GUEST OPINIONS

Urgent Call for Comments and Action: Proposed Labor Regulations Detrimental to Cattle and Sheep Producers Alike

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With the Department of Labor's proposed new regulations affecting migrant workers, the Obama Administration is continuing its assault against western agriculture. Although some mistakenly view the proposed regs as only a sheep industry issue, the proposed regs affect the cattle industry with equal force.

Western grazing permittees already face numerous difficulties with federal agencies with respect to grazing permit renewals, threats to curtail domestic sheep grazing arguably to protect bighorn sheep and limits on grazing to arguably protect other species that are neither threatened nor endangered, but the proposed labor regs threaten to end cattle and sheep grazing operations entirely.

The Wyoming media acknowledges the proposed labor regulations would triple migrant worker wages and put many of Wyoming's oldest agricultural producers out of business. (See *Wyofile* article dated April 28, 2015.) Wyoming livestock producers agree.

"Our family's cattle and sheep operations have been in operation for over 110 years, and we have supported Fremont and Sublette County's tax base and local businesses for over 110 years. Not only would these proposed regulations end our 110-year grazing operations in 45 days, it would adversely impact the local tax base and local businesses," explains Pete Arambel, who owns and operates Midland Livestock Company, Dunton Sheep Company and other Wyoming livestock companies.

Arambel explains that their sheep and cattle grazing operations would be run out of business if the proposed labor regulations are approved.

Other long-time agricultural producers in Wyoming express the same concern. Pat O'Toole of the Ladder Ranch, who runs both sheep and cattle operations, explains that the proposed regs "call for the elimination of an industry." Further, John Raftopoulos of the Diamond Peak Cattle Co., who runs cattle in Wyoming, Colorado and Utah, explains, "They will mess up the system by trying to fix it and will make people not use the H-2A system and end up hurting the people they are arguably trying to help."

A recent ASI memo explains, "Simply forcing employers to triple their wages will only result in a flow of a projected $45 million out of the U.S. economy to foreign herders' home countries over the next five years, all while U.S. employers go out of business from the burden. Given the current domestic and international market, however, few, if any, of these employers will still be in business by 2020."

ASI further explains, "Each H-2A open-range herder position creates eight U.S. full-time jobs, and the loss of each H-2A position will mean the loss of those jobs, mostly in small western towns."

Livestock industry groups question the wisdom of doubling or tripling migrant workers' wages when sheep industry wool and slaughter lamb prices are not sufficient to support such an increase in labor costs. Such groups also question the appropriateness of the definitions of "open range" and the job description attributed to these workers.

"First, the Department of Labor must withdraw their proposed wage formulation and replace it with a new common sense rate that is sustainable. Second, the proposal attempts to re define the job description of open range livestock worker and sheep herder. [The proposed regs would] mean many ranchers will no longer be eligible to employ the herders due to fences," explains Peter Orwick, Executive Director of the American Sheep Industry Association (ASI).

Orwick urges cattle and sheep producers and government officials to file comments by e-mail on these issues before the June 1 deadline.

Many question the timing of the proposed rules, which originally only allowed for a 30-day comment period and fell during the time most sheep producers are shearing sheep and preparing for lambing and cattle producers are calving. Further, livestock producers report that their H-2A workers are happy and some have been coming back for the last 10 to 25 years. For this reason, livestock producers argue this is an attempt to fix a problem that does not exist, and the proposed rules should simply be rejected. Further, many livestock producers question whether the proposed labor regs are really being pushed by environmental groups who seek to eliminate grazing on public lands and other multiple uses of federal land.

Given the dire consequences of the proposed regulations, the following steps must be taken to block the proposed regulations.

First, cattle and sheep producers, Boards of County Commissioners, industry groups and state agencies must submit comments to the Department of Labor before the June 1 deadline. It is late in the process to file comments by mail and is best to submit them via e-mail instead.

A link to easily file comments by e-mail is available on ASI's website at amhealthmaster.http.internapcdn.net/AMHealthMaster/DOCUMENT/SheepUSA/4_29_15_Legal_Consultants_Talking_Points.pdf.

Next, concerned livestock producers and industry groups should work with the Wyoming Attorney General's Office and the Wyoming Governor's Office and urge them to not only submit comments before the June 1 deadline but build a coalition with other western states to submit joint comments urging the proposed rules be rejected.

The Wyoming Attorney General's Office, acting to build its own coalitions and through the Conference of Western Attorney's General (CWAG) and the National Association of Attorney's General (NAAG), has been successful in the past in blocking proposed federal rules by submitting comments jointly with other States.

Such an approach could be highly effective in opposing the proposed labor regs.

Brian Shuck is a Cheyenne attorney and he has represented numerous ag producers in Wyoming and Montana. Early in his practice, Shuck represented the state of Wyoming as Senior Assistant Attorney General and was involved in opposing rulemaking proposed during the last several months of the Clinton administration and represented the State Engineer's Office related to interstate compacts endangered species, federal agency overreaching, and other water and natural resource issues involving numerous Western States and federal agencies.