



National Livestock Producers Association

November 19, 2010

Grain Inspection Packers & Stockyards Administration
U.S. Department of Agriculture
1400 Independence Avenue, SW., Room 1643-S
Washington, DC 20250-3604

RE: Farm Bill Comments regarding GIPSA Rule as published in the Federal Register, Vol. 75, No. 119, Tuesday, June 22, 2010

Dear Sir / Madam:

The National Livestock Producers Association (NLPA) is the organization that represents cooperative livestock marketing in the U.S. Our member cooperatives market nearly 3.8 million head of livestock annually for more than 125,000 independent livestock producers. In addition, our member credit corporations lend over \$500 million to producers for the production of livestock. Given the importance of efficient and fair markets to this membership, we are writing to strongly oppose the proposed rules outlined in the abovementioned Federal Register notice as it pertains to the marketing of cattle, hogs and sheep. As NLPA does not represent poultry producers we will not be commenting on any of the sections pertaining specifically to that sector.

Being organized as cooperatives, NLPA's members are in a position of being ultra-responsive to their producer members who are, in fact, the owners of the cooperatives they rely upon for fair, competitive, and innovative marketing of their livestock. Over the past several years, these cooperatives have been able to assist their producer members in achieving added value for their livestock through taking advantage of value-added programs, including contracting, with packers. To impose the proposed rules on the industry will most certainly curtail their ability to achieve added value and hamper, if not completely eliminate their ability to be profitable in an evolving business environment

GIPSA Livestock and Meat Marketing Study

In the *GIPSA Livestock and Meat Marketing Study*, conducted by RTI International, a health, social, and economics research firm, and released in January of 2007, several key findings were reported. Among the conclusions were the following which relate specifically to the issues GIPSA is purporting to correct with the proposed rules:

- *Many meat packers and livestock producers obtain benefits through the use of Alternative Marketing Arrangements (AMAs), including management of costs, management of risk (market access and price risk), and assurance of quality and consistency of quality.*
- *In aggregate, restrictions on the use of AMAs for sale of livestock to meat packers would have negative economic effects on livestock producers, meat packers, and consumers.*
- *The producers surveyed that used AMAs identified the ability to buy/sell higher quality cattle, improve supply management, and obtain better prices as the leading reasons for using AMAs.*

- *The packers surveyed that used AMAs said that their top three reasons for using AMAs were to improve week-to-week supply management, secure higher quality cattle, and allow for product branding in retail stores.*
- *Marketing agreements are the most widely used AMAs in the beef industry, and thus restrictions on the use of marketing agreements would have the greatest negative effects on costs of production in the beef packing industry.*
- *Beef quality has a positive effect on beef demand, the producers and packers interviewed and surveyed believe that AMAs are important for beef quality, and quantitative analyses suggest that AMAs are often associated with higher quality.*

Based on GIPSA's own study, it is evident that the evolution of alternative marketing agreements has been, and is good for the livestock industry when understood and used by producers appropriately. As mentioned previously, cooperatives have been able to utilize many of these arrangements on behalf of their members in order to improve their ability to realize greater value for their quality livestock.

Producers' Ability to Operate in a Free Market System

One of the many strengths of the livestock industry has been the ability of producers, marketers, and packers to operate in a relatively free-market system which rewards innovators and efficient participants while providing market information and signals to all participants so they may adjust their production or product in order to effectively compete. Government intrusion into this arena, to the extent of the proposed rule, is unwarranted and it makes government a participant in the market rather than a regulator.

Specifically, relaxing the provision that proof of harm or "competitive injury" is necessary to bring an action against a packer opens the door to intrusive litigation based on nothing more than the perception of unfairness. This will most certainly eliminate the opportunities provided to producers in the form of AMAs since packers will most likely avoid potential litigation by discontinuing value added programs.

In addition, the harm caused to producers if such programs are eliminated will be far-reaching. Not only will they not achieve added value for their quality livestock, financing arrangements they have in place could be in jeopardy if lenders are not able to be assured that the value of their collateral is protected. In the end, the very producers GIPSA is purporting to protect will be greatly harmed as a result of diminished markets, credit challenges, and the reduced ability to manage the risks associated with livestock marketing.

Limitation of Dealer Buyers Purchasing for More than One Packer

Competition in markets is essential and although GIPSA is suggesting the proposed rules will increase competition, we are very concerned with the proposed limitation of dealer buyers for more than one packer. It is already difficult to ensure there is an abundance of buyers at auction markets. To eliminate the ability of a buyer to purchase for more than one packer will certainly reduce, not increase competition for livestock. It is inconceivable and naïve to believe that packers will hire additional buyers to fill the seats; they will simply look elsewhere to fill their needs and leave voids in markets in which they feel there is insufficient livestock to warrant placing a buyer.

Enforcement of Existing GIPSA Regulations

Beginning in 1921, and evolving throughout the nearly 90 years since then, the Packers & Stockyards Administration has been a relatively effective referee in ensuring fair competition and fairness exists in the marketing of livestock. Although NLPAs believe there are areas which could be improved in GIPSA's authority, including the development of a Dealer Trust provision similar to the Packer Trust provision, we believe existing authority is adequate, if properly enforced, to protect producers' rights. Instead of promulgating a plethora of new rules, we feel GIPSA should take a more proactive approach

in utilizing the many tools and regulations it currently has at hand in order to ensure participants in livestock marketing are playing on a level field.

NLPA appreciates this opportunity to comment on the proposed GIPSA Rule and implores the Administration to reevaluate its drastic approach to fixing a system that is not broken.

Respectfully submitted,



R. Scott Stuart, CEO
National Livestock Producers Association

On behalf of:

EMPIRE LIVESTOCK MARKETING ASSOCIATION
Syracuse, New York

EQUITY COOPERATIVE LIVESTOCK SALES ASSOCIATION
Baraboo, Wisconsin

NATIONAL LIVESTOCK COMMISSION ASSOCIATION
Oklahoma City, Oklahoma

PRODUCERS LIVESTOCK MARKETING ASSOCIATION
North Salt Lake, Utah

PRODUCERS LIVESTOCK MARKETING ASSOCIATION
Omaha, Nebraska

TENNESSEE LIVESTOCK PRODUCERS, INC.
Columbia, Tennessee

EQUITY LIVESTOCK CREDIT CORPORATION
Baraboo, Wisconsin

NATIONAL LIVESTOCK CREDIT CORPORATION
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PRODUCERS LIVESTOCK CREDIT CORPORATION
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TRI-STATE LIVESTOCK CREDIT CORPORATION
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