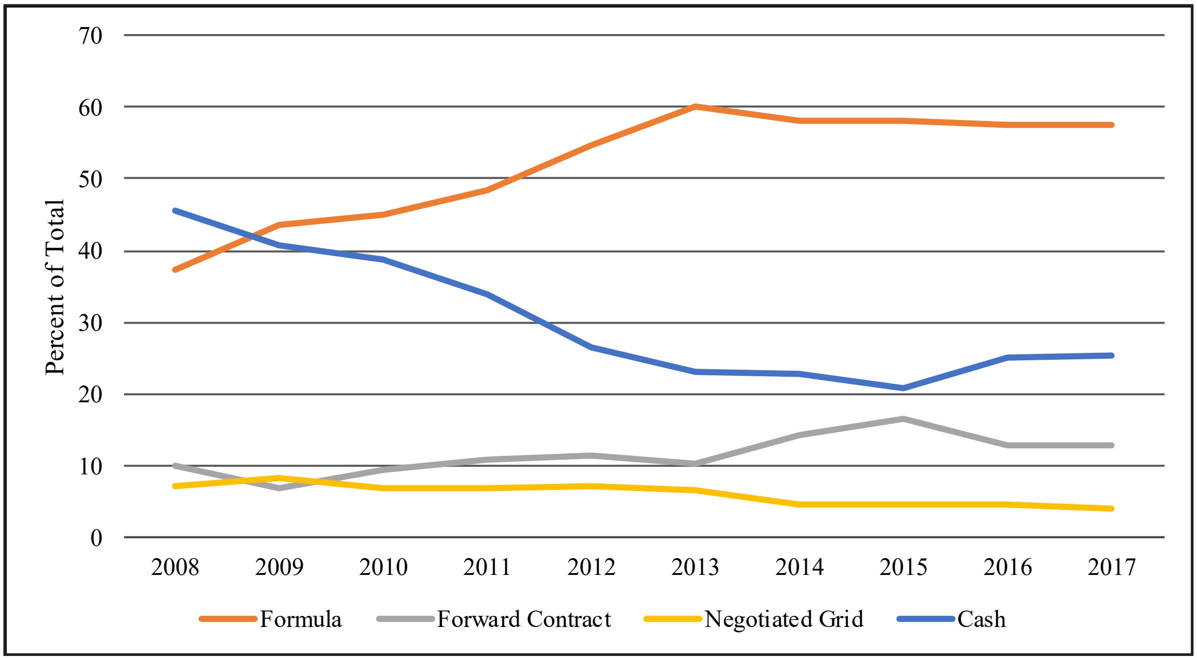
AMS publishes prices and volumes of livestock purchased under alternative pricing methods as reported under the provisions of the Mandatory Price Reporting Act (https://mpr.datamart.ams.usda.gov/).

Individual packers use a variety of procurement methods, ranging from packers that are fully integrated to packers that rely primarily on the open market. In 2017, formula pricing represented 58 percent of total fed cattle procurement compared to 37 percent in 2008 (Figure 2). Forward contracting accounted for 13 percent, higher than the 10-percent level in 2008 but a decline from 16 percent in 2015.

Negotiated pricing, including negotiated grid and cash or spot market transactions, made up over 29 percent of total fed cattle procured (not including packer-owned cattle) in 2017, down from almost 53 percent in 2008.

CHANGING BUSINESS PRACTICES IN THE LIVESTOCK AND POULTRY INDUSTRIES

Figure 2. Fed Cattle Procurement by Purchase Type, 2008 – 2017



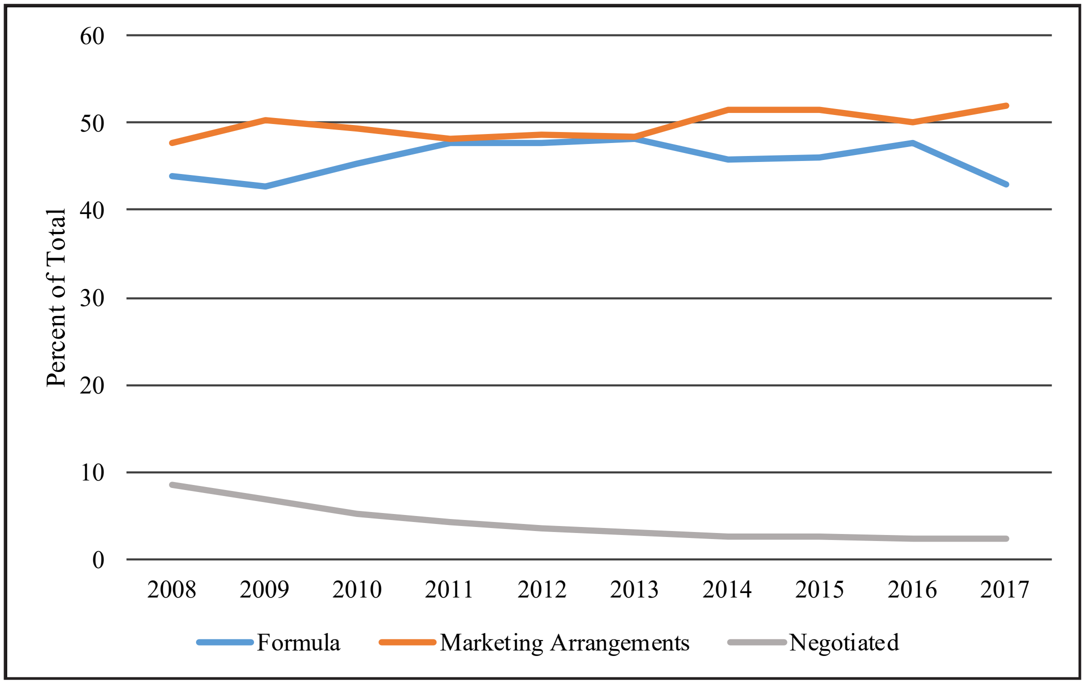
Most pork packers use some combination of packer-fed hogs, marketing agreements, forward contracts, and negotiated spot market procurement. These combinations typically vary by plant for multi-plant packers.

For all pork packers reporting to AMS in 2017, about 43 percent of procurement was based on some type of formula pricing (Figure 3). Pork packers obtained about 2 percent of their hogs on the negotiated spot market in 2017, compared to about 9 percent in 2008. Marketing agreements based on a formula accounted for 55 percent of hog slaughter reported to AMS.

CHANGING BUSINESS PRACTICES IN THE LIVESTOCK AND POULTRY INDUSTRIES

With the decline in the volume of negotiated spot market hogs, both production and slaughter sectors increasingly question whether the negotiated live price fully reflects the value of fed hogs sold for slaughter. Consequently, the industry began migrating from formulas based on negotiated live or carcass prices to other publicly reported prices. A popular replacement price is the pork carcass cutout price reported by AMS.

Figure 3. Hog Procurement by Purchase Type, 2008 – 2017



In some respects, the market for slaughter lambs is similar to markets for cattle and hogs, but in others, it is considerably different. Lambs tend to be marketed in one of two channels. In the traditional market for slaughter lambs, the lambs are fed in feedlots and marketed to packers. It is this traditional market that supplies most of the lamb to supermarkets and traditional stores.

Lamb packers use similar methods to purchase lambs as beef and pork packers. The methods include spot markets, marketing agreements, forward contracts, and packer feeding. In the traditional lamb market, packers purchased approximately 21 percent of their lambs under a negotiated price. They purchased about 48 percent with marketing agreements based on some type of formula, and packers fed about 31 percent of the lambs for slaughter (Figure 4).

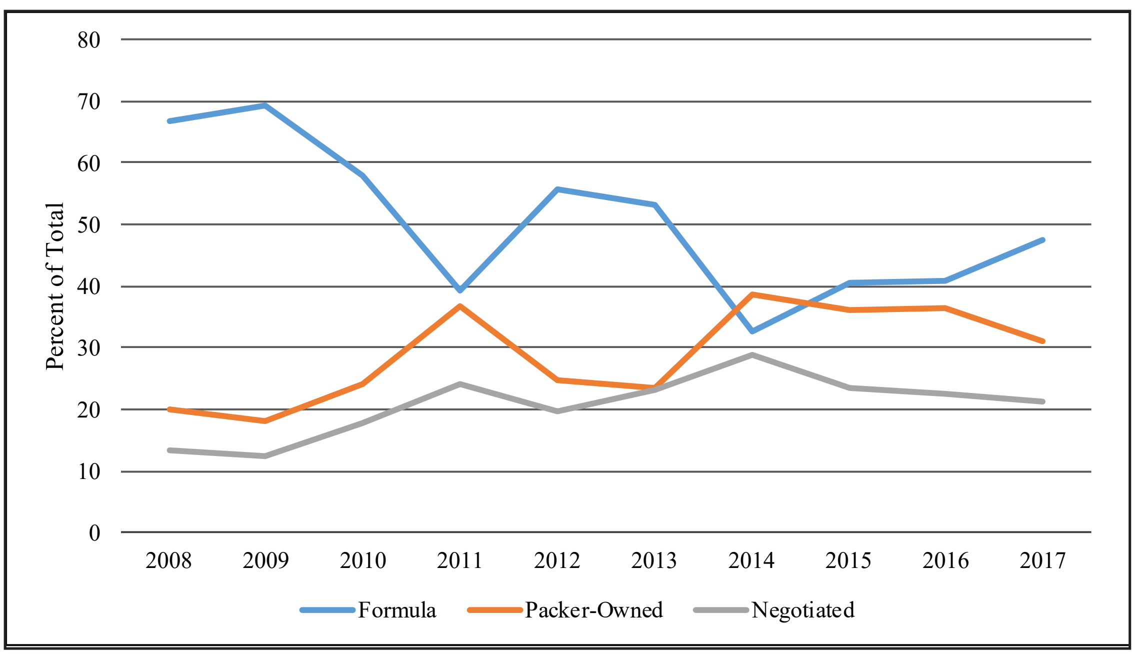
The non-traditional market is much different. It is characterized by small butchers and meat shops that process lambs and sell directly to consumers. Consumers can often choose the lamb before slaughter, and consumers may have the choice of purchasing the lamb and processing it themselves.

CHANGING BUSINESS PRACTICES IN THE LIVESTOCK AND POULTRY INDUSTRIES

One aspect of the non-traditional market is that lambs are not typically processed in federally inspected slaughter facilities. The packers that process the lambs are far too small to meet any of the mandatory price reporting requirements. Consequently, there are very limited data available on the number of lambs in the non-traditional market. There are also limited data on the prices paid for the lambs or the amount of meat produced. Some estimates suggest that the non-traditional market for lambs may account for as much as one-third of the lambs produced in the United States.

There are also small butchers and meat shops that process cattle and hogs to sell directly to end consumers, and there are consumers that purchase cattle or hogs and have them butchered. However, these buyers purchase a relatively small portion of the cattle and hogs produced in the United States.

Figure 4. Lamb Procurement by Purchase Type, 2008 – 2017



CHANGING BUSINESS PRACTICES IN THE LIVESTOCK AND POULTRY INDUSTRIES

CHANGES IN OPERATION AND ORGANIZATION

P&SP uses information about business practices at the packing plant level to identify industry trends. One significant measure may be the intensity of operations (e.g., one or two shifts per day). The number of plants in business at any given time might be another. The ownership of those plants may also be significant. Plant closures or re-openings can affect competition by shifting supply and demand patterns. The Federal Trade Commission and the Antitrust Division of the Department of Justice review industry mergers and acquisitions under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (Public Law 94-435).

P&SP monitors packers' mergers and acquisitions to determine whether a change in business practices might reduce competition. Other changes in operations and industry conditions may also affect competition as entities attempt to adjust to changing conditions. P&SP monitors these industry events for any competitive effects.

Cattle, Sheep, and Hogs

In November 2016, **One World Beef** started processing cattle at a plant in Brawley, California. The plant was previously owned by **National Beef Packing Co., LLC,** but National Beef closed it in 2013. In addition to its own products, One World Beef expects to operate as a toll or custom processor, that is, it expects to slaughter and process cattle on behalf of other packers charging them a fee for the service.

In January 2017, **Smithfield Foods** began operating **Clougherty Packing LLC** which it acquired from **Hormel Foods**. The acquisition includes two processing facilities and three hog farms as well as the Farmer John and Saags Specialty Meats brands. Clougherty Packing slaughters about 7,400 hogs per day.

In April 2017, **Cargill Meat Solutions Corporation** agreed to sell its feedlots in Yuma, Colorado, and Leoti, Kansas, to **Green Plains Inc**. The two feedlots had a combined one-time capacity of about 155,000 head. After the sale of Cargill's Texas feedlots in 2016, the Yuma, Colorado and Leoti, Kansas, feedlots were Cargill's last two feedlots. Green Plains is one of the world's largest ethanol producers, which began expanding into cattle feeding in 2014.

Prime Pork began operations in its new plant in Windom, Minnesota, in April 2017 processing about 5,000 hogs per day. The facility was the former **PM Beef** plant which Prime Pork converted into a pork facility.

CS Beef Packers, LLC began processing cattle at its newly built plant in Kuna, Idaho in May 2017. CS Beef is a joint venture involving **Caviness Beef Packers** and **J.R. Simplot Company.** CS Beef expects to process as many as 1,700 head of cattle per day. The plant processes non-fed cows and bulls and fed cattle for niche programs.

CHANGING BUSINESS PRACTICES IN THE LIVESTOCK AND POULTRY INDUSTRIES

Robinson Premium Beef, LLC, which does business as **Texas Packing Company,** began processing cattle at its facilities in San Angelo, Texas, in June 2017. The **Robinson Premium Beef** plant was previously owned by **San Angelo Packing Co., Inc.** but closed in 2013. Robinson Premium Beef expects to process 300 to 350 head of primarily cows and bulls per day.

In July, **Marubeni Corporation** announced that it would purchase **Creekstone Farms Premium Beef LLC** from **Sun Capital Partners, Inc.** Creekstone Farms processed about 1,400 head of fed cattle per day. Marubeni is a Japanese Corporation with diverse holdings world-wide.

In September 2017, **USA Beef** began processing cattle at its Roswell, New Mexico, plant. The facilities were formerly owned by **Pecos Valley Meats,** which closed in 2012. USA Beef expects to process up to 100 head of cows and bulls per day with the potential for processing sheep, lambs, and hogs as well.

Also in September 2017, **Seaboard Foods** and **Triumph Foods,** in a joint venture, opened a new plant in Sioux City, Iowa, that processes about 12,000 hogs per day. About two-thirds of the hogs come from Seaboard and Triumph farms and the remainder is sourced from other producers and the open market.

Clemens Food Group which owns **Hatfield Quality Meats**, opened a plant in Coldwater, Michigan, in September that processes about 11,000 hogs daily. Hatfield and nine area hog producers supply the hogs for the new plant.

Pipestone Systems, Pipestone, Minnesota, added 55,000 sows and is now the third largest hog producer after **Smithfield Foods** and **Seaboard Foods**. **Iowa Select**, the fifth largest hog producer, added 36,000 sows.

Seaboard Foods, in its attempt to supply one-third of the hogs to the new Sioux City, Iowa, plant, added 35,000 sows by buying **Texas Farms** and part of **Christensen Farms**. Its Texas Farms facilities has the ability to expand by another 15,000 sows.

Poultry

In January 2017, **Pilgrim's Pride Corporation** completed its purchase of **Gold'n Plump,** based in St. Cloud, Minnesota**.** This expands Pilgrim's range of antibiotic-free products and its organic products.

Sanderson Farms opened a new processing plant in St. Pauls, North Carolina, also in January. The new facility processes over 1 million birds per week.

On February 25, 2017 a fire destroyed a **House of Raeford Farms** processing plant in Teachey, North Carolina that employed about 675 people. In June, House of Raeford announced it had chosen a contractor to rebuild the plant that it expects to be completed in 2018. **Sanderson Farms** processed chickens grown by House of Raeford Farms at its St. Pauls, North Carolina, facility on an interim basis.

In June 2017, **Holly Poultry** opened a new chicken processing facility in West Baltimore, Maryland. Holly Poultry expects the new plant to double its processing capacity to approximately 3.2 million pounds of chicken per week.

CHANGING BUSINESS PRACTICES IN THE LIVESTOCK AND POULTRY INDUSTRIES

CHANGING BUSINESS PRACTICES

Cargill sold the last of its feedlots in 2017. JBS has announced that it was offering all of its feedlots for sale. The sale would mark a change in the industry. Before Cargill began selling its feedlots in 2015, it was one of the largest U.S. cattle feeders. JBS is currently the largest U.S. cattle feeder, but if JBS is successful in selling its feedlots, none of the largest beef packers would own feedlots.

Packers will still be able purchase cattle and have them fed in custom feedlots, but selling their feedlots is likely an indication of a desire to own fewer cattle and a preference for contracting rather than ownership for upstream coordination.

With the purchase of **Cargill's** feedlots in Colorado and Kansas, an ethanol producer, **Green Plains, Inc**., will be among the largest U.S. cattle feeders. It demonstrates the importance of distiller's grains in the cattle-feeding ration. In 2000, grain merchandizers such as Cargill, ConAgra, and Continental Grain were the largest U.S. feedlot operators. Now all three are out of the feedlot business and an ethanol producer is among the largest.

INDUSTRY CONDITIONS AND EVENTS

Cattle, Sheep, and Hogs

Things appear to be moving in a positive direction for the pork industry as a whole, as both domestic and international demand for U.S. pork are strong, slaughter capacity is increasing, production costs are low, and disease appears to be under control. However, since growth in the industry is largely dependent on the export sector, a trade disruption in any of the major markets would harm the entire pork complex. In 2017 many large producers were scrambling to expand and during the past year, nearly a quarter of a million sows were added by the top 40 producers.

Production growth has largely occurred among existing large hog producers, rather than smaller producers or new entrants. The top 40 producers have increased their sow inventories in 2017 by about 250,000 head and now control just over 4 million head or about 57 percent of total U.S. sows. Similarly, integration between producers and packers appears to be increasing. Contrary to the industry trends observed in recent decades, integration has been forward rather than backward. Two of the three new large packing plants that opened in 2017 are a result of large producers entering into the packing sector of the industry.

Increased demand has boosted hog prices. Except for the April through June period, prices in 2017 have remained above 2016 levels and increased about $10 per hundredweight in October after two new plants opened. Higher hog prices have generally increased producer profitability in 2017 compared to 2016. In the first two-thirds of the year, profits were higher than in 2016 and in the last four months of the year losses are expected to be in the $10 to $20 per hundredweight range compared to $30 to $40 per hundredweight in 2016.

CHANGING BUSINESS PRACTICES IN THE LIVESTOCK AND POULTRY INDUSTRIES

The agreement in principle between Japan and the European Union (EU) on a free trade deal in July 2017, and a potential Trans-Pacific Partnership (TPP) arrangement, could leave U.S. pork exports at a significant tariff disadvantage relative to competitors. The two agreements are likely to contain similar tariff concessions for a wide range of pork products including fresh, chilled and frozen pork as well as processed products such as ham, bacon, sausage, ground seasoned pork and canned ham. The Japan-EU agreement could come into force as early as 2019 while Japan continues to advocate for a TPP arrangement without the United States. Similarly, on October 25, 2017, Russia issued decree No. 1292, expanding the ban on the imports of agricultural products from the countries that applied economic sanctions against Russia, including the United States, to live swine and certain meat by-products. Similar to the decree issued in June 2017, this import ban will be in effect until December 31, 2018.

Poultry

In May 2017, **Tyson Foods Inc.** announced that its chicken will be antibiotic free by the end of the year. **Perdue Foods** and **Pilgrim's Pride Corporation** have already begun to produce poultry without antibiotics. In August, Tyson announced the opening of a state-of-the-art, 75,000-square-foot hatchery in Springdale, Arkansas to facilitate its transition to chicken production without antibiotics. The new hatchery will supply chicks to the company's northwest Arkansas operations.

INDUSTRY CONCERNS

Cattle, Sheep, and Hogs

An issue of concern for cattle and beef markets in 2017 and for several previous years has been thinning of the cash markets for fed cattle, and it will likely remain an issue of concern for some time. Many of the formula price agreements in the fed cattle market rely upon cash prices as a reference point, and the proportion of fed cattle purchased with cash prices has significantly declined in recent years to a low of just above 21 percent in 2015. While the percentage of cash transactions increased by a few points in 2016 and 2017, it continues to be only about 25 percent. Consequently, a relatively small proportion of cattle traded on a cash basis determine the price for millions of head of fed cattle every year.

Thin markets do not necessarily imply a violation of the Packers and Stockyards Act, but thin markets can create problems. If the market gets "too thin," stakeholders can lose confidence that reported cash market prices are representative of the fed cattle market as a whole. Any time that a reported average is based on a smaller number of reported prices, the average will be more sensitive to the price of each individual transaction. The implications are that prices may be more volatile and more susceptible to manipulation.

Markets for sheep and lamb have become so thin that USDA's Market News Service finds it increasingly difficult to report prices for market lambs without disclosing prices that individual packers paid for lambs. The Market News Service has made several changes to address the issue, but the inevitable result is less information available to the market. With contracts for live lambs, boxed lamb, and livestock insurance dependent on price reports, thin markets are forcing changes in the way that the lamb market conducts business.

CHANGING BUSINESS PRACTICES IN THE LIVESTOCK AND POULTRY INDUSTRIES

Poultry

Highly pathogenic avian influenza (HPAI) became a concern briefly in 2017 in some States in the Southeast. On March 8, a commercial chicken flock in Giles County, Tennessee, tested positive for H7N9 low pathogenic avian influenza (HPAI). The flock was depopulated, and domesticated poultry within a 6 1/4-mile radius were also tested and monitored for illness. That surveillance zone was released on March 30. In April, the State lifted a statewide poultry health advisory and removed the control zone around two Lincoln County poultry farms hit by HPAI, allowing poultry owners to resume regular activity. In April, Mississippi began implementing new measures at poultry sales and exhibitions because of the influenza outbreak.

P&SP REGIONAL OFFICE ACTIVITIES

The Packers and Stockyards Program conducts two broad types of activities at the regional office level—investigations and regulatory activities. P&SP generally categorizes regulatory and investigative activities as addressing areas of competition, trade practice, or financial concerns.

Investigations and regulatory activities are conducted by agents stationed in a regional office or by resident agents. P&SP resident agents located in the field are the agency's frontline staff who work daily with regulated entities as well as livestock producers and poultry growers. They are typically the first responders for complaints and, because of their daily contact with the industry, primary sources of market intelligence. The locations of P&SP offices and resident agents are shown in Figure 8 in Appendix B.

Regulatory activities are compliance reviews carried out to determine if a regulated entity is complying with the P&S Act and regulations. Regional offices initiate regulatory activities based on annual business volume of the regulated entity, time elapsed since the last review, information obtained from an annual report submission, or from the P&SP Strategic Business Plan that is used to determine the annual industry compliance rate. Examples of regulatory activities include:

- Registering market agencies, dealers, and packer buyers who operate subject to the P&S Act,
- Conducting orientations for new dealers, livestock auctions, and packers,
- Checking the accuracy and repeatability of weighing livestock, carcasses, and live poultry,
- Auditing custodial accounts and payment practices,
- Reviewing marketing practices and determining the adequacy of bond amounts,
- Assisting producers with filing bond and trust claims, and
- Analyzing bond and trust claims.

Regulatory activities also include market-level price monitoring. P&SP monitors industry markets using publicly available data. For example, every week P&SP monitors fed cattle and hog prices as reported by AMS. P&SP also analyzes structural changes in the livestock, meat, and poultry industries. These monitoring activities have led to firm-level investigations.

P&SP initiates an investigation when it has information that a violation of the P&S Act has occurred. For example, P&SP may initiate an investigation in response to:

- a complaint from an industry participant,
- finding of possible violations during a routine regulatory activity,
- self-reported violations on annual and special reports filed with P&SP,
- possible violations found through other monitoring activities, and
- a need for follow-up on previously identified violations of the P&S Act

Stakeholders in the livestock and poultry industries and the public may report complaints in one of three ways. They may call the P&SP hotline at (833) 342-5773 (DIAL PSD). They can call any of the regional offices to discuss their concerns, or they can send an e-mail to PSDComplaints@ams.usda.gov. If desired, complainants may register their concerns anonymously. P&SP responds to all of these external contacts.

P&SP REGIONAL OFFICE ACTIVITIES

P&SP sees a range of outcomes from its investigative and regulatory activities. P&SP agents frequently find minor violations or none at all. The regional offices often attempt to achieve informal compliance of minor violations by asking regulated entities to take immediate corrective action.

When agents uncover violations that are more serious, the regional office typically issues a Notice of Violation as a first step. If the regulated entity fails to correct the identified violations, the regional office generally refers a formal investigative case file to LEAD with a recommendation for more formal enforcement. LEAD may stipulate[2] the violation(s) with the entity to resolve the violations. It may pursue administrative enforcement through USDA's Office of the General Counsel before a USDA Administrative Law Judge, or through the Department of Justice in Federal court.

Administrative enforcements[3] may result in a civil penalty against the regulated entity, suspension of the entity's Packers and Stockyards registration, both a fine and suspension, or an order to cease and desist from repeating the violation(s). In FY 2017, 53 entities stipulated to penalties totaling $128,575. Administrative Law Judges levied $489,950 in penalties, and Federal courts awarded $128,950 for a total of $747,475 in civil penalties (Table 8). Total civil penalties in 2017 are higher than in 2016 but lower than in the previous 3 years.

[2] A stipulation is a legal agreement citing violation(s) found, and the civil penalty amount P&SP will accept in settlement without pursuing a formal action. In signing the stipulation agreement, respondents agree to pay the civil penalty and waive the right to a hearing.

[3] Administrative enforcement is legal action taken within USDA. A complaint alleging specific violations is filed against a firm or individual. The accused party has a right to a hearing before an administrative law judge. The judge's decision may be appealed to the USDA Judicial Officer. The accused party may appeal the Judicial Officer's ruling to a U.S. Appeals Court, and further to the Supreme Court of the United States.

Table 8. Penalties Levied for Packers and Stockyards Act Violations FY 2013 - 2017

Type Judgment	2013	2014	2015	2016	2017
Stipulations	$167,387	$118,025	$158,950	$155,425	$128,575
Administrative Penalties	$2,998,614	$1,230,150	$499,300	$128,900	$489,950
Department of Justice Civil Penalties	$84,900	$12,400	$299,360	$74,468	$128,950
Total Penalties	$3,250,901	$1,360,575	$957,610	$358,793	$747,475
Suspensions	34	11	6	7	5

P&SP REGIONAL OFFICE ACTIVITIES

ENFORCING BUSINESS-PRACTICE PROVISIONS

The regional offices are responsible for conducting regulatory reviews and investigations of competition and trade practice provisions of the P&S Act, collectively referred to as business-practice provisions. The regional offices investigate alleged anti-competitive practices and unfair and deceptive trade practices by market agencies, livestock dealers and commission buyers, packers, and live poultry dealers.

Resident agents and resident auditors conduct investigations and regulatory activities from field locations throughout the region. Economists, legal specialists, and investigative attorneys conduct the more complex competition investigations and regulatory activities. For example, an economist might monitor market and firm prices for indications of anti-competitive behavior. Marketing specialists conduct trade practice investigations and regulatory actions related to inaccurate scales or carcass evaluation instruments, improper weighing practices, and compliance with contracts.

Competition

P&SP investigates complaints alleging anti-competitive behavior such as collusion, price fixing, failure to compete, buyers acting in concert to purchase livestock, apportionment of territory, price discrimination, price manipulation, and predatory pricing. P&SP's economists, legal specialists, and investigative attorneys collaborate with USDA's Office of the General Counsel on competition investigations. When the results of an investigation, the evidence, and circumstances support legal action, P&SP formally refers the case file to the Office of the General Counsel for enforcement. The Office of the General Counsel further refers some cases to the Department of Justice.

P&SP monitors changes in industry behavior in order to understand the nature of and reasons for changes, and to anticipate potential competition issues that may result from those changes. P&SP also conducts economic analysis of significant industry events, including mergers, acquisitions, and plant closings. P&SP interacts with the Department of Justice and the Commodity Futures Trading Commission (CFTC) on competition investigations and when analyzing mergers and acquisitions.

Fed Cattle and Hog Market Price Monitoring

P&SP's fed cattle and hog market price monitoring program includes a weekly internal reporting protocol based on statistical models, one for the fed cattle markets and the other for hog markets. The statistical models rely on publicly reported price data to assess regional price differences.

In 2017, P&SP price monitoring activities identified 39 outliers in the fed cattle markets and 33 outliers in the hog markets. In reviewing these price differences, P&SP determined that, in each instance, it could attribute the price anomalies to external market factors, such as weather conditions or other circumstances.

P&SP REGIONAL OFFICE ACTIVITIES

Poultry Contract Compliance Review Process

Poultry is almost exclusively grown under production contracts. Under a production contract, the live poultry dealer provides the poultry grower with many inputs including the live chicks, feed, and medications. The poultry grower will in turn provide the housing, equipment, labor, and fuel to grow the birds to a target weight established in the production contract. Once the birds meet the target slaughter weight, the live poultry dealer picks up the birds for slaughter. The payment to the poultry grower for their growing services is often determined by a poultry grower ranking system (commonly referred to as a tournament) outlined in the production contract.

P&SP regularly conducts poultry contract reviews in which it reviews poultry contracts and payment practices for consistency and compliance with the P&S Act and regulations. P&SP generally selects a sample of payment data from the live poultry dealer's records for a detailed review for accuracy and completeness and compares the results to the integrator’s ranking sheets, settlement sheets, and payments to ensure adherence to the contract.

In FY 2017, P&SP conducted 68 poultry contract compliance reviews; 42 were conducted pursuant to a Strategic Business Plan random sample and included as a component of P&SP’s performance measure (see Packers and Stockyards Program Performance and Efficiency section).

If P&SP uncovers discrepancies, it opens an investigation. If P&SP does not find evidence of a violation, the review is closed with a finding that the live poultry dealer is in compliance.

Trade Practices

P&SP reviews the activities of regulated entities to ensure that packers, market agencies, livestock dealers, and live poultry dealers do not engage in unfair or deceptive practices in the procurement and marketing of livestock, meat, and live poultry.

Regulated entities that own or use a scale for the purchase, sale, or payment for livestock or poultry are required to file scale test reports as evidence of accuracy of scales, but P&SP also examines scales and weighing practices. P&SP also evaluates the accuracy and use of electronic carcass evaluation devices when the equipment is used to determine payment for livestock.

P&SP investigates complaints against packers, market agencies, and dealers alleging violations of the P&S Act and when appropriate, refers matters to Office of the General Counsel for formal resolution of the complaints.

Entities that furnish stockyard services in commerce, i.e., services at a stockyard in connection with the receiving, buying, selling, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling livestock, are required to post a notice that informs the public that the stockyard meets the definition of a stockyard under the P&S Act. Once posted, the stockyard remains posted until P&SP de-posts it through public notice.

P&SP REGIONAL OFFICE ACTIVITIES

Historically, several commission firms bought and sold livestock at the terminal stockyards, but most of these are gone now. Today, nearly all of the posted stockyards are local livestock auctions. Internet and video auctions that hold sales of livestock over the internet or through a video platform are still subject to the P&S Act and regulations, even if they do not operate at a posted stockyard. An amendment to the P&S Act in 2016 made clear that farmers and ranchers selling through online and video auctions are offered the same protections as those selling at traditional livestock auctions.

P&SP meets with new auction owners and managers, ideally before it begins operations, to ensure that operators understand their responsibilities under the P&S Act and regulations. Visits in the early stages of operation also serve to protect livestock producers who rely on the livestock auction to provide a nondiscriminatory and competitive marketplace.

P&SP reviews procurement practices of packers to determine if they have engaged in unfair or deceptive trade activities or have provided undue or unreasonable advantages in procuring livestock or poultry. The reviews assess procurement and pricing methods, payment practices, and weighing of livestock and carcasses.

> Anyone who believes that an action or omission of a stockyard, market agency, or dealer caused personal loss or damage in violation of the P&S Act may file a complaint seeking reparation (damages) with P&SP within 90 days of learning of the action that caused damages.

P&SP REGIONAL OFFICE ACTIVITIES

A transaction made on false or inaccurate weights, including instances in which a livestock auction, livestock dealer, or packer modifies the actual weight of the livestock or fails to pass on a shrink allowance, is an unfair and deceptive practice. The P&S Act and regulations require livestock auctions, dealers, and packers to test scales used for the purposes of determining payment two times per year, with one test in the first 6 months and one test in the second 6 months and to file scale-test reports as evidence of scale maintenance and accuracy. State or local governments and private companies test scales.

P&SP inspects the scales used by livestock auctions, dealers, and packers for weighing live animals. P&SP inspects hopper scales for weighing poultry feed. It tests static and dynamic monorail scales used to weigh livestock carcasses in slaughter plants and also conducts feed weighing inspections on truck scales and hopper scales at feed mills.

In addition, P&SP conducts several types of regulatory and investigative inspections to ensure scale operators and entities subject to the P&S Act are using their scales properly and recording weights accurately in the purchase and sale of livestock and for payments to hog and poultry contract growers.

These inspections include check weighing to assure repeatability of weight. The types and number of weighing inspections conducted by P&SP and violations from 2013 to 2017 appear in Table 9. In 2017, out of 864 inspections conducted, P&SP agents found a total of 154 violations, or 82 percent in compliance, significantly higher than the 73 percent without violations in 2016.

Table 9. Weighing Inspections and Violations, FY 2013 - 2017

Type	2013	2014	2015	2016	2017
Inspections					
Livestock Auctions	358	319	376	391	294
Dealers	231	294	247	253	241
Packers	148	156	160	143	138
Poultry	95	106	101	110	108
Feed	65	81	75	88	83
Total	**897**	**956**	**959**	**985**	**864**
Violations					
Livestock Auctions	68	65	108	134	56
Dealers	33	52	44	56	30
Packers	33	42	36	39	37
Poultry	11	10	7	21	14
Feed	8	14	13	15	17
Total	**153**	**183**	**208**	**265**	**154**

P&SP REGIONAL OFFICE ACTIVITIES

ENFORCING FINANCIAL PROVISIONS

The financial provisions of the P&S Act and regulations support the financial integrity of regulated entities and foster liquidity in markets for livestock, meat, and poultry. P&SP enforces these provisions through several activities that include on-site financial compliance reviews and investigations and reviewing annual and special reports submitted by regulated entities. Financial compliance reviews and investigations address five issues. These issues include maintenance of custodial accounts, solvency, payment to livestock sellers and poultry growers, bond claims, and trust claims.

Under the P&S Act, most regulated entities are required to be solvent, i.e., current assets must exceed current liabilities. P&SP monitors solvency by conducting on-site financial compliance reviews and investigations. P&SP also monitors solvency by reviewing financial data in annual and special reports filed by regulated entities. P&SP requires special reports from entities whose annual reports disclose insolvencies. If P&SP determines that an entity is insolvent, it notifies the entity that it must correct the insolvency immediately. In addition, P&SP conducts on-site financial investigations. These investigations confirm whether entities correct reported insolvencies. The investigations also confirm whether entities resolved other financial issues. P&SP initiates formal disciplinary action when appropriate.

Market agencies selling livestock on commission such as local livestock auctions, video and internet auctions, are required by the P&S Act and regulations to establish and maintain a bank account designated as "custodial account for shippers' proceeds." This account is a trust account which holds in trust proceeds from the sale of consigned livestock for the benefit of livestock sellers. The market agency selling on commission acts as a fiduciary depositor to the account.

P&SP monitors custodial accounts in several ways. It reviews annual and special custodial account reports from market agencies and conducts on-site custodial account audits. When the reviews reveal custodial account shortages, P&SP acts to have the livestock auction bring the account into balance by issuing a Notice of Violation or preparing for a formal enforcement. The table below shows the annual number of custodial reviews conducted by P&SP, the number of violations found, and the value of shortages corrected by market agencies because of the intervention of P&SP.

Table 10 shows that P&SP conducted 417 custodial reviews in 2017 and found 193 violations. The number of shortages in 2017 was similar to 2015 and 2016, but the dollar value of the shortages was considerably lower.

Table 10. Number of Custodial Account Reviews, Violations Found, and Shortages Corrected, FY 2013 - 2017

Year	Reviews	Account Violations	Shortage Corrections ($)
2013	423	158	$3,364,543
2014	342	98	$3,846,844
2015	400	180	$2,978,657
2016	453	204	$3,317,866
2017	417	193	$1,668,901

P&SP REGIONAL OFFICE ACTIVITIES

Bond Protections for Unpaid Livestock Sellers

All market agencies, all livestock dealers, and packers purchasing over $500,000 of livestock annually must file and maintain bonds or bond equivalents for the protection of livestock sellers. The bonds are for the benefit of unpaid livestock sellers should a regulated entity fail to pay for livestock. Those required to meet the bonding requirement may choose from three options to comply.

They may obtain a surety bond or in lieu of a surety bond, they may pledge one or more savings accounts or certificates of deposit under a Trust Fund Agreement. Alternatively, they may obtain one or more irrevocable, transferable, standby letter(s) of credit, issued by a federally insured bank or institution, and pledge the letter(s) of credit to a Trust Agreement. They may use a combination of these options to meet the total bond requirement.

To be eligible to receive payment under the bond, a livestock seller who does not receive payment for a transaction must file a bond claim within 60 days of the transaction. The seller may obtain claim forms from P&SP regional offices or at www.gipsa.usda.gov.

The seller must file a completed claim form, accompanied by supporting documents, with P&SP, or the surety company. P&SP analyzes each claim to determine whether the claimant filed it timely and whether the claimant provided adequate documentation to support the claim. P&SP provides its analysis to the principal and to the bond surety or trustee on a bond equivalent. The surety or the trustee decides whether claims are valid and timely filed and how much will be paid.

When circumstances warrant, P&SP immediately deploys a rapid response team to conduct an investigation for potentially serious financial situations that may cause imminent and irreparable harm to livestock producers.

P&SP REGIONAL OFFICE ACTIVITIES

Bonds often do not cover the entire loss sustained when a firm fails to make full payment. In that case, the claimant(s) receives a pro-rata share of the bond based on the value of the bond and the total amount of the valid, timely claims.[4]

The dollar amount of total claims on dealer bonds often varies significantly from the dollar amount of valid claims. This is because sellers frequently file claims beyond the 60 days after the transaction took place, and in this circumstance, the surety may deny the claim. Claim numbers have been revised for some years compared to those reported previously due to updated claim information and discrepancies in some years. The most significant change is for FY 2011 involving claims against Eastern Livestock. In this report, we are using totals in court documents from bankruptcy proceedings.

Over the past 9 years, the largest dollar amount of valid claims were filed in 2011, and the rate of recovery in 2011 was a low of 11 percent. Claims filed in subsequent years had declined substantially until 2016 when the dollar value of valid claims increased to over $11 million. The share of valid claims recovered declined to 14 percent in that year. In 2017, the dollar amount of valid dealer bond claims filed decreased to less than $1 million, and almost 60 percent of that amount has been recovered as of the end of the fiscal year (Table 11).

Table 11. Dealer Bond Claims and Recovery, 2009 - 2017

Fiscal Year	Total Claims	Valid Claims	Bond	Other	Total Recovered	% Valid Claims Recovered
2009	$3,134,145	$3,134,145	$348,018	$411,133	$759,151	24
2010	$213,332	$101,512	$51,781	$4,479	$56,260	55
2011	$38,521,193	$18,516,016	$1,132,329	$851,944	$1,984,273	11
2012	$1,060,117	$516,344	$95,000	$68,811	$163,811	32
2013	$3,877,665	$3,828,780	$328,810	$2,411,470	$2,740,281	72
2014	$15,315	$13,315	$10,315	$0	$10,315	77
2015	$838,700	$20,926	$4,510	$16,416	$20,926	100
2016	$11,466,498	$11,331,648	$1,308,839	$273,947	$1,582,786	14
2017	$1,028,459	$752,707	$290,133	$151,813	$441,946	59

Claims against livestock auctions also varied widely each year over the past 9 years, and the total dollar amount of valid claims has been less than $1 million in any year though usually significantly less (Table 12). The proportion of claims recovered was lowest in 2009 and 2012, but since then, there has been restitution on up to 90 percent or more of valid claims in most years. In 2017, the total dollar value of valid claims was less than $200,000, and 73 percent of that amount has been recovered as of the end of the fiscal year. Claims for FY 2016 were updated from the previous report based on updated claim information.

[4] In all bond claim tables, total claims are computed for the fiscal year in which the first claim was received. Bond claims are not always closed in the same fiscal year they were first opened and recovery for claims may be ongoing. Claims that are withdrawn are not included in any of the totals. Total Recovered amount is as of end of FY 2017.

P&SP REGIONAL OFFICE ACTIVITIES

Table 12. Livestock Auction Bond Claims and Recovery, 2009 - 2017

Fiscal Year	Total Claims	Valid Claims	Bond	Other	Total Recovered	% Valid Claims Recovered
2009	$981,189	$981,189	$261,498	$1,365	$262,863	27
2010	$20,901	$4,547	$4,547	$0	$4,547	100
2011	$75,119	$23,518	$22,162	$1,357	$23,519	100
2012	$877,861	$201,657	$82,953	$0	$82,953	41
2013	$763,422	$0	$0	$0	$0	NA
2014	$12,181	$706	$706	$0	$706	100
2015	$69,307	$66,307	$60,000	$0	$60,000	90
2016	$397,946	$0	$0	$0	$0	NA
2017	$441,433	$197,913	$143,468	$639	$144,107	73

As discussed earlier, the P&S Act authorizes unpaid livestock sellers to claim against packer trust assets. The trust is additional protection over any bond held by the packer. Some claim numbers have been revised compared to those reported previously due to updated claim information and discrepancies between years corrected. The most significant change is in FY 2016 which now includes claims against Sam Kane. Claims against packer bonds and trust assets resulted in a recovery of almost the entire amount owed for valid claims opened in 2016, and 96 percent of claims in 2017 (Table 13). These are the largest dollar amount of claims against packer bonds and trusts that have been filed in the past 9 years and recovery has been primarily from trust assets. In 2010, the majority of the recovery was from a source other than bonds and the trust. This is referred to as "Other" and is usually a loan or an injection of capital by an owner or investor, which the packer uses to pay unpaid livestock sellers.

Table 13. Packer Bond and Trust Claims and Recovery, 2009 - 2017

Fiscal Year	Total Claims	Valid Claims	Bond	Trust	Other	Total Recovered	% Valid Claims Recovered
2009	$15,676,349	$15,676,349	$196,208	$9,999,228	$0	$10,195,436	65
2010	$5,960,684	$5,960,684	$748,435	$0	$3,825,518	$4,573,953	77
2011	$586,293	$586,293	$0	$81,978	$422,502	$504,480	86
2012	$22,706	$4,422	$0	$0	$0	$0	0
2013	$0	$0	$0	$0	$0	$0	NA
2014	$39,765	$0	$0	$0	$0	$0	NA
2015	$191,298	$114,992	$0	$99,485	$0	$99,485	87
2016	$14,210,690	$14,210,690	$20,000	$14,172,296	$7,259	$14,199,556	99.9
2017	$23,757,904	$23,757,904	$0	$22,722,824	$0	$22,722,824	96

P&SP REGIONAL OFFICE ACTIVITIES

Poultry growers and live poultry sellers do not file claims against live poultry dealers as frequently as livestock sellers, and there were no claims filed for several years (Table 14). In 2017, there was full restitution for claims filed against poultry dealers and the poultry trust accounted for all of the reimbursement.

Table 14. Poultry Trust Claims and Recovery, 2009 - 2017

Fiscal Year	Total Claims	Valid Claims	Trust	Other	Total Recovered	% Valid Claims Recovered
2009	$0	$0	$0	$0	$0	NA
2010	$0	$0	$0	$0	$0	NA
2011	$8,010,978	$702,881	$270,525	$427,905	$698,430	99
2012	$387,688	$375,988	$187,354	$0	$187,354	50
2013	$127,596	$0	$0	$0	$0	NA
2014	$1,579,548	$1,579,548	$0	$0	$0	0
2015	$0	$0	$0	$0	$0	NA
2016	$0	$0	$0	$0	$0	NA
2017	$82,840	$82,840	$82,840	$0	$82,840	100

P&SP PROGRAM PERFORMANCE AND EFFICIENCY

P&SP delivers its mission by identifying broad, strategic, multi-year goals. It also sets shorter-term tactical annual objectives and activities as set forth in its annual Strategic Business Plan. This section addresses how P&SP strives to improve its performance and efficiency, and the demonstrated results.

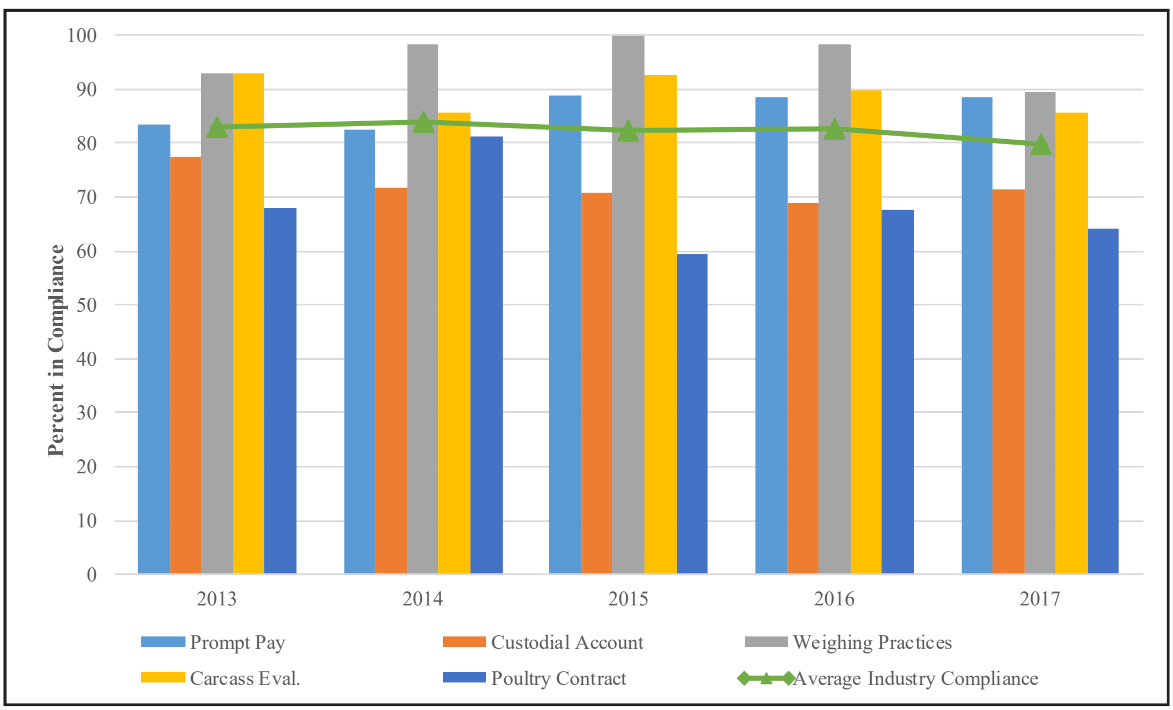
PERFORMANCE MEASUREMENT

P&SP assesses its performance annually by measuring industry compliance with the P&S Act and regulations. P&SP performs compliance reviews of a scientifically selected sample of regulated entities to estimate compliance rates in the following five areas:

1) Prompt payment of livestock auctions, dealers, and packers,
2) Financial reviews of livestock auction custodial accounts,
3) Scales and weighing practices at livestock auctions, dealers, and live poultry dealers,
4) Static and dynamic monorail scales, carcass evaluation devices, and related practices at livestock packing plants purchasing more than 1,000 head per year, and
5) Contract compliance of live poultry dealers with contract poultry growers.

P&SP analyzes compliance data and general economic conditions. It uses this information to deploy its resources effectively to meet changing industry conditions. Compared to FY 2016, weighing practices compliance declined from 98 percent to 90 percent, carcass evaluation compliance declined from 90 percent to 86 percent, and poultry compliance declined from 68 percent to 64 percent. The other components of the index did not change substantially from the prior year (Figure 5).

Figure 5. Industry Compliance by Component and Average Industry Compliance, 2013-2017



P&SP PROGRAM PERFORMANCE AND EFFICIENCY

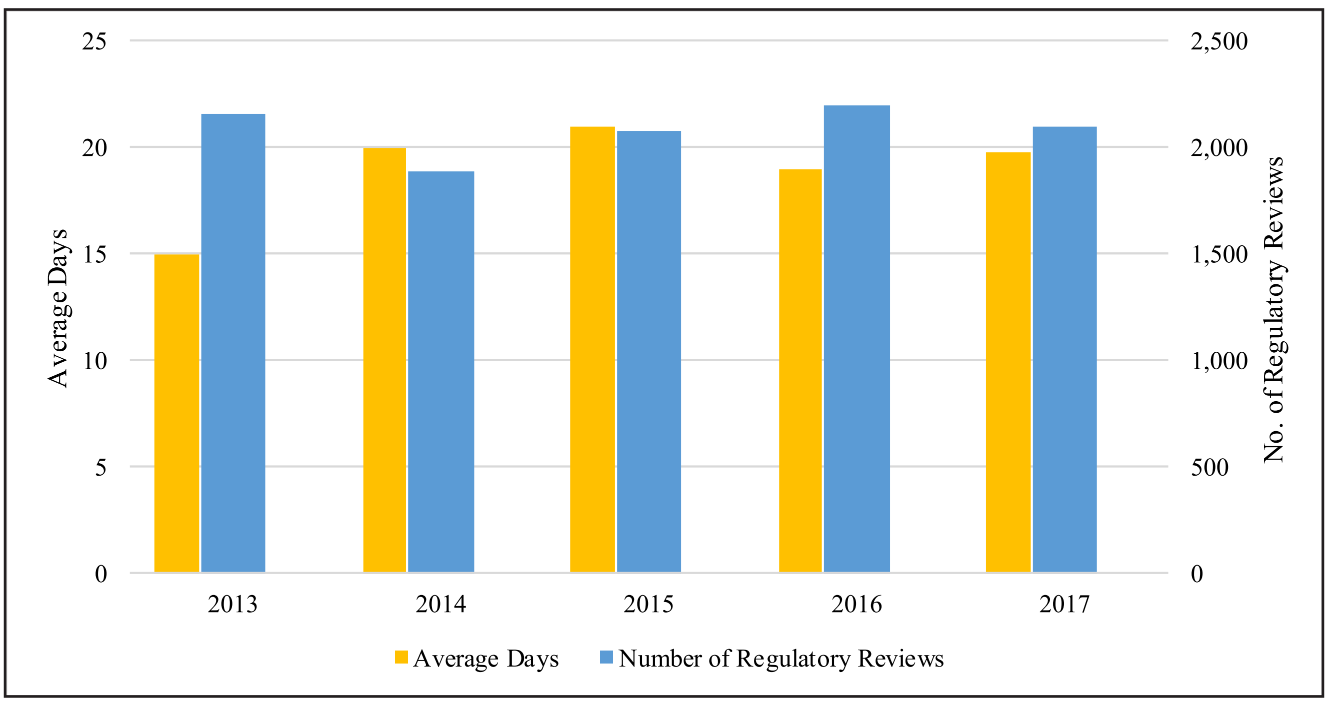
P&SP puts emphasis on educational and outreach activities that improve industry compliance. During each regulatory review or investigation, P&SP agents discuss how to achieve compliance with regulated entities. However, economic conditions within the industry affect compliance rates. Weak economic conditions or highly volatile livestock prices may contribute to lower rates of compliance.

EFFICIENCY MEASUREMENT

P&SP measures its efficiency at conducting regulatory reviews and investigations by comparing the total days between when it opens and closes each type of activity. The following figure shows the total number of regulatory reviews conducted by P&SP and the average number of days to complete a regulatory review (Figure 6).

The average number of days to complete a regulatory activity increased from 15 days in 2013 to 21 days in 2015, but declined to 19 days in 2016 and 20 days in 2017. The number of regulatory reviews completed has declined from 2,161 in 2013 to 2,093 in 2017.

Figure 6. Number of Regulatory Reviews and Average Days to Complete a Review, 2013 – 2017



P&SP PROGRAM PERFORMANCE AND EFFICIENCY

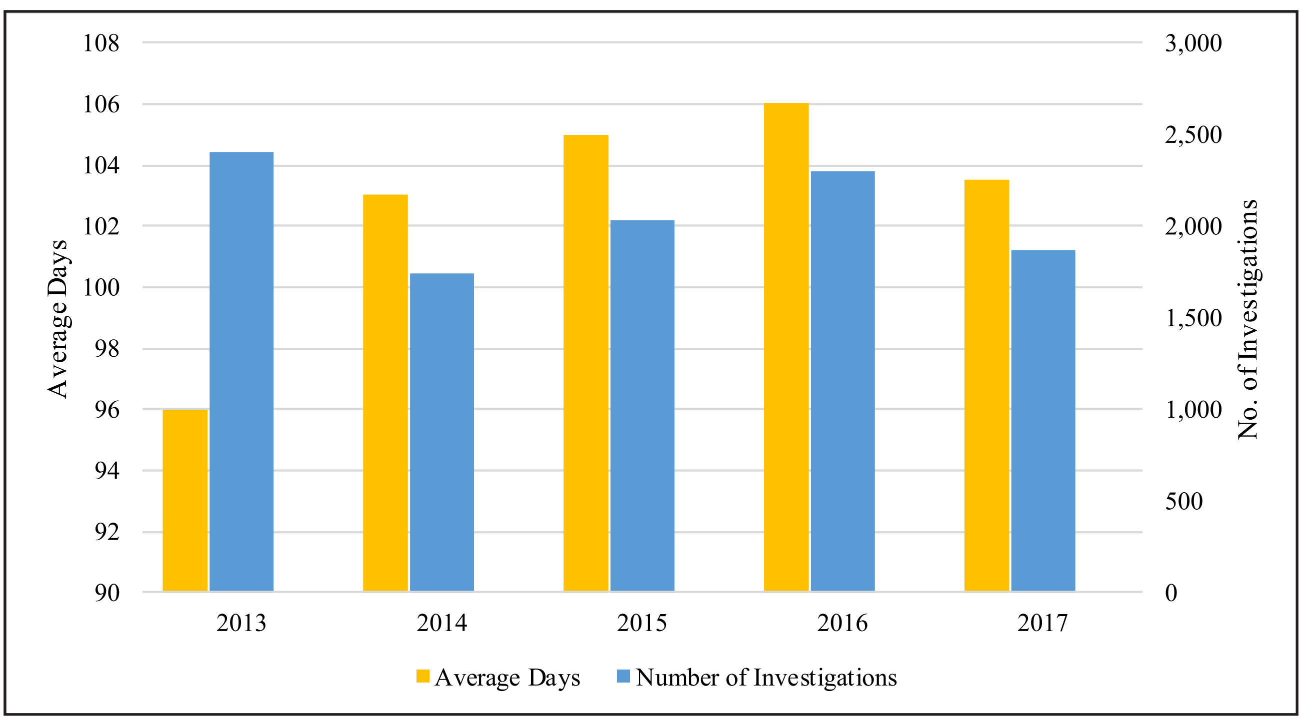
The total number of investigations completed by P&SP in the field and the average number of days to complete an investigation appear in Figure 7. P&SP considers an investigation complete when it is closed by P&SP at the regional office level, closed by LEAD, or when the formal enforcement action related to the investigation has been completed for cases referred to Office of the General Counsel or Department of Justice.

For investigations closed in FY 2017, the average number of days to complete and close an investigation in the field decreased slightly to 104, from 106 days in 2016.

The number of investigations completed in the field decreased from 2,295 to 1,873. P&SP completed these investigations in several ways. For some, P&SP found no violations or reached an informal agreement to correct minor violations. P&SP resolved and closed other investigations by issuing formal Notices of Violation.

In the remainder of the investigations, the regional offices submit formal case files to LEAD with a recommendation for stipulation or enforcement by Office of the General Counsel or Department of Justice. If a regulated entity agrees to a stipulation, it waives the right to a hearing, admits the violation(s), and voluntarily agrees to pay a penalty. P&SP then closes the investigation. Cases referred to Office of the General Counsel or Department of Justice remain open until the Office of the General Counsel or Department of Justice completes the enforcement action. It takes much longer to resolve and close investigations referred to the Office of the General Counsel or Department of Justice for prosecution through a hearing before an Administrative Law Judge or a Federal court.

Figure 7. Number of Investigations and Average Days to Complete, 2013 – 2017



APPENDIX A

Data Sources for Tables and Charts:

Table 1: Number of entities registered and/or bonded as recorded in P&SP databases.

Table 2: Data are taken from 2012 Census of Agriculture, swine contractors do not file reports with P&SP.

Table 3: Data are compiled from annual reports filed by packers and live poultry dealers with P&SP each year.

Table 4: P&SP databases.

Table 5: Total Value Purchases is the total of livestock purchases reported by packers filing annual reports to P&SP each year. Concentration statistics for livestock slaughter (heifers and steers, cows and bulls, hogs, and sheep and lambs) are compiled from federally inspected plant data. Concentration statistics for broiler and turkey slaughter are computed from live poultry dealer annual reports filed with P&SP each year.

Table 6: Data are compiled from annual reports filed by packers with P&SP each year.

Table 7: Data are compiled from annual reports filed with P&SP by livestock markets selling on commission each year.

Table 8: Enforcement data from P&SP databases.

Table 9: Scales and weighing inspection data from P&SP databases.

Table 10: Data on custodial account reviews are from P&SP database.

Tables 11 and 12: Data are from bond claims filed with P&SP by livestock sellers against the bonds of livestock dealers and market agencies.

Table 13: Data are from bond and trust claims filed with P&SP by livestock sellers against packer bonds and packer trusts.

Table 14: Data are from trust claims filed with P&SP by live poultry sellers against poultry trusts held by live poultry dealers.

Figure 1: Dollar value of livestock purchases packers, livestock purchases reported by livestock dealers and market agencies, and livestock sold through market agencies selling on commission compiled from annual reports filed with P&SP each year by packers, livestock dealers and markets selling on commission.

Figures 2 to 4: Statistics on types of procurement methods compiled from data reported to USDA's Agricultural Marketing Service under the provisions of the Mandatory Price Reporting Act.

Figure 5: The margin of error in compliance performance measures in 2017 is (+/-) 7.4% for prompt pay, 9.2 % for custodial account, 9.1% for weighing practices, 12.7% for carcass evaluation and 9.7% for poultry contract compliance.

Figures 6 and 7: Data on investigations and regulatory reviews from P&SP database.

APPENDIX B

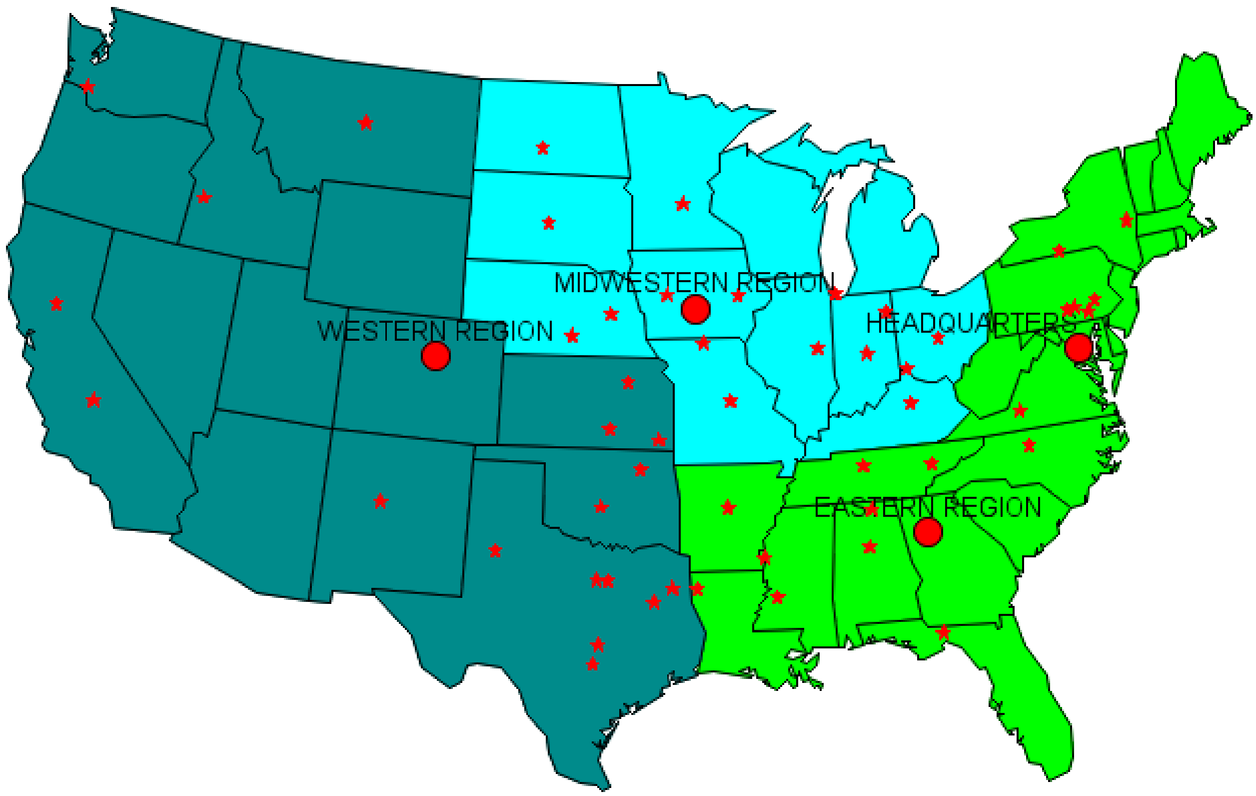


Figure 8. P&SP Regional Offices and Resident Agent, Resident Auditor and Market Inspector Locations

CONTACTING P&SP

To file a complaint, e-mail PSDComplaints@ams.usda.gov, call P&SP's hotline at (833) 342-5773, or contact the relevant regional office location:

Eastern Regional Office

75 Ted Turner Drive SW, Suite 230
Atlanta, GA 30303
Telephone (404) 562-5840
FAX (404) 562-5848
E-mail: PSDAtlantaGA@ams.usda.gov

States Covered:
AL, AR, CT, DC, DE, FL, GA, LA, ME, MA, MD, MS, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, WV, and the Territories of the U.S., including Puerto Rico

Midwestern Regional Office

Room 317, Federal Building, 210 Walnut Street
Des Moines, IA 50309
Telephone (515) 323-2579
FAX (515) 323-2590
E-mail: PSDDesMoinesIA@ams.usda.gov

States Covered:
IA, IL, IN, KY, MI, MN, MO, ND, NE, SD, OH, WI

Western Regional Office

One Gateway Centre, 3950 North Lewiston, Suite 200
Aurora, CO 80011
Telephone (303) 375-4240
FAX (303) 371-4609
E-mail: PSDDenverCO@ams.usda.gov

States Covered:
AK, AZ, CA, CO, HI, ID, KS, MT, NV, NM, OK, OR, TX, UT, WA, WY

Headquarters Office

Stop 3601
1400 Independence Ave., SW
Washington, D.C. 20250-3601
Telephone: (202) 720-7051
FAX: (202) 205-9237
E-mail: PSDWashingtonDC@ams.usda.gov

Please direct comments or questions about this publication to:

United States Department of Agriculture
Agricultural Marketing Service, Fair Trade Practices Program, Packers and Stockyards Division
1400 Independence Avenue, S.W.
Washington, D.C. 20250-3601

May 2019