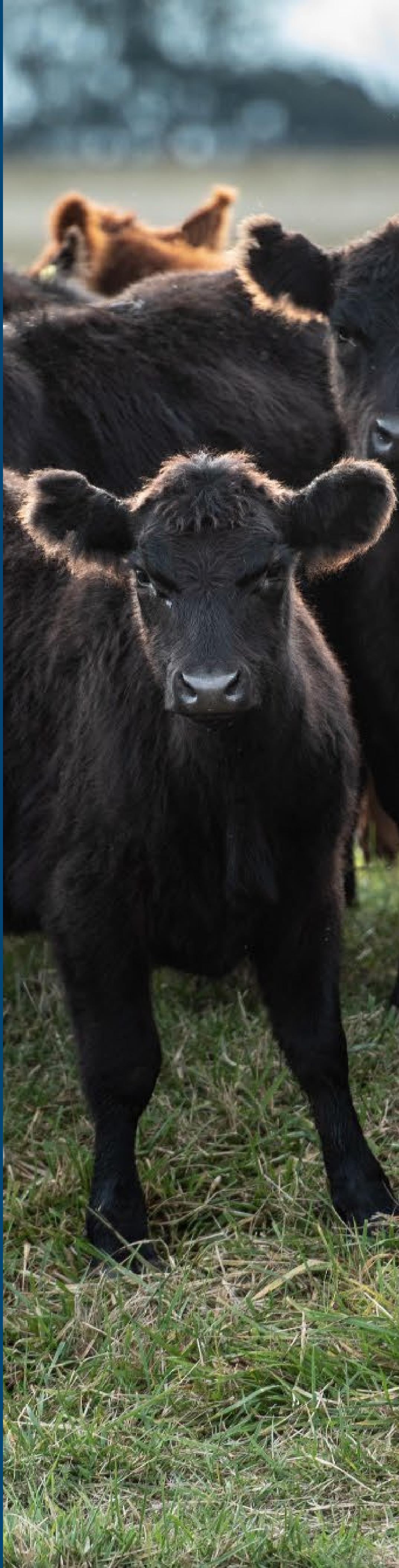
USDA Agricultural Marketing Service
U.S. DEPARTMENT OF AGRICULTURE

Packers and Stockyards Division:

Annual Report 2021 & 2022

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

March 2024



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Packers and Stockyards Division Overview

The Packers and Stockyards Division (PSD) is one of four divisions within the Fair Trade Practices Program (FTPP), Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA). PSD operates under the authority of the Packers and Stockyards Act of 1921 (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) 2021, PSD's appropriation was $23.1 million, and it had 110 employees. In FY 2022, PSD's appropriation was $24.6 million, and it had 108 employees. PSD's three regional and two headquarters offices are:

- Eastern Regional Office in Atlanta, GA
- Midwestern Regional Office in Des Moines, IA
- Western Regional Office in Aurora, CO
- Enforcement Branch in Washington, DC
- Competition Branch in Washington, DC

Each Regional Director manages a geographic area. Directors supervise a staff of auditors, marketing specialists, resident agents, 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 regulated entities' business locations. A Central Reporting Unit (CRU) located in the Western region processes annual reports filed by entities subject to the Act.

REGIONAL EXPERTISE

In addition to its geographic area, each 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.

PSD has office staff and supervisors in headquarters and in the regional offices. Each regional office has agent supervisors who manage teams of agents, marketing specialists, and auditors.

Outside of the regional offices, PSD has resident employees (resident agents, auditors, and market inspectors) who report to the regional offices and are located throughout the country to provide core services nationwide.

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

The Enforcement Branch (EB) provides litigation support by reviewing investigations and preparing sanction and stipulation recommendations. It also assists and coordinates with the USDA Office of the General Counsel (OGC) and the U.S. Department of Justice (DOJ) on investigations, settlement negotiations, hearing preparation, and testimony. The EB also develops PSD policy; prepares informational materials; and issues press releases, notices, and regulations under the Act.

The Competition Branch (CB) monitors and identifies anti-competitive practices in the cattle, hog, poultry, and sheep and lamb industries. The CB also processes and analyzes industry data, conducts investigations in potential anti-competitive activity, aids in other investigations, manages industry monitoring and surveillance, and provides regulatory impact analyses on proposed rules and regulations.

Overview of PSD Authorities and Responsibilities

Under the Act, the Secretary of Agriculture (Secretary) regulates specified activities of businesses engaged in the marketing of livestock, meat, and poultry. PSD's regulatory oversight includes the following business entities:

- Livestock market agencies (entities selling on commission, e.g., auction markets 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)

The Act and the associated regulations describe unlawful behavior and mandate certain business practices by regulated entities. These include mandatory registration of market agencies and dealers. All market agencies, dealers, and packers (whose annual livestock purchases exceed $500,000) must secure bonds or

TRUST PROVISIONS

To protect unpaid cash sellers of livestock, the Act makes packers and dealers subject to trust provisions. An unpaid cash seller of livestock triggers these provisions by filing a written claim with both the packer or dealer and PSD.

After receiving a claim, the packer or dealer 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.

PSD can penalize a packer or dealer for failing to pay for livestock in violation of the Act and can bring an action to prevent dissipation of trust assets.

bond equivalents to ensure payment to 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. Market agencies selling on commission must also promptly remit seller proceeds. PSD uses its authority to investigate alleged violations of the Act and regulations. USDA’s OGC represents the Secretary in enforcement actions under the Act and regulations. OGC takes administrative action when PSD identifies violations of the Act. OGC may also refer matters to DOJ for prosecution, when warranted.

Packers and Stockyards Division Snapshot

PSD benefits American 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 division in 2021 and 2022 and its accomplishments in promoting industry compliance with the Act.

2021	2022
Industry compliance rate: **85%**	Industry compliance rate: **87%**
PSD Appropriated Funding: **$23.1 million**	PSD Appropriated Funding: **$24.6 million**
Number of PSD employees: **110**	Number of PSD employees: **108**
Number of regulated entities: **5,944**	Number of regulated entities: **5,863**
$11.6 million in recoveries	**$11.1 million** in recoveries
Number of investigations closed: **2,197**	Number of investigations closed: **2,220**
Number of regulatory activities completed: **1,853**	Number of regulatory activities completed: **1,515**

For further detail on industry compliance rates, see the discussion in PSD's Performance and Efficiency section of this report.

Packers and Stockyards Act – 100 Years

Packers & Stockyards

100

1921 - 2021

A Century of Service

In 2021, the Packers and Stockyards Division (PSD) of the Fair Trade Practices Program celebrated 100 years of the Packers and Stockyards Act of 1921. Congress passed the Act and President Harding signed it into law on August 15, 1921. The law became effective on September 15, 1921.

Throughout the past 100 years, PSD has enforced the Act under various USDA structures. On September 16, 1921, the Packers and Stockyards Administration was formed. It initially reported directly to the Secretary. Around 1927, the Packers and Stockyards Administration became a Division of the Bureau of Animal Industry. In 1939, the Bureau of Animal Industry, including the predecessor of PSD, was transferred to the newly established Agricultural Marketing Service.

AMS was temporarily branded the Agricultural Marketing Administration (1942–1953) and the Consumer and Marketing Service (1965–1967). PSD became the independent Packers and Stockyards Administration again from 1967–1977, and from 1981–1994. Between 1977 and 1981, PSD was Packers and Stockyards of the Agricultural Marketing Service.

In 1994, PSD joined the Federal Grain Inspection Service to form GIPSA, the Grain Inspection, Packers and Stockyards Administration. GIPSA existed from October 1994 to November 2017, when Secretary Perdue announced the merger of GIPSA, including PSD, once again with AMS, this time as a division within the newly formed AMS Fair Trade Practices Program. Throughout its history, PSD has played a vital role in ensuring fair and competitive markets for livestock, meat, and poultry.

Economic State of the Livestock and Poultry Industries

Section 415 of the Act (7 U.S.C. 228d) requires PSD to provide Congress 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 PSD. 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 Act.

PSD relies on data from reports that regulated entities are required to file with PSD each year. The annual reports for the 2021 calendar-reporting year are included in full in this report. The majority of data from 2022 will be included in the 2023 report. There are exceptions. These include statistics on entities currently bonded and/or registered as recorded in PSD 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 Act:

- **All packers operating in interstate commerce** are subject to the unfair and deceptive practices provisions and prompt payment provisions of the Act. Packers that purchase $500,000 or more of livestock for slaughter annually are required to be bonded. 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 or entities who purchase poultry for slaughter and poultry integrators who contract with producers for grower services to raise the integrators' chicks or poults to slaughter weight.
- **Livestock dealers** purchase livestock for resale on their own account or 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 that sell on commission, are usually located at posted stockyards.

- **Swine contractors** contract with hog producers to care for and raise the contractors' hogs for slaughter.

Table 1 lists the number of regulated entities subject to the Act as of the end of the FYs 2021 and 2022.[1] In FY 2021, there were 273 bonded packers, 91 live poultry dealers, 4,362 registered livestock dealers and market agencies buying on commission, and 1,218 market agencies selling on commission. The total number of livestock dealers and market agencies buying on commission includes packer buyers, whose bond coverage is provided by their employing packers.

Table 1. Number of Bonded Packers, Livestock Dealers, Market Agencies, and Live Poultry Dealers Reporting to PSD, 2013–2022

Year	Bonded Packers	Livestock Dealers, Market Agencies Buying on Commission, and Packer Buyers	Market Agencies Selling on Commission	Live Poultry Dealers
2013	297	4,639	1,216	110
2014	295	4,650	1,202	107
2015	303	4,607	1,224	105
2016	294	4,660	1,221	101
2017	304	4,634	1,223	99
2018	312	4,582	1,236	94
2019	319	4,495	1,204	90
2020	313	4,452	1,211	92
2021	273	4,362	1,218	91
2022	271	4,281	1,221	90

In FY 2022, there were 271 bonded packers, 90 live poultry dealers, 4,281 registered livestock dealers and market agencies buying on commission, and 1,221 market agencies selling on commission. From 2021 to 2022, the number of bonded packers decreased from 273 to 271, and the number of livestock dealers and market agencies buying on commission also fell. The

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

number of market agencies selling on commission increased slightly from 2021. The number of live poultry dealers declined from 110 in FY 2013 to 90 in FY 2022 as some smaller companies exited the industry and others were acquired by larger operations. The number of firms has varied between 90 and 92 for the past 4 years.

There were 575 swine contractors as of 2017 (Table 2). From 2012 to 2017, the total number of hog farms increased by 16 percent from 55,882 to 64,781, compared to a decline of about 25 percent between 2007 and 2012. The number of contractors and contract growers also increased from 2012 to 2017. When slaughter hogs are grown under contract, swine contractors typically own the hogs and sell the finished hogs to pork packers.

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

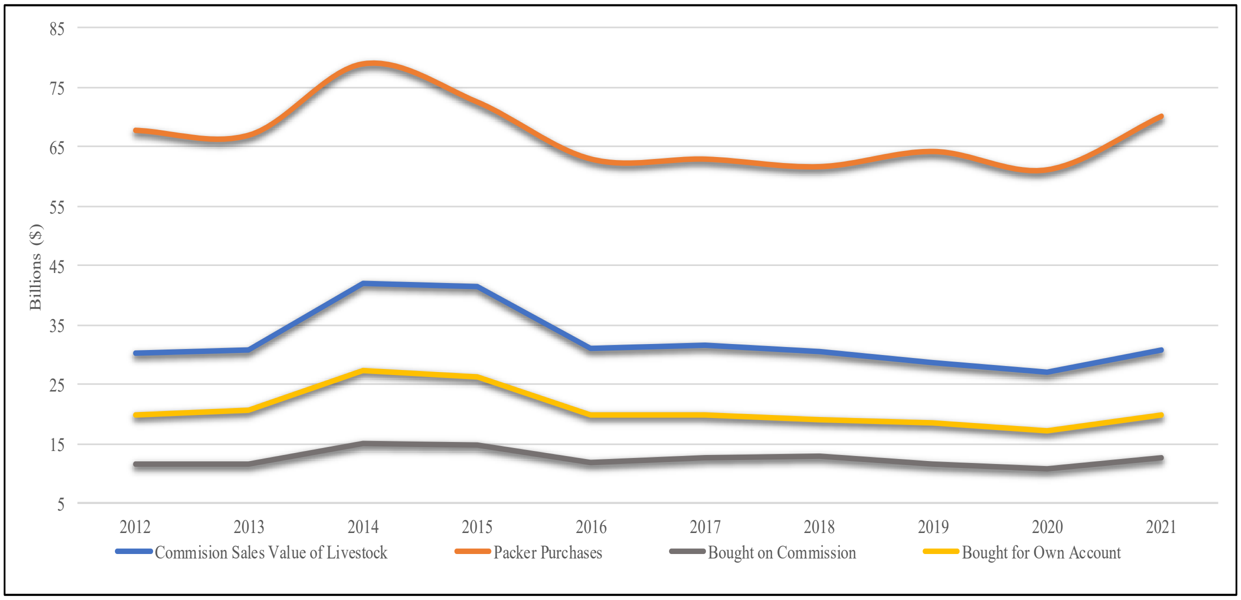
Grower / Producer Type	2007	2012	2017
Independent Grower	65,067	47,336	55,739
Contractor or Integrator	737	515	575
Contract (contract grower)	8,995	8,031	8,557
Total	74,799	55,882	64,871

Swine contractors typically provide feed and medication to contract growers who own the growing facilities and provide growing services. PSD regulates the business practices of swine contractors, but swine contractors are not required to register with PSD, maintain bonds, or file annual reports.

The value of livestock purchases by packers reporting to PSD decreased from $64.1 billion in 2019 to $61.0 in 2020 and increased to $70.1 in 2021 (Figure 1).

[2] Data from Census of Agriculture.

Figure 1. Value of Livestock Purchased by Packers, Dealers, and Market Agencies Buying on Commission, and Value of Livestock Sold Through Market Agencies Selling on Commission, 2012–2021



The dollar value for livestock sold on commission declined to $27.0 billion in 2020 from $28.6 billion in 2019, and the value of livestock bought by dealers on their own account and the value bought on commission also decreased from 2019 to $17.3 billion and $10.8 billion, respectively. These declines are partially due to the impacts of COVID-19 that reduced livestock slaughter in FY 2020. Between 2020 and 2021, the dollar value for livestock sold on commission increased to $30.8 billion, and the value of livestock bought by dealers on their own account and the value bought on commission also increased to $19.8 billion and $12.6 billion, respectively.

PSD requires packers that purchase more than $500,000 of livestock to report the number of head slaughtered annually. The number of cattle slaughtered by packers reporting to PSD has been increasing steadily in recent years, from a low of 28.1 million head in 2015 to 33.7 million in 2021 (Table 3). Total cattle includes fed steers and fed heifers, cows, and bulls, but excludes calves.

Table 3. Annual Volume of Livestock Purchased for Slaughter by Packers and Poultry Processed by Live Poultry Dealers Reporting to PSD, 2012–2021

	(Million Head)			(Billion Pounds)	
Year	**Cattle**	**Hogs**	**Sheep and Lambs**	**Broilers**	**Turkeys**
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
2017	31.3	120.7	2.0	54.1	7.6
2018	32.0	122.8	2.3	55.7	7.5
2019	30.8	130.8	1.7	56.4	7.4
2020	32.3	131.0	1.8	58.4	7.4
2021	33.7	135.3	1.9	62.2	7.2

PSD = Packers and Stockyards Division

The number of hogs slaughtered by packers reporting to PSD was 131.0 million head in 2020 and 135.3 million head in 2021, the highest reported in the past decade. Sheep and lamb slaughter reported to PSD increased slightly to 1.9 million head in 2021 from 1.8 million in 2020. Live poultry dealers reporting to PSD processed an estimated 58.4 billion pounds of chicken in 2020 and 62.2 billion pounds of chicken in 2021, the highest level reported in the past decade. Turkey production reported to PSD for 2021 declined slightly from 2020, from 7.4 billion to 7.2 billion.

Table 4. Number of Slaughter Plants Operated by Packers and Live Poultry Dealers Reporting to PSD, 2012–2021

Year	Cattle and Calves	Hogs	Sheep and Lambs	Poultry
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
2017	150	145	70	224
2018	151	144	65	223
2019	156	143	71	218
2020	156	142	74	218
2021	158	140	58	230

PSD = Packers and Stockyards Division, NA = Not Available

There were few changes in the number of plants in 2020; cattle plants remained at 156, hog plants fell slightly to 142 and the number of plants reporting sheep and lambs slaughter increased to 74 in 2020. The poultry plant count for facilities that process broilers, turkeys, duck, and other fowl, was unchanged at 218.

In 2021, the number of cattle plants increased slightly to 158 from 156 in 2020, hog plants fell slightly to 140 and the number of plants reporting sheep and lambs slaughter decreased from 74 to 58 (Table 4). The number of poultry plants processing broilers, turkeys, duck, and other fowl, increased from 218 to 230.

Concentration in Meat Packing and Poultry Processing

Table 5 shows the four-firm concentration ratios in the U.S. meat packing industry. The “Total Value Purchases” column differs from the other columns because it measures concentration in dollar values rather than in weight or number of head. It is the four largest packers’ share of the total dollar value for all cattle, hogs, sheep, and lambs. Packers provide the data for the Total Value concentration ratios in their annual reports to PSD.

Concentration ratios for steers and heifers, cows and bulls, hogs, and sheep and lambs are based on the number of head processed. PSD determines the concentration ratios from internal USDA data on the number of head each packer processed as a share of Annual Commercial Slaughter reported by NASS. Broiler and turkey concentration ratios are the four largest processors’ share, by weight, as reported on live poultry dealer annual reports filed with PSD.

Table 5. Annual Four-Firm Concentration Ratios Among Meat Packing and Poultry Processing - Federally Inspected Plants, 2012–2021

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.)
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
2017	67	83	55	66	56	51	53
2018	68	84	52	70	55	54	55
2019	66	85	50	67	53	53	55
2020	65	81	46	64	44	53	55
2021	67	81	47	65	42	55	55

The four largest packers’ share of industry expenditures on livestock for slaughter has ranged from 65 to 68 percent for the past decade. The four largest packers that slaughter steers and heifers accounted for 81 percent of total steer and heifer slaughter in 2020 and 2021, down from 85 percent in 2019. This is the lowest level of concentration in steer and heifer purchases recorded in the past decade, and the decline is likely due to the disruptions in operations at the major packing plants during the COVID-19 pandemic.

Cow and bull slaughter has been consistently less concentrated than fed cattle slaughter. The four-firm concentration ratio was 50 percent in 2019, fell to 46 percent in 2020, and rose to 47 percent in 2021.

The four-firm concentration ratio for hog slaughter ranged from 62 percent to 70 percent in the past decade. The four-firm concentration ratio for hog slaughter was 67 percent in 2019, fell to 64 percent in 2020, and rose to 65 percent in 2021. It has been in the low to mid-60s range in most years. The four-firm concentration ratio in the sheep and lamb market was 53 percent in 2019, declined sharply to 44 percent in 2020, and fell further to 42 percent in 2021.

Concentration in broiler slaughter has ranged between 50 and 55 percent in the past decade. The share of production accounted for by the four largest turkey slaughter firms has been between 53 and 58 percent over the last 10 years and was 55 percent in 2020 and 2021.

The Herfindahl-Hirschman Index (HHI) is another measure of industry concentration and is shown in Table 6. The HHI is calculated by summing the squares of the individual firms' market shares. PSD calculates the HHI of market concentration for packers from the individual packer's market shares based on Annual Commercial Slaughter totals. For context, these concentration levels are particularly important for understanding the firms' market power in the wholesale and retail-facing national markets for the relevant meat or poultry. Comparing the numbers in the table to the DOJ/FTC (Department of Justice/Federal Trade Commission) Horizontal Merger Guidelines, steer and heifer slaughter has been moderately concentrated in recent years.

Table 6. HHI Meat Packing - Federally Inspected Plants, 2017–2021[3]

Year	Steers & Heifers (Total Head)	Cows & Bulls (Total Head)	Hogs (Total Head)	Sheep & Lambs (Total Head)
2017	1,852	1,004	1,418	1,210
2018	1,869	938	1,547	1,077
2019	1,878	923	1,475	1,059
2020	1,721	815	1,325	876
2021	1,687	807	1,371	781

[3] A concentration analysis of national cattle slaughter reflects the number of head slaughtered by each company. The regional markets where cattle are principally acquired for slaughter are, in most cases, significantly more concentrated.

DOJ/FTC Horizontal Merger Guidelines on Market Concentration and HHI [4]

- Unconcentrated Markets: HHI below 1,500
- Moderately Concentrated Markets: HHI between 1,500 and 2,500
- Highly Concentrated Markets: HHI above 2,500

Table 6 shows cow and bull slaughter, and sheep and lamb slaughter are relatively unconcentrated. The HHI for hog slaughter passed the 1,500 level in 2018 indicating moderate concentration, but was in the unconcentrated range in 2017, and 2019–2021.

Because of constraints on the distance live animals can be safely and efficiently transported, livestock producers and poultry growers face regional markets for their products that are more concentrated than the national concentration measures indicate. For example, a study using the Agricultural Resource Management Survey (ARMS) found that almost 22 percent of broiler growers have only one integrator in their area, and another 30 percent have only two integrators.[5] Similarly, the regional markets in which cattle are principally acquired are, in most cases, significantly more concentrated than the national markets into which beef products are sold.

[4] Horizontal Merger Guidelines (08/19/2010) (justice.gov).
[5] MacDonald, James M. 2014. *Technology, Organization, and Financial Performance in U.S. Broiler Production.* USDA Economic Research Service, Economic Information Bulletin No. 126.

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 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 transaction. The price may be fixed by negotiation in advance or established by formula from prices reported by USDA, 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 smaller than the average for the transaction may receive a different price).

Table 7. Percentage of Livestock Purchases on a Carcass-Weight Basis Packers Reporting to PSD, 2012–2021

Year	Cattle (%)	Calves (%)	Hogs (%)	Sheep and Lambs (%)
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
2017	65.8	14.9	81.5	26.3
2018	61.0	21.0	83.4	28.9
2019	68.1	18.3	80.1	25.1
2020	81.2	16.2	82.2	25.8
2021	68.3	26.6	80.3	23.7

In a carcass-based purchase, the final payment is based on each animal's carcass weight, which is the weight of the carcass after the animal has been slaughtered and eviscerated. Carcass-weight transactions can be a single price per pound for all 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 livestock can also be determined by other features, such as time of delivery and distance from the plant.

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 increased to over 81 percent in 2020, the highest in the past decade, then declined to 68.3 percent in 2021 (Table 7). The proportion of calves purchased on a carcass-weight basis varies widely from 15 percent to 42 percent (Table 7).

Carcass-based purchases have become the predominant method to procure hogs for slaughter and have comprised between 76 and 83 percent of the total over the last decade. The proportion of sheep and lambs purchased on a carcass basis has been under 30 percent since 2017.

The number of cattle sold through livestock auctions decreased from about 35 million head in 2017 to about 33 million head in 2021 (Table 8). Stockers (heifers and/or steers that are being raised on pasture or other forage) and feeders (weaned calves that have been raised to a certain weight and then sent to feedlots to be fattened) make up most cattle sold. Breeding stock, such as replacement heifers, young cows, and bulls, also tend to sell through livestock auctions. Livestock auctions also sell a significant number of slaughter (cull) cows and bulls (beef or dairy cows and bulls that are no longer needed for breeding or milk production).

Table 8. Volume of Livestock Marketed Through Market Agencies Selling on Commission Reporting to PSD, 2012–2021 (Thousand Head)

Year	Cattle	Hogs	Sheep and Lambs
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
2017	35,065	7,744	3,293
2018	34,425	7,305	3,425
2019	33,391	7,137	3,394
2020	32,287	7,201	3,380
2021	33,192	7,273	3,481

The volume of hogs sold through market agencies selling hogs on commission declined from 8 million head in 2012 to just over 7 million in recent years (Table 8). The volume of sheep and lambs sold through market agencies selling on commission has fluctuated slightly over the past 10 years but remained between 3 million to 3.5 million head in most years (Table 8).

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

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. Important components of committed procurement are "packer fed" livestock, "forward contracts," and "marketing agreements." PSD 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 slaughter.

PSD considers "forward contracts" to be agreements between packers and sellers for specific lots or quantities of livestock to be delivered more than 14 days in the future. 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.

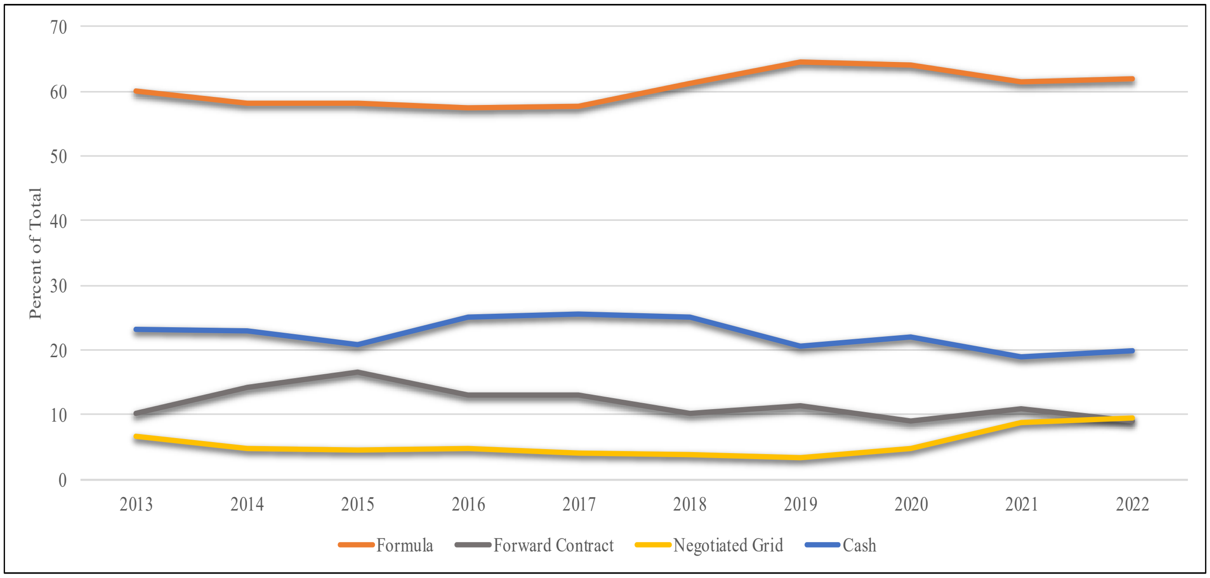
The term "marketing agreements" includes a variety of arrangements that establish an ongoing relationship for trading multiple lots of livestock rather than negotiating single lots. In these arrangements, the seller agrees to deliver livestock to the packer at a future date,

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://www.ams.usda.gov/market-news/livestock-poultry-grain). Individual packers use a variety of pricing and procurement methods, ranging from packers that rely on production and marketing agreements to packers that rely primarily on the spot market.

Fed Cattle Markets

In 2021 and 2022, formula pricing represented 61 and 62 percent of total fed cattle procurement, respectively, compared to about 60 percent in 2013 (Figure 2). Forward contracting increased to about 11 percent from 2020 to 2021 and decreased to about 9 percent from 2021 to 2022. Negotiated grid transactions, where premiums and discounts are added to a negotiated base price according to carcass quality, increased as a share of the total fed cattle procured (not including packer-owned cattle), from 5 percent in 2020 to 9 percent in 2021, and increased again to 9.5 percent in 2022. Cash or spot market transactions fell from 22 percent in 2020 to 19 percent in 2021, then increased to almost 20 percent in 2022.

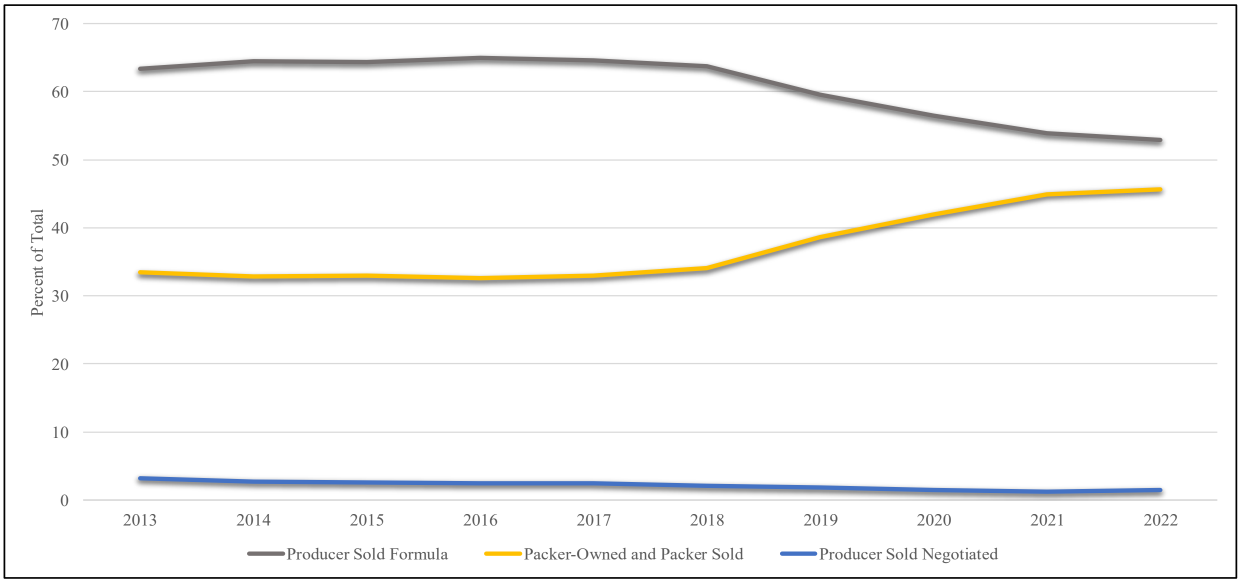
Figure 2. Fed Cattle Procurement by Purchase Type, 2013–2022



Hog Markets

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 common replacement price is the pork carcass cutout "price" reported by AMS. The pork carcass cutout "price" is the estimated value of a standardized pork carcass based on industry average cut yields and average market prices for subprimal pork cuts. These pork cuts include the loin, butt, picnic, rib, ham, and belly.

Figure 3. Hog Procurement by Purchase Type, 2013–2022



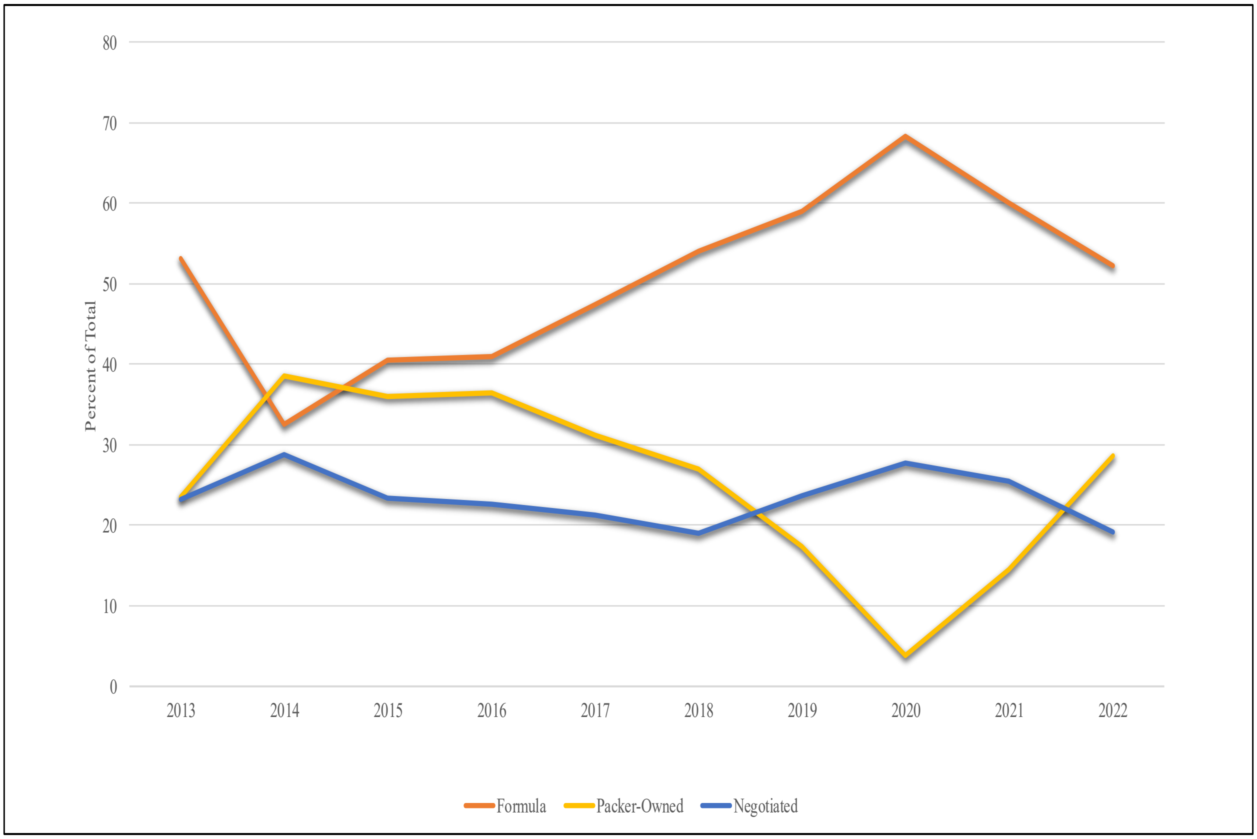
For all pork packers reporting to AMS in 2021 and 2022, 54 and 53 percent of hog purchases, respectively, were based on formula pricing (Figure 3). Pork packers purchased just over 1 percent of their hogs through negotiated purchases in 2021 and 2022 compared to over 3 percent in 2013. Procurement based on negotiated pricing has been under 3 percent since 2014. Packer-owned hogs accounted for 45 and 46 percent of hog slaughter reported to AMS in 2021 and 2022, respectively.

Sheep & Lamb Markets

Sheep and lambs tend to be marketed in one of two channels. In the mainstream market for slaughter sheep and lambs, the sheep and lambs are fed in feedlots, marketed to packers, and processed through federally inspected channels. It is this mainstream market that supplies most of the sheep and lamb to supermarkets and food service outlets.

Sheep and lamb packers use similar methods to purchase animals as beef and pork packers. The methods include cash or spot markets, marketing agreements, forward contracts, and packer feeding. In the mainstream lamb market in 2021 and 2022, packers purchased 25 percent and 19 percent of their lambs under negotiated prices, respectively. The volume purchased with marketing agreements based on formula pricing decreased to 60 percent in 2021 from about 68 percent in the prior year, then decreased further to 52 percent in 2022. Packers fed over 15 percent of the sheep and lambs for slaughter in 2021, and 29 percent in 2022 (Figure 4).

Figure 4. Sheep & Lamb Procurement by Purchase Type, 2013–2022



Niche and Specialty Markets

Throughout the past decade, growth in consumer tastes towards specialty or niche meat and poultry products have resulted in the growth of small-scale processing of noncommodity products. This small-scale processing focuses on products that are typified by specialty certifications, raising claims, or other claims that differentiate the product from traditional commodity meat and poultry products. These include products for ethnic markets (e.g., kosher and halal), those with strict animal raising standards (e.g., humanely raised, antibiotic-free, grass-fed), and products that support local and regional value chains (e.g., locally raised, low carbon footprint).

This market is also characterized by small butchers and meat shops that process sheep, lambs, cattle, hogs, and poultry and sell directly to consumers. Consumers can often choose the animal before slaughter and may have the choice of purchasing the animal and processing it themselves. However, these buyers purchase a very small portion of the cattle and hogs produced in the United States.

In the ethnic market, there is a second, smaller sheep and lamb marketing channel: the lightweight market. It is characterized by sheep and lambs that are generally lighter weight than in the mainstream market. Hair sheep breeds are popular in this market, but also relatively lightweight wooled breeds. Sheep and lambs in this market are processed in federally inspected (FI) facilities and in non-FI slaughter plants (State inspected and custom-exempt plants). Many of the packers that process the sheep and lambs in this market have slaughter volumes that fall below the threshold to meet the mandatory price reporting requirements. To a lesser extent, the ethnic market also involves cattle and poultry slaughter.

Changes in Operation and Organization

PSD uses information about business practices at the packing plant level to identify industry trends. Such information includes the intensity of plant operations (e.g., one or two shifts per day), the number of plants in business at any given time, and the ownership of those plants. Plant closures or re-openings can affect competition by shifting supply and demand patterns. The FTC and the DOJ Antitrust Division evaluate all livestock, packer, and live poultry dealer mergers and acquisitions, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (Public Law 94-435).

PSD monitors packers' mergers and acquisitions to determine whether a change in business practices might reduce competition. Other changes in operations and industry conditions including procurement methods, international trade, and regulatory changes may also affect competition as entities attempt to adjust to changing conditions. PSD monitors these industry events for any competitive effects.

Mergers, Acquisitions, and Operational Changes

There were multiple mergers, acquisitions, or operational changes in the meatpacking and poultry processing industries in FYs 2021 and 2022.

In October 2020, **Green Plains Inc.**, a diverse commodity operation sold its 50 percent stake in **Green Plains Cattle Company LLC**, one of the industry's largest cattle feeding operations. The company changed its name to **Cobalt Cattle Company**. It has six feedlots, one located in Eckley, Colorado; three in Kansas, in Kismet, Leoti, and Sublette; and two in Texas, in Hereford and Tulia. The six feedlots combined have a feeding capacity of 355,000 head. The headquarters is in Garden City, Kansas.

In April 2021, **Tyson Foods** opened a new 370,000-square-foot broiler complex in Humboldt, Tennessee. The plant includes a processing plant, feed mill, and hatchery, and will produce pre-packaged tray packs of fresh chicken for retail. It is expected to employ 1,500 workers and about 56 growers when it is fully operational in 2023.

In July 2021, **Smithfield Foods**, the world's largest pork processor discontinued slaughtering hogs in Smithfield, Virginia, where the company was founded 85 years ago. Smithfield is owned by **WH Group** based in Hong Kong and it operates another 47 plants throughout the United States, 8 of which harvest live hogs. In 2019, the Smithfield plant was revamped to supply hog carcasses to China. The facility has been processing about 7,000 to 7,500 hogs per day although its full capacity is about 10,000 head per day. This processing is now being shifted to some of its other plants.

Some new beef packing plants began operations in 2021, and several new or expanded facilities are planned in the next few years. Most of these projects are small to medium operations and aim to provide processing opportunities to producers, and supply meat to consumers at a local level.

The **Requiring Assistance to Meat Processors for Upgrading Plants** (RAMP-UP) Act, was signed into law on December 27, 2020, as part of the **Consolidated Appropriations Act, 2021**. It provides $55.2 million in grants for small and mid-sized meatpacking plants to make the necessary investments to become federally inspected. It is part of the **Meat and Poultry Inspection Readiness Grant (MPIRG)** program, which aims to help small and mid-sized meat processors increase market opportunities. The following list includes plants that opened in 2021 and 2022, as well as many of the planned projects, but most likely does not include all.

In November 2020, the Indiana State Department of Agriculture awarded grants to 41 meat processors through the Indiana Meat Processing Expansion and Development Grant Program. The funding was allocated to offset the impact of the coronavirus pandemic on local and small meat-processing agribusinesses in Indiana.

In January 2021, **Missouri Prime Beef Packers** began operations in a 100,000-square foot facility in Pleasant Hope, Missouri. The plant, which was previously operated as a pork processing facility, will custom process about 500 head of cattle per day.

Marfa Meats began operations in Marfa, Texas, in May 2021. Its focus is on custom processing cattle, swine, goat, and lamb from local producers, and on local retail sales and direct-to-consumer meat sales.

In August 2021, **Local Cuts Meat Co.** began operations in a 12,000 square foot facility in Zephyr, Texas. It is also focused on processing cattle from local ranchers, and on local retail and consumer meat sales.

Lava Angus Processing Enterprises LLC constructed a beef processing plant in Minneapolis, Kansas, that began operations in October 2022. It processed 120 head per day initially, and plans to process up to 500 head per day by its fifth year.

In May 2021, the **Mississippi Land, Water and Timber Resources Board (LWTRB)** approved financial assistance to expand currently operating USDA-inspected processing facilities and construct new USDA-inspected facilities to seven meat packing plants. The intent is to provide more market opportunities for livestock producers as well as strengthen the local agricultural economy.

In February 2022, **Farmer Focus**, of Harrisonburg, Virginia, announced the completion of a 78,000 square foot packing facility close to its processing plant. The company expects the new facility will allow it to expand its processing capacity to 650,000 birds per week over the next 2 years and increase the number of poultry farms with which it partners. Farmer Focus produces 100 percent organic and humane-certified chicken.

In June 2022, **Foster Farms,** a family-owned and operated poultry processing company with headquarters in Livingston, California was acquired by **Atlas Holdings**, a private equity firm. Donnie Smith, former chief executive officer of Tyson Foods, was appointed Chief Executive Officer and Chairman of the Board. Foster Farms operates 13 processing facilities in California, Washington, Louisiana, Oregon and Alabama and has about 10,000 employees.

In July 2022, **Cargill** and **Continental Grain Company** completed the acquisition of **Sanderson Farms, Inc**. As part of the acquisition, **Wayne Farms, LLC**, based in Georgia, a subsidiary of Continental Grain was combined with Sanderson Farms, Inc., Mississippi, to form **Wayne-Sanderson Farms**. The joint venture between Continental Grain Company of New York, and Cargill of Minneapolis, Minnesota, was announced in August 2021 but was delayed by a DOJ review. The new firm, Wayne-Sanderson Farms, has its headquarters in Oakwood, Georgia.

In August 2022, **Walmart** announced it had acquired a stake in **Sustainable Beef LLC**, a beef packing plant in North Platte, Nebraska. The original project was initiated by feedlot owners, ranchers and former Cargill employees. An official ground-breaking ceremony for the plant was held at the beginning of October 2022. The plant is expected to slaughter 1,500 head of cattle daily and employ 875 workers when it is operational in 2024 and will rely on the region's producers to supply cattle for slaughter. Walmart's investment in the plant aims to supply its own Angus beef products for its stores.

In September 2022, **American Foods Group** (AFG) began construction on a new slaughter facility in Warren County, Missouri. The plant will process about 2,400 head of cattle daily when it is fully operational in 2024.

In September 2022, **Seaboard Corporation** acquired the hog inventory and hog farms from **The Maschhoffs LLC**. The acquisition includes the Maschhoffs' sow farms and contracts with its gilt growout partner farms and supporting transportation infrastructure in Oklahoma. The Maschhoffs continue to operate farms in Illinois, Indiana, Iowa, Missouri, Nebraska, and Wyoming.

Intermountain Packing opened a 66,000-square-foot meatpacking plant in Idaho Falls, Idaho in November 2022. The plant processes about 500 head of cattle and bison per day and employs about 200 workers. The plant is a branch of **Intermountain Bison**, a vertically integrated bison processing plant.

True West Beef, a partnership between **Agri Beef Company**, based in Boise, Idaho, and a group of Northwestern cattle ranchers and feeders built a processing plant in Jerome, Idaho. The plant began operations in April 2023 and processes about 500 head of cattle daily.

Construction is expected to begin on a new federally inspected **Cattlemen's Heritage** beef processing facility in Mills County, Iowa in 2023. The plant is expected to begin operations by late 2024 and process 800 head a day, increasing to 1,500 head per day at full capacity.

Saline River Farms, LLC, is building an 83,000-square-foot beef and pork processing facility in southern Illinois in Williamson County, located about 120 miles southeast of St. Louis. The plant is expected to begin operating in early 2024 and is part of USDA's efforts to increase capacity and diversify processing facilities across the United States. It will process about 5,600 hogs and 2,800 cattle per week initially but expects to increase beyond that level. Saline River Farms will acquire livestock from the surrounding region, and may expand its supply to Indiana, Kentucky, Missouri, Tennessee, and Arkansas.

Industry Concerns

While the livestock industry adjusted to the impact of COVID-19 in FY 2020, in FY 2021 labor shortages, severe weather, supply chain and logistics problems caused further disruptions. In FY 2021, packing plants continued to be affected by employee absenteeism due to COVID-19 illness.

The imbalance between cattle supply and processing capacity persisted from 2020, and beef packers continued to earn record profits in 2021. Strong demand for beef helped maintain high prices at the retail level, and the disparity between live cattle prices and boxed beef persisted from the prior year. There was a plentiful supply of cattle, and packers did not have to bid aggressively. The cattle herd had been expanding at a greater rate than packing capacity for several years.

Labor shortages also limited packers' ability to maximize processing volume. In 2020, the meatpacking industry contended with employee safety, labor shortages, supply chain slowdowns, and rapidly changing market demand. Supply backed up in feedlots as plants were forced to slow processing or close temporarily due to employee illness.

The oversupply of cattle continued into 2021 and fed cattle prices remained weak throughout most of the year. At the same time, cattle producers struggled with higher feed costs. There were smaller feedlot placements during the summer of 2021, and an increase in herd liquidation due to drought in some areas was expected to help restore balance to the cattle supply in the cattle producers' favor.

Pork processing plants had to deal with the same labor issues as beef packers. The work is physically demanding, repetitive, and at times dangerous for relatively low pay. The pandemic amplified labor problems for packers as many employees fell ill with the virus and over 200 died. Even before the COVID-19 pandemic, packing plants had difficulty recruiting and retaining employees. In FY 2021, labor turnover increased in many sectors of the economy, particularly in lower paid positions. With competition for employees from other sectors where the work is less taxing, hiring new employees became more difficult for packing plants.

Some packing firms began offering bonuses, paid leave, and other incentives to recruit workers. When the first COVID-19 vaccine became available in January 2021, packing plant employees were among the essential workers to be eligible for the vaccine. There was an increase in labor union organizing among packing plant employees in 2021, and several labor strikes occurred throughout the year, with employees demanding higher pay and better working conditions. Those disputes were settled with employees gaining wage increases and more agreeable working conditions.

Poultry processing plants were confronted with the same labor challenges as beef and pork packing plants. There were also several labor contract disputes at poultry processing plants that resulted in increased pay for employees, as well as some other concessions.

Extreme weather events and severe drought conditions over the past few years have caused considerable damage to agriculture. In February 2021, a severe winter storm brought snow, ice, and extreme cold temperatures and caused power outages in Texas, Louisiana, Mississippi, and Oklahoma. Texas sustained the most damage, with widespread power outages. There were livestock losses to the extreme cold, and ranchers also lost much of their winter grazing pastures. Feedlots ran out of feed as the ice and snow disrupted truck and rail transportation of livestock and feed supplies. The disruption caused livestock feed costs to increase. The storm also led to the loss of newborn calves and lambs because it occurred during birthing season. Packing plants in Kansas as well as Texas had to suspend or reduce their operations due to power outages and transportation difficulties.

Poultry growers and poultry processing plants were also adversely affected by the severe winter storm in February 2021. The storm led to the loss of over half a million chicks, 455,000 broilers, and over 700,000 hatching eggs for Sanderson Farms. The snow and ice caused four broiler houses to collapse in Mississippi.

At the end of 2021, over half of the contiguous United States was in drought. Moderate to extreme drought extended from the West Coast to the Rocky Mountains and the adjacent Great Plains. Drought conditions worsened in the United States in 2022. Precipitation was below average across much of the West, Central and Southern Plains, and parts of the Great Lakes and Southeast. Drought expanded across the West in early 2022 and reached a peak coverage of 91 percent of the region in early May. Drought impacted much of the western half of the United States and the Southern and Central Plains for most of the year. Parts of the Northeast, Mid-Atlantic, Great Lakes, Southeast, and Northwest remained drought free. Conditions improved in some parts of the West with rainfall in the summer months.

The drought has resulted in dry pasture and higher prices for hay and a reduction in the cattle herd. It has also led to less pasture available for cattle grazing, and more cattle being sent to feedlots at lighter weights. Feed costs increased in 2021 and remained high in 2022. Additionally, temperatures were above normal in many areas in 2022 and a heatwave in southwest Kansas in June 2021 led to the deaths of at least 2,000 head of cattle from heat stress and humidity. Continued drought and forage shortages may lead to a further shrinking of the cattle supply and likely higher fed cattle prices.

The total U.S. cattle inventory was 98.8 million in July 2022, 2 percent below the prior year level, and below 100 million for the first time since 2015. From January through June, the number of cattle on feed in most months was at the highest levels since records began in 1996. The biggest gains in the numbers of cattle on feed have been in lighter weight cattle, 600 pounds, and 600 to 799 pounds categories.

In 2021, beef cow slaughter increased 10 percent from 2020. From January through September 2022, beef cow slaughter increased over 13 percent from the prior year. Heifer slaughter also increased in 2022 by about 5 percent, while steer slaughter declined about 1 percent.

Despite receiving high prices for fed cattle in 2022, cattle producers faced challenges in maintaining profitable operations. There has been concern about the decline in negotiated purchases in fed cattle markets for some time and whether the number of transactions is sufficient for robust price discovery. At the same time, there has been concern about the use of marketing agreements and formula pricing for fed cattle purchases and the effect on price discovery and market transparency, or the price information that is available to market participants.

In 2022, lamb prices dropped precipitously after a rapid escalation in 2020 and 2021. Multiple events coincided to send lamb prices soaring in 2020–2021. Lamb slaughter volumes were reduced in 2020 due to disruptions in packing plant operations because of the COVID-19 pandemic. Also, a major lamb packing plant, Mountain States Rosen, in Greeley, Colorado, ceased operations in the spring of 2020 after filing for bankruptcy. At the same time, imports of sheep and lamb were sharply reduced due to COVID-19 restrictions.

Disruptions in beef and pork packing due to the pandemic further increased demand for sheep and lamb. Lamb prices increased in 2020 and reached historic levels in 2021. Imports resumed in 2021, however, and reached historic levels in 2022. Sheep and lamb slaughter volumes in the United States also returned to normal levels in 2021, and producers received high prices throughout the year. Quantities of imported sheep and lamb have continued to increase in 2022, and lower slaughter prices combined with higher feed costs have put pressure on sheep and lamb producers' margins.

The first **Highly Pathogenic Avian Influenza** (HPAI) case detected in the United States in January 2022 was in wild birds. In February, the first outbreak in a commercial turkey flock in the United States was confirmed in February in DuBois County, Indiana. Later that month, the first case of the virus was confirmed in a commercial broiler flock in Fulton County, Kentucky.

In March, a commercial mixed flock in Charles Mix County, South Dakota, was the first HPAI confirmed in that State. A pullet operation in New Castle County, Delaware and a broiler flock in Queen Anne's County, Maryland tested positive for the virus in March.

In April, the virus was confirmed in a commercial broiler breeder flock in Montrose County, Colorado. This was the first case confirmed in a U.S. commercial operation in the Pacific Flyway. Later in April, the first human case of HPAI was announced by the Centers for Disease Control and Prevention (CDC) in a person who had been a part of a crew depopulating an infected poultry flock. Several cases were detected in California throughout the year.

In July, HPAI was detected in a commercial turkey flock in Sanpete County, Utah, the first in a succession of cases in this county. Through October 2022, the virus was detected in 44 States in commercial and backyard flocks. The disease affects turkey production much more than broiler production with about 8 million turkeys culled through October. When the virus is detected in a flock, the entire flock is depopulated to stop the spread of the disease. Turkey production was lower in 2022 and prices were significantly higher in the fall of 2022. As the HPAI outbreak in 2022 continued throughout the summer months, it indicated it was not just spreading through migrant flocks but developing into a common disease.

Price-Fixing Lawsuits

In October 2020, **Pilgrim's Pride** entered into a plea agreement with the U.S. Department of Justice on charges of "restraint of competition" and agreed to pay $110.5 million to settle Federal price-fixing charges.

In January 2021, both **Pilgrim's Pride** and **Tyson Foods Inc.** agreed to settle price-fixing claims by a group of poultry buyers 4 years earlier. Pilgrims agreed to pay $75 million to settle claims while Tyson's settlement amount was not disclosed.

In February 2021, **Pilgrim's Pride** pleaded guilty to Federal charges that it conspired to increase chicken prices and pass those costs on to consumers and other poultry buyers. The company agreed to pay a $107.9 million fine to the U.S. Justice Department to settle the charges.

In April 2021, the U.S. District Court for the Northern District of Illinois, Eastern Division, declined a motion by **Tyson Foods Inc.** to dismiss a lawsuit accusing the company of conspiring to fix prices for turkey products. The original complaint was filed in December of 2019. In June 2020, the defendants filed motions to dismiss the class action lawsuit. The defendants include **Agri Stats, Inc.; Butterball; Cargill; Cooper Farms; Hormel Foods; Farbest Foods; Foster Farms** and **Tyson Foods subsidiaries**. In May 2021, **Tyson** agreed to pay $4.6 million to settle the price-fixing lawsuit. In addition to the monetary settlement, **Tyson** agreed to cooperate with the direct purchaser plaintiffs (DPPs) in their claims against the other defendants by providing documents and data of its sales during the time period related to the lawsuit.

In May 2021, **Norman W. Fries Inc.**, doing business as **Claxton Poultry Farms**, was indicted for participation in a nationwide conspiracy to fix prices and rig bids for broiler chicken products. In July 2021, a Federal grand jury indicted **Koch Foods** and another Federal grand jury indicted four **Pilgrim's Pride Corp.** executives for their role in the same conspiracy. A mistrial was called in December 2021 after jurors failed to reach a verdict after four days of deliberations. In March 2022, the DOJ dropped five executives from the case following a second mistrial. In June 2022, a United States District Judge allowed the DOJ to attempt to present its case for a third time on the matter, and in July 2022, the third trial found five executives not guilty of price fixing charges. In August 2022, charges were dropped against two **Pilgrim's Pride** executives. In September 2022, the charges were dropped against **Claxton Poultry Farms** and **Koch Foods**.

In July 2021, **Tyson Foods Inc.** settled a turkey price-fixing lawsuit for $1.75 million with institutional indirect purchaser plaintiffs (IIPPs). The settlement also included cooperation and assistance to IIPPs in the prosecution of their claims against the other defendants.

In February 2022, **JBS** approved a settlement in which it agreed to pay $52.5 million in a lawsuit in which it is accused of conspiring to fix the price of beef. The original complaint filed by grocery stores and wholesalers allege **JBS**, **Tyson Foods Inc., Cargill Inc.,** and **National Beef Packing Company** conspired to reduce the volume of cattle slaughtered and create a deficit that smaller companies could not make up to drive up the price of beef.

On June 24, 2022, **Sysco Corporation**, a major food distributor, filed a lawsuit in U.S. District Court for the Southern District of Texas alleging **Tyson Foods Inc., JBS**, **Cargill Inc.**, and **National Beef Packing Company** conspired to inflate beef prices at least since 2015 by limiting the number of cattle slaughtered.

In July 2022, **Smithfield Food Inc.** finalized an agreement reached in April 2022 to pay $42 million in a lawsuit with foodservice operators who indirectly purchased pork from Smithfield Foods or co-conspirators or their respective subsidiaries or U.S. affiliates for their own business use in commercial food preparation.

In July 2022, **Cargill Inc.**, **Sanderson Farms Inc.**, and **Wayne Farms LLC** signed an agreement with DOJ to pay $84.8 million to settle allegations that they violated antitrust law by improperly communicating about worker wages and benefits and suppressing wages of current and former poultry industry workers. The data consulting firm **Webber**, **Meng, Sahl, and Company** (WMS) was also named in the lawsuit. WMS is banned from providing surveys or any other competitively sensitive information in any industry under the terms of the agreement. Cargill, Sanderson Farms, Inc., and Wayne Farms, LLC are barred from sharing such information in the future and are required to work with a compliance monitor.

On September 27, 2022, **Smithfield Foods Inc.** agreed to pay $75 million in a preliminary agreement in Federal Court in Minneapolis to settle a pork price-fixing lawsuit by consumers.

This follows another settlement in June in which Smithfield Foods Inc. agreed to pay $83 million to resolve a 2021 lawsuit by direct purchasers involving multiple companies in the pork industry. In all, Smithfield Foods has agreed to pay $200 million to settle price-fixing lawsuits in 2022.

In September 2022, **JBS** agreed to pay $20 million to settle a lawsuit by consumers alleging the company had conspired with other meat processors to inflate the price of pork.

Rulemaking: Updating the Packers and Stockyards Act

The Act was designed to ensure a fair and competitive marketplace and protect farmers against abuse at the hands of large businesses. On July 9, 2021, President Biden issued an Executive Order on Promoting Competition in the American Economy which recognized that over the last decade, key agriculture markets have become more concentrated and less competitive. In response to this Executive Order and to facilitate effective enforcement, AMS announced it will conduct three rulemakings as noted in the Unified Agenda of Regulatory and Deregulatory Actions released by the White House Office of Management and Budget (OMB).

In August 2021, USDA issued Frequently Asked Questions (FAQs) with guidance regarding how it will enforce the December 2020 Undue Preference rule. The December 2020 **Final Rule to Define Undue or Unreasonable Preferences or Advantages under the Packers and Stockyards Act** provides four criteria that will be considered when determining whether an undue or unreasonable preference or advantage has occurred in violation of the Act. These criteria are not exhaustive, nor do they limit the scope of additional criteria.

The FAQs shed more light on additional criteria that may be utilized in undue preferences cases brought by PSD against packers, swine contractors, or live poultry dealers, and also distinguish circumstances that will be handled outside of the four criteria.

The FAQs also showcase examples designed to signal USDA's intent to utilize the Act across a range of different circumstances. Circumstances highlighted include:

- When a farmer faces discrimination on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, marital, or family status;
- When a farmer faces retaliation for participating in an association, speaking to the media, Congress, or governmental agencies;
- When a poultry company threatens to terminate a grower's contract unless they upgrade their broiler houses;
- When a grower faces potential deception in the provision of inputs for poultry growing;
- Whether a poultry grower has sufficient information to determine accuracy of pay, highlighting that payment and settlement records must be provided to the grower upon request;
- Location of disputes, to protect growers from being forced to travel to distant courts;
- Deception and manipulation between cash negotiated markets and formula contracts in cattle;

- Refusal to engage in cash negotiated transactions, if the packer is treating the producer differently from others, including where producers can meet terms of delivery cooperatively;
- Clarifying that the Act does not force all cattle to be priced the same way, using organic as an example to show differences in quality;
- Retaliation in the context of air and water pollution relating to hogs;
- How to report a complaint; and
- How to offer further comments on enforcement of the Act.

On May 5, 2022, AMS sought comments on a proposed rule it published in the **Federal Register**, **Preserving Trust Benefits Under the Packers and Stockyards Act**. This rule proposes to revise the regulations providing instructions for livestock sellers and live poultry sellers or growers who desire to preserve their interest in statutory trusts under the Packers and Stockyards Act. The proposed revisions would add procedures and timeframes for a livestock seller to notify the livestock dealer and the Secretary that the seller has not received full payment for livestock purchased by the dealer and that the seller intends to preserve its trust interests. Also, livestock dealers with average annual purchases over $100,000 would be required to obtain written acknowledgement from livestock sellers that trust benefits do not pertain to credit sales and would be required to maintain records related to credit sales. Additionally, the proposed revisions to the Packers and Stockyards regulations reflect recent amendments to the Act that provide for a livestock dealer trust.

On June 6, 2022, AMS sought comments on a proposed rule it published in the Federal Register. The **Transparency in Poultry Grower Contracting and Tournaments** proposed rule is intended to promote transparency in poultry production contracting and give poultry growers and prospective growers relevant information with which to make business decisions. The rule revises the list of disclosures and information live poultry dealers must provide to poultry growers and sellers with whom dealers make poultry growing arrangements. Among the disclosures to be clarified are poultry housing specifications, grower compensation, flock placement, stocking density, details on the health of breeder flock, and inputs provided by the live poultry dealer such as feed and medications. The live poultry dealer will be required to state the minimum number of poultry placements and the minimum stocking density the grower can expect annually so that the grower can make more informed decisions on the potential income from their poultry growing contract.

The proposed rule, **Inclusive Competition and Market Integrity under the Packers and Stockyards Act,** published on October 3, 2022, addresses concerns related to undue prejudices or disadvantages and unjust discrimination. The proposal would prohibit certain prejudices against market-vulnerable individuals. The proposal would identify retaliatory practices that interfere with lawful communications, assertion of rights, and associational participation, among other protected activities, as unjust discrimination prohibited by the law. The proposal would also identify unlawfully deceptive practices that violate the Act with respect to contract formation, contract performance, contract termination, and contract refusal. The purpose of the rule is to promote inclusive competition and market integrity in the livestock, meats, poultry, and live poultry markets. The proposal addresses concerns related to undue prejudices or disadvantages and unjust discrimination by establishing clearer duties on packers, swine contractors, and live poultry dealers to ensure full and non-discriminatory market access for all participants.

Packers and Stockyards Division Investigation and Enforcement Activities

Investigations and regulatory activities are two broad types of activities conducted at the regional office level. PSD generally categorizes regulatory and investigative activities as addressing areas of competition, trade practices, or financial concerns.

Investigations and regulatory reviews are conducted by agents stationed in a regional office, by the Competition Office, or by resident agents. PSD 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, are primary sources of market intelligence. The locations of PSD offices and resident agents are shown in Figure 8, Appendix B.

Regulatory reviews are carried out to determine if a regulated entity is complying with the Act and regulations and to help entities achieve compliance. Regional offices initiate regulatory activities based on annual business volume of the regulated entity, time elapsed since the last review, or information obtained from annual reports. Examples of regulatory activities include:

- Registering market agencies, dealers, and packer buyers who operate subject to the Act;
- Conducting orientations for new dealers, livestock auctions, and packers;
- Checking the accuracy and repeatability of weighing livestock, carcasses, live poultry, and feed;
- Auditing custodial accounts and payment practices; and
- Reviewing marketing practices and determining the adequacy of bond amounts.

Regulatory activities also include market-level price monitoring. PSD monitors cattle and hog markets using publicly available data. For example, every week PSD monitors cattle and hog prices as reported by AMS Market News. PSD also analyzes structural changes in the livestock, meat, and poultry industries. These monitoring activities have led to investigations at the industry and individual company levels.

PSD initiates an investigation when it has information that a violation of the Act may have occurred. For example, PSD 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 PSD;
- Possible violations found through other monitoring activities; and
- A need for follow-up on previously identified violations of the Act.

When investigating failures to pay for livestock, PSD assists producers with filing bond and trust claims where applicable.

Stakeholders in the livestock and poultry industries and the public may report complaints in one of four ways. They may call the PSD hotline at (833) 342-5773 (DIAL PSD), they can call any of the regional offices to discuss their concerns, they can send an e-mail to PSDComplaints@usda.gov, or they can submit complaints through the online Farmer Fairness Portal (https://www.usda.gov/farmerfairness). If desired, complainants may register their concerns anonymously. PSD responds to all these external contacts.

PSD sees a range of outcomes from its investigative and regulatory activities. PSD 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 the Enforcement Branch (EB) with a recommendation for more formal enforcement. The EB may stipulate[6] the violation(s) with the entity to resolve the violations. Alternatively, it may pursue administrative enforcement through USDA's OGC before a USDA Administrative Law Judge or through the DOJ in Federal court.[7]

[6] A stipulation is a legal agreement citing violation(s) found, and the civil penalty amount PSD will accept in settlement without pursuing a formal action. In signing the stipulation agreement, respondents agree to pay the civil penalty and waive their right to a hearing.
[7] OGC has the ability to prosecute all alleged livestock and poultry payment violations; however, all alleged poultry non-payment violations must be referred to the DOJ.

Administrative enforcements[8] may result in a civil penalty against the regulated entity, suspension of the entity's Packers and Stockyards registration, both a fine and suspension, and/or an order to cease and desist from repeating the violation(s). In FY 2021, 31 entities stipulated to penalties totaling $79,340. Administrative Law Judges levied $1,594,101 in penalties for a total of $1,673,441 in civil penalties (Table 9), more than double the amount from the prior year. In FY 2022, 27 entities stipulated to penalties totaling $92,650. Administrative Law Judges levied $772,831 in penalties and Federal courts imposed $1,813,169 in fines for a total of $2,678,650 in civil penalties (Table 9), an increase of 60 percent from the prior year. There are many factors determining the number of enforcement actions and penalties. Industry compliance rates vary over time and may be influenced by external factors such as general economic conditions and livestock prices. Penalties are dependent on the type and severity of the violations and the regulated entity's ability to pay and stay in business.

Table 9. Penalties Levied for Packers and Stockyards Act Violations, 2018–2022

Type Judgment	2018	2019	2020	2021	2022
Stipulations	$77,725	$83,255	$122,700	$79,340	$92,650
Administrative Penalties	$154,000	$697,320	$653,256	$1,594,101	$772,831
Department of Justice Civil Penalties	$145,950	$16,862	$10,000	$0	$1,813,169
Total Penalties	$377,675	$797,437	$785,956	$1,673,441	$2,678,650
Suspensions	11	9	19	15	10

[8] 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 United States Appeals Court, and further to the Supreme Court of the United States.

Enforcing Business Practice Provisions

The regional offices are responsible for conducting regulatory reviews and investigations of trade practice provisions of the Act, collectively referred to as business practice provisions. The regional offices investigate alleged 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. 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

In FY 2019, PSD re-established a Competition Branch staffed with economists. PSD investigates complaints alleging anticompetitive 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. PSD's economists, legal specialists, and investigative attorneys collaborate with USDA's OGC on competition investigations. When the outcome from an investigation supports legal action, PSD formally refers the case file to OGC for enforcement. OGC further refers some cases to DOJ.

PSD 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. PSD also conducts economic analysis of significant industry events, including mergers, acquisitions, and plant closings. PSD interacts with DOJ and the Commodity Futures Trading Commission (CFTC) on competition investigations and when analyzing mergers and acquisitions.

Fed Cattle and Hog Market Price Monitoring

PSD's fed cattle market price monitoring program includes a weekly internal reporting protocol based on statistical models for fed cattle markets. The statistical model relies on publicly reported price data to assess regional prices. The hog price monitoring program was re-established in 2022. It uses publicly reported prices in regional hog markets to monitor trends in weekly carcass prices.

Poultry Contract Compliance Review Process

Poultry is almost exclusively grown under production contracts. Under a production contract, the live poultry dealer (also known as a poultry integrator or processor) provides the poultry grower with many inputs including the live chicks, feed, and medications. The poultry grower provides 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 the growing services is often determined by a poultry grower ranking system (commonly referred to as a tournament) outlined in the production contract.

PSD regularly conducts poultry contract reviews to examine poultry contracts and payment practices for consistency and compliance with the Act and regulations. PSD 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. If PSD uncovers discrepancies, it opens an investigation.

Trade Practices

PSD reviews the activities of regulated entities to ensure that packers, market agencies, livestock dealers, swine contractors, and live poultry dealers do not engage in unfair or deceptive practices in the procurement and marketing of livestock, meat, and 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 scale accuracy, but PSD also examines scales and weighing practices. PSD also evaluates the accuracy and use of electronic carcass evaluation devices when the equipment is used to determine payment for livestock. 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 of livestock, are required to post a notice that informs the public that the stockyard meets the definition of a stockyard under the Act. Once posted, the stockyard remains posted until PSD deposts it through public notice.

Historically, several commission firms marketed livestock at the terminal stockyards, but most of these facilities are no longer operating. Today, nearly all the posted stockyards are local livestock auctions. Internet and video auctions that hold livestock sales over the internet or through a video platform are also subject to the Act and regulations, even if they do not operate at a posted stockyard.

PSD meets with new auction owners and managers, ideally before they begin operations, to ensure that operators understand their responsibilities under the 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.

PSD 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.

A transaction made on false or inaccurate weights, including instances in which a livestock auction, livestock dealer, packer, or live poultry dealer modifies the actual weight of the livestock or fails to pass on a shrink allowance, is an unfair and deceptive practice. PSD regulations require livestock auctions, dealers, packers and live poultry dealers 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. Regulations also require them to file scale test reports as evidence of scale maintenance and accuracy. State or local governments and private companies provide scale test services.

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

Table 10. Weighing Inspections and Violations, 2018–2022

Type	2018	2019	2020	2021	2022
Inspections					
Livestock Auctions	300	305	275	267	218
Dealers	301	278	202	165	185
Packers	159	155	138	114	108
Poultry	98	88	74	71	76
Feed	68	43	47	25	36
Total	**926**	**869**	**736**	**642**	**620**
Violations					
Livestock Auctions	59	32	22	25	40
Dealers	34	37	15	29	31
Packers	43	41	33	20	26
Poultry	16	14	15	13	25
Feed	5	4	4	2	6
Total	**157**	**128**	**89**	**89**	**128**

In addition, PSD conducts several types of regulatory and investigative inspections to ensure scale operators and entities subject to the 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 weights. The types and number of weighing inspections conducted by PSD and violations from 2018 to 2022 appear in Table 10. In 2021, out of 642 inspections conducted, PSD agents found a total of 89 violations, an 86-percent compliance rate. In 2022, out of 620 inspections conducted, PSD agents found a total of 128 violations, reflecting a 79-percent compliance rate.

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

Enforcing Financial Provisions

The financial provisions of the Act and regulations support the financial integrity of regulated entities and foster liquidity in markets for livestock, meat, and poultry. PSD 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 Act, livestock dealers, market agencies, and packers are required to be solvent, i.e., current assets must exceed current liabilities. PSD monitors solvency by conducting on-site financial compliance reviews. PSD also monitors solvency by reviewing financial data in annual and special reports filed by regulated entities.

PSD requires special reports from entities whose annual reports disclose insolvencies. If PSD determines that an entity is insolvent, it notifies the entity that it must correct the insolvency immediately. In addition, PSD conducts on-site financial investigations. These investigations confirm whether entities correctly reported insolvencies. The investigations also confirm whether entities resolved other financial issues. PSD initiates formal disciplinary actions when appropriate.

Market agencies selling livestock on commission, such as local livestock auctions and video and internet auctions, are required by the 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.

PSD 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 PSD's assessment reveals custodial account shortages, PSD acts to have the livestock auction bring the account into balance by issuing a Notice of Violation or preparing for a formal enforcement action.

Table 11 shows the number of custodial reviews conducted by PSD in the past 5 years, the number of violations found, and the value of shortages corrected by market agencies because of the intervention by PSD. In 2021, PSD conducted 407 custodial reviews and found 172 violations with an overall dollar value of shortage corrections of $5.4 million. In 2022, PSD conducted 292 custodial reviews and found 102 violations with an overall dollar value of shortage corrections of $4.1 million.

Table 11. Number of Custodial Account Reviews, Violations Found, and Shortages Corrected, 2018–2022

Year	Reviews	Account Violations	Shortage Corrections
2018	420	170	$1,577,974
2019	409	137	$3,573,403
2020	410	141	$3,813,221
2021	407	172	$5,435,601
2022	292	102	$4,093,619

Bond Protections for Unpaid Livestock Sellers

All market agencies, 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 PSD regional offices or at https://www.ams.usda.gov/resources/bond-bond-equivalent-and-claim-forms.

The seller must file a completed claim form, accompanied by supporting documents, with PSD or the surety company. PSD analyzes each claim to determine whether the claimant filed it timely and whether the claimant provided adequate documentation to support the claim. PSD 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, PSD immediately deploys a rapid response team to investigate for potentially serious financial situations that may cause imminent and irreparable harm to livestock producers.

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. The dollar amount of total claims on dealer bonds often varies significantly from the dollar amount of valid claim(s). One of the more common reasons for invalid claims is sellers frequently file claims beyond the 60 days after the transaction took place and, in this circumstance, the surety will likely deny the claim.

The **Dealer Statutory Livestock Trust to Protect Livestock Sellers** was signed into law in December 2020 and dealer claims since FY 2021 included the first trust claims filed under the law. Valid claims in 2021 were $613,092 and total restitution of $290,503 through the end of the fiscal year included $80,513 in trust payments (Table 12). In 2022, there were $1,085,179 in valid claims and total restitution of $753,089 through the end of the fiscal year included $426,345 in trust payments.

Table 12. Dealer Bond and Trust Claims and Recovery, 2018–2022[9]

Year Opened	Total Claims	Valid Claims	Year Closed	Bond Recovery	Trust Recovery	Other Recovery	Total Recovered
2018	$5,139,226	$3,710,515	2018	$420,000	N/A	$1,264,830	$1,684,830
			2019	$81,032	N/A	$165,000	$246,032
2019	$1,329,822	$477,524	2019	$118,994	N/A	$54,729	$173,723
			2020	$77,353	N/A	$3,335	$80,688
2020	$1,146,789	$1,001,257	2020	$311,284	N/A	$200	$311,484
2021	$1,385,106	$613,092	2021	$140,840	$80,513	$69,150	$290,503
2022	$1,446,911	$1,085,179	2022	$75,627	$426,345	$251,117	$753,089

Auction markets may be especially vulnerable to a domino effect from dealer failures since many dealers purchase livestock from auction markets. The failure of a large dealer may impact every auction market that it failed to pay. Total valid claims against livestock auctions from 2017 to 2020 ranged from over $43,000 in 2020 to $2.1 million in 2019 (Table 13). In 2021,

[9] In all bond claim tables, total claims are computed for the fiscal year in which the claim was opened. Bond claims are not always closed in the same fiscal year they were first opened and recoveries for claims are recorded in the year the claims were closed. Claims that are withdrawn are not included in any of the totals. All years are fiscal years ending September 30. Year closed corresponds to date of recovery.

valid bond claims decreased to $4,890 and in 2022 there were no valid claims filed against auction markets.

Table 13. Livestock Auction Bond Claims and Recovery, 2018–2022

Year Opened	Total Claims	Valid Claims	Year Closed	Bond Recovery	Other Recovery	Total Recovered
2018	$165,099	$80,052	2018	$72,359	$1,619	$73,978
			2019	$114	$0	$114
2019	$2,700,707	$2,108,679	2019	$9,217	$37,016	$46,233
			2020	$224,220	$1,909,808	$2,134,028
2020	$58,174	$43,339	2020	$40,805	$2,534	$43,339
2021	$4,890	$4,890	2021	$0	$0	$0
2022	$8,327	$0	2022	$0	$0	$0

The Act authorizes unpaid livestock sellers to claim against packer trust assets. The trust provides additional protection above that of any bond held by the packer. Most of the packer bond and trust claims completed from 2018 to 2019 are the result of claims filed against Sam Kane Beef Processors, LLC, due to its difficulty in paying timely for its cattle purchases. In 2021, valid packer claims decreased to $576,113 from $2.2 million in 2020, then increased in 2022 to $2.6 million (Table 14). The total recovered in 2021 was $194,132, increasing to $2.7 million in 2022.

Table 14. Packer Bond and Trust Claims and Recovery, 2018–2022

Year Opened	Total Claims	Valid Claims	Year Closed	Bond Recovery	Trust Recovery	Other Recovery	Total Recovered
2018	$149,259,337	$143,715,875	2018	$525,000	$3,436,237	$552,193	$4,513,430
			2019	$4,195,000	$96,155,986	$786,648	$101,137,635
2019	$1,440,425	$1,253,123	2020	$1,141,730	$48,002	$0	$1,189,732
2020	$2,311,428	$2,240,034	2020	$235,000	$1,118,547	$393,080	$1,746,627
2021	$1,078,613	$576,113	2021	$25,000	$169,132	$0	$194,132
2022	$2,953,126	$2,593,987	2022	$0	$2,720,003	$0	$2,720,003

Live poultry dealers are not required to maintain bonds but are covered by a statutory trust. Poultry growers and live poultry sellers do not file trust claims against live poultry dealers as frequently as livestock sellers, and there were no claims filed for several years (Table 15). In 2017, there was full restitution for claims filed against poultry dealers, and the poultry trust accounted for all the reimbursement. From 2018 to 2020, no poultry trust claims were filed. In 2021, total claims filed were $248,282, but only $55,417 were valid or filed timely. Poultry dealers, or other entities responding to bond and trust claims filed against them, may choose to reimburse the sellers by more than the amount of the valid claim. There were no trust claims filed against live poultry dealers in 2022.

Table 15. Poultry Trust Claims and Recovery, 2018–2022

Fiscal Year	Total Claims	Valid Claims	Trust Recovery	Other Recovery	Total Recovered
2018	$0	$0	$0	$0	$0
2019	$0	$0	$0	$0	$0
2020	$0	$0	$0	$0	$0
2021	$248,282	$55,417	$55,417	$100,000	$155,417
2022	$0	$0	$0	$0	$0

Packers and Stockyards Division Program Performance and Efficiency

PSD achieves its mission, in part, 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 PSD strives to improve its performance and efficiency, and the demonstrated results.

Performance Measurement

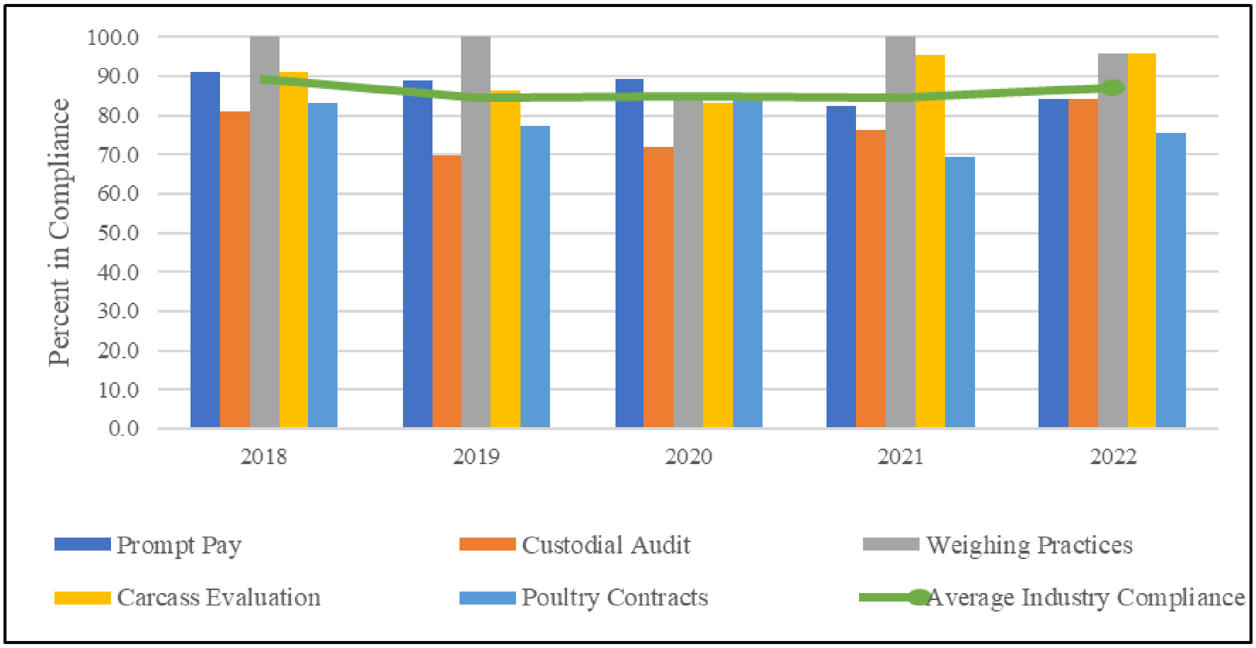
PSD assesses its performance annually by measuring industry compliance with the Act and regulations. PSD performs compliance reviews of a random sample of regulated entities to estimate industry compliance rates in the following five areas:

(1) Prompt payment by 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.

PSD analyzes compliance data and general economic conditions. It uses this information to deploy its resources effectively to meet changing industry conditions. While the overall compliance rate remained at 85 percent from FY 2020 to FY 2021, the results of the components that comprise the aggregate index were mixed compared to the prior year. Weighing practices compliance increased from 85 percent to 100 percent, and carcass evaluation compliance also increased from 83 percent to 95 percent. Poultry contract compliance fell from 85 percent to 69 percent, and custodial account compliance improved from 72 percent to 76 percent. Prompt payment compliance declined from 89 percent to 82 percent (Figure 5).

The overall compliance rate increased to 87 percent in FY 2022 from 85 in FY 2021, and most of the components that comprise the aggregate index improved compared to the prior year (Figure 5). Poultry contract compliance increased from 69 percent to 76 percent, and custodial account compliance increased from 76 percent to 84 percent. Prompt payment compliance was up from 82 percent to 84 percent, and carcass evaluation compliance increased from 95 percent to 96 percent. Weighing practices compliance declined from 100 percent to 96 percent.

Figure 5. Industry Compliance by Component and Average Industry Compliance, 2018–2022

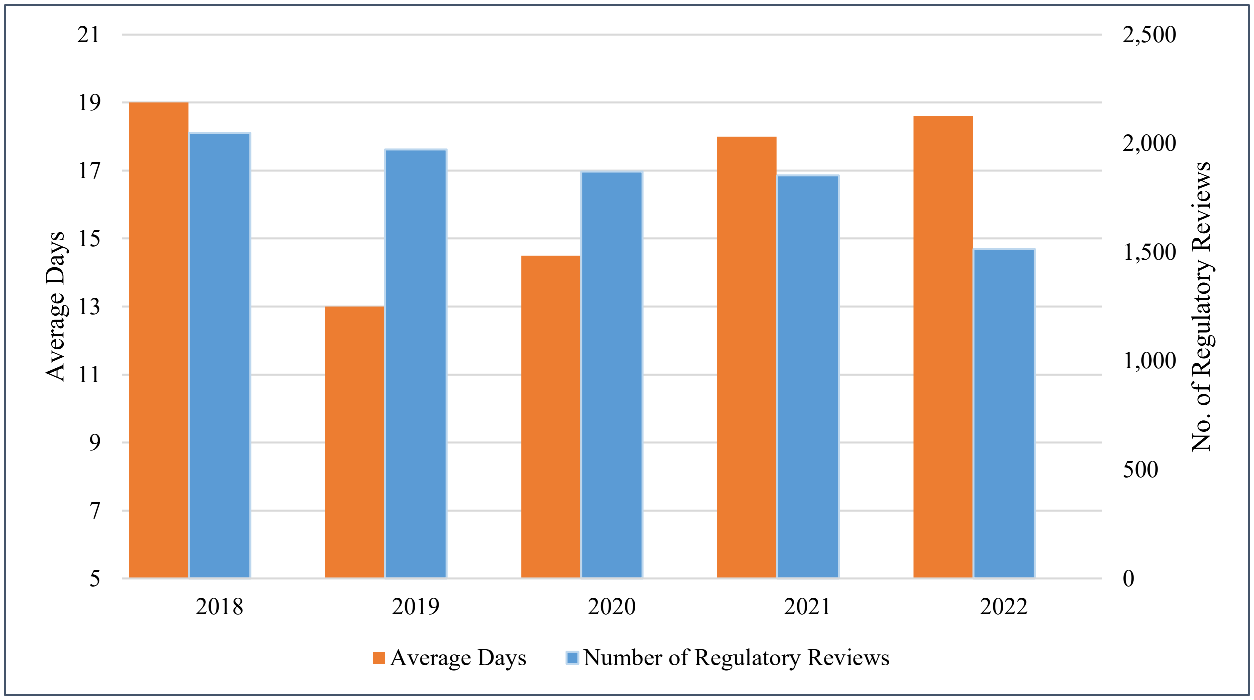


PSD puts emphasis on educational and outreach activities that improve industry compliance. During each regulatory review or investigation, PSD agents discuss how to achieve compliance with regulated entities. However, economic conditions within the industry affect compliance rates. For example, weak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

Efficiency Measurement

PSD measures its efficiency at conducting regulatory reviews and investigations by comparing the total days between when it opens and closes each type of activity. Figure 6 shows the total number of regulatory reviews conducted by PSD and the average number of days to complete a review.

Figure 6. Number of Regulatory Reviews and Average Days to Complete a Review, 2018–2022

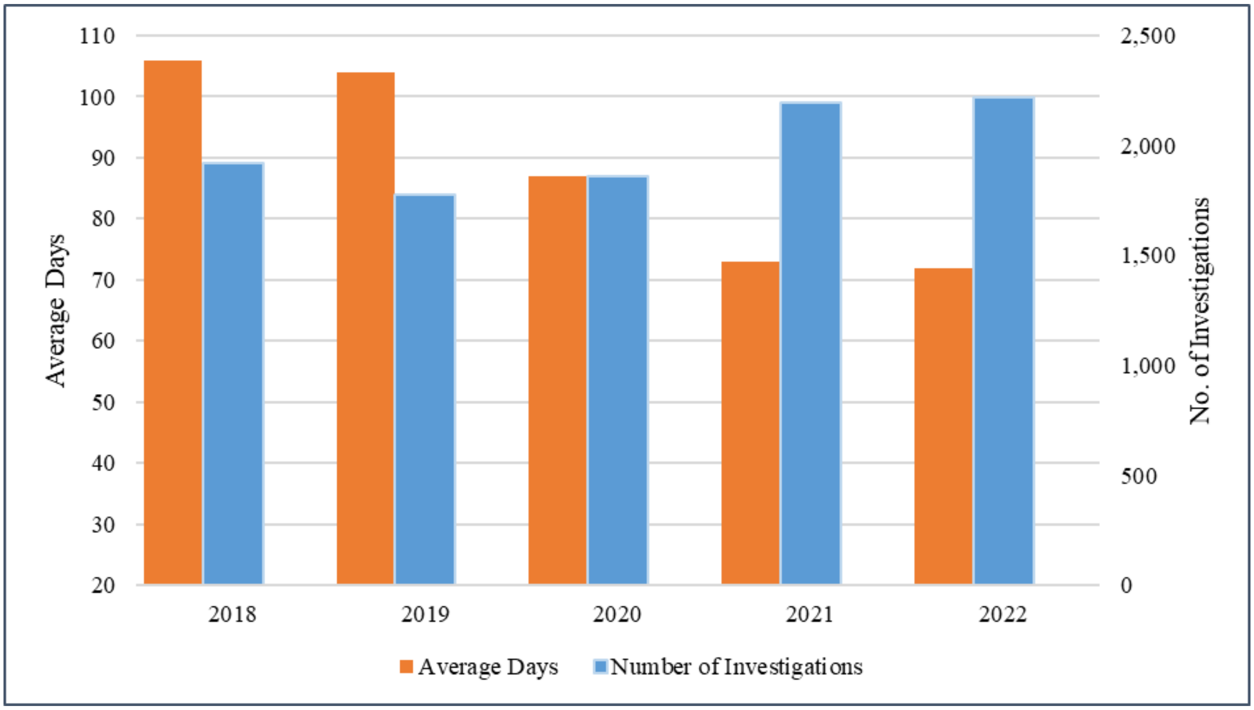


The total number of investigations completed by PSD in the field and the average number of days to complete an investigation appear in Figure 7. In the case that PSD does not complete investigations in the field, the regional offices submit formal case files to the Enforcement Branch with a recommendation for stipulation or enforcement by OGC or DOJ. If a regulated entity agrees to a stipulation, it waives its right to a hearing, admits the violation(s), and voluntarily agrees to pay a penalty. PSD then closes the investigation. Cases referred to OGC or DOJ remain open until OGC or DOJ completes the enforcement action. PSD considers an investigation complete when it is closed by PSD at the regional office level, closed by the Enforcement Branch, or when the formal enforcement action related to the investigation has been completed for cases referred to OGC or DOJ.

The average number of days to complete a regulatory activity increased from about 15 in FY 2020 to 18 in FY 2021 and the number of regulatory reviews completed declined from 1,870 in FY 2020 to 1,853 in FY 2021. For investigations closed in FY 2021, the average number of days to complete and close an investigation in the field declined to 73 days from 87 in FY 2020. The number of investigations completed in the field increased from 1,860 in FY 2020 to 2,197 in FY 2021. PSD completed these investigations in several ways. For about 80 percent of cases, PSD found no violations or reached an informal agreement to correct minor violations. PSD resolved and closed 17 percent of investigations by issuing formal Notices of Violation.

The average number of days to complete a regulatory activity increased from about 18 in FY 2021 to almost 19 in FY 2022 and the number of regulatory reviews completed declined from 1,853 in FY 2021 to 1,515 in FY 2022. For investigations closed in FY 2022, the average number of days to complete and close an investigation in the field declined to 72 days from 73 in FY 2021. The number of investigations completed in the field increased from 2,197 in FY 2021 to 2,220 in FY 2022. PSD completed these investigations in several ways. For about 69 percent of cases, PSD found no violations or reached an informal agreement to correct minor violations. PSD resolved and closed 28 percent of investigations by issuing formal Notices of Violation.

Figure 7. Number of Investigations and Average Days to Complete, 2018–2022

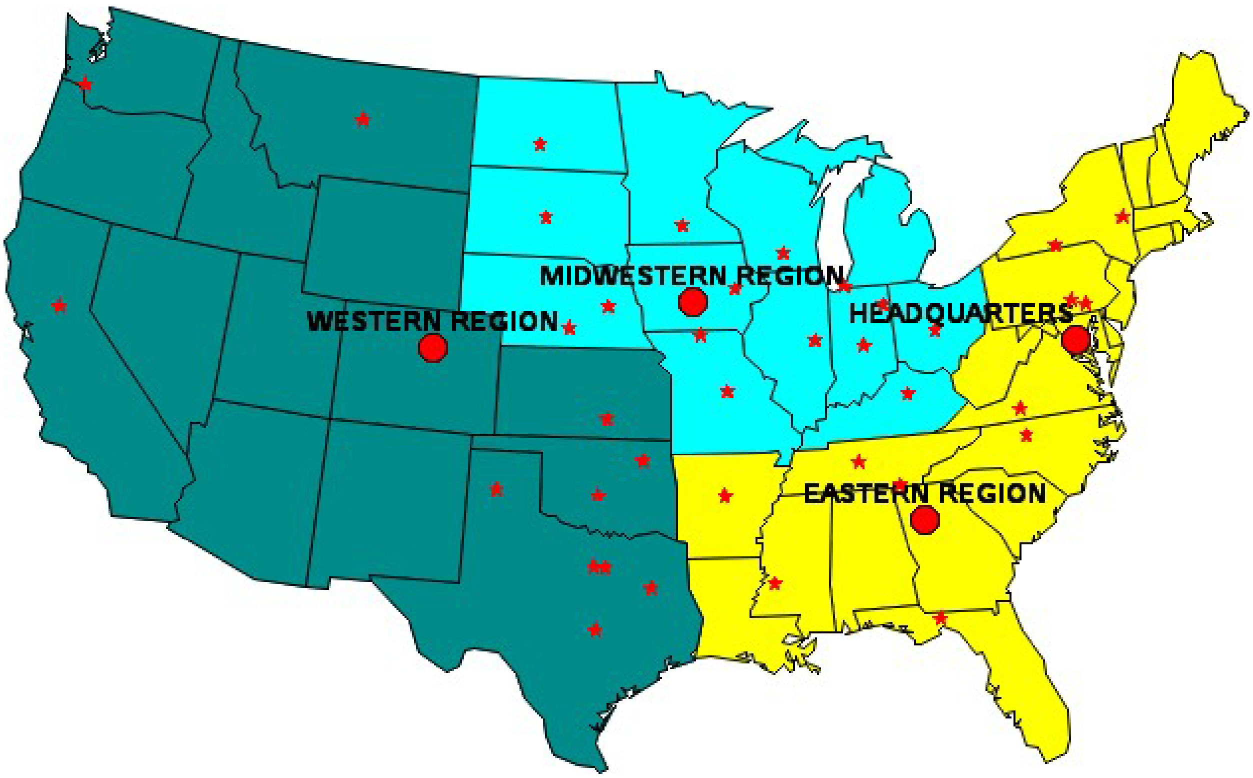


Appendix A: Data Sources for Tables and Charts

Table 1	Number of entities registered and/or bonded as recorded in PSD databases.
Table 2	Data are from the 2017 and 2012 Census of Agriculture since swine contractors do not file reports with PSD.
Table 3	Data are compiled from annual reports filed with PSD by packers and live poultry dealers.
Table 4	PSD databases.
Tables 5 - 6	Total Value Purchases is the total of livestock purchases reported by packers filing annual reports to PSD. Concentration statistics for livestock slaughter (heifers and steers, cows and bulls, hogs, and sheep and lambs) are compiled from NASS reports on commercial slaughter. Concentration statistics for broiler and turkey slaughter are computed from live poultry dealer annual reports filed with PSD.
Table 7	Data are compiled from annual reports filed by packers with PSD.
Table 8	Data are compiled from annual reports filed with PSD by livestock markets selling on commission.
Table 9	Enforcement data from PSD databases.
Table 10	Scales and weighing inspection data from PSD databases.
Table 11	Data on custodial account reviews are from PSD databases.
Table 12	Data are from bond and trust claims filed with PSD by livestock sellers against livestock dealers.
Table 13	Data are from bond claims filed with PSD by livestock sellers against market agencies.
Table 14	Data are from bond and trust claims filed with PSD by livestock sellers against packer bonds and packer trusts.
Table 15	Data are from trust claims filed with PSD by live poultry sellers against poultry trusts held by live poultry dealers.
Figure 1	Dollar value of livestock purchases reported by packers, livestock dealers, and market agencies, and livestock sold through market agencies selling on commission, compiled from annual reports filed with PSD by packers, livestock dealers and markets selling on commission.
Figures 2 - 4	Statistics on types of procurement methods compiled from data reported to USDA's AMS under the provisions of the Mandatory Price Reporting Act.
Figure 5	Data on compliance rates from PSD databases.
Figures 6 - 7	Data on investigations and regulatory reviews from PSD databases.

Appendix B: Field Staff and Office Locations

Figure 8. PSD Offices and Resident Agent, Resident Auditor, and Market Inspector Locations



Contacting PSD

To file a complaint, e-mail PSDComplaints@usda.gov, call PSD's hotline at (833) 342-5773, use the online Farmer Fairness Portal (https://www.usda.gov/farmerfairness), or contact the relevant regional office location. The Office of the Director is in the Midwestern Regional Office.

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Midwestern Regional Office
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