

July 23, 2010

The Honorable Collin Peterson
Chairman
House Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

The Honorable Frank Lucas
Ranking Member
House Committee on Agriculture
1305 Longworth House Office Building
Washington, DC 20515

Dear Chairman Peterson, Ranking Member Lucas, and Members of the Committee:

We, the undersigned organizations, are concerned by the negative reaction expressed by some lawmakers during the July 20, 2010 hearing of the House Agriculture Committee Subcommittee on Livestock, Dairy and Poultry regarding the proposed rule issued June 22, 2010 by the U.S. Department of Agriculture Grain Inspection Packers and Stockyards Administration (USDA-GIPSA).

Contrary to statements made during the hearing, USDA-GIPSA is well within its authority to issue these regulations. In fact, USDA-GIPSA is primarily responding to the directive of Congress in Title XI of the 2008 Farm Bill to promulgate regulations to establish criteria the Agency will use in determining which poultry and livestock industry practices it considers to be in violation of the Packers and Stockyards Act of 1921 (P&S Act).

The P&S Act makes it unlawful for packers, swine contractors, and live poultry dealers to engage in any “unfair, unjustly discriminatory, or deceptive practice or device,” or to “make or give any undue or unreasonable preference or advantage to any particular person or locality in any respect, or subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect.”

Unfortunately, USDA-GIPSA has never issued the regulations necessary to define these broad prohibitions in order to adequately enforce the protections for livestock and poultry producers. As a result, the agency has been widely criticized by the Government Accountability Office, USDA’s own Inspector General, and outside stakeholder groups for its lack of enforcement of the P&S Act.

Recognizing that the P&S Act has not been properly administered or enforced, Congress passed Section 11006 in the 2008 Farm Bill and instructed USDA-GIPSA to use its existing authority to write regulations to define, among other things, the criteria for determining whether the unlawful practice of granting undue preference or advantage has occurred. In addition, USDA-GIPSA has existing authority under section 407 of the P&S Act to define criteria for determining when certain practices in the livestock and poultry sector will be viewed by USDA-GIPSA as a violation of the other prohibitions contained in the P&S Act.

Given the segmented structures of the livestock and poultry industries, Congress should not only consider the arguments from each of the various organizations that have an interest in the Proposed Rule, but equally important, Congress should carefully consider from which

segment or segments (i.e., producers, contractors and dealers, and/or packers and processors) those particular arguments originate. The undersigned organizations either represent directly the interests of actual livestock and poultry producers, and/or are deeply concerned for the wellbeing of the producer segment of the U.S. livestock and poultry industries, which includes the wellbeing of the rural communities they support.

Over past decades, very little attention was focused on the effects of ongoing industry concentration and supply chain integration on the competitiveness of U.S. livestock and poultry markets. Now we find that competition in the market where producers sell their livestock and poultry to the packers has all but disappeared. Unfortunately, the ongoing livestock procurement practices of packers, which evolved with radical industry restructuring, has institutionalized unfair trade practices and manipulative marketing schemes that are now viewed by many as being normal and natural. We adamantly disagree with that view.

Fundamental changes are needed in our industry. The first fundamental change should be the aggressive and decisive administration and enforcement of the P&S Act. USDA-GIPSA must exercise its statutory authority in all livestock and poultry sectors. We firmly believe the Proposed Rule is the appropriate first step to ensure that competition, not regulation or packer control, is the dominant force that directs the future of our U.S. livestock industries.

It is our desire to see Congress work cooperatively with USDA-GIPSA to achieve this vitally important goal. We respectfully urge those Members who have criticized USDA-GIPSA's Proposed Rule to reconsider their positions. We view efforts by industry to delay the comment period as little more than an effort to delay and ultimately derail the Proposed Rule itself. We urge all Members of the House Agriculture Committee and the Congress as a whole to protect a just, transparent, and robustly competitive marketplace for livestock and poultry producers and the rural communities they support. The USDA-GIPSA rulemaking process is critical to the achievement of that goal.

Sincerely,

Alabama Contract Poultry Growers
American Agriculture Movement
American Grassfed Association
Ashtabula County Farmers Union, OH
Black Farmers & Agriculturalist Association
BueLingo Beef Cattle Society
California Farmers Union
Campaign for Contract Agriculture Reform
Campaign for Family Farms and the Environment
Cattle Producers of Washington
Center for Rural Affairs
Citizens for Private Property Rights
Colorado Independent CattleGrowers Association
Concerned Citizens of Tillery, NC

Contract Poultry Growers Association of the Virginias
Dakota Rural Action
Family Farm Defenders
Farm & Ranch Freedom Alliance
Farm Aid
Fay-Pen Economic Development Council
Federation of Southern Cooperatives Land Assistance Fund
Food & Water Watch
Idaho Rural Council
Independent Beef Association of North Dakota (I-BAND)
Independent Cattlemen of Nebraska
Independent Cattlemen of Wyoming
International Texas Longhorn Assn
Intertribal Agricultural Council
Iowa Citizens for Community Improvement
Iowa Farmers Union
Kansas Cattlemen's Association
Land Stewardship Project, MN
Michigan Farmers Union
Mississippi Livestock Markets Association
Missouri Farmers Union
Missouri Rural Crisis Center
National Association of Farm Animal Welfare
National Family Farm Coalition
National Farmers Organization
National Sustainable Agriculture Coalition
Nebraska Farmers Union
Nebraska Women Involved in Farm Economics
Nevada Live Stock Association
North Carolina Contract Poultry Growers
Northeast Organic Farming Association/Massachusetts Chapter, Inc. (NOFA/Mass.)
Oregon Livestock Producers Association
Oregon Livestock Producers Association
Oregon Rural Action
Organization for Competitive Markets (OCM)
PCC Natural Markets, Seattle, Wash.
Peach Bottom Concerned Citizens Group
Pennsylvania Farmers Union
Pennsylvania Independent Farmers and Consumers Association Inc. (PICFA Inc.)
Powder River Basin Resource Council
R-CALF USA
Rocky Mountain Farmers Union
Rural Advancement Foundation International-USA
Rural Coalition/Coalición Rural

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SmallHolders of Massachusetts

Socially Responsible Agricultural Project (SRA Project)

South Dakota Livestock Auction Markets Assoc.

South Dakota Stockgrowers Association

Southeast Asian American Farming Association

Western Organization of Resource Councils

World Watusi Association

Cc: Members of Congress

U.S. Department of Agriculture