

Congress of the United States

Washington, DC 20515

May 5, 2017

The Honorable Sonny Perdue
Secretary
United States Department of Agriculture
1400 Independence Ave, S.W.
Washington, D.C. 20250

Dear Mr. Secretary:

Congratulations on your confirmation as Secretary of the U.S. Department of Agriculture. We are certain you will honorably and effectively serve in your new role—much as you so ably served Georgia as our Governor.

As a Georgian, you no doubt know the importance of poultry to our economy. We write to urge you to rescind the following Grain Inspection, Packers & Stockyards Administration (GIPSA) regulations issued in the 11th hour of the Obama Administration:

- Interim Final Rule, “Scope of Sections 202(a) and (b) of the Packers and Stockyards Act,” 81 Fed. Reg. 92566 (Dec. 20, 2016)
- Proposed Rule, “Poultry Grower Ranking Systems,” 81 Fed. Reg. 92723 (Dec. 20, 2016);
- Proposed Rule, “Unfair Practices and Undue Preferences in Violation of the Packers and Stockyards Act,” 81 Fed. Reg. 92703 (Dec. 20, 2016)

These GIPSA rules were published in the *Federal Register* on December 20, 2016, in spite of repeated signals from Congress that they exceeded the scope of the 2008 Farm Bill and strayed wildly from Congressional intent. Your Department took appropriate preliminary action on February 6, 2017, when it, consistent with the memorandum from Reince Priebus to the heads of executive departments and agencies titled “Regulatory Freeze Pending Review,” extended the public comment period on the interim final GIPSA rule on the scope of sections 202(a) and (b) of the Packers and Stockyards Act. However, a pause is not sufficient. Once you have had the opportunity to review the comments associated with each of these rules, we hope you will withdraw the two proposed rules and rescind the interim final rule.

The Interim Final rule on the scope of sections 202(a) and 202(b) of the Packers and Stockers Act (P&S Act) lowers the standard for deceptive, unfair, unjust, undue, and unreasonable conduct claims even though every federal circuit court of appeals to have considered the issue requires proof of antitrust injury to survive a motion to dismiss. This change will subject integrators to costly litigation in which growers allege injury without any supporting proof, and growers will have little legal certainty around which to base their business decisions. The Poultry Grower Ranking Systems sets criteria GIPSA may consider when determining whether an integrator’s use of a poultry tournament system is unfair, unjustly discriminatory, or deceptive, in violation of the P&S Act in a way that creates significant ambiguity, restricts the ability of processors to reward their top-performing growers, and undermines the efficiencies on which the U.S. chicken industry is built. Finally, the Unfair Practices and Undue Preferences

Proposed Rule permits GIPSA to identify integrator conduct it considers unfair, unjustly discriminatory, or deceptive in violation of Section 202(a) of the P&S Act while eliminating the need to prove injury to competition, again creating uncertainty and inviting costly litigation.

Moreover, according to a study by FarmEcon LLC, these regulations would cost the broiler chicken industry \$1.03 billion over five years in reduced efficiency, higher costs for feed and housing, and increased administrative expenses. Rescinding the regulations would put these issues to rest. It would allow livestock and poultry producers to market their animals how, when, and where they want to without GIPSA dictating the transactions.

Even based on GIPSA's own analysis, these rules are completely out of line with our priorities to eliminate burdensome regulations and to promote American businesses. GIPSA anticipates the interim final rule on "scope" could impose upwards of \$1 billion, with benefits that GIPSA concedes cannot even be quantified. Executive Order 13771 (issued January 30, 2017) and subsequent Executive Orders such as the one issued February 24, 2017, direct federal agencies to carefully review rulemakings to ensure they have net-neutral effects on the U.S. economy.

We urge you to promote American business, eliminate stifling regulation, and make a clear statement of support for American agriculture by rescinding the GIPSA interim final rule and withdrawing the two GIPSA proposed rules.

Sincerely,



Austin Scott
Member of Congress



David Scott
Member of Congress



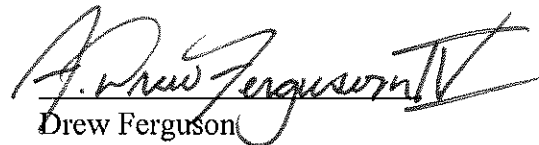
Doug Collins
Member of Congress



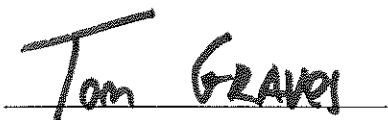
Rick Allen
Member of Congress



Earl L. 'Buddy' Carter
Member of Congress




Drew Ferguson
Member of Congress



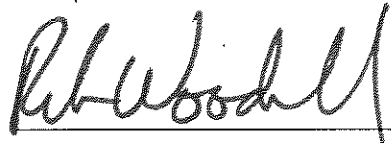
Tom Graves
Member of Congress



Jody Hice
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Barry Loudermilk
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Rob Woodall
Member of Congress