



January 3, 2011

Honorable Darrell Issa  
Chairman  
House Committee on Oversight and Government Reform  
2157 Rayburn House Office Building  
Washington, DC 20515-6143

Dear Mr. Chairman:

You recently asked for information about existing and proposed regulations that have or will adversely affect the American Meat Institute's members and the meat industry more broadly. Your request particularly inquired about regulations with an adverse impact on job growth.

The meat industry is among the most heavily regulated industries in the American economy. Every day federal inspectors are in plants and in that regard, the industry has adapted to the existing regulatory scheme and produces the safest meat and poultry supply in the world. Although the regulatory burden in which the industry currently operates is significant, it pales when measured against the adverse impact that a proposed rule will have, not only on the meat and poultry industry, but also on livestock and poultry producers – the farmers and ranchers of this country.

Specifically, the United States Department of Agriculture's (USDA) Grain Inspection, Packers and Stockyards Administration (GIPSA) has proposed a rule, *Implementation of Regulations Required Under Title XI of the Food, Conservation and Energy Act of 2008; Conduct in Violation of the Act*.<sup>1</sup> Studies show this rule, if finalized as proposed, could cost the meat and livestock and related industries more than 100,000 jobs.<sup>2</sup> These several studies, done by affected industries as part of the rulemaking comment process demonstrating the likely job losses and other adverse

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<sup>1</sup> 75 *Fed. Reg.* 35338 (June 22, 2010).

<sup>2</sup> See study summaries by Dunham & Assoc., Informa, and FarmEcon LLC, (Attachment A).

effects, are in stark contrast to the absence of any meaningful economic impact analysis of the proposed rule done by USDA.<sup>3</sup>

The absence of a sound economic analysis of the rule, calls for which have come from numerous members of the House and the Senate, is just one of the numerous problems attendant to the proposed rule.<sup>4</sup> Among the other significant problems with the rule is the fact that it goes well beyond the mandate given to GIPSA by Congress in the 2008 Farm Bill – a fact pointedly made by numerous members of the House Committee on Agriculture in both a July 2010 hearing and through other venues thereafter.

In addition, the proposed rule ignores and attempts to overturn long-standing case law interpreting the Packers and Stockyards Act (PSA) – case law developed and considered by eight separate federal appellate courts. Indeed, through this rule GIPSA would change well settled law and lessen the burden of proof that a plaintiff's lawyer would have to must meet when bringing a PSA a claim.<sup>5</sup>

In short, the proposed rule would reverse more than 30 years of progress and innovation driven by consumer demand. This rule, if implemented as written, will return the meat and poultry industry to what it once was, stifling the ability to provide consumers what they desire and making the industry less competitive in the world market. I would be happy to discuss at your convenience with the significant and adverse impact this proposed rule would have if implemented as written.

Respectfully submitted,

Mark D. Dopp  
Sr. Vice President & General Counsel

Enclosures

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<sup>3</sup> Indeed, USDA's chief economist had virtually no role in analyzing the impact of the proposed rule before its publication.

<sup>4</sup> For example, 115 members of the House of Representatives sent a letter to Secretary of Agriculture Vilsack asking that a comprehensive economic analysis be done. (Attachment B) See also other letters from members of the House and Senate expressing concerns and requesting an economic impact analysis. (Attachments C-G).

<sup>5</sup> In rejecting GIPSA's interpretation of the PSA only weeks before the rule was proposed the United States Court of Appeals for the Sixth Circuit said: "The tide has now become a tidal wave ... all told, seven circuits – the Fourth, Fifth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuits – have now weighed in on this issue with unanimous results." *Terry v. Tyson Farms* 604 F.3<sup>rd</sup> 272 6<sup>th</sup> Cir. (May 10, 2010). (See Attachment H). See also AMI's comments (Attachment I).