

## Proposed GIPSA Rules Would Mean Big Changes for Livestock and Poultry Industries

The federal agency responsible for issuing regulations that govern contracting, buying and selling of livestock and poultry has proposed new rules that- if finalized- would drastically change the way that producers, packers, dealers and contractors raise, buy, and sell livestock and poultry. The National Agricultural Law Center is planning a series of workshops to discuss the changes, including a question and answer session and an explanation of the process by which individuals can comment on the proposals.

The Grain Inspection, Packers and Stockyards Administration, or "GIPSA," is an agency of the United States Department of Agriculture. GIPSA's mission is to "facilitate the marketing of livestock, poultry, [and] meat ... and promote fair and competitive trading practices for the overall benefit of consumers and American agriculture." While the agency is also involved with crop production and marketing, this article's focus is on GIPSA's proposed rules governing the livestock and poultry industries.

Laws like the Packers and Stockyards Act and the 2008 Farm Bill contain directions to GIPSA about their responsibilities to make rules. Once GIPSA is given the authority by Congress, the agency drafts "proposed administrative rules." After these rules are written, they are printed in the Federal Register, which is also available online at <http://www.gpoaccess.gov/fr/>. Once published, the proposed rules are open for comment for a period of time, usually 60 days. While the rules are open for comment, any interested people may read them and comment on sections of the rule they like, parts they disagree with, additional points that should be added and those that should be deleted or changed. After the comment period closes, the agency reviews and considers the comments that have been submitted and ultimately issues a "final rule." The final rule is the one that the agency enforces.

In this case, GIPSA has issued proposed rules that, if made final, will significantly affect the livestock and poultry industries. They include examples of packer, live poultry dealer and swine contractor behavior that would be prohibited, including the use of either premiums or discounts without notifying the producer of the reasons associated with the change, requiring a poultry grower or swine production contract grower to submit to arbitration, and terminating a grower's contract without providing a reasonable time period for the grower to fix any breaches of the contract.

Further, the changes would significantly affect the "tournament system" used for many poultry and swine contracts. Under the proposed rules, all growers raising the same type and kind of poultry must receive the same base pay, which cannot be discounted below the base pay amount. Also, "settlement groups" must be ranked according to house types, and live poultry dealers, if requested, must provide the statistical information and data used to determine the compensation rate. Additionally, if producers were required to make capital investments (such as building poultry or swine facilities) before entering into production contract, that contract must be for written for a long enough period of time to allow the producer to recoup 80% of the cost of the investment. Further, in many cases under the proposed rules, producers cannot be required to make additional capital investments mid-contract, and, for poultry specifically, live poultry dealers must provide poultry growers with ninety days advance written notice if the dealer does not intend to deliver a new flock of birds. Finally, under the proposed rules, packers, live poultry dealers and swine contractors must submit, to GIPSA, sample copies of each type of contract they use. These samples will then be posted on GIPSA's website for the public to review.

These are just some of the many changes that have been outlined in the proposed rules. A full copy of the proposed rules is available at <http://archive.gipsa.usda.gov/rulemaking/fr10/06-22-10.pdf> (Adobe software (freely available at <http://www.adobe.com/products/reader/>) is necessary to view this link).

The comments submitted by the public are very important. They are read and considered when the final rules are being written, and often comments and suggestions are incorporated into the final rule. If you'd like to make comments on the proposed rule, you may email them to [comments.gipsa@usda.gov](mailto:comments.gipsa@usda.gov); mail them to Tess Butler, GIPSA, USDA, 1400 Independence Avenue, SW, Room 1643-S, Washington, DC 20250-3604; fax them to (202) 690-2173; or submit them online, at the Federal eRulemaking Portal (<http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480b0803e>.) Submit comments by clicking on the link in the top right corner. All comments on the proposed rules must be submitted on or before November 22, 2010.

The National Agricultural Law Center at the University of Arkansas is hosting a series of workshops for poultry and livestock producers, where staff attorneys will provide an overview of GIPSA's proposed rule changes for poultry and livestock, review the USDA rule-making process and explain how to submit comments on the proposed rules. All workshops are free and open to the public. The first workshop will be held on Sept. 21 from 6-8 p.m. at the Pauline Whitaker Animal Science Arena in Fayetteville, Ark. The second workshop will be held on September 28 from 6-8 p.m. at the Pendergraft Library, Arkansas Tech University, in Russellville, Ark, while the third workshop will be on October 19 from 6-8 p.m. in Room 102 of the Cossatot Community College in Nashville Ark. A final workshop will be held in the form of a webinar on October 14 from 11 a.m. - 1 p.m. CST. The webinar will be hosted via eXtension for participants around the country. More information on the webinar and the other workshops is available at [www.nationalaglawcenter.org/gipsaworkshops](http://www.nationalaglawcenter.org/gipsaworkshops). For more information, please contact Staff Attorney Elizabeth Rumley at (479) 387-2331 or [erumley@uark.edu](mailto:erumley@uark.edu).