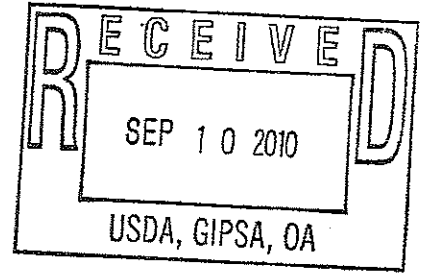




NATIONAL MEAT ASSOCIATION®

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August 18, 2010



J. Dudley Butler, Administrator
Grain Inspection, Packers & Stockyards Administration
United States Department of Agriculture
Washington, DC 20250

By U.S.mail and Email
John.d.butler@usda.gov

Dear Mr. Butler:

Thank you for your August 10, 2010 response to my June 18, 2010 oral and written requests for information. My written request was intended to be a follow-up, in the nature of a Freedom of Information Act request, to the question which I had posed that morning during your agency's teleconference for industry representatives. What I had expected to receive were copies of what you described as "complaints (received by GIPSA) from market participants that packer-to-packer sales may have the intended or unintended effect of manipulating market prices." This letter is a request for copies of all such complaints. Please treat this letter as a Freedom of Information Act request. Since these complaints form part of the basis for your agency's currently proposed competition regulations, please furnish these documents within the next 30 days so that the National Meat Association will have the opportunity to address this material in its comments on the proposed regulations. As you know those comments are currently required to be submitted no later than November 22, 2010. ①

In your August 10 letter, you made a number of observations, which raise additional questions. For example, you state that packer-to-packer acquisitions have "expanded considerably" since 2006, and that,

"GIPSA believes it to be contributing to significant price distortions. In one instance, the price distortion was almost 3 percent of the reported base price for hogs."

Please identify specifically when and where these significant price distortions occurred, how many there have been, the amount of each distortion, and whether the distortion raised or lowered the reported base price. ②

You describe how GIPSA has worked with the Agricultural Marketing Service (AMS) to reclassify certain packer-to-packer transactions from "Negotiated" to "Packer Sold" or "Packer Sold Negotiated" in AMS price reports in order to eliminate potential price distortions. Please explain why these reclassifications have not been a sufficient response to this type of transaction ③

Your letter states that "certain packers may be influencing negotiated hog prices through a separate procurement mechanism." What is the "separate procurement mechanism" to which you refer? ④

ECM# 20100910 - Assigned to Gary - response due
by 9/22/10

Your letter also states that statistical analysis spanning two years indicated that packer-to-packer transactions "were affecting the negotiated base price an average of \$1.31 per cwt (approximately 2 percent) over the two-year period. In some months the effect on the base price was more, and in some months it was less, but you indicate "the pattern was statistically significant." What were the amounts of these effects, on a month by month basis, for the two-year period? (2)

Thank you for responding to this inquiry. It is important to have this information as quickly as possible, because of its relevance to the current rulemaking.

Sincerely,



Rosemary Mucklow
NMA Director Emeritus

cc: Congressman Jim Costa



United States
Department of
Agriculture

Grain Inspection,
Packers and Stockyards
Administration

Stop 3601
1400 Independence Ave., SW
Washington, DC 20250-3601

AUG 10 2010

Ms. Rosemary Mucklow
Director Emeritus
National Meat Association
1970 Broadway, Suite 825
Oakland, California 95612

Dear Ms. Mucklow:

Thank you for your June 18, 2010 letter regarding additional information regarding packer-to-packer transactions.

In the preamble to the proposed rule that is currently open for comment GIPSA states: "Packer-to-packer acquisitions have historically been restricted to purchases from other packers of "off" animals that did not fit with the other packers' specifications but were procured in a larger lot of animals. The practice was primarily restricted to hog packers. Since 2006, GIPSA has observed that the practice has been expanded considerably and GIPSA believes it to be contributing to significant price distortions. In one instance, the price distortion was almost 3 percent of the reported base price for hogs. These price distortions in the swine negotiated cash market have larger price effects than just the cash market as many contracts including formula pricing often refer to the reported base price." Additionally, the price effects also influence the commodity futures market.

The negotiated hog market has moved from 9.6 percent in 2006, to 8.7 percent in 2008, to 5.7 percent for the first 8 months of 2010. The fed-cattle channel while not as thin, is on a steady trajectory of narrower negotiated markets. For example, the Texas-Oklahoma market was approximately 55 percent negotiated in 2001, and it is now roughly 30 percent, with some weeks seeing significantly thinner markets.

GIPSA has received complaints pertaining to packer-to-packer sales transactions with concerns that such practice is causing price distortions. In responding to these complaints, GIPSA analyzed daily hog procurement transaction data spanning 2 years. Based on the analysis of that data, in March of 2006, in a letter to the AMS Administrator, GIPSA requested that certain packer-to-packer transactions be reclassified from "Negotiated" to "Packer Sold" or "Packer Sold Negotiated" transactions in AMS price reports. AMS agreed with GIPSA and reclassified the hog transactions.


At the time, GIPSA thought reclassifying the transactions would resolve the price distortions. However, GIPSA continued to monitor hog prices. Based on this monitoring, GIPSA began to observe indications that certain packers may be influencing negotiated hog prices through a separate procurement mechanism. Statistical analysis of daily transaction data spanning two years indicated that the packer-to-packer transactions were affecting the negotiated base price an average of \$1.31 per cwt (approximately 2 percent) over the two year period. In some

Rosemary Mucklow
Page 2

months the effect on the base price was more and in some months it was less, but the pattern was statistically significant. Complaints regarding the practice of packer-to-packer sales continue to be received by GIPSA.

Again, thank you for your letter, and feel free to contact me on this or any other issue.

Sincerely,



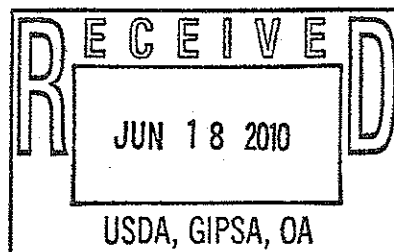
J. Dudley Butler
Administrator

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June 18, 2010

J. Dudley Butler, Administrator
Grain Inspection, Packers & Stockyards Administration
United States Department of Agriculture
Washington, DC 20250



Dear Mr. Butler:

During your industry teleconference this morning outlining the proposed changes to P&SA regulations that will be published next week, I asked a follow-up question in response to the statement by GIPSA that "... GIPSA has received complaints from market participants that packer-to-packer sales may have the intended or unintended effect of manipulating market prices." My question requested information about the complaints that GIPSA has received. These complaints are being used to justify and drive this arbitrary proposed change to ban packer-to-packer transactions, but they have not been delineated or substantiated in any way in the documents made public so far. Nor were you able to provide them to me during the call. After a secondary question, you responded that you would look into the issue and get back to me.

We appreciate your commitment to transparency in market conditions. I look forward to receiving the information I request, and which must clearly have been documented in order for you to develop this proposal. As I pointed out, all these packer transactions are reported through the Mandatory Price Reporting system run by USDA

Thank you very much.

Sincerely,

Rosemary Mucklow
Director Emeritus