Priebus Memorandum

• Regulatory Freeze Pending Review Memorandum

1. Send no regulation to the Federal Register until a department or agency head appointed or designated by the President after noon on January 20, 2017, reviews and approves the regulation.

2. Regulations sent to OFR but not published in the Federal Register should be immediately withdrawn and subject to review and approval.

3. Regulations published in the Federal Register but not taken effect, temporarily postpone their effective date for 60 days from January 20 (March 21) to review questions of fact, law, and policy they raise.
Priebus Memorandum

• Memorandum applies to “any substantive action by an agency (normally published in the Federal Register) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking,” and also covers any agency statement of general applicability and future effect “that sets forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statutory or regulatory issue.”
Priebus Memorandum

- GIPSA Interim Final Rule
- AMS Organic Animal Welfare Final Rule
- FSIS Proposed Rule Regarding Revision of Nutrition Facts Labels
- FDA Antibiotic Judicious Use Notice
January 30 Executive Order

• Section 2 – Regulatory Cap for Fiscal Year 2017
  – “(a)... whenever an ... agency publicly proposes for notice or comment or promulgates a new regulation, if shall identify at least two new regulations to be repealed.”
  – “(b) For fiscal year 2017, ... agencies are directed that the total incremental cost of all new regulations, ...to be finalized this fiscal year shall be no greater than zero, ....”
January 30 Executive Order

• Federal Fiscal Year October 1 - September 30

• Rules proposed since October 1 – FSIS Nutrition Facts

• Rules finalized since October 1 – GIPSA rule
January 27 Executive Order

- Blocks immigrant and nonimmigrant entry for 90 days for “aliens” from Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen
- Suspends U.S. refugee program for all countries for at least 120 days
- Litigation ongoing
- DHS statement that travel ban generally would not block entry by U.S. permanent residents.
GIPSA

• December 20, 2016 – Interim final rule and two proposed rules

• Interim final “Scope” rule – eliminates the need for a plaintiff to show harm or likely harm to competition in P&S litigation

• Proposed rule: “unfair practices” and “unreasonable preferences”

• Proposed rule: Poultry grower ranking systems
GIPSA Scope Rule

- “Scope” interim final rule effective date was February 21 – now at least March 21
- GIPSA invited comments on the IFR – nonsensical that comment period and effective date
GIPSA Scope Rule

• IFR conflicts with holdings in eight appellate circuits

• IFR encourages lawsuits to be filed against packers and poultry integrators
GIPSA: Unfair Practices

- **Per se violation of section 202(a).** Any conduct or action explicitly deemed to be an “unfair,” “unjustly discriminatory,” or “deceptive” practice or device by the Act is a violation of section 202(a) of the Act.

- **Violation of section 202(a) regardless of harm to competition.** Illustrative list of conduct or action that would be illegal, e.g., retaliatory action, limiting by contract legal rights and remedies, certain practices involving poultry, etc.

- Not as prescriptive as 2010 proposal but not exclusive
GIPSA: Unreasonable Preferences

• Treating some livestock producers, swine production contract growers, or poultry growers more favorably compared to similarly situated livestock producers, swine production contract growers, or poultry growers

1. Engaging in lawful communication, association, or assertion of their rights

2. An “arbitrary reason” unrelated to the livestock or poultry operation

3. Whether the packer, swine contractor, or live poultry dealer has demonstrated a legitimate business justification for conduct or action that may otherwise constitute an undue or unreasonable preference or advantage

• Not exclusive
GIPSA: Poultry Grower Ranking Systems

• Four general criteria: the fourth one is
  
  – Whether a live poultry dealer has demonstrated a legitimate business justification for use of a poultry grower ranking system that may otherwise be unfair, unjustly discriminatory, or deceptive or gives an undue or unreasonable preference or advantage to any poultry grower or subjects any poultry grower to an undue or unreasonable prejudice or disadvantage

• Not exclusive
Labeling

• Proposition 65
• Genetically Modified Organisms
• “Natural”
• Revisions to Nutrition Facts label
• CSPI cancer warning label petition
• “Best if used by”
Proposition 65

- Nitrites in combination with amines and amides – OEHHA Carcinogen Identification Committee (CIC) voted unanimously not to list

- IARC monograph on red and processed meat – expected this summer (July or August)

- CIC chairman referenced the red and processed meat issue
GMO Labeling

– Mandatory AMS administered labeling program

– Preempts Vermont and other state labeling laws

– Food derived from an animal is not considered "bioengineered" solely because the animal consumed GMO feed
GMO Labeling

• Most basic meat products with multiple ingredients, *i.e.*, flavored pork tenderloins, deli meats and sausages, *etc.* exempt from labeling

• Some multi-ingredient meat and poultry products will have to bear GMO labeling – “predominant ingredient” test
GMO Labeling

• Products sold in restaurants and other “similar retail food establishments” are exempt.

• Law allows disclosure using different mechanisms, *i.e.*, on-pack text or symbol, or an electronic or digital link (such as Quick Response (QR) codes or SmartLabels).

• Food is not considered “non-GMO” simply because it’s not required to bear a disclosure.

• Law permits AMS to set minimal thresholds.
“Natural” Labeling

• New GMO law does not address “natural.”

• FSIS regulatory agenda -- proposed “natural” rule for meat and poultry in August 2017

• FDA request for information – comments filed April 2016
### Original Label

**Nutrition Facts**

Serving Size: 2/3 cup (55g)
Servings Per Container: About 8

<table>
<thead>
<tr>
<th>Amount Per Serving</th>
<th>% Daily Value*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Calories 230</td>
<td>72</td>
</tr>
<tr>
<td>Total Fat 8g</td>
<td>12%</td>
</tr>
<tr>
<td>Saturated Fat 1g</td>
<td>5%</td>
</tr>
<tr>
<td>Trans Fat 0g</td>
<td></td>
</tr>
<tr>
<td>Cholesterol 0mg</td>
<td>0%</td>
</tr>
<tr>
<td>Sodium 160mg</td>
<td>7%</td>
</tr>
<tr>
<td>Total Carbohydrate 37g</td>
<td>12%</td>
</tr>
<tr>
<td>Dietary Fiber 4g</td>
<td>16%</td>
</tr>
<tr>
<td>Sugars 1g</td>
<td></td>
</tr>
<tr>
<td>Protein 3g</td>
<td>4%</td>
</tr>
</tbody>
</table>

Vitamin A 10%
Vitamin C 8%
Calcium 20%
Iron 45%

*Percent Daily Values are based on a 2,000 calorie diet. Your daily value may be higher or lower depending on your calorie needs.

### New Label

**Nutrition Facts**

8 servings per container
Serving Size: 2/3 cup (55g)

<table>
<thead>
<tr>
<th>Amount per serving</th>
<th>Calories 230</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Fat 8g</td>
<td>10%</td>
</tr>
<tr>
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<td>20%</td>
</tr>
<tr>
<td>Protein 3g</td>
<td></td>
</tr>
</tbody>
</table>

Vitamin D 2mcg 10%
Calcium 260mg 20%
Iron 8mg 45%
Potassium 23.5mg 6%

*The % Daily Value (DV) tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.
Nutrition Facts Panel: Key Changes

• Largely mirrors FDA Final Rule

• Removes declaring “Calories from fat”

• Requires labeling of *trans fat*

• Requires declaring the gram amount of “added sugars” in a serving of a product

• Changes “Sugars” to “Total Sugars”

• Requires Vitamin D and Potassium and permits (not requires) Vitamins A and C
Nutrition Facts Panel: Key Changes

• Revises label format to increase the prominence of “Calories”

• Removes requirement for footnote table listing the reference values for certain nutrients for 2,000 and 2,500 calorie diets

• Footnote language states “The % Daily Value (DV) tells you how much a nutrient in a single serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice”

• Maintain records supporting declarations of certain nutrients under specified circumstances -- added sugars, dietary fiber (soluble and insoluble), Vitamin E, and folate and folic acid
FSIS Proposed Revisions to Nutrition Facts Panel

• Comments due March 20, 2017
• FDA’s updated labels must be on packages by July 26, 2018
  – July 26, 2019 for manufacturers with less than $10 million in annual food sales.
• Nutrition Facts Label Compliance
• Uniform Compliance Date
“Other” Labeling

• **CSPI Petition:** “**USDA WARNING:** Frequent consumption of processed meat products may increase your risk of developing cancer of the colon and rectum. To protect your health, limit your consumption of such products.”

• **FSIS “Best if used by” guidance**
Salmonella Policy

- FSIS increasing focus on Salmonellosis – poultry, beef, and pork

- *Salmonella* as an adulterant
  - CSPI amended petition: four serovars
  - FSIS official’s comments regarding testing beef primals and that *salmonella* is a “hazard reasonably likely to occur” in beef products likely to be ground or non-intact
Humane Slaughter/Animal Handling

• Agency policy regarding non-establishment employees

• Farm Sanctuary petition pending
Evaluations of Red and Processed Meat: International Agency for Research on Cancer

- American Meat Science Association Lexicon project
- Monograph expected in summer of 2017
- IARC subject to “scrutiny”
Evaluations of Red and Processed Meat: National Toxicology Program

Request for Information

- Consumption of red meat: cancer and non-cancer health hazard evaluations.
- Consumption of processed meat: cancer and non-cancer health hazard evaluations.
- Consumption of meat cooked at high temperatures: cancer and non-cancer health hazard evaluations.
Animal foods

Limit red meat and avoid processed meat

Limit intake of red meat\(^1\) and avoid processed meat\(^2\)

Public health goal

- Population average consumption of red meat to be no more than 300 g (11 oz) a week, very little if any of which to be processed

Personal recommendation

- People who eat red meat\(^4\) to consume less than 500 g (18 oz) a week, very little if any to be processed\(^2\)

\(^1\) ‘Red meat’ refers to beef, pork, lamb, and goat from domesticated animals including that contained in processed foods

\(^2\) ‘Processed meat’ refers to meat preserved by smoking, curing or salting, or addition of chemical preservatives, including that contained in processed foods
Whole Genome Sequencing of Foodborne Pathogens

• Food industry coalition working to address issues involving WGS and regulatory policy

• FDA – FSIS – CDC

• Public meeting – summer/fall
Dietary Guidance

• FDA Voluntary Sodium Reduction Goals: Comments filed regarding short and long term goals

• Modernization of Dietary Guidelines process
Antibiotic Use and Resistance

• Judicious Use of Medically Important Antimicrobials: Request for Information
  – Comments due March 13.
Labor & Employment

• Overtime Rule
  – $47,476 annually
  – Nationwide injunction on appeal

• Fair Pay and Safe Workplaces Rule
  – Reporting requirements on federal contractors
  – Nationwide injunction on appeal
Farm Bill

COOL

Packer ban

Other “brilliant” ideas

Congressional Review Act
Millennial Targeted ‘APP’

Features:
- Cuts of Meat
- Beef
  - Chuck
  - Brisket
  - Rib
  - Plate
  - Short Loin
  - Flank
  - Tenderloin
  - Top Sirloin
- Pork Loin
- Seven Nutrition Facts About Meat That Might Surprise You
  1. Meat is a complete, high-quality protein containing all of the essential amino acids your body needs for optimal health.
  2. Amino acids are used to build muscle, strengthen the immune system, and help maintain a normal metabolism. People cannot naturally produce all of the necessary amino acids, making adequate dietary consumption critical.
Questions?