



United States
Department of
Agriculture

Grain Inspection,
Packers and
Stockyards
Administration

2007 Annual Report

Grain Inspection, Packers and Stockyards Administration

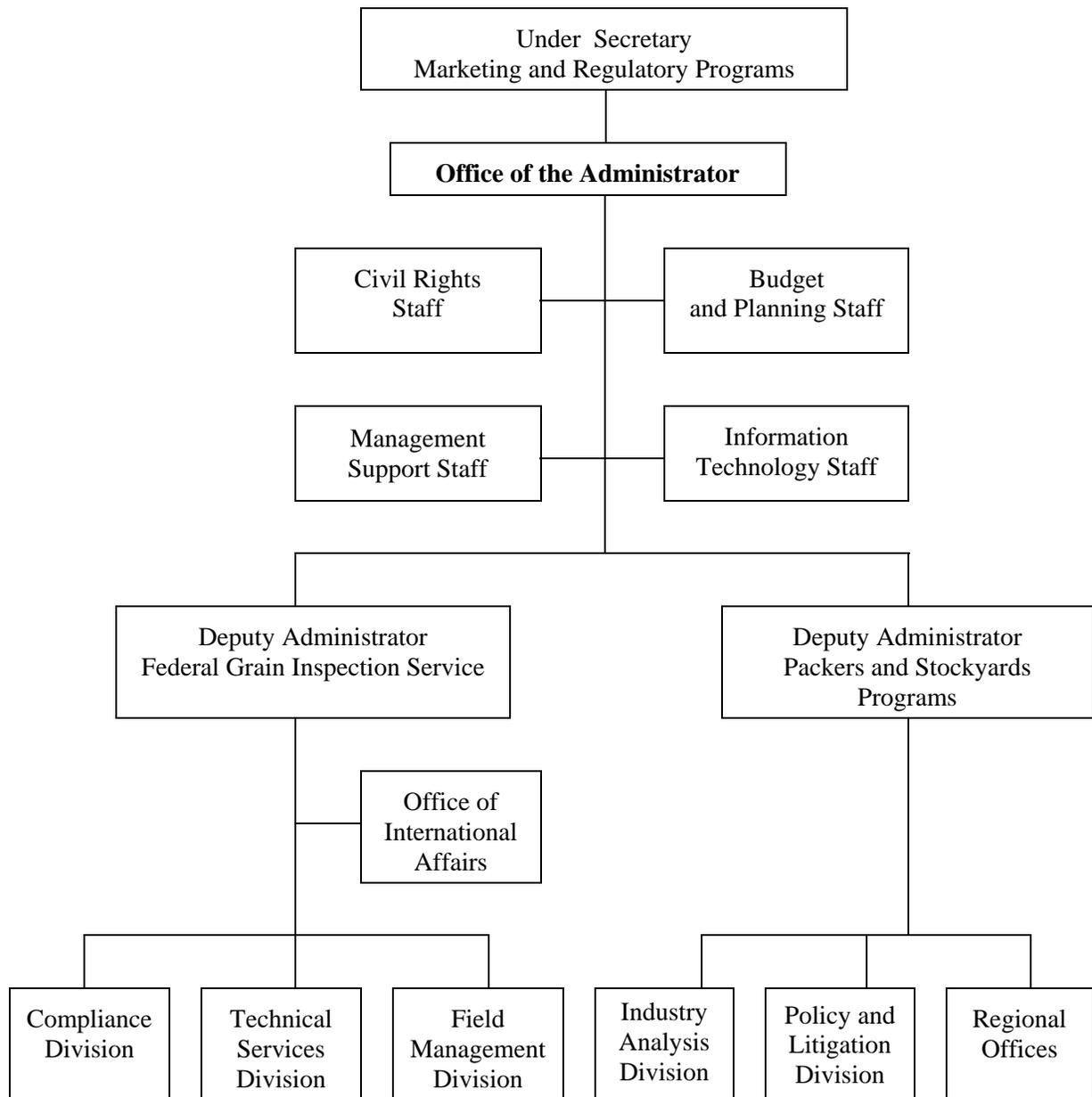
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The mention of firm names or trade products does not imply that they are endorsed or recommended directly or indirectly by the United States Department of Agriculture over other firms or similar products.

Organizational Structure and Functions

GIPSA's Organizational Structure



Federal Grain Inspection Service

The Grain Inspection, Packers and Stockyards Administration's Federal Grain Inspection Service (FGIS) establishes quality standards for grains, oilseeds, pulses, and legumes; provides impartial inspection and weighing services through a network of Federal, State, and private laboratories; and monitors marketing practices to enforce compliance with the U.S. Grain Standards Act and Agricultural Marketing Act of 1946, as amended. Through these activities, GIPSA facilitates the marketing of grain, oilseeds, and related products.

Activities Under the U.S. Grain Standards Act

GIPSA administers uniform, national grain inspection and weighing programs established by the U.S. Grain Standards Act, as amended (hereinafter, the Act). Services under the Act are performed on a fee basis for both export and domestic grain shipments. The Act requires generally that export grain be inspected and weighed; prohibits deceptive practices and criminal acts with respect to the inspection and weighing of grain; and provides penalties for violations.

In administering and enforcing the Act, GIPSA:

- establishes and maintains official U.S. grain standards for barley, canola, corn, flaxseed, oats, rye, sorghum, soybeans, sunflower seed, triticale, wheat, and mixed grain;
- promotes the uniform application of official U.S. grain standards by official inspection personnel;
- establishes methods and procedures, and approves equipment for the official inspection and weighing¹ of grain;

¹ Official Inspection. The determination by original inspection, reinspection, and appeal inspection and the certification by official personnel of the kind, class, quality, or condition of grain under standards provided for in the Act; or, the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality of such grain under other criteria approved by the Secretary. (The term "officially inspected" shall be construed accordingly.)

Official Weighing. (Class X Weighing). The determination and certification by official personnel of the quantity of a lot of grain under standards provided for in the Act, based on the actual performance of weighing or the physical supervision thereof, including the physical inspection and testing for accuracy of the weights and scales, the physical inspection of the premises at which weighing is performed, and the monitoring of the discharge of grain into the elevator or conveyance. (The terms "official weight" and "officially weighed" shall be construed accordingly.)

- provides official inspection and weighing services at certain U.S. export port locations,² and official inspection of U.S. grain at certain export port locations in eastern Canada along the St. Lawrence Seaway;
- delegates qualified State agencies to inspect and weigh grain at certain U.S. export port locations;
- designates qualified State and private agencies to inspect and weigh grain at interior locations;
- licenses qualified State and private agency personnel to perform inspection and weighing services;
- provides Federal oversight of the official inspection and weighing of grain by delegated States and designated agencies;
- provides review inspection services³ of U.S. grain in the United States and at certain export port locations in eastern Canada;
- investigates, in cooperation with the USDA Office of Inspector General, alleged violations of the Act and initiates appropriate corrective action;
- monitors the quality and weight of U.S. grain as received at destination ports, and investigates complaints or discrepancies reported by importers; and
- helps U.S. trading partners develop and improve their grain inspection and weighing programs.

Mandatory Services

Under provisions of the Act, most grain exported from U.S. export port locations must be officially weighed. A similar requirement exists for inspection, except for grain which is not sold or described by grade. Intercompany-barge grain received at export port locations also must be officially weighed. And, the Act requires that all corn exported from the United States be tested for aflatoxin prior to shipment, unless the contract stipulates that testing is not required.

² Export Port Locations. Commonly recognized ports of export in the United States or Canada, as determined by the Secretary, from which grain produced in the United States is shipped to any place outside the United States. Such locations include any coastal or border location, or any site in the United States that contains one or more export elevators and is identified by FGIS as an export port location.

³ Review Inspection Service. A reinspection, appeal inspection, or Board appeal inspection service performed when discrepancies are alleged between the true quality of the grain and the inspection results.

Mandatory inspection and weighing services are provided by GIPSA on a fee basis at 31 export elevators (including 4 floating elevators). Five delegated States provide official services at an additional 15 export elevators under GIPSA oversight. Under a cooperative agreement with GIPSA, the Canadian Grain Commission provides official services, with GIPSA oversight, at seven locations in Canada that transship U.S. grain for export.

Grain exporters shipping less than 15,000 metric tons of grain abroad annually are exempt from mandatory official inspection and weighing requirements. Grain exported by train or truck to Canada or Mexico also is exempt from official inspection and weighing requirements. Further, official inspection and weighing requirements do not apply to high-quality specialty grain exported in containers. High-quality specialty grain is defined as grain sold under contract terms that specify all factors exceed the grade limits for U.S. No. 1 grain, except for the factor test weight, or specify “organic” as defined by 7 CFR Part 205. This definition expires July 31, 2010.

Permissive Services

Official inspection and weighing of U.S. grain in domestic commerce are performed upon request and require payment of a fee by the applicant for services. Domestic inspection and weighing services are provided by 55 designated agencies that employ personnel licensed by GIPSA to provide such services in accordance with regulations and instructions.

**Activities under
the Agricultural
Marketing Act**

Under the Agricultural Marketing Act of 1946 (hereinafter, the AMA), GIPSA administers and enforces certain inspection and standardization activities related to rice, pulses, lentils, and processed grain products such as flour and corn meal, as well as other agricultural commodities. Services under the AMA are performed upon request on a fee basis for both domestic and export shipments by either GIPSA employees or individual contractors, or through cooperative agreements with States.

Packers and Stockyards Program

Authorities

GIPSA's Packers and Stockyards Program administers the Packers and Stockyards Act of 1921 (P&S Act), as amended and supplemented. The program also carries out the Secretary's responsibilities under Section 1324 of the Food Security Act of 1985.

Responsibilities

GIPSA is responsible for administering the P&S Act, which prohibits unfair, deceptive, and fraudulent practices by market agencies, dealers, packers, swine contractors, and live poultry dealers in the livestock, poultry, and meatpacking industries. The P&S Act makes it unlawful for a regulated entity to engage in unfair, unjustly discriminatory, or deceptive practices. Packers, live poultry dealers, and swine contractors are also prohibited from engaging in specific anti-competitive practices.

Pursuant to the P&S Act, the Secretary has authority over market agencies, dealers, stockyards, packers, swine contractors, and live poultry dealers in the livestock, poultry, and meatpacking industries. The P&S Act and regulations impose requirements on certain participants in the regulated industries, such as registration of market agencies and dealers; bonding of market agencies, packers (except those whose average annual livestock purchases do not exceed \$500,000), and dealers; and prompt payment. To protect unpaid cash sellers of livestock, packers are subject to trust provisions which require that livestock, and all inventories of, or receivables or proceeds from meat, meat food products, or livestock products to be held in trust for unpaid cash sellers until payment is made in full. A similar provision applies to live poultry dealers.

GIPSA uses its statutory authority to investigate alleged violations of the P&S Act and regulations, and prosecutes violations detected through those investigations, either directly through administrative actions prosecuted by USDA's Office of the General Counsel or through referrals to the Department of Justice.

Under the Food Security Act of 1985, States may establish central filing systems to pre-notify buyers, commission merchants, and selling agents of security interests against farm products. GIPSA administers the section of the statute commonly referred to as the "Clear Title" provision, and certifies qualifying State systems.

Industry Structure

GIPSA focuses its enforcement efforts on buying and selling activities of slaughtering packers, livestock dealers, and livestock market agencies that are subject to the Act. Three-hundred two (302) bonded slaughter firms, and more than 5,400 entities registered as dealers or market agencies were subject to the Act in 2006 (some acted in more than one capacity) (Table 1).

Table 1. Number of Slaughterers, Bonded Dealers and Market Agencies, and Posted Stockyards Subject to the P&S Act, 1997-2006

Year	Bonded slaughter firms	Non-bonded slaughter Plants*	Bonded dealers and market agencies	Posted stockyards
1997	427	468	6,903	1,574
1998	399	513	6,690	1,582
1999	386	491	6,577	1,548
2000	359	502	6,380	1,519
2001	335	526	6,250	1,525
2002	336	497	6,024	1,510
2003	338	481	6,250	1,429
2004	314	485	5,609	1,443
2005	312	450	5,547	1,426
2006	295	496	5,407	1,400

* Number of Federally Inspected (FI) plants minus the number operated by reporting packers. This is an estimate of the number of non-bonded slaughter firms (operating FI plants) that are not required to be bonded because they purchase less than \$500,000 of livestock per year (includes slaughtering plants that also do processing but excludes non-FI plants).

Bonded slaughter firms include all bonded firms that operate federally inspected (FI) and non-federally inspected (NFI) plants. All packers operating in interstate commerce are subject to the P&S Act, which requires firms with purchases of \$500,000 or more to be bonded and to file annual reports. Some firms with smaller volume purchases are voluntarily bonded but do not file annual reports. A market agency is defined as an entity engaged in the business of buying or selling livestock in commerce on a commission basis, or furnishing stockyard services. Posted stockyards are terminal markets and auction markets located at stockyards. Dealers purchase livestock for resale on their own accounts and take title to the animals.

Principal Activities

GIPSA conducts two broad types of activities – regulatory and investigative – in administering and enforcing the P&S Act (Table 2). Regulatory activities assess whether a subject entity is operating in compliance with the Act, and occur when GIPSA has no reason to believe a violation has transpired. Investigations are conducted when there is reason to believe a violation may be present.

Regulatory activities include, but are not limited to, check-weighing; custodial account and prompt payment audits; procurement and marketing business practice reviews; registering market agencies, dealers, and packer buyers who operate subject to the P&S Act; analyzing trust and bond claims and helping producers file bond and trust claims; and presenting new market/packer orientations.

Table 2. Number of Regulatory Actions and Investigations, 1998-2007, and Number of Investigations Open and Completed in 2007

Fiscal Year*	Total Regulatory Actions and Investigation s	Investigations			
		Livestock		Poultry	
		Open	Closed	Open	Closed
1998	1,684	NR	NR	82	NR
1999	1,372	NR	NR	113	NR
2000	1,898	NR	NR	97	NR
2001	1,619	NR	371	125	NR
2002	1,600	NR	380	53	NR
2003	1,744	NR	393	62	NR
2004	1,923	NR	161	52	NR
2005	2,315	NR	267	36	NR
2006	2,006	559	426	66	58
2007	2,340	996	674	75	61

* Prior to FY 2006, regulatory activities such as scale checks and audits were not distinguished from investigative activities. Effective FY 2006, GIPSA counts any action initiated related to a potential violation of the P&S Act as an investigation.

NR = Data not previously reported.

Regulatory activity may occur entirely, or in part, at an entity's place of business or at a GIPSA Regional Office. Regulatory activities also include market level monitoring, which is generally conducted using data that are available in the public domain. Examples include, but are not limited to, monitoring fed cattle and hog prices, and structural changes in the livestock, meat, and poultry industries. Monitoring activities have led to firm-level investigations.

Investigations at a firm-level may be as follow-up to previously identified violations of the Act, in response to industry-driven complaints, and in response to possible violations found pursuant to compliance or monitoring activities. Investigations may be conducted as Rapid Response Investigations to prevent irreparable harm to the regulated industries. Investigations may occur entirely, or in part, at an entity's place of business or at a GIPSA Regional Office. GIPSA frequently receives complaints from producers, feedlot operators, or, in some cases, anonymous callers. The agency responds to all of these complaints, although in some cases a preliminary review of available data reveals that an in-depth investigation is not warranted. The agency also initiates investigations independently, for example, as a result of information obtained from monitoring industry behavior.

GIPSA regulatory and investigative activities are carried out by two general program units: Business Practices and Financial Protection. The Business Practices unit addresses competition and trade practices. Financial Unit investigations and regulatory activities, which address the financial requirements of the Act, represent the largest share of the Agency's expenditures, due in part to the Act's prescriptive financial requirements for subject entities (Table 3).

Table 3. Total Regulatory and Investigation Expenditures, 2000-2007

Fiscal Year	Regulatory Activity *	Investigations		
		Competitio n	Trade Practices	Financial
(Dollars in thousands)				
2000	N/A	2,986	3,583	4,628
2001	N/A	3,431	4,117	5,318
2002	N/A	3,575	4,290	5,541
2003	N/A	3,755	4,506	5,820
2004	N/A	3,905	4,686	6,053
2005	N/A	4,050	4,860	6,277
2006	6,705	1,775	2,640	3,869
2007**	7,142	1,488	4,259	3,419

* N/A - Data not available. Prior to fiscal year 2006, regulatory activities and investigations were not differentiated.

** Through August 2007.

The agency has improved its efficiency at closing investigations. Overall, GIPSA has reduced the number of days individual investigations remained open during 2007 compared to 2006, except for investigations that remained open at the end of the year and that had required field work (Table 4). Regulatory activity, on the other hand, generally required more time to complete in 2007 than in 2006, as resources were devoted to a significantly increased number of investigations relative to 2006.

Table 4. Number of Investigations and Number of Regulatory Activities Closed During FY 2007 Year and Remaining Open at End of the Fiscal Year, and Number of Days Open, By Location of Activity, 2007 vs. 2006

Type and location*	2006	2007	% Change	2006 Days Average	2007 Days Average	% Change
Investigations						
Field- Closed	314	354	12.7	165	120	-27.3
Office – Closed	170	381	124.1	104	84	-19.2
Field – Open	99	198	100.0	197	277	40.6
Office – Open	42	138	228.6	171	100	-41.5
Regulatory Activity						
Field- Closed	561	893	59.2	57	38	-33.3
Office – Closed	650	299	-54.0	92	129	40.2
Field – Open	38	55	44.7	108	155	43.5
Office – Open	132	22	-83.3	118	267	126.3

* “Field” refers to investigations and regulatory activities that required visits by GIPSA personnel to the location of the subject entities. “Office” refers to activities that GIPSA personnel were able to conduct entirely in GIPSA offices, relying on telephone, mail, or other types of communications with the respondents. Investigations and regulatory activities completed entirely within GIPSA offices tend to be technical violations, e.g., failure to submit required documentation in a timely manner.

Table 5. Number of Investigations by Investigative Unit and Type, 2007

Unit and Type of Investigation	Number of Investigations
<u>Business Practices Unit</u>	
<i>Competition Investigations</i>	
Restriction of Competition	16
Concentration/Industry Structure	6
Preferential Treatment	7
Apportionment of Territory	2
Other	5
<i>Trade Practice Investigations</i>	
Weighing Practices and Scales	95
Unfair/Deceptive Practices	73
Registration/Jurisdiction	62
Contract Poultry Arrangements	24
Grower Termination	15
Other	182
<u>Financial Unit</u>	
Delinquent Reports	329
Failure to Pay or Pay When Due	150
Custodial Account	72
Bond Claims	17
Solvency	3
Packer Trust	1
Other	12
Total Investigations	1,071

Investigations address a broad range of potential violations under the Act, including contract arrangements, financial conditions, and procurement, marketing, and payment practices of firms that operate subject to the P&S Act; use of scales and weighing practices, including at any location where scales are used to weigh feed when feed is a factor affecting payment to livestock producers or poultry growers; and the competitive practices of firms subject to the P&S Act (Table 5).

GIPSA's regulatory and investigative actions frequently find that entities are in compliance with the P&S Act (Table 6). When violations are discovered, GIPSA generally either brings agency pre-determined fines to bear for admitted violations (Stipulations, new in fiscal year 2007), or pursues litigation action with the USDA / Office of the General Counsel (OGC) before a USDA Administrative Law Judge or through the Department of Justice (DOJ).

Table 6. Disposition of All Enforcement Activities, FY 2007

Type Activity*	Total Number	Number by Disposition
1 Regulatory Activity	1,192	
a. In Compliance		952
b. Notice of violation sent		130
c. Other		110
2 Investigations	735	
a. No Violations		211
b. Compliance with Warning		273
c. Notice of Violation		152
d. Other		99
3 P&SP HQ Action*		
a. Stipulations Offered	6	
1) Stipulations Accepted		3
b. Referred to OGC	75	
1) Complaints Docketed		49
2) Administrative Decisions		28
c. Forwarded to OGC for referral to DOJ	40	
1) Federal Court Decisions		2

* OGC – Office of the General Counsel. DOJ – Department of Justice.

GIPSA may take a variety of actions if it finds a regulated entity in violation of the P&S Act, including issuing letters of notice and formal legal action (Table 7). The resolutions of formal actions may result in consent decisions and orders issued by a USDA Administrative Law Judge or by the Federal courts.

Table 7. Result of Investigations When Violations Found, 2004-2007

Type of Enforcement*	2004	2005	2006	2007
Referred to OGC	34	37	71	75
Forwarded to OGC for referral to DOJ	4	6	16	40
Complaints docketed	18	18	25	49
Administrative decisions	14	22	24	28
DOJ decisions	NR	NR	NR	2
Stipulations accepted	NA	NA	NA	3
Civil penalties (\$)**	\$104,500	\$114,300	\$196,350	\$440,650

* OGC – Office of the General Counsel. DOJ – Department of Justice.

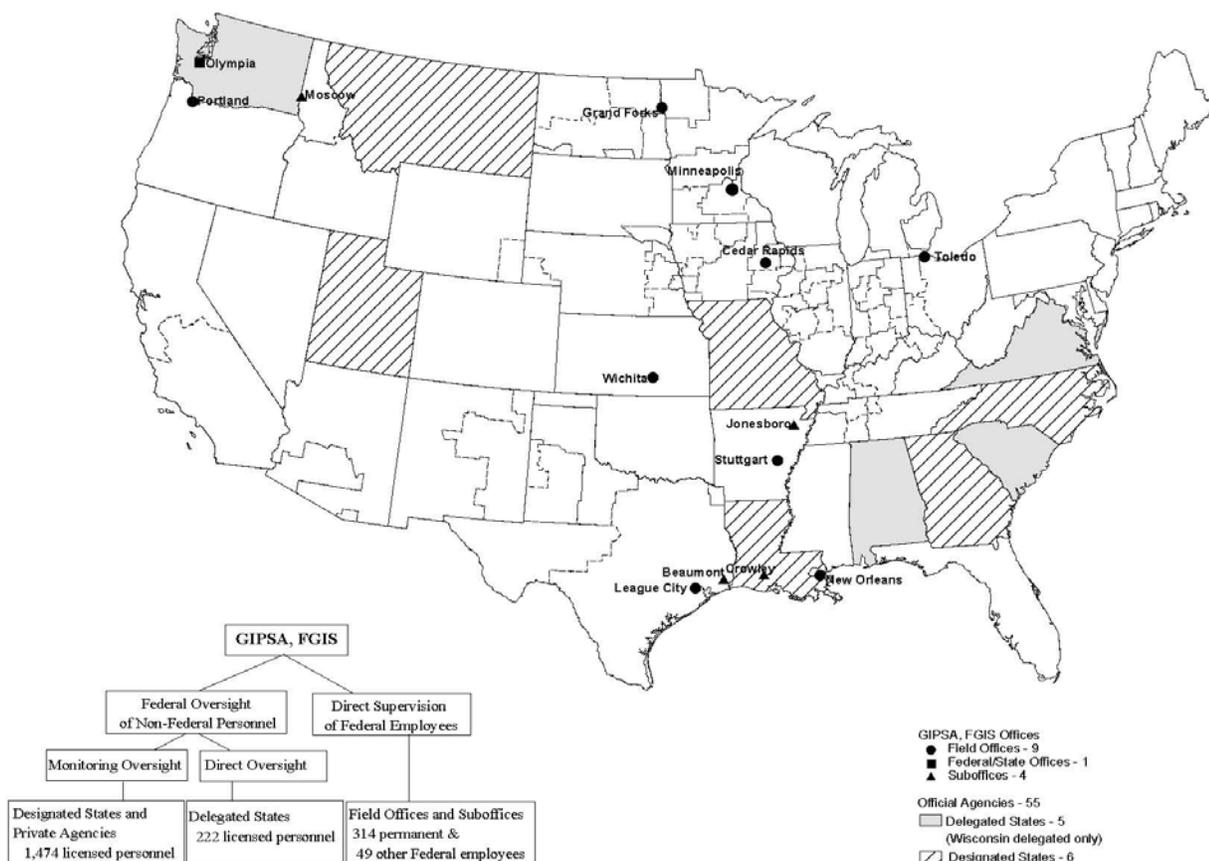
** \$36,500 based on decisions issued by DOJ in fiscal year 2007

GIPSA Structure

As of September 30, 2007, GIPSA was comprised of 595 full-time, permanent employees, and 74 part-time, intermittent, or other employees located at a headquarters unit in Washington, DC, and in field locations across the Nation.

FGIS accounts for 412 full-time, permanent employees and 72 part-time, intermittent, or other employees. Grain program personnel located in headquarters, and at a technical center in Kansas City, Missouri, 8 field offices, 1 Federal/State office, and 4 suboffices. Field offices are located in Stuttgart, Arkansas; Cedar Rapids, Iowa; Wichita, Kansas; New Orleans, Louisiana; Grand Forks, North Dakota; Portland, Oregon; League City, Texas; Toledo, Ohio; and Olympia, Washington; thus ensuring the availability of official inspection and weighing services anywhere in the United States.

Official Inspection and Weighing Service Providers



P&SP's 127 employees are located in Washington, D.C. and 3 regional field offices in Atlanta, Georgia; Denver, Colorado; and Des Moines, Iowa (Figure 1). The regional field offices conduct most day-to-day industry monitoring and surveillance, and investigations. Each regional office maintains a high level of expertise in one or more species of livestock. The Atlanta Regional Office takes the lead on all national poultry investigations. The Des Moines office takes the lead on all national hog investigations. The Denver office takes the lead on all national cattle or lamb investigations. Thirty-one resident agents who report to regional field offices are located throughout the country to provide core services across the Nation (Figure 1). The widely dispersed location of resident agents enables the agency to maintain closer contact with the entities that it regulates, which are similarly dispersed throughout the United States (see Figures 2-5).

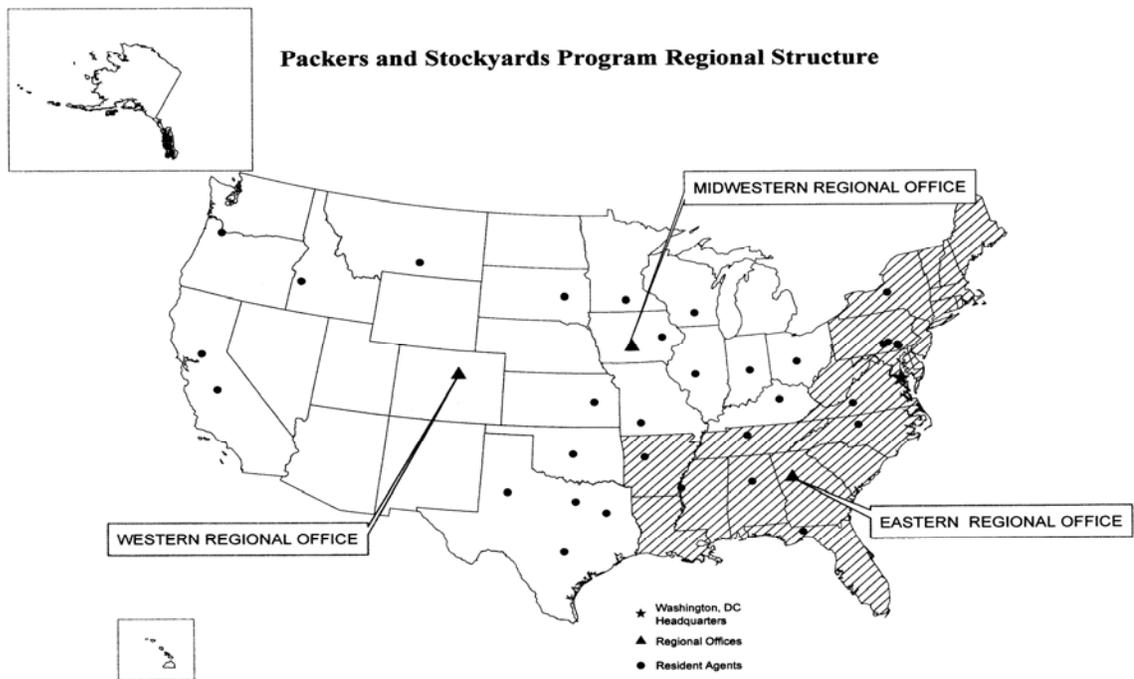


Figure 1. Packers and Stockyards Program Regional Structure



Figure 2. Location of Livestock Packers Subject to the P&S Act



Figure 3. Location of Livestock Markets Subject to the P&S Act



Figure 4. Location of Livestock Dealers Subject to the P&S Act



Figure 5. Location of Live Poultry Dealers Subject to the P&S Act

Outlook 2008

FGISonline

GIPSA continues to modernize the business functions of its grain program. The modernization effort is based on the results of GIPSA's Enterprise Architecture assessment, and is designed to improve the efficiency and effectiveness of service delivery by streamlining business practices, improve customer service, and meet Federal eGovernment and related USDA requirements. In FY 2007, GIPSA deployed two key applications. The Certificates program allows GIPSA and official service providers to electronically enter inspection and weighing results, and produce electronic or paper official inspection and weighing certificates.

Using our new certificates application, our customers can receive electronic or paper certificates quickly and efficiently, and pass that efficiency on as they share certificate information electronically with their customers. The program, in turn, feeds our new Inspection Data Warehouse, a national database of inspection and weighing records for services provided under the U.S. Grain Standards Act and Agricultural Marketing Act. This Warehouse streamlines our customers' business operations by providing them access to view official service results, forward results to their customers, and get real-time electronic inspection and weighing records and reports. The Delegation, Designation, and Exporter Registration application, which was deployed in FY 2006, is being increasingly used by State and private entities to apply for authority to provide official inspection services, and by grain firms to complete mandatory registration requirements as grain exporters. This new program is replacing a repetitive, paper-intensive process with a streamlined electronic approach that is saving GIPSA and our customers time and reducing paperwork burdens. In FY 2008, GIPSA will continue to develop its core applications, including programs to capture inspection, weighing, and equipment checktesting data; capture and manage technical testing information; automate the licensing process; and expand our quality assurance and control capabilities.

Ethanol/Distillers Grains

Ethanol production has grown more than 174 percent in the last 5 years, and has surpassed exports as the second largest market for U.S. corn. Concomitant with that expansion has been a large increase in the production of ethanol co-products, or distillers grains. According to the National Corn Growers Association, 12.2 million tons of distillers grains were produced in marketing year 2006/07 and more than 17 million tons are expected to be produced in 2007/08. Export markets for distillers grains exceeded 1.25 million tons in 2006, and are projected to account for nearly 2 million tons in 2007.

To address this rapid expansion and a lack of consensus in the market about industry standards and standardized analytical methods for ethanol co-products, GIPSA published an advanced notice of proposed rulemaking in the *Federal Register* on July 20, 2007, inviting comments

on GIPSA's role in differentiating grain inputs for ethanol production and standardizing testing of the co-products of ethanol production. In FY 2008, GIPSA will analyze all comments and determine appropriate follow-up activities.

International Trade Data System

Importers, exporters, and transporters currently must access and fill out numerous electronic and paper reporting documents from multiple Federal agencies. The U.S. Government is creating the International Trade Data System (ITDS) to provide a "single window" point of access for import and export related documentation. ITDS is not a separate computer system, but an aggregation of related programs provided by 40 U.S. Government agencies involved in the import or export of products into or out of the United States. The system will be developed by and provided through the U.S. Customs and Border Protection's Automated Commercial Environment (ACE) in collaboration with the other involved government agencies. The ITDS will reduce customers' reporting burden to the government. It also will enhance Federal agencies' ability to target risky cargoes, persons, and conveyances; and strengthen the Government's ability to provide international trade data that are more accurate, complete, and timely.

GIPSA joined the ITDS effort in FY 2007, and will further refine its involvement in FY 2008. Under the new system, USDA customers will be able to enter a "single window" to request both export grain inspection certification from GIPSA and phytosanitary certification from USDA's Animal and Plant Health Inspection Service. The system will enhance electronic communication between GIPSA and APHIS in the generation of phytosanitary and export grain inspection certificates, and provide customers with a single site for viewing phytosanitary and quality inspection results.

Post-Harvest Grain Quality Surveys

In 2007, GIPSA expanded its farm gate/first point of sale grading quality surveys to include soybeans in addition to grain sorghum. In 2008, we anticipate adding corn to the survey, and plan to include additional grains in future years. These surveys will provide extensive data on the baseline quality of grain entering the marketing chain, and are a valuable addition to the agency's database of grain quality, which collectively provides a picture of quality from field to export.

U.S. Standards for Soybeans

On May 1, 2007, GIPSA published an advance notice of proposed rulemaking in the *Federal Register* initiating a review of the U.S. Standards for Soybeans to determine their effectiveness and responsiveness to current grain market needs. The comment period closed on August 20, 2007. GIPSA is thoroughly analyzing all comments received and other available data and information to determine if further research is needed and what revisions, if any, should be made to the soybean standards. If standards changes appear warranted, GIPSA will publish a proposal in the *Federal Register*.

International Quality Specifications

International standard-setting bodies and importing countries are establishing or revising specifications, e.g., maximum allowable limits, for pesticide residues and mycotoxins. These requirements place added challenges on exporters of U.S. grain. GIPSA continues to work with

exporters and international trading partners to promote acceptance of origin-based surveys and testing to comply with import requirements and facilitate trade by reducing risks.

Export Inspection Services

During 2007, GIPSA operated 7 contracts with private companies to evaluate the impact of expanding the use of private contractors to officially inspect and weigh export grain. These pilot programs inspected nearly 1 percent of U.S. exports during 2007. GIPSA will monitor these operations throughout 2008 and, based on the performance data collected, determine whether to expand the use of contractors in the future.

Promoting Fair and Competitive Marketing

GIPSA's Packers and Stockyards Program 2007-2009 Strategic Business Plan identifies four strategic business goals:

- (1) Increase the level of compliance through preventative regulatory actions;
- (2) Attain compliance through investigations and enforcement;
- (3) Implement directives, policies, and regulations, and perform industry analysis that effectively and efficiently keeps pace with the changing livestock, meat, and poultry industries; and
- (4) Improve organizational efficiency and effectiveness.

To increase the level of compliance through preventative actions, GIPSA will implement new procedures to ensure that entities operating subject to the Packers and Stockyards Act are properly registered and bonded, and meet reporting requirements. GIPSA also will conduct more targeted audits to protect the industry's financial interests, and implement new procedures to improve the current protections afforded by bonding requirements. To protect fair business practices, GIPSA will inspect scales and carcass evaluation devices and monitor weighing practices, and will increase monitoring of fed cattle and hog markets, and packers' procurement practices.

To improve compliance through investigations and enforcement, GIPSA is developing new or refining existing standardized investigative procedures with a goal of ensuring timely completion of investigations. During 2007, all personnel with investigative and regulatory responsibilities participated in formal training at the Federal Law Enforcement Training Center in Glynco, Georgia. GIPSA is also pursuing legislative initiatives to provide for administrative authority to enforce the poultry and annual reporting provisions of the Act.

GIPSA will prioritize and develop regulations based on the results of a regulation review that was conducted in 2006, and additional needs subsequently identified. GIPSA is revising its P&SP Employee Manual to provide improved, standardized operating procedures, and will conduct reviews of all offices to ensure compliance with all established procedures and policies. GIPSA is also improving its internal auditing and data validation procedures and procedures for enforcing reporting requirements to improve the timeliness, comprehensiveness, and quality of annual reports that are submitted to the agency by regulated entities,

and will revise and enhance the content of the various public reports and summary data that are released by the agency.

GIPSA's Packers and Stockyards Program recently completed a Business Process Re-engineering (BPR) initiative, which has resulted in improved, standardized operating procedures designed to improve organizational efficiency and effectiveness. The BPR initiative is being complemented by an ongoing initiative to develop a new integrated automated management information system that will replace aging, stove-piped computer software databases. The new system will automate work flow processing, and improve work process reporting capabilities and analysis of industry conditions. The management information systems upgrade is comprised of two concurrent activities: (1) replacing existing software with an integrated system, which is being carried out by a third party, and (2) expanding existing capabilities by developing new databases, which is being carried out in-house. For example, in 2007, GIPSA developed new databases for the entry and preliminary analysis of data received from the industry in its annual report filings. This activity will be integrated into the new management information system to achieve eventual automated industry filings and preliminary processing.

In addition to these technological improvements, GIPSA will enhance its workforce environment by conducting an organizational climate assessment, improving its awards program, and widely disseminating the results of internal Civil Rights reviews and developing strategies to address any concerns revealed by these reviews. GIPSA is increasing and improving P&SP employee input into program planning. For example, all employees were involved in the BPR initiative noted above, and a committee of employee Change Agents was appointed to help ensure that both the BPR process and the information system upgrade reflect input from all employees about system requirements, with results in turn fully communicated back to the employees. Finally, P&SP is working to improve the public's perception of P&SP by meeting frequently with major stakeholders and other regulatory agencies, and releasing timely and relevant information to targeted agricultural media outlets. As part of this outreach effort, GIPSA plans to hold conferences on carcass evaluation, and provide training to State and industry personnel on proper weighing procedures.

Federal Grain Inspection Service

- *Providing the Market With Terms and Methods for Quality Assessments*
- *Protecting the Integrity of U.S. Grain and Related Markets*
- *Providing Official Grain Inspection and Weighing Services*

Providing the Market With Terms and Methods for Quality Assessments

U.S. Standards for Sorghum On July 20, 2007, GIPSA published a final rule in the *Federal Register* announcing changes to the U.S. Standards for Sorghum. Effective June 1, 2008, GIPSA will amend the sorghum standards to change the definitions of the classes Sorghum, White sorghum, and Tannin sorghum, and to amend the definition of nongrain sorghum. We also are amending the grade limits for broken kernels and foreign material (BNFM), and the subfactor foreign material (FM); inserting a total count limit for other material into the standards and revising the method of certifying test weight (TW); and are changing the inspection plan tolerances for BNFM and FM. The changes will facilitate the marketing of sorghum by imposing tighter limits on BNFM and FM, and by limiting the allowable amount of sample grade determining material, which is consistent with other food grains. GIPSA also discontinued use of “tannins” to describe sorghum in line with market efforts to breed the bitter-tasting compounds from sorghum used for food. Removal of this descriptor from the U.S. Sorghum Standards will improve the perception of the quality of U.S. grown sorghum in international markets, which consider tannins undesirable.

U.S. Standards for Soybeans Effective September 1, 2007, GIPSA amended the soybean standards to change the minimum test weight per bushel (TW) from a grade determining factor to an informational factor since test weight values have a weak correlation to the intrinsic value of soybeans for processing. On May 1, 2007, GIPSA also initiated a full review of the soybean standards with a request for public comment in the *Federal Register*. A wide range of comments was received and all comments are being evaluated.

Post Harvest Grain Quality Surveys

GIPSA completed the pilot “farm gate” survey of first-point-of-sale grading quality for grain sorghum. GIPSA asked grain elevators in the 11 largest sorghum-producing States to provide 3-pound samples of sorghum that they collected from trucks as they unloaded at the elevators. GIPSA’s sampling plan was statistically balanced with regard to production by State and crop reporting district. Ultimately, GIPSA captured 68 percent of the samples requested, and over 80 percent of the elevators that agreed to participate provided samples. Grading data for samples received was posted on the agency’s public Web site. GIPSA is analyzing collected data but will not draw conclusions about farm-gate quality until approximately 3 years’ worth of data are available for analysis.

The second year of the sorghum farm gate survey commenced in July 2007. Ten additional States were added to the sampling plan to capture sorghum from every State in which grain sorghum is produced. In FY 2007, GIPSA also launched a soybean farm gate survey, soliciting about 1,600 samples from elevators in 31 States.

Rice Milling Yield

Effective September 1, 2007, GIPSA implemented a new rice milling yield procedure for Medium Grain Rough rice (MGRUF) and Medium Grain Brown Rice for Processing (MGBR) in California. At the request of the California Warehouse Association and California Rice Commission, GIPSA changed the weights used for the western production Medium Grain rice to match the weights used for southern production Medium Grain rice. Until this change, GIPSA maintained two milling yield procedures for MGRUF and MGBR. The Western rice production method, used only in California, required a 10-pound weight applied during the milling cycle and a 2-pound weight during the brushing cycle. The Southern U.S. production region method, used in all rice-producing States except California, requires the use of a 7-pound weight for the milling cycle and no weight for the brushing cycle. GIPSA's action to harmonize the Western and Southern methods will improve the consistency of official rice milling procedures throughout the United States and better align the Western procedures with those used throughout the commercial market.

Wheat Functionality

Protein Quality Assessments. The intrinsic qualities of wheat affect the quality of end-products. The market needs accurate test methods to differentiate the qualities that determine a wheat lot's ability to meet specific end-use needs. These methods also need to be practical, rapid, and reproducible across different laboratories to provide value transparency from producer to processor, and to provide information that better predicts appropriate end uses, thereby enhancing the marketability of U.S. wheat.

The Farinograph method is one of the most widely used methods for assessing the performance of wheat flour. GIPSA studies in FY 2006 showed significant differences in Farinograph test results among laboratories. These differences may cause customer perceptions of inconsistent wheat quality. During FY 2007, GIPSA closely examined the Farinograph method variables and identified the dough-mixing bowl as a major cause of method variations among laboratories. In 2008, GIPSA will conduct cooperative studies with various commercial laboratories to identify means of improving standardization of Farinograph method among crucial commercial laboratories.

Gluten is the wheat protein that is primarily responsible for dough characteristics. The amount of gluten is highly correlated to the level of crude protein in wheat; however, the "strength" of the gluten is independent of protein quantity. Gluten strength (resistance to stretching and/or elasticity) is widely regarded as important to dough performance, but the wheat market has yet to accept a clear definition or measurement method. In FY 2008, GIPSA will continue to cooperate with the USDA Agricultural Research Service, universities, and private industry to

develop new standardized methods that more precisely and reproducibly describe the viscous and elastic properties of gluten using fundamental rheological units.

Method for Ochratoxin A

The European Union has implemented new regulations for mycotoxins that include tolerance levels and prescribe routine testing for ochratoxin A in cereal grains. Ochratoxin A is not known to be a significant problem in U.S. grains, but these new tolerances pose some risk for U.S. exporters. In FY 2007, GIPSA validated a reference method for ochratoxin A, prepared specifications and tolerances for rapid test kits, and began evaluating rapid test kits to prepare for implementation of official ochratoxin A testing services in FY 2008.

Mycotoxin and Biotechnology Test Kit Approvals

The grain industry relies on rapid tests to detect the presence of biotechnology-derived grains and oilseeds based on commercial contractual requirements. The industry also relies on rapid tests to detect the presence of mycotoxins in grain. To ensure that rapid tests are commercially available and provide reliable test results, GIPSA provides a voluntary program to verify the performance of commercial test kits.

In FY 2007, GIPSA evaluated 35 mycotoxin rapid test kits. Specifically, GIPSA evaluated 4 qualitative and 10 quantitative aflatoxin rapid test kits, verifying 3 of the qualitative and 9 of the quantitative kits. GIPSA assessed 9 qualitative and 7 quantitative deoxynivalenol rapid test kits, and verified the performance of 3 qualitative and 6 quantitative kits. In addition, GIPSA evaluated and verified 3 quantitative zearalenone test kits. One of the 2 fumonisin qualitative rapid test kits evaluated met performance criteria.

GIPSA also evaluated six biotechnology rapid test kits, one for glyphosate-tolerant corn, two for LibertyLink rice, two for Herculex RW, and one for Agrisure RW. All six of the kits met performance criteria and received Certificates of Performance.

Reference Methods

Objective grain quality assessments depend on reliable, well-standardized measurement methods. Reference methods define a specific quality, and are traceable to more fundamental standards, such as mass, length, time, temperature, or electrical charge. These methods are used to maintain the accuracy of current testing in the official inspection system and to develop new rapid field methods. GIPSA maintains reference methods for protein, moisture, oil, fatty acid composition, and mycotoxins. The protein, moisture, oil, and fatty acid reference analyses support the near infrared spectroscopy (NIR), dielectric, and nuclear magnetic resonance (NMR) instruments used for rapid inspection at field locations that perform official testing. The mycotoxin reference analyses support the evaluation and standardization of test kits for official and commercial grain inspection, and support quality assurance programs to ensure consistent and reliable testing results. In FY 2008, GIPSA will continue to provide quality reference method analyses in support of the development of new testing methods and in the maintenance of accurate field testing for the official and commercial inspection systems.

**Standardizing
Commercial Grain
Inspection Equipment**

In FY 2007, GIPSA continued to participate in an ongoing cooperative effort with NCWM, Inc., and the National Institute for Standards and Technology (NIST) to standardize commercial inspection equipment by serving as the sole evaluation laboratory for grain inspection equipment under the NCWM, Inc.'s, National Type Evaluation Program (NTEP). GIPSA collected grain moisture meter calibration data for six instrument models as part of the NTEP ongoing calibration program. Calibrations developed in this program provide traceability back to the official GIPSA moisture program and air oven reference method, and can be used in the majority of moisture meters used in commercial transactions throughout the United States. The NTEP laboratory completed an evaluation for one grain moisture meter model.

In FY 2008, GIPSA will again collect grain moisture meter calibration data for six NTEP models and plans to conduct NTEP testing for the test weight feature on one current NTEP grain moisture meter model. GIPSA testing activities will be expanded as needed to address new applications for NTEP evaluation.

**Basis of
Determination Study**

The grain standards require some analyses for determining grading and quality factors to be conducted on clean samples, while others are conducted using samples containing dockage and foreign material. This means that GIPSA uses different sample bases to determine different quality factors across grain types. Different bases of determination limit the agency's ability to streamline the handling of samples and to use instruments capable of multiple constituent measurements. Changing to a "dockage-free" basis of determination for all instrument-derived measurements would provide an opportunity to improve testing efficiency and possibly to reduce variability of test results.

In FY 2007, GIPSA conducted controlled testing designed to assess the effect of varying dockage levels on moisture and test weight determinations. Results varied depending on the grain being tested and the type of analysis, but effects of dockage levels typically seen in official inspection versus "dockage free" were small. The information gathered to determine the effects of changing the basis for determination will help the agency decide whether to pursue changing the appropriate grain grading standards to require all factors be determined on a clean-sample basis.

Biotechnology

Biotechnology Proficiency Program. GIPSA's internationally recognized Proficiency Program now includes 145 participating organizations, with more than 77 percent of the participants from organizations outside the United States. The program, initiated in 2002, enables organizations testing for the presence of biotechnology-derived grains to improve both the accuracy and precision of testing on a global basis by allowing participating organizations to identify deficiencies and improve testing methodologies to improve the accuracy and reliability of testing for biotechnology-derived events. Participants include organizations from Africa, Asia, Europe, North America, and South America.

IRMM Reference Materials Testing. GIPSA is working with the European Commission's Institute for Reference Materials (IRMM) to harmonize GIPSA and IRMM reference materials to minimize the potential for disrupting U.S. grain markets. As referenced above, GIPSA's Biotechnology Proficiency Program has helped organizations testing for biotechnology-derived grains improve the accuracy and reliability of testing for biotechnology-derived events. GIPSA and IRMM are confirming that the GIPSA proficiency samples and the newly introduced IRMM reference materials provide concordant results. In addition, GIPSA routinely participates in collaborative research projects, sponsored by the IRMM, to determine the feasibility of using plasmids as reference materials in lieu of ground grain. Plasmids are simple, well-defined DNA that can be engineered to contain all commercial events into a single reference material. Plasmids could provide an extensive supply of reference materials of consistent quality with precise PCR amplification characteristics.

Biotechnology Partnerships. GIPSA continues to partner with international organizations such as Codex Alimentarius, International Organization for Standardization (ISO), AOAC International, American Association of Cereal Chemists (AACC), American Oil Chemists' Society (AOCS), Institute for Reference Materials and Measurements (IRMM), and National Institute for Standards and Technology (NIST) to facilitate the harmonization of testing for biotechnology-derived grains and oilseeds. In FY 2007, GIPSA initiated a new program to develop and/or validate standardized reference methods for the detection and quantification of biotechnology-derived grains and oilseeds. GIPSA will work with AOAC International and AACC to gain official recognition of these methods. GIPSA will also continue collaborative efforts with IRMM and with NIST to standardize reference materials.

ISO Registration

The International Organization for Standardization (ISO) represents the national standards institutes and organizations of over 100 countries, including the American National Standards Institute (ANSI). The American Society of Quality, the European Standards Institute, and the Japanese Industrial Standards Committee are a few of the major quality organizations that have endorsed ISO Standards, which are becoming the de facto standards across industries throughout the world. GIPSA maintained ISO 9000:2000 registration for its primary reference methods (protein, oil, and moisture) and its Pesticide Data Program as part of the agency's quality management focus and to enhance international credibility and acceptance.

International Briefings

GIPSA personnel frequently meet with delegations visiting from other countries to brief them on the U.S. grain marketing system, America's national inspection and weighing system, the U.S. grain standards, and GIPSA's mission. Many of these delegations are sponsored by USDA cooperator organizations, including the U.S. Wheat Associates and U.S. Grains Council, which arrange visits to grain production areas, GIPSA

field offices, onsite laboratories at export grain elevators, and the agency's Technical Center in Kansas City, Missouri. At the Technical Center, delegations sometimes receive technical training on analytical testing procedures and grain inspection methods and procedures.

Briefings are tailored to address each group's interests and concerns. Presentations include explanations of the various services available from GIPSA, the agency's use of the latest technology to provide grain traders with accurate and reliable inspection and weighing information and, for importers or potential importers new to the U.S. grain market, information on contracting for the quality they desire.

These briefings foster a better understanding of the U.S. grain marketing system and the official U.S. grain standards and the national inspection system, and enhance purchasers' confidence in U.S. grain.

During 2007, GIPSA personnel met with 55 teams from 38 countries.

**Summary of Briefings with
Visiting Trade and
Governmental Teams
In Fiscal Year 2007**

Algeria	Japan
Argentina	Jordan
Australia	Korea
Botswana	Mexico
Brazil	Morocco
Canada	Nigeria
Chile	Oman
China	Peru
Colombia	Philippines
Costa Rica	Poland
Cyprus	Russia
Dominican Republic	South Africa
Egypt	Taiwan
El Salvador	Thailand
Guatemala	Tunisia
Honduras	United Arab Emirates
India	Venezuela
Indonesia	Vietnam
Jamaica	Yemen

Outreach

In FY 2007, GIPSA responded to customers' needs for technical assistance overseas. Exporters, importers, and end users of U.S. grains and oilseeds, as well as other USDA agencies, USDA cooperator organizations, and other governments, frequently ask for GIPSA personnel to travel overseas. These activities include representing the agency at grain marketing and grain grading seminars, meeting with foreign governments and grain industry representatives to resolve grain quality and weight discrepancies, helping other countries develop

domestic grain and commodity standards and marketing infrastructures, helping importers with quality specifications, and training local inspectors in U.S. inspection methods and procedures.

Such activities typically are funded through various programs administered by the Foreign Agricultural Service (FAS), Farm Service Agency (FSA), directly by USDA cooperators, or by GIPSA. The 1995 amendment to the U.S. Grain Standards Act extended to GIPSA the authority to charge and be reimbursed for travel, salary, and related expenses when a customer requests that we provide consultative expertise. GIPSA's authority to recover costs for providing consultative services has enhanced our ability to facilitate marketing of U.S. grains, oilseeds, and related commodities.

During FY 2007, our outreach activities included conducting a soybean monitoring project to address concerns of Malaysian importers regarding the quality of U.S. soybeans. GIPSA also coordinated meetings with European regulators in Belgium, England, and Italy to address the European Union's (EU) mycotoxin regulations. Our long-range goal is to attain European Commission (EC) recognition of GIPSA sampling and testing procedures to allow for pre-export testing rather than destination testing. In collaboration with FAS and APHIS, GIPSA devoted significant resources to addressing customer concerns about a biotech rice trait that appeared in commercial U.S. rice. Further, we participated in the seventh meeting of the North American Biotechnology Initiative; worked with APHIS, FAS, FSA, Agency for International Development (AID), and Kenyan officials to address Kenya's new phytosanitary and biotech import requirements, which would affect their ability to import donated food aid; and continued to work to resolve issues with India's quality and phytosanitary specifications for wheat, peas, and lentils.

In the United States, GIPSA accompanied APHIS and a delegation of Peruvian quarantine officials on a visit to U.S. rice production areas, State rice research centers, and local GIPSA field offices. This visit helped Peru complete a pest risk assessment (PRA) on U.S. rough rice, a key element toward opening the Peruvian market to U.S. rough rice exports.

In FY 2007, we also continued our ongoing efforts to facilitate trade with Iraq. On four occasions, we deployed a technical specialist to the United Arab Emirates to monitor and provide on-site technical inspection expertise for wheat shipments from the United States to Iraq. A GIPSA technical expert observed destination sampling and provided technical assistance to the Grain Board of Iraq (GBI) that, in all instances, resulted in the GBI's accepting the shipments without delay. GIPSA's representative also traveled to Egypt to present wheat and rice grading seminars at a buyers' conference designed to facilitate Iraq's purchases of U.S. wheat and rice. This work enhanced our reputation in the region and instilled confidence in the services GIPSA provides.

International Projects

Mexico. Mexico is the United States' second most valuable and most proximate customer for grain and oilseed exports. GIPSA has been working with Mexico's private and public grain sectors to promote the use of U.S. sampling and inspection methods to facilitate trade by minimizing differences in test results between GIPSA and the receiver.

At Mexico's request, GIPSA developed and implemented a program for Mexican government officials and importers to visit the United States to gain a better understanding of the U.S. grain marketing and inspection system, and the roles of GIPSA, official agencies, and APHIS. This highly successful program has prompted Mexican importers to launch efforts to improve their own testing capabilities by establishing laboratories modeled after GIPSA's. As an outgrowth of this program, and at Mexican importers' request, GIPSA will expand its annual wheat protein collaborative study to include Mexico.

In FY 2007, GIPSA, APHIS, FAS, and Agricultural Marketing Service (AMS) representatives met with Mexico's Ministry of Agriculture inspectors and Mexican customs officials, U.S. brokers and freight forwarders in Piedras Negras, Nuevo Laredo, Veracruz, and Tuxpan, Mexico, to explain our roles in marketing U.S. grain to Mexico and to learn their roles in inspecting and clearing U.S. grain to enter Mexico and to address any logistical issues that may cause entry delays. The U.S. team specifically highlighted GIPSA's new Web-based certification system to border officials. The new online system provides border officials the opportunity to easily verify the authenticity of a GIPSA quality certificate and clear a shipment for entry into Mexico.

Asia. During FY 2007, GIPSA placed two representatives in Asia on long-term temporary duty assignments to develop a more proactive approach in working with overseas Asian customers and their Governments. As a result, GIPSA had an on-site presence in the region for over 8 months during the fiscal year. This Asian outreach program has allowed GIPSA to address immediate and long-term issues in the region; promote a better understanding and adoption of U.S. sampling and inspection methods to minimize differences in results; and develop face-to-face relationships with customers, USDA cooperators and government officials.

**Summary of Activities
Involving International
Travel in FY 2007**

<i>Purpose</i>	<i>Number of Travelers</i>	<i>Country Visited</i>	<i>Dates of Visit</i>
1. To discuss Europe's mycotoxin regulations.	1	Belgium, England, Italy	10/01- 10/06/06
2. To perform seaboard grain inspections.	1	Canada	10/05- 10/07/06
3. To participate in North American Biotechnology Initiative meeting.	1	Mexico	10/08- 10/10/06
4. To participate in Joint Research Center Symposium on biotechnology.	1	Italy	10/22- 10/26/06
5. To perform seaboard grain inspections.	1	Canada	11/07- 11/09/06
6. To monitor unloading / sampling of U.S. soybeans.	2	Malaysia	11/08- 11/20/06
7. To participate in U.S. Wheat Crop Quality Program.	1	China	11/12- 11/17/06
8. To perform seaboard grain inspections.	1	Canada	11/15- 11/18/06
9. To perform seaboard grain inspections.	1	Canada	11/20- 11/25/06
10. To attend organizing meeting of World Conference on GE testing.	1	Italy	01/09- 01/12/07
11. To attend the sampling activities related to cargoes of U.S. wheat shipped to Iraq.	1	United Arab Emirates	01/03- 03/08/07
12. To participate in long-term Asian assignments to address immediate and long-term issues in the region.	2	Australia, China, Hong Kong, India, Indonesia, Japan, Korea, Malaysia, Philippines, Singapore, Taiwan, Thailand, Vietnam	02/19- 06/15/07 and 06/11- 09/27/07
13. To speak at APPAMEX/North American Export Grain Association Meeting.	1	Mexico	02/22- 02/27/07
<i>Continued</i>			

<i>Purpose</i>	<i>Number of Travelers</i>	<i>Country Visited</i>	<i>Dates Of Visit</i>
14. To attend meeting of the Codex Committee on Methods of Analysis and Sampling.	2	Hungary	03/04 - 03/10/07
15. To attend Grain Analysis Equipment Conference.	1	Japan	04/12- 04/21/07
16. To attend the sampling activities related to cargoes of U.S. wheat shipped to Iraq.	1	United Arab Emirates	04/19- 05/04/07
17. To conduct interview regarding Ontario livestock sellers.	3	Canada	04/25- 04/26/07
18. To perform seaboard grain inspections.	1	Canada	04/30- 05/02/07
19. To attend meeting of Mexican grain industry and government officials.	1	Mexico	05/21- 05/24/07
20. To observe unloading and weighing of U.S. grain shipment.	2	Trinidad	05/21- 05/28/07
21. To attend U.S. grain purchasing workshop for Grain Board of Iraq.	1	Egypt	05/23- 06/04/07
22. To witness the re-fumigation of a cargo of U.S. wheat at the request of the exporter.	1	Egypt	06/23- 06/30/07
23. To respond to a complaint on kidney bean quality.	1	Honduras	07/24- 07/27/07
24. To perform seaboard grain inspections.	1	Canada	08/15- 08/17/07
25. To attend the sampling activities related to cargoes of U.S. wheat shipped to Iraq.	1	United Arab Emirates	08/22- 08/31/07
26. To perform seaboard grain inspections.	1	Canada	08/26- 08/29/07
27. To attend American Soybean Association marketing conference.	1	Turkey	08/27- 08/30/07

Protecting the Integrity of U.S. Grain and Related Markets

Compliance Reviews

Compliance reviews are independent, third-party reviews of GIPSA's grain inspection and weighing field operation, which includes Federal, State, and private laboratories. During FY 2007, GIPSA conducted onsite compliance reviews of 1 GIPSA office, 6 State departments of agriculture, and 16 private agencies. Review teams evaluated customer satisfaction, including potential service delivery discrimination, management effectiveness and efficiency, and procedural compliance. GIPSA found no instances of service delivery discrimination. All identified noncompliance items were corrected.

Delegation and Designation Program

GIPSA oversees 54 official agencies that are designated under the USGSA, as amended, to provide permissive official inspection and/or weighing services at domestic locations. Of these, four are States that are also delegated to provide mandatory official inspection and weighing services at export locations. One additional State is delegated but not designated. Delegations are permanent unless GIPSA or the State terminates the agreement. During FY 2007, one State voluntarily canceled its delegation due to financial considerations.

Under the triennial renewal process, 21 official agency designations automatically terminated in FY 2007. GIPSA renewed 18 of the 21 for full 3-year terms after reviewing their performance. One official agency was designated for 18 months, and another for 2 years due to repeat non-compliances.

Conflicts of Interest

At the beginning of FY 2007, three designated official agencies were operating with discretionary conflict-of-interest waivers. All three agencies remain designated with conflict waivers.

Drug-Free Workplace

As each designated official agency becomes eligible for designation renewal; it must certify to GIPSA that it provides a drug-free workplace. Each of the 20 agencies renewed in FY 2007 provided this certification.

Exception Programs

During FY 2007, GIPSA continued to operate three exception programs which allow more than one designated official agency to inspect or weigh grain in a single geographic area under specific circumstances.

The timeliness-of-service exception program allows official agencies to provide service to facilities located outside of their assigned geographic area on a case-by-case basis when official service cannot be provided within established timeframes. During FY 2007, one facility used the timeliness-of-service exception.

The nonuse of service exception program allows official agencies to offer their services to facilities outside their assigned area if no official service has been provided during the previous 3 months. During FY

2007, 101 facilities received 267,823 inspections under this program. This included 688 for barges, 67,337 for railcars, and 199,798 other inspections (e.g., trucks, containers, and Starlink™ testing).

The barge exception program allows customers shipping grain in barges to select any official agency to probe-sample and inspect the grain. During FY 2007, one facility received 23 barge inspections under this program.

Complaints

GIPSA administers a grain quality and weight discrepancy process. When an importer of U.S. grains reports a quality or weight discrepancy, GIPSA initiates an investigation to determine the validity of the discrepancy. GIPSA analyzes samples retained on file from the original inspection and samples submitted from destination (if the buyer chooses to submit them) to evaluate whether the discrepancy was due to inspector or instrument error, or to differences in samples, procedures, or an actual change in quality from the time of the original inspection. The process verifies whether the original inspection and weighing service provided at the time of loading was correct, based on all available information. GIPSA then issues a report outlining its findings and providing suggestions to avoid similar discrepancies in the future.

Occasionally, a particular buyer or importing country reports repeated discrepancies which cannot be resolved by a shipment-by-shipment review under this process. In such cases, GIPSA may conduct collaborative sample studies or joint monitoring activities to address the discrepancy in a more comprehensive manner.

These complaints involved 188,072 metric tons, or about 0.2 percent by weight, of the total amount of grain exported during the year. This compares to nine quality and no weight complaints received in FY 2006, representing about 0.3 percent of grain exports by weight.

In FY 2007, GIPSA received six quality complaints and three weight complaints from importers on grains inspected under the U.S. Grain Standards Act. Based on our investigation of these cases, GIPSA sustained the original inspection results on all six quality complaints and one weight discrepancy. We have not completed the investigations on the other two weight discrepancies. These complaints involved 188,072 metric tons, or about 0.2 percent by weight, of the total amount of grain exported during the year. This compares to nine quality and no weight complaints received in FY 2006, representing about 0.3 percent of grain exports by weight.

**Summary of Complaints
Reported by Importers on
Inspection and Weighing
FY 2007**

<i>Complainant</i>	<i>Grain</i>	<i>Number of Complaints</i>	<i>Nature of Complaint</i>
Africa/Middle East			
Turkey	soybeans	1	excessive foreign material
Egypt	wheat	1	infestation, weed seeds
Asia			
China	soybeans	1	stained soybeans
Japan	corn, sorghum	1	short weight
Caribbean			
Trinidad	corn, wheat	1	short weight
Central/South America			
Chile	wheat	2	odor, smut, dust
Colombia	soybeans	1	beans of other color
Ecuador	soybean meal, corn gluten feed	1	short weight
TOTAL		9	

Providing Official Grain Inspection and Weighing Services

Contracting Inspection and Weighing Services

The U.S. Grain Standards Act (USGSA) authorizes the Secretary of Agriculture to contract with private persons or entities to perform inspection and weighing services at export port locations (7 U.S.C. 79(e)(I), 84(a)(3)). GIPSA is running a 2-year pilot test, which began on May 28, 2006, to assess the cost effectiveness and impact on the official system of contracting with private entities to provide mandatory inspection and weighing services at export port locations. The pilot test will help GIPSA determine how to best use existing contracting authority as one component in delivering official inspection services. Contracts are implemented only when their use improves the cost effectiveness of service delivery, and only if it maintains the official inspection system's high level of integrity. This strategy lays the framework for using GIPSA contracting authority to further enhance its goal of providing high-quality, cost-effective export inspection and weighing services that are recognized worldwide as being accurate and reliable.

To date, GIPSA has in place contracts in the State of California; Milwaukee, Wisconsin, and GIPSA's Toledo field office circuit—Chicago, Illinois; Portage, Indiana; Toledo, Ohio; and Albany, New York. GIPSA also has a supplemental labor contract for the Corpus Christi, Texas, area, and is in the process of establishing contracts in Duluth, Minnesota, and Newark, New Jersey. Additionally, GIPSA is currently establishing contracts for the area serviced by GIPSA's Stuttgart, Arkansas, field office under the Agricultural Marketing Act of 1946, as amended.

Phytosanitary Inspection Services on Processed Products

In July 2007, GIPSA and the Animal and Plant Health Inspection Service's (APHIS) Plant Protection and Quarantine Unit (PPQ) revised its Memorandum of Understanding (MOU) to expand GIPSA's authority to include inspection of processed products, administratively assigned to GIPSA under the authority of the Agricultural Marketing Act of 1946, as amended, for the purpose of phytosanitary certification by APHIS/PPQ. The revised MOU allows APHIS to use the skilled GIPSA workforce, when needed, and expedite its phytosanitary certification program.

Effective September 1, 2007, APHIS eliminated use of the processed products certificate and began requiring exporters to obtain phytosanitary inspection certificates on processed grain products on the basis of official sampling and inspection by GIPSA and/or APHIS personnel. GIPSA, in turn, has established agreements with our official service providers to provide timely, local official sampling and inspection of processed grain products for phytosanitary certification at the many facilities that load processed grain products.

Container Inspections

In FY 2006, GIPSA amended the regulations under the USGSA to waive the mandatory inspection and weighing requirements for high quality specialty grains exported in containers. The final rule became effective on January 12, 2006, and expires on July 31, 2010. GIPSA made this change to facilitate the increasing marketing of U.S. specialty grains by allowing use of containers to ship specialty grains to meet the specific needs of buyers around the world.

In FY 2007, U.S. grain exporters capitalized on a surplus of empty containers to ship grain at a lower freight rate to international customers. In the first quarter of 2007, the ocean freight rate for shipping grain from the West Coast to Japan was approximately \$54 per metric ton, whereas the average weighted container rate was \$27 per metric ton. This growing marketing trend has led to commensurate growth in the number of container loading facilities in the United States. Eight facilities exported grain by container in FY 2002 and 24 in 2005. Today, there are 137 container loading facilities in the United States.

The official inspection and weighing system is working to keep pace with the expanding containerized grain trade. We are ensuring that all export facilities are properly registered with GIPSA. Agency scale specialists are providing scale testing service on platform scales at container loading facilities to ensure that scales used for weighing containers receive the required GIPSA approval and certification. And, our official partners are working to accommodate container shippers by expanding inspection laboratory space and substantially increasing staffing levels.

Visual Reference Material

GIPSA's Visual Reference Image (VRI) system ensures consistent and uniform application of grading lines by illustrating types of damage in conjunction with providing written descriptions. In FY 2007, GIPSA developed online inspector calibration trainers for wheat damage, sorghum damage, canola damage, rye damage, sunflower seed damage, flaxseed damage, barley damage, oat damage, and purple mottled and stained soybeans. GIPSA also updated the aging general appearance prints for sorghum, oats, and wheat.

Educational Material

GIPSA provides educational materials and grading aids to its customers through various outlets, including at industry meetings and trade shows, and through the GIPSA Web site. In FY 2007, GIPSA developed e-learning courses for Rough Rice, Brown Rice, and Milled Rice; Laboratory Scale Testing; an Overview of the Inspection System; Quality Control; Statistics; Sampling Rice; Sampling Grain; Sampling Graded Commodities; and an Overview of the U.S. Grain Standards.

**Inspection Program Data
Fiscal Years 2005-2007**

Item	Fiscal Years		
	2005	2006	2007
Quantity of Grain Produced ⁴ (Mmt) ⁵	439.2	426.0	478.9
Quantity of Standardized Grain Officially Inspected (Mmt) ⁶			
Domestic	137.1	174.5	178.2
Export by GIPSA	69.8	75.1	76.9
by Delegated States	26.4	27.1	26.6
by Designated Agencies	<u>6.2</u>	<u>8.8</u>	<u>12.5</u>
Total	239.5	285.5	294.2
Quantity of Non-Standardized Grain Officially Inspected (Mmt) ⁷			
Domestic	0.0	0.0	0.0
Export by GIPSA	0.8	1.1	1.0
by Delegated States	0.0	0.0	0.0
by Designated Agencies	<u>0.0</u>	<u>1.3</u>	<u>1.5</u>
Total	0.8	2.4	2.5
Delegated States/Official Agencies			
Delegated and Designated States	6	4	4
Delegated States	0	2	1
Designated States	5	6	6
Private Agencies	<u>45</u>	<u>45</u>	<u>44</u>
Total	56	57	55
<i>(continued)</i>			

⁴ Source: USDA World Agricultural Supply and Demand Estimates. This figure includes production of wheat, corn, sorghum, barley, oats, and soybeans.

⁵ Million metric tons.

⁶ Includes grains for which GIPSA maintains official standards: barley, canola, corn, flaxseed, oats, rye, sorghum, soybeans, sunflower seed, triticale, wheat, and mixed grain.

⁷ Includes items inspected under the authority of the U.S. Grain Standards Act that do not meet the requirements for grain as set forth in the Official U.S. Standards for grain, including cracked corn.

Item	Fiscal Years		
	2005	2006	2007
State/Private Agency AMA Agreements	18	22	35
Number of Official Original Inspections ⁸			
GIPSA	94,766	91,969	85,741
Delegated States/Official Agencies	<u>2,732,618</u>	<u>2,840,379</u>	<u>3,024,521</u>
Total	2,827,384	2,932,348	3,110,262
Number of Grain Reinspections			
GIPSA	3,827	250	189
Delegated States/Official Agencies	<u>21,639</u>	<u>22,199</u>	<u>23,294</u>
Total	25,446	22,449	23,483
Number of Grain Inspection Appeals			
Field Offices	2,112	3,704	2,215
Board of Appeals and Review	<u>376</u>	<u>586</u>	<u>302</u>
Total	2,488	4,290	2,517
Number of Official Commercial Inspections			
GIPSA	25	0	32
Delegated States/Official Agencies	<u>977,946</u>	<u>986,618</u>	<u>1,056,273</u>
Total	977,971	986,618	1,056,305
Number of Barley Protein Inspections			
GIPSA	0	0	0
Delegated States/Official Agencies	<u>2,395</u>	<u>6,083</u>	<u>6,717</u>
Total	2,395	6,083	6,717
Number of Corn Protein, Oil and Starch Inspections			
GIPSA	3	27	7
Delegated States/Official Agencies	<u>219</u>	<u>498</u>	<u>136</u>
Total	222	525	143
<i>(continued)</i>			

⁸ Includes original inspections for grade, factor-only inspections, official criteria only, and official commercial inspections.

Item	Fiscal Years		
	2005	2006	2007
Number of Wheat Protein Inspections			
GIPSA	21,599	19,516	25,278
Delegated States/Official Agencies	<u>444,293</u>	<u>446,450</u>	<u>461,871</u>
Total	465,892	465,966	487,149
Number of Soybean Protein and Oil Inspections			
GIPSA	16,688	11,183	14,144
Delegated States/Official Agencies	<u>16,677</u>	<u>29,457</u>	<u>15,404</u>
Total	33,365	40,640	29,548
Number of Sunflower Seed Oil Inspections			
GIPSA	0	0	0
Delegated States/Official Agencies	<u>19,830</u>	<u>41,713</u>	<u>35,141</u>
Total	19,830	41,713	35,141
Number of Grain Aflatoxin Inspections			
GIPSA	29,391	42,265	37,506
Delegated States/Official Agencies	<u>67,741</u>	<u>175,813</u>	<u>110,670</u>
Total	97,132	218,078	148,176
Number of DON Inspections			
GIPSA	11,027	9,656	9,930
Delegated States/Official Agencies	<u>77,117</u>	<u>115,246</u>	<u>57,353</u>
Total	88,144	124,902	67,283
<i>(continued)</i>			

Item	Fiscal Years		
	2005	2006	2007
Number of Fumonisin Tests			
GIPSA	8	60	41
Delegated States/Official Agencies	<u>940</u>	<u>3,215</u>	<u>7,680</u>
Total	948	3,275	7,721
Number of StarLink™ Tests			
GIPSA	2,588	2,173	1,794
Delegated States/Official Agencies	<u>21,219</u>	<u>16,630</u>	<u>17,522</u>
Total	23,807	18,803	19,316
Number of Wet Gluten Tests			
GIPSA	0	0	0
Delegated States/Official Agencies	<u>0</u>	<u>1,145</u>	<u>3</u>
Total	0	1,145	3
Quantity of Rice Produced (Mmt) (milled basis)	10.0	8.7	9.0
Quantity of Rice Inspected (Mmt) (milled basis)	3.0	2.8	1.9
Number of Rice Inspections			
GIPSA	49,348	17,912	17,745
Cooperators	<u>4,062</u>	<u>20,325</u>	<u>22,855</u>
Total	53,410	38,237	40,600
Number of Rice Appeals	125	137	186
Number of Rice Board of Review Appeals	22	5	1
<i>(continued)</i>			

Item	Fiscal Years		
	2005	2006	2007
Quantity of Pulses Produced (Mmt) (beans, peas, lentils)	2.1	1.8	2.0
Quantity of Pulses Inspected (Mmt)			
GIPSA	.5	.7	.7
Cooperators	<u>.1</u>	<u>.1</u>	<u>.1</u>
Total	.6	.8	.8
Number of Pulse Inspections			
GIPSA	12,771	14,220	13,936
Cooperators	<u>4,839</u>	<u>7,370</u>	<u>8,399</u>
Total	17,610	21,590	22,335
Number of Pulse Appeals	153	252	368
Number of Pulse Board of Review Appeals	12	13	12
<i>(continued)</i>			

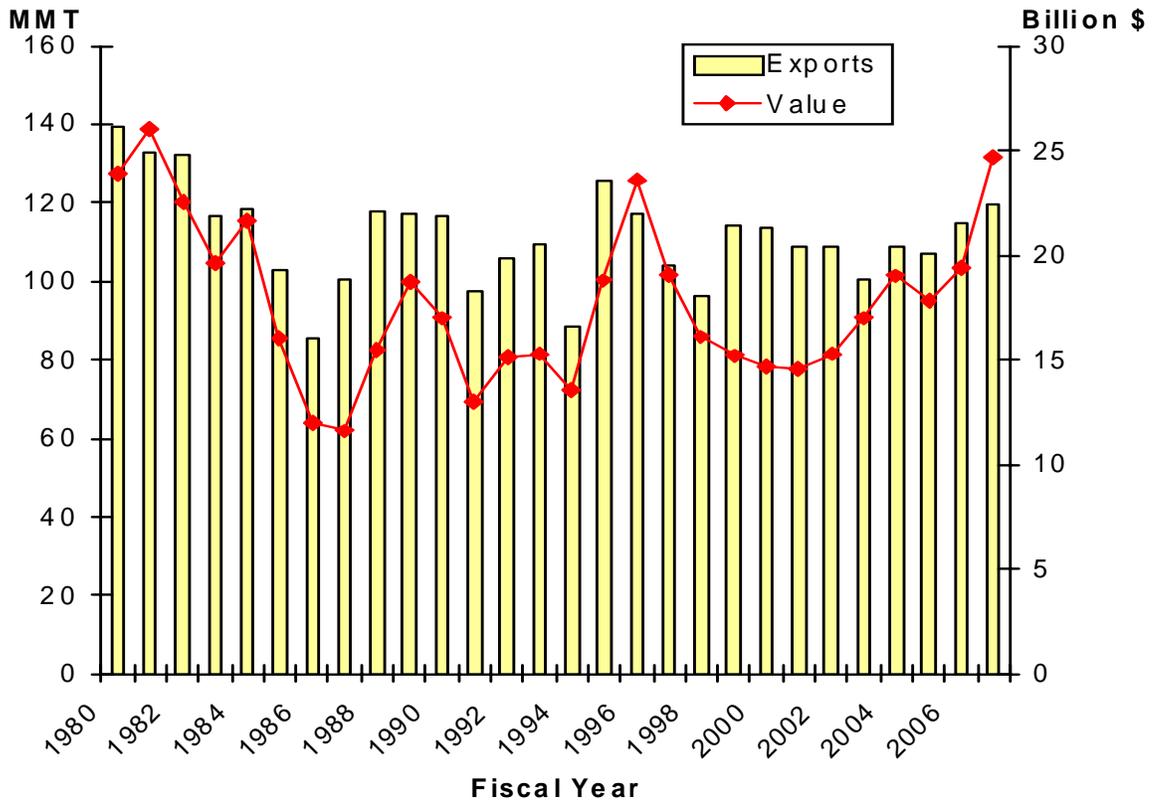
**Weighing Program Data
Fiscal Years 2005-2007**

Item	Fiscal Years		
	2005	2006	2007
Official Weight Certificates Issued			
GIPSA			
Class X ¹	77,684	63,704	65,929
Class Y ²	<u>4,037</u>	<u>7,165</u>	<u>8,441</u>
Total	81,721	70,869	74,370
Delegated States/Official Agencies			
Class X ¹	44,541	75,442	166,675
Class Y ²	<u>99,029</u>	<u>84,613</u>	<u>76,858</u>
Total	143,570	160,055	243,533
Exported Grain Weighed (Mmt)			
GIPSA	69.1	73.6	75.1
Delegated States	<u>26.9</u>	<u>29.4</u>	<u>31.2</u>
Total	96.0	103.0	106.3
Number of Certified Scales in Service			
Export Elevators	210	230	230
Number of Scales Tested			
Railroad Track Scales	240	200	200
Hopper Scales	736	740	675
Vehicle Scales	120	160	228

¹ Class X weighing involves 100 percent supervision of weighing.

² Class Y weighing involves a minimum of 25 percent supervision of weighing.

**U.S. Grain, Oilseed, and Rice Exports: Volume and Value
FY 1980-2007**



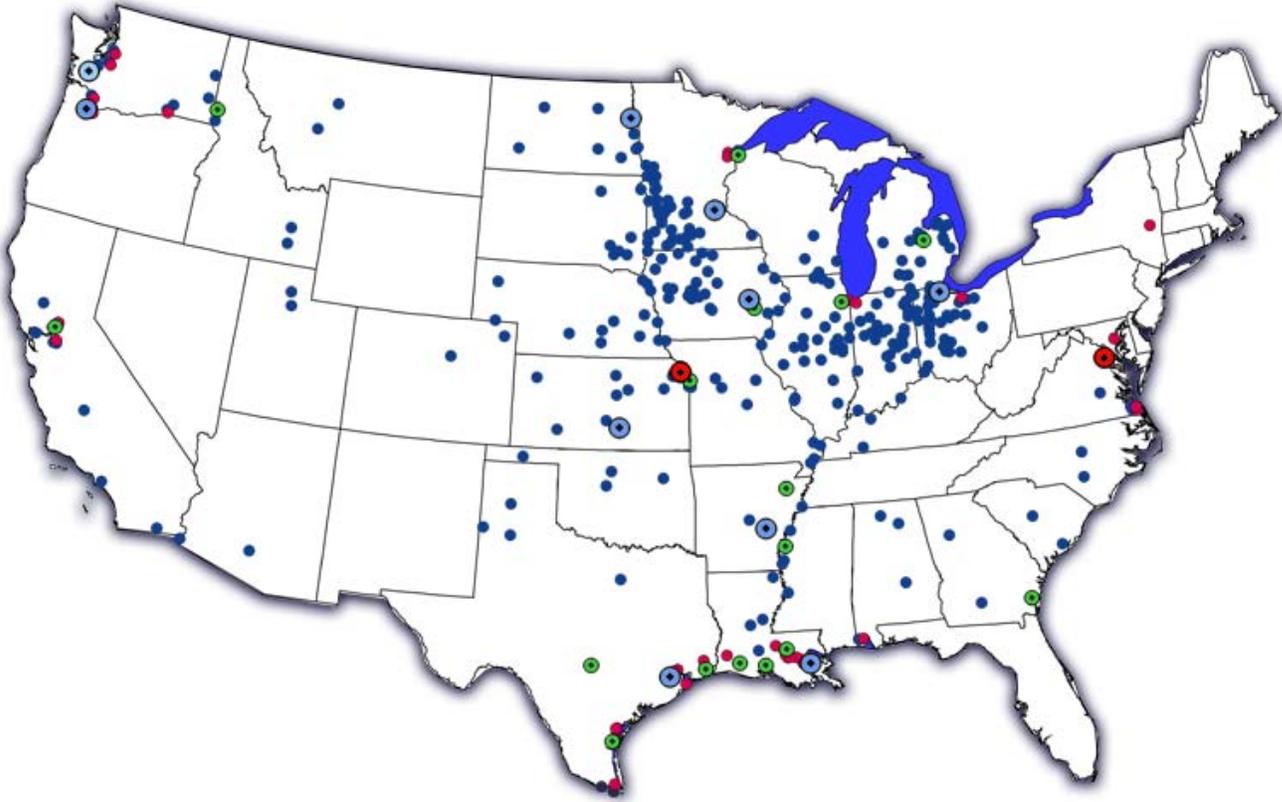
Sources: GIPSA Export Grain Inspection System and the USDA Economic Research Service, Outlook for Agricultural Exports

**Volume of Grain Inspections
by Port Areas
October 2006-September 2007**

Port Area	Million Metric Tons (MMT)	Percent of Total U.S. Exports
California	0.000	0.00 %
Chicago	0.72	0.62 %
Columbia River	16.78	14.47 %
Duluth-Superior	1.94	1.67 %
East Gulf	1.15	0.99 %
Interior	12.61	10.87 %
Mississippi River	56.93	49.09 %
North Atlantic	0.28	0.24 %
North Texas	8.69	7.49 %
Puget Sound	11.04	9.52 %
South Atlantic	2.02	1.74 %
South Texas	2.45	2.12 %
Toledo	1.37	1.18 %
Total	115.98	100.00 %



Provision of Inspection and Weighing Services



- Headquarters
- Field Offices
- Federal/State Office
- Sub Offices & Duty Points
- Service Points
- Export Facilities

Packers and Stockyards Program

- *Business Practices*
- *Financial Protection*
- *Reports, Research, and Other Initiatives and Activities*

Business Practices

Overview

Activities of Business Practices Units include monitoring concentration, competition, and trade practices in the industry. GIPSA monitors markets and conducts compliance reviews to identify possible violations of the P&S Act, and to keep abreast of constantly evolving pricing and procurement practices. In addition, the agency investigates all complaints alleging anticompetitive behavior prohibited by the P&S Act.

One of GIPSA's responsibilities under the P&S Act is to promote fair business practices in the marketing and procurement of livestock, meat, and poultry, and to determine if unfair or deceptive practices are occurring. GIPSA conducts investigations of alleged unfair trade practices at auction markets, livestock dealers and order buyers, slaughtering packers, live poultry dealers, and meat dealers and brokers.

Concentration

Occasionally, GIPSA receives complaints about concentration levels and mergers that may relate to competition, but that do not violate the P&S Act or necessarily result in investigations. While concentration has generally increased since 1980, changes in recent years have varied somewhat across livestock types (Table 8). Concentration of the four largest steer and heifer slaughterers rose from about 36 percent in 1980 to a high of 82 percent in 1994 and has remained relatively stable since then. Four-firm concentration in hog slaughter rose from about 34 percent in 1980 to 64 percent in 2003 through 2005 but declined to 61 percent in 2006. Four-firm concentration in sheep and lamb slaughter rose from about 56 percent in 1980 to 73 percent in 1996, but has declined over the last 10 years and was 68 percent in 2006.

Table 8. Four-Firm Concentration as Percent Market Share of Livestock Slaughter by Livestock Selected years, 1980-2006.*

Year	Steers & Heifers (%)	Boxed Beef (%)	Sheep & Lamb (%)	Hogs (%)
1980	36	53	56	34
1995	81	84	72	46
2000	81	85	67	56
2001	80	84	66	57
2002	79	83	65	55
2003	80	84	65	64
2004	79	82	65	64
2005	80	83	70	64
2006	81	NA	68	61

* Figures are based on calendar year federally inspected slaughter except for 1980 and figures for all years for boxed beef, which are based on firms' fiscal years as reported to GIPSA.

NA = Data are not yet available.

Competition

GIPSA also evaluates complaints alleging anticompetitive behavior such as attempted restriction of competition, failure to compete, buyers acting in concert to purchase livestock, apportionment of territory, price discrimination, price manipulation, and predatory pricing.

In 2006, GIPSA merged its regional offices' Trade Practices and Competition Units to bring the units under a single supervisor and more closely reflect that trade practice and competition violations are a continuum with each blending into the other. For example, trading prices have a central role in guiding and directing the economy in a truly competitive market. Prices provide signals that guide producers' decisions about when and where to market. Producers cannot effectively respond to such signals if prices inaccurately reflect costs or cannot be compared during the bargaining process. An inaccurate scale that incorrectly values hundreds, if not thousands, of carcasses is an example of a price distortion that interferes with truly free market decisions.

As noted, illegal trade practice violations can evolve into competition violations when they affect significant numbers of buyers, sellers, or both. This underscores how the nature of the illegal behavior is relevant when considering plans for investigation and litigation. A similar situation arises when distinguishing anticompetitive practices along another classification line: exclusionary versus exploitive behavior. Exploitive behavior includes a firm using monopsony power to lower the procurement price of livestock purchased from sellers. The misuse of the market power causes direct and immediate harm to the seller. Exclusionary anticompetitive behavior denies an individual or a group access to a market. For example, a non-business-based decision to refuse to deal with someone is an exclusionary behavior. Frequently these types of behavior have costs to the affected party that are less direct than exploitive behavior. Exclusionary anticompetitive behavior and trade practices that grade into anticompetitive behavior illustrate the need for GIPSA investigators and legal specialists to work closely with the Office of the General Counsel (OGC) in planning investigative work.

GIPSA's investigators and legal specialists work closely on an informal basis with OGC on all competition investigations. When the results of the investigation indicate to GIPSA and OGC that the evidence and circumstances support legal action, GIPSA then formally refers the case file to OGC for action.

Regulatory Compliance

GIPSA works closely with the regulated industries to achieve compliance with the P&S Act. This proactive approach is more cost-effective and provides better protection for producers and the industry than lengthy formal litigation. Pricing and procurement practices are becoming increasingly complicated, and competition investigations are complex and often require sophisticated economic modeling and analyses. Litigating anticompetitive complaints is very expensive for the agency in terms of financial and personnel resources, and can take years.

Monitoring and Surveillance

GIPSA conducts many activities that monitor changes in the industry structure in order to understand the nature of and reasons for changes, and to anticipate potential competitive issues that may result from those changes. GIPSA collects information on current procurement methods in the cattle, hog, lamb/sheep, and poultry industries, and meets with beef, pork, and lamb/sheep packers and live poultry dealers to remain abreast of current practices, and to increase the industry's understanding of the P&S Act and regulations. GIPSA also performs statistical analyses necessary to produce the agency's annual Packers and Stockyards Statistical Report, which documents changes in structure and business practices in the industry over time. GIPSA also conducted the Livestock and Meat Marketing Study, a congressionally mandated study of issues surrounding the use of packer feeding and other marketing arrangements in the livestock and meat packing industries that is addressed in the "Reports, Research, and Other Initiatives and Activities" section of this report.

Procurement Methods

Livestock are purchased through a variety of combined procurement and pricing methods. The methods commonly fall into two categories: (1) cash sales for delivery within a 2-week period, and (2) "committed procurement" arrangements that create an assured exchange and commit the cattle to a particular packer in excess of 14 days prior to delivery. These methods include packer feeding, forward contracts, and marketing agreements.

GIPSA defines "packer fed" livestock as all livestock obtained for slaughter that a packer, a subsidiary of the packer, the packer's parent firm, or a subsidiary of the packer's parent firm owns, in whole or part, for more than 14 days before the packer slaughters the livestock. "Forward contracts" are agreements between packers and sellers for future delivery of a specific lot or quantity of livestock. The price of the cattle in a forward contract can be set at the time of the contract or determined upon delivery based upon an agreed pricing arrangement, e.g., using prices from the Chicago Mercantile Exchange futures market for live cattle with an adjustment for the basis at the time of delivery.

The term "marketing agreements" includes a variety of agreements that establish an ongoing relationship for trading multiple lots of cattle rather than negotiating single lots of cattle. Under these arrangements, the seller agrees to deliver cattle to the packer at a future date at a price generally determined by some type of formula pricing mechanism. The price is often based on the current cash market at the time of delivery, with premiums or discounts determined by evaluation of carcass characteristics. Many of these arrangements commit livestock through an alliance or cooperative of some type.

GIPSA collects and audits data on the three major committed procurement methods used by the five largest firms that slaughter fed cattle. These data show that packers' use of packer feeding and other types of committed procurement have increased in the last 10 years, but appears to have leveled off or even declined slightly as a percent of their total slaughter in the last 2 to 3 years (Table 9).

Table 9. Top Four (Five*) Packers' Packer-Fed Cattle and Acquisition by Forward Contracts and Marketing Agreements as a Percentage of Top Packers' Total Steer and Heifer Slaughter, 1997-2006.

Year	Packer-fed cattle	Cattle from forward contracts and marketing agreements	Total
		(Percent of slaughter)	
1997	3.8	16.2	20.1
1998	3.5	18.9	22.4
1999	8.4	24.0	32.4
2000	9.1	29.1	38.2
2001	10.9	32.0	43.0
2002	9.6	34.8	44.4
2003	10.4	28.0	38.4
2004	8.3	26.8	35.1
2005	6.4	29.2	35.6
2006	7.7	32.7	40.4

* In 2006, GIPSA expanded its procurement audits to the top five fed cattle slaughterers.

Pricing Methods

Pricing methods are most often divided into two categories: live-weight or carcass pricing methods. With live-weight purchasing of livestock, the price is quoted and the final payment is determined based on the weight of the live animal. Transactions that use some variation of live-weight purchasing are usually on an "as-is" basis with a single price for the entire transaction. The price may be fixed by negotiation in advance, or established from prices reported by a market price reporting service after the animals are delivered or slaughtered. In some instances, provisions may be made for paying different prices for animals that differ significantly from other animals in the transaction (for example, animals that are much smaller than the average for the transaction may receive a lower price).

In a "carcass-based" purchase, the price is quoted and the final payment is determined based on the hot weight of each animal's carcass after it has been slaughtered and eviscerated. Carcass-based purchase methods involve schedules of premiums or discounts based on animal quality and other features, such as time of delivery and number of animals in the transaction. The price before premiums or discounts are applied is referred to as the "target" or "base" price. Carcass-based pricing typically rewards sellers with livestock that meet or exceed the target standard, but livestock carcasses graded below the target result in the seller receiving significant discounts.

After declining annually through most of the 1980s and 1990s, the proportion of cattle purchased on a live-weight basis by packers reporting to GIPSA increased in 2003 and 2004 but declined again in 2005 (Table 10).

Table 10. Number and Percentage of Cattle Purchased Live-Weight and Carcass-Weight by Packers Reporting to GIPSA, 1996-2005.*

Year	<u>Live-weight</u>		<u>Carcass-weight</u>	
	Head (000)	Percent	Head (000)	Percent
1996	18,837	52.7	16,907	47.3
1997	18,413	52.5	16,628	47.5
1998	19,049	55.9	15,016	44.1
1999	17,546	50.5	17,217	49.5
2000	17,102	48.4	18,207	51.6
2001	15,044	44.3	18,877	55.7
2002	12,555	37.2	21,158	62.8
2003	14,116	40.2	21,008	59.8
2004	15,112	46.6	17,348	53.4
2005	13,663	43.7	17,591	56.3

* Data originate with the annual reports of regulated entities. Generally these reports for a given year are due April 15 of the following year. Audit processes frequently delay the receipt, with additional time required for preparing databases and summarizing the data. Data for 2006 will be first reported in the GIPSA Annual Statistical Report in March 2008, and later, in the FY 2008 GIPSA Annual Report.

The proportion of calves purchased on a live-weight basis is considerably less than in 1980, but has exhibited a mixed pattern of change in recent years. After trending upward from 2000 through 2003, the proportion of calves purchased on a live-weight basis declined considerably in 2004 and then increased somewhat in 2005 (Table 11).

Table 11. Number and Percentage of Calves Purchased Live-Weight and Carcass-Weight by Packers Reporting to GIPSA, 1996 - 2005.*

Year	<u>Live-weight</u>		<u>Carcass-weight</u>	
	Head (000)	Percent	Head (000)	Percent
1996	607	43.8	779	56.2
1997	734	59.5	500	40.5
1998	656	56.6	504	43.4
1999	504	47.6	556	52.4
2000	495	51.3	470	48.7
2001	479	54.7	397	45.3
2002	492	57.3	367	42.7
2003	553	59.4	377	40.6
2004	351	49.6	357	50.4
2005	415	63.7	236	36.3

* See Table 10 footnote.

Procurement of sheep and lambs also has exhibited a mixed pattern over time, with live-weight purchases continuing to account for about half of the purchases for slaughter by packers reporting to GIPSA (Table 12).

Table 12. Number and Percentage of Sheep and Lambs Purchased by Live-Weight and Carcass Weight for Packers Reporting to GIPSA, 1996-2005. *

Year	Live-weight		Carcass-weight	
	Head (000)	Percent	Head (000)	Percent
1996	1,801	48.2	1,938	51.8
1997	1,773	56.3	1,378	43.7
1998	1,899	57.9	1,380	42.1
1999	1,513	47.6	1,663	52.4
2000	1,323	44.1	1,674	55.9
2001	840	30.1	1,951	69.9
2002	1,062	39.6	1,615	60.4
2003	1,023	47.0	1,156	53.0
2004	1,329	53.9	1,135	46.1
2005	948	47.7	1,040	52.3

* See Table 10 footnote.

The proportion of hogs purchased on a live-weight basis steadily declined over the last several years; carcass-based purchases have become the predominant method of pricing hogs purchased for slaughter (Table 13).

Table 13. Number and Percentage of Hogs Purchased by Live-Weight and Carcass-Weight for Packers Reporting to GIPSA, 1996 - 2005.*

Year	Live-weight		Carcass-weight	
	Head (000)	Percent	Head (000)	Percent
1996	40,338	48.3	43,191	51.7
1997	32,821	37.4	54,978	62.6
1998	27,448	29.9	64,383	70.1
1999	24,823	25.3	73,153	74.7
2000	24,711	26.3	69,145	73.7
2001	26,883	28.0	69,070	72.0
2002	25,077	25.8	72,003	74.2
2003	22,413	23.1	74,748	76.9
2004	23,092	23.4	75,496	76.6
2005	21,453	21.2	79,730	78.8

* See Table 10 footnote.

Some carcass-based purchases, often known as “carcass merit” purchases, include a base price that applies to all carcasses in the transaction, with premiums or discounts for individual carcasses based on quality or other attributes of each carcass, such as quality grade, yield grade, yield, or percentage of lean meat in the carcass. Some carcass merit transactions use USDA grades to determine carcass quality. A growing number of transactions include price adjustments for quality characteristics that are not covered by USDA grades, such as percent of lean meat in the carcass and size of the rib eye.

Interagency Cooperation

GIPSA collaborates with other programs within the Department of Agriculture and other non-USDA agencies on issues relevant to competition in the industry. For example, GIPSA helped USDA's Agricultural Marketing Service clarify producer-packer relationships in the hog industry to ensure accurate reporting of livestock prices. This support helps to ensure that livestock markets operate fairly, and reduces the potential for price manipulation and anticompetitive procurement practices in these markets. GIPSA also provides industry expertise to the Department of Justice in its review of proposed mergers and acquisitions, and actively participates with other law enforcement agencies in investigations of criminal activity in the regulated industries. Finally, GIPSA assists the Commodity Futures Trading Commission (CFTC) by providing information and analysis of livestock and meat marketing issues that are relevant to the CFTC's regulation of livestock futures trading.

Trade Practices

Firms that furnish stockyard services in commerce are required to post a notice that informs the public that the stockyard meets the definition of a stockyard under the P&S Act. Once posted, the stockyard remains posted until it is de-posted by public notice (see Table 1 above). GIPSA attempts to meet with new auction market owners and managers as soon as possible after market operations begin. These visits ensure that market operators understand their fiduciary responsibilities under the P&S Act, and that they are operating in compliance with the P&S Act and regulations. These visits in the early stages of a market's operation also provide important protection to livestock producers who rely on the market to provide a non-discriminatory and competitive marketplace. Similarly, GIPSA conducts feed mill orientations to help ensure that feed mill operators are aware of the regulatory requirements for feed weights used to calculate producer/grower payments, thereby helping ensure that the feed weights are accurate.

To determine if unfair or deceptive trade practices in violation of the P&S Act are occurring in the procurement of livestock, meat, and poultry, GIPSA conducts procurement compliance reviews of subject firms. The reviews cover pricing methods; payment practices; weighing of livestock, carcasses, and poultry; carcass grades used for payment; and accountings issued to sellers.

Market agencies, dealers, packers, and live poultry dealers are required to maintain their scales in an accurate condition. The P&S Act and regulations require that these entities have their scales tested at least semi-annually, at intervals of approximately 6 months, by competent persons, and to file scale test reports with GIPSA. State and private companies test scales, and GIPSA conducts check-weigh and other investigations to determine if scale operators and firms subject to the P&S Act are properly using their scales, and properly recording weights in the purchase and sale of livestock and poultry (Table 14).

Table 14. Scale and Carcass Checkweigh Evaluation Instrument Inspections and Violations Found, 2004-2007

Scale and Carcass Evaluation Instrument Inspections				
Type of Checkweigh	2004	2005	2006	2007
Auction	198	161	89	123
Dealers	27	22	11	20
Packers	17	17	6	14
Carcass Checkweigh	3	2	4	96
Poultry Checkweigh	79	53	100	85
Tare Weight Rpt	20	21	8	75
MPI Surveillance	7	2	1	0
Feed Checkweigh	33	28	51	76
Carcass Evaluation	14	16	12	9
Total	398	322	282	498

Scale and Carcass Evaluation Instrument Violations				
Type of Checkweigh	2004	2005	2006	2007
Auction	22	13	4	6
Dealers	1	0	0	0
Packers	0	1	0	0
Carcass Checkweigh	0	0	0	6
Poultry Checkweigh	4	9	5	4
Tare Weight Rpt	1	0	1	30
MPI Surveillance	0	0	0	0
Feed Checkweigh	3	2	6	5
Carcass Evaluation	2	3	2	1
Total	33	28	18	52

Any apparent change in purchase weight that is caused by a person, such as modifying the actual weight of the livestock or failing to pass on a shrink allowance, is an unfair and deceptive practice. Any change to the original purchase price, either in purchases to fulfill an order or in sales based on cost plus an agreed-upon margin, is also an unfair and deceptive practice. Anyone believing an action of a stockyard, market agency, or dealer has caused personal loss or damage in violation of the P&S Act may file a complaint seeking reparation (damages) with GIPSA within 90 days of learning of the action that caused damages. Reparation complaints may not be filed against packers, live poultry dealers, or swine contractors. USDA cannot compel payment by these entities.

Financial Protection

Overview

GIPSA supports the financial integrity and stability of the livestock, poultry, and meatpacking industries by administering the P&S Act and regulations. Financial investigations address solvency issues, payment to livestock sellers and poultry growers, bond claims, trust claims, and maintenance of custodial accounts. When GIPSA determines that a potentially serious situation exists that may cause imminent harm to livestock producers, rapid response teams are deployed to investigate the matter.

Solvency

Under the P&S Act, most regulated entities must be solvent (current assets must exceed current liabilities). Live poultry dealers, swine contractors, meat distributors, brokers, and packers with annual livestock purchases less than \$500,000 are not subject to the solvency requirements. GIPSA monitors the solvency of regulated entities through its review of annual and special reports, and by on-site financial compliance reviews and investigations. Between 2002 and 2005, an average of 281 firms per year, or 4 percent of entities subject to the P&S Act, reported insolvent conditions (current liabilities exceeding current assets) on their annual filing.

GIPSA monitors all firms and notifies those with insolvencies by certified letter to correct those insolvencies. The agency requires special reports from firms whose annual reports disclose insolvencies. In addition, GIPSA conducts on-site financial investigations to follow up on reported insolvencies or other financial issues. Formal disciplinary action is initiated against firms when appropriate.

Payment Practices

The P&S Act requires every dealer, market agency, and packer purchasing livestock on a live-weight basis and live poultry dealers to pay cash to sellers before the close of the next business day following purchase. The P&S Act also requires every packer, market agency, or dealer purchasing livestock on a carcass weight or grade and yield basis to pay the full amount of the purchase price not later than the close of the first business day following determination of the purchase price. The P&S Act further requires that live poultry dealers pay poultry growers for live poultry obtained under a poultry growing arrangement by the close of the fifteenth day following the week in which the poultry is slaughtered.

Before packers, market agencies, or dealers can issue drafts in payment for livestock, or otherwise extend the time in which payment is due for livestock, they must enter into a written credit agreement with the seller. Packers purchasing livestock valued at \$500,000 or more annually must also obtain a written trust waiver acknowledgement from the seller waiving his/her trust rights.

Custodial Accounts

Market agencies selling livestock on commission (auction markets) must establish and maintain a bank account entitled a “custodial account for shipper’s proceeds,” commonly referred to as a custodial account, for proceeds from the sale of consigned livestock. Auction markets have a fiduciary responsibility to safeguard the account and make timely distribution from it to livestock sellers. Auction markets are required to maintain this account in balance at all times.

GIPSA monitors custodial accounts by reviewing annual reports from market agencies, special custodial account report analyses, and on-site audits of the custodial accounts. When the monitoring reveals shortages, steps are taken to correct the account balance and, when possible, replenish the accounts to the required level (Table 15). GIPSA’s increased auditing in 2007 as part of a “back-to-basics” component of its Business Plan, and found total shortages had decreased considerably in 2007 relative to past years.

Table 15. Number of Market Audits, Shortages Found, and Amounts of Account Corrections, 1998-2007

Fiscal Year	Custodial Account Audits	Markets With Shortages	Account Shortage	Account Correction
1998	393	187	\$5,705,252	\$3,690,355
1999	233	103	\$4,294,368	\$2,701,091
2000	374	154	\$9,161,520	\$5,916,746
2001	322	156	\$8,966,218	\$6,313,383
2002	206	97	\$6,906,986	\$2,814,439
2003	262	92	\$4,984,315	\$2,055,203
2004	272	94	\$4,646,031	\$2,144,986
2005	252	102	\$6,712,420	\$5,269,525
2006	347	140	\$9,242,692	\$7,256,052
2007	296	99	\$6,252,181	\$2,037,080

Bond and Trust Claims

All market agencies, dealers, and slaughtering packers purchasing over \$500,000 of livestock annually are required to file and maintain bonds or bond equivalents for the protection of livestock sellers. When a seller fails to receive payment on a transaction, it must file a bond claim within 60 days of the transaction. GIPSA analyzes the claim to determine if it was filed within the timeline and supported by adequate documentation. The agency provides its analysis to the bond surety or trustee as a courtesy to the industry. GIPSA does not pay the bond claim and cannot compel payment by the surety or trustee.

The P&S Act also establishes a statutory trust on certain assets of packers and live poultry dealers for the benefit of unpaid cash sellers of livestock, and unpaid cash sellers or contract growers of live poultry grown for slaughter. Packers and live poultry dealers are the trustees of the statutory trusts. Packer trust assets consist of all livestock purchased in cash sales, inventories, receivables, proceeds from meat, meat food products, and livestock products derived from the purchase of livestock in cash sales.

Poultry trust assets consist of all poultry obtained by live poultry dealers in poultry purchases in cash sales or by poultry growing arrangements, inventories, receivables, or proceeds from poultry or poultry products.

To be eligible for restitution under a trust, a seller must file a claim within 30 days of the unpaid transaction. When a trust claim is filed, GIPSA analyzes the claim to determine if the claim appears to be timely and supported by adequate documentation. The trustee receives GIPSA's analysis as a courtesy. GIPSA does not pay the trust claim and cannot compel payment by the trustee. In some cases, claims may be made against and paid by both bond and trust assets.

Financial Failures And Amounts Paid

Bonding requirements usually do not cover the entire loss sustained when a firm fails financially. Further, some livestock sellers do not always determine the current bond status of smaller packers, dealers, and market agencies before selling livestock to them, making those sellers vulnerable to insufficient bond protection when the smaller firms fail. A large packer's failure (one failed in 2002, owing more than \$15 million), may impact auction markets and dealers from whom it purchased livestock but failed to pay.

Since 1997, there has been an average of 10 dealer failures per year, with as many as 28 in 1 year and as few as 1. Percent restitution to livestock sellers from all sources has averaged 18 percent per year, with a high of 38 percent and a low of 5 percent (Table 16).

Table 16. Total Dealer Financial Failures and Restitution, 1997-2007

Fiscal Year	No	Owed for Livestock (\$)	Restitution From Bonds (\$)	Restitution From Other Sources (\$)	Percent
1997	8	732,424	243,450	38,064	38
1998	10	685,726	133,345	61,435	28
1999	10	1,684,128	291,261	38,024	20
2000	11	1,464,733	324,979	91,800	28
2001	11	2,841,305	317,444	24,786	12
2002	11	3,271,962	618,764	60,000	21
2003	5	1,805,600	112,281	28,923	8
2004	3	770,860	95,000	0	12
2005	1	2,993,990	*	0	*
2006	13	3,018,131	134,936	26,856	5*
2007	31	6,941,930	257,634	549,303	12*

* Final recovery rates may change pending final resolution.

Auction markets may be especially vulnerable to a domino-like effect from dealer failures since many dealers purchase livestock from auction markets. The failure of a large dealer may impact every auction market which it failed to pay. A large dealer failed in 2005, owing more than \$1 million in unprotected livestock debt. Since 1997, an average of five

auction markets per year have failed, with a high of nine auction market failures in one year to a low of two. Consignors received average restitution of 52 percent, with actuals ranging between 78 and 29 percent (Table 17).

Table 17. Total Auction Market Financial Failures and Restitution, 1997-2007

Fiscal Year	No.	Owed Consignors (\$)	Restitution From Bonds (\$)	Restitution From Other Sources (\$)	Percent
1997	5	258,768	182,029	13,473	76
1998	2	225,001	66,131	0	29
1999	3	862,666	60,000	424,589	56
2000	4	399,023	100,193	186,113	71
2001	4	1,104,985	133,745	519,265	59
2002	6	1,082,034	378,610	0	35
2003	6	1,187,979	211,464	138,848	30
2004	2	145,772	60,000	16,649	53
2005	3	336,006	85,000	201,840	78
2006	9	979,543	267,174	19,380	29*
2007	11	511,704	37,252	155,890	38*

* Final recovery rates may change pending final resolution.

Risk Assessment

As the livestock and meat industries evolve, GIPSA continues to examine alternate methods of effectively regulating and monitoring the livestock industry to effectively allocate its resources for planning and conducting regulatory compliance reviews. Presently, GIPSA is evaluating a risk-assessment model that combines statistical methods, accounting theory, and the operating history of entities as a tool in our regulatory work. The model calculates a “credit rating” similar to the score used in lending industries. The score can be applied to gauge the potential for behavior that may violate the Act, such as operating while insolvent. The model will enable GIPSA to more effectively schedule audits and other compliance reviews of entities that expose livestock sellers' capital to a greater level of risk. The model will be evaluated based on analysis of results collected to assess its ability to target bond levels for entities that place sellers' capital at risk.

Reports, Research, and Other Initiatives and Activities

Livestock Assessment Report

GIPSA has released to Congress six assessment reports on the cattle and hog industries covering calendar years 2000 through 2005. Three of the reports also examined the poultry industry; two reviewed the sheep industry. The reports indicated that substantial changes are occurring in industry structure, and in the behavior of firms in the livestock and meatpacking industries. Livestock and poultry feeding are more concentrated, feeding operations have gotten larger, and vertical coordination arrangements are becoming more varied and sophisticated. Competitive forces, such as technological advancements and changes in consumer demand, drive many of the changes, often with positive effects for the industries involved, for consumers, and for the Nation as a whole. These changes may also bring the potential for packers, dealers, and market agencies to engage in activities that are prohibited under the P&S Act.

GIPSA is monitoring changes in industry structure and behavior, and investigating practices that may be unlawful under the P&S Act. The agency conducts random regulatory reviews of selected firms for prompt pay audits, custodial account audits, and scale accuracy. In addition, GIPSA uses research and analysis, and other tools to assess the economic, competitive, and trade practice implications of structural and behavioral changes.

Outreach Activities

GIPSA's outreach to local, State, and national public and private sector organizations focuses awareness on industry concerns and issues affecting the livestock, meat, and poultry industries.

Scales and Weights. In 2007, GIPSA employees cooperated with the National Institute of Standards and Technology (NIST), the National Conference on Weights and Measures (NCWM), other weights and measures associations, and industry and scientific organizations to foster the development and use of weighing and measuring devices.

GIPSA began working with ASTM International in 2001 to develop voluntary industry standards for electronic evaluation devices used to determine payment in the livestock, meat, and poultry industries. In 2007, GIPSA participated in two ASTM meetings, working with various industry stakeholders to maintain and update the five voluntary standards that were adopted in 2005. The standards cover equipment design resolution, units of measurement, and operator error; device performance repeatability, audit, examination, and tolerances; user requirements such as operation, installation, maintenance, training, and calibration; and predictive accuracy including repeatability, audit, and examination.

In addition, GIPSA maintained its commitment to working with NIST and NCWM to adopt the five voluntary standards into NIST Handbook 44. NIST-proposed regulatory language that was adopted by NCWM is currently referenced in the 2006 edition of Handbook 44 as tentative code.

In 2007, GIPSA testified to the Central Weights and Measures Association (CWMA) advocating clarification of testing procedures for Dynamic Monorail Weighing Systems in NIST Handbook 44. GIPSA's testimony led to the modification of testing procedures of Dynamic Monorail Weighing Systems in NIST Handbook 44. The National Conference on Weights and Measures passed the amendment at its annual meeting in July 2007.

In 2007, GIPSA, in cooperation with the State of Nebraska Weights and Measures Department, began developing a technical proficiency weighing training program. GIPSA's participation in training increases the livestock industry's awareness and understanding of the protection and equity in commercial transactions provided by GIPSA's weights and measures program.

In FY 2007, GIPSA worked with State weights and measures officials to test live poultry and feed scales, monorail scales, and livestock scales, and on training relating to vehicle and livestock scales. GIPSA conducted business plan carcass weighing investigations with State weights and measures officials. GIPSA and State officials jointly conducted monorail scale tests, and checked standardization of equipment and tare weight settings used to weigh carcasses and establish producer pay weights. GIPSA also collaborated with State weights and measures officials to compare records of scales used in commerce for weighing livestock, carcasses, feed, and live poultry. The efforts resulted in updated active scale records and improved State-Federal relations.

To ensure that livestock producers and poultry growers are being paid on scales that are certified, GIPSA, in 2007, shared its list of active certified scales with State jurisdictions to ensure that all scales reported to the State jurisdictions are being monitored by GIPSA.

Market Outreach. GIPSA conducted 23 market orientations and reviews to educate new and existing auction market owners and managers about their responsibilities under the P&S Act. These visits in the early stages of a market's operations also protect livestock producers who rely on the market to be competitive, fair, and financially sound.

GIPSA conducted 79 sale day outreach activities at auction markets. Sale day visits entail P&SP staff being introduced to the buyers and sellers present at the auction market sale. Staff members also make themselves available to visit with individuals to address any questions or concerns.

Industry Outreach. GIPSA met with various industry associations at the local, State, and national levels, including: State cattlemen associations; American Farm Bureau Federation Annual Convention and Trade Show; American Lamb Board; 2007 Hatchery-Breeder Clinic, sponsored by the U. S. Poultry and Egg Association; 2007 International Poultry Exposition; 2007 Midwest Poultry Federation Convention; National Cattlemen’s Association Convention; R-Calf USA National Convention; Sunbelt Exposition; Texas Cattle Feeders Association Annual Convention; Wisconsin Independent Livestock Dealers and Auction Markets Association annual conference; World Pork Expo; and the Midwestern Poultry Convention. GIPSA also met with officials of the Lamb Board to discuss the process by which packers collect lamb check-off funds from producers. The purpose of the meeting was to identify areas where the Lamb Board could share information, and possibly file bond claims for the unpaid livestock proceeds in instances when packers failed to properly handle the check-off funds.

In FY 2007, legislation passed that reauthorized and extended the Livestock Mandatory Reporting Act of 1999 (LMRA), which includes GIPSA’s Swine Contract Library (SCL), through September 30, 2010. GIPSA increased outreach activities to ensure that swine packers were aware of the legislation and its requirements. The SCL legislation requires the Secretary of Agriculture to establish and maintain a library or catalog of the types of contracts offered by packers to swine producers for the purchase of swine (including swine that are purchased for future delivery). Packers subject to the SCL requirements must resume submitting swine contract information to GIPSA according to the SCL regulations.

State Government Outreach. In FY 2007, GIPSA signed an updated Memorandum of Understanding for addressing mutual interests and concerns with the Virginia Department of Agriculture; attended a series of meetings with the Alabama Department of Agriculture, auction markets, and dealers to promote compliance with the P&S Act and regulations (these meetings led to increased monitoring of the payment practices of livestock dealers and packers and identifying firms that are subject to the Act.); met with the Florida Department of Agriculture, Bureau of Agriculture Dealer’s Licenses to develop a means of jointly registering and bonding livestock dealers and auction markets.

Outreach to Academia. In FY 2007, GIPSA addressed the University of Idaho’s College of Agricultural and Life Sciences Extension Service “Beef Schools” about how the requirements of the P&S Act protect beef producers when they market livestock. GIPSA hosted an economics student intern from the University of Arkansas in August and an economics student intern from Kansas State University from January through May. GIPSA also participated in the Council on Food, Agricultural, and Resource Economics (C-FARE), an organization of agricultural economics representatives from a wide range of organizations including several academic institutions. A representative from GIPSA presented a briefing on the results of the Livestock and Meat Marketing Study (see below) to C-FARE in May 2007.

Statistical Report

In February 2007, GIPSA published its annual statistical report on the livestock and meatpacking industry for calendar year 2005. The report provides data on industry concentration, plant size, packer financial performance, and number of animals purchased by packers by source of supply – public markets (terminals and auctions) and nonpublic (all other) sources of livestock. The report includes data on slaughtering packers; market agencies buying or selling livestock on commission, including auction markets and selling agencies at terminal stockyards; and livestock dealers buying and selling livestock for their own accounts.

Livestock and Meat Marketing Study

In FY 2007, GIPSA completed a Congressionally mandated study of issues surrounding the use of packer feeding and other marketing arrangements in the livestock and meat packing industries. The study examined marketing arrangements that are being used to transfer cattle, beef, hogs, pork, sheep, and lamb through the production and marketing system. GIPSA conducted industry briefings in Des Moines, Iowa; Kansas City, Kansas; and Washington, D.C. on the results of the study.

GIPSA contracted with RTI, International Inc. (RTI) to conduct the study. RTI delivered an interim report in 2005 that described alternative marketing arrangements and reasons industry participants give for using alternative arrangements. RTI delivered a final report in late 2006, and GIPSA publicly released the report in February 2007, after briefing Congress on the results of the study. The report provided quantitative analyses of prices, costs, and benefits of alternative marketing arrangements. The second report also assessed the implications of potential future changes in the use of various types of marketing arrangements, including packer feeding.

The study found that alternative marketing arrangements provide net benefits to producers, packers, and consumers, and that net economic losses would result from restrictions on the use of such arrangements.

In particular, the study found that packers and consumers receive better quality and more consistent product as a result of alternative arrangements, and that producers receive value for better quality livestock. All parties are better able to set delivery/sale dates. The arrangements help stabilize the flow of supply, and provide cost savings for the price discovery process. In general, the use of alternative marketing arrangements provides buyers and sellers with improved risk management options that lower costs or allow for the creation and capture of greater value.

GIPSA briefed government and industry entities about the results of the study. Below are questions raised by interested parties, and answers to them.

Question 1: Why did the Grain Inspection Packers and Stockyards Administration (GIPSA) conduct the recent Livestock and Meat Market Study?

Answer: Congress directed GIPSA to conduct the study and appropriated funds for that purpose. Under authority under the Packers and Stockyards Act of 1921 as amended (P&S Act), GIPSA may collect business information from packers and other regulated entities.

Question 2: How was the scope of the Livestock and Meat Market Study determined?

Answer: An interagency group of economists and attorneys from GIPSA, the Department of Justice (DOJ), Federal Trade Commission (FTC), Commodities Futures Trading Commission (CFTC), and USDA's Economic Research Service (ERS), Agricultural Marketing Service (AMS), Office of Chief Economist (OCE), and Office of the General Counsel (OGC) designed the study based on issues that Congress wanted GIPSA to examine. The study requirements were published in the *Federal Register* for public comment, and a final Performance Work Statement was released for competitive bids. After all the submitted proposals were reviewed by a technical team comprised of members from the interagency workgroup, the study was awarded to RTI.

RTI used 13 researchers and subcontractors from Colorado State University (1), Iowa State University (2), Montana State University (3), North Carolina State University (5), and the Wharton School of Business (5). All RTI reports were independently peer-reviewed by economists with affiliations such as the University of Minnesota, Idaho State University, and Michigan State University.

Question 3: Was the recent study biased by more responses and data from larger firms to the exclusion of smaller firms?

Answer: The study received a greater absolute number of responses from smaller sized entities than larger ones. This is not surprising since there are a greater number of small firms compared to large firms; however, the larger firms do handle larger volumes of livestock.

Question 4: Some observers have pointed out that the supply of Alternative Market Arrangement (AMA) cattle is actually more variable than spot market cattle, and claim this contradicts findings in the study that AMAs are more reliable than the cash market. How do you reconcile these apparent contradictions?

Answer: The report concludes that AMAs facilitate procurement of a reliable supply of consistently high-quality cattle, whether fed or feeder. This conclusion is based on findings that, among both packers and producers, three of the top five reasons for using AMAs to procure fed cattle and feeder cattle, respectively, are securing higher quality calves and cattle, improving week-to-week supply management, and improving efficiency of operations. The report's conclusion, which relates to maintaining a reliable total supply of desired livestock, does not

contradict the claim that the number of cattle traded through AMAs is statistically more variable than the number traded through the spot market. The variation in number of AMA cattle may simply reflect the use of that source to maintain a more uniform overall total supply.

Question 5: Given that currently, and during the timeframe of the study, only about 10 percent of hogs are purchased on the spot market, is this an adequate volume to ensure accurate price determination and fair price discovery in the spot market?

Answer: Price determination is the broad interaction of supply and demand forces to equalize what consumers are willing to pay for a given product with what producers are willing to accept in exchange to cover commodity costs. The study indicates that market-driven price determination is occurring in the hog spot market. Price discovery is how producers and consumers learn what *most* consumers and producers are paying and accepting for a commodity. Multiple factors facilitate price discovery, and evidence that uniform price discovery is taking place in the hog-pork market is reflected two ways. First, while mandatory price reporting is voluntary, packers continue to report. This indicates there is value in prices reported as a source of market price conditions to packers. Second, the rate of decline in the spot market has stabilized in recent years, indicating that packers see benefits from maintaining some minimum presence in the spot market to gain market information.

Question 6: The results of this study once again demonstrate that use of AMAs is associated with lower prices. How many studies of this sort are necessary before we take action to end this use of AMAs to manipulate prices?

Answer: The study did not find that AMAs lowered overall average prices for livestock. The study found that prices in spot markets tended to fall as use of AMAs increases. This is consistent with substitution effects for the demand for all normal goods. The study additionally analyzed these effects in the context of the interaction of demand and supply, and that analysis does not imply that packers are manipulating prices. This isn't to suggest that individual packers, in individual instances, could not use a combination of different types of purchases, including spot purchases, to manipulate prices. GIPSA monitors and investigates behavior of individual purchasers, and will continue to do so. In the aggregate, the key measure for judging the inherent attributes of AMAs is the overall effect of the mix of purchase methods. The analysis showed that there would be a net loss to producers, especially feeder cattle producers, as well as to consumers if restrictions were placed on the use of AMAs. The analysis did not show that AMAs depress the overall price to producers. It did show that restrictions on the use of AMAs would cause an overall net loss as a result of declines in both quantities purchased and consumed, and in overall average prices received by producers. Prices paid by consumers and prices received by processors would, in general, increase if use of AMAs were restricted.

Question 7: Do you believe that hog production and slaughter will become totally integrated, as has poultry?

Answer: The study researchers concluded that they don't expect hog production and slaughter to become totally integrated. A variety of industry features prevent this industry from being completely vertically integrated like the poultry industry. Especially critical is the high capital investment required in hog production compared to its output level. Additionally, poultry integration was facilitated by lack of alternatives for poultry growers. The volume of contracting that exists between livestock sellers and purchasers reflects the desire to achieve the cost efficiencies of vertical integration without the costs of actual vertical integration.

Question 8: It seemed that the recent study did not analyze the effects of concentration. Is that true?

Answer: The study analyzed the effects of concentration using three distinct models: one for cattle-beef; another for hog-pork; and a third for sheep-lamb. A component of the modeling analysis included simulating the effects from a reduction in AMAs, which included concentration considerations.

Question 9: Is market power directly associated with high levels of packer concentration resulting in price manipulation by the larger firms, and why didn't the study address market power and resulting price manipulation?

Answer: The study contract did not call for the researchers to engage in an investigation of whether individual firms were manipulating prices. GIPSA believes that price manipulation is an investigative and enforcement issue, not a research objective. Additionally, the intent of Congress when it mandated the study was for GIPSA to conduct research to provide objective information for possible legislative action. GIPSA investigates incidents it believes are violations of the P&S Act, including price manipulation, but that enforcement activity is distinct from the activity conducted in the study. It is important to note that regardless of a firm's size, it may have advantages that are not directly subject to competitive forces, such as managerial skill or knowledge (think of a corn farmer with especially fertile soil relative to all other farmers). If a firm has these advantages, the firm will receive extra-normal profits and that can be construed as market power. But possessing scarce resources is not illegal. Market power does not necessarily "result" in price manipulation. The low rate of return earned by packers in recent years suggests an absence of market power through price manipulation or otherwise. The final report does address the relationship between market power and the use of AMAs.

Question 10: Didn't the researchers conclude that AMAs provide for a stable supply of quality cattle simply based on opinions versus actual data?

Answer: The researchers did use transaction and Mandatory Price Reporting data, in addition to survey data, to measure the quality effects of AMAs in their analyses. The results showed that cattle purchased through AMAs were generally of higher, more consistent quality than cattle purchased through direct spot markets. Interestingly, the exception was the relatively small volume of fed cattle purchased through auctions, which were of higher quality grade but lower yield grade. The data analysis also showed that use of AMAs resulted in an average savings due to reducing supply variability of \$1.70 per head.

Question 11: Why didn't the study prescribe alternative marketing methods for assuring quality and consistency?

Answer: The study scope and requirements specifically excluded a "prescriptive" approach. Congress did not direct GIPSA to tell producers and others how they should organize their businesses and trading relationships. Congress asked us to identify the attributes, including quality effects, of various methods that industry members themselves have developed and adopted.

Question 12: How did GIPSA pick researchers for the study?

Answer: GIPSA did not "pick" any of the researchers to perform the research. GIPSA widely advertised the objectives and requirements for the research, including special efforts to make sure business schools were aware of the study. The researchers were chosen through a competitive bidding process as required by government procurement regulations. The process requires the selected proposal to represent the best value to the government, including technical as well as cost considerations. GIPSA received bids from teams that included a large number of researchers (including animal scientists, statisticians, management experts, and economists, amounting to well over 100 individuals) with expertise in the livestock industry and in industrial organization economics. There were no bids solely from "business schools" as such, although some members of the winning RTI team were associated with Wharton School of Business. Selection of the winning bidder was made by a selection team that included members from GIPSA, the Department of Justice, the Commodity Futures Trading Commission, USDA's Economic Research Service and Agricultural Marketing Service, and the Federal Trade Commission.

Question 13: Does evidence from this study and other sources indicate that Alternative Marketing Agreements (AMAs) or captive supplies cause harm to competition?

Answer: Not at the aggregate market level. In this study, the largest study of alternative marketing agreements ever conducted in this country, AMAs were found to be adding benefits to producers and consumers. The economic distinction between packer ownership and other

contractual forms of arrangements was brought out in the study. As noted in the answer to Question 6, contractual arrangements are trading methods that achieve the benefits of vertical integration without an ownership investment, whereas packer ownership is a step in the direction of vertical integration. The study, in part, identified the economic distinction between contractual arrangements versus packer ownership as to whether the seller or buyer will bear different costs related to price risk. While overall the AMAs add benefits to the economy, AMAs can be used by individual entities in ways that harm competition. GIPSA has dramatically increased its enforcement activity and has taken many steps to more effectively monitor procurement practices.

Question 14: How will the enforcement activities of GIPSA change given the study findings?

Answer: The study results are helping GIPSA set priorities in its regulatory and investigative activities. For example, while the study did not reveal inherent anticompetitive effects associated with AMAs, it confirms the importance of pricing in spot markets for establishing base prices of AMAs. As a consequence of the study, GIPSA is expanding its auditing of the procurement practices of the top 4 fed cattle slaughter firms to the top 5, and examining the feasibility and benefit from initiating similar audits of hog slaughterers. The study also confirms the importance of pricing in spot markets in establishing base prices of AMAs. GIPSA's regional specialists are constantly in touch with industry contacts to monitor market conditions and firms' marketing behavior. The study has helped to establish a better base of common understanding about AMAs and to improve communications both within the industry and between the industry and PSP. GIPSA monitors weekly fed cattle and hog market prices using statistical models that utilize data made available publicly by the Agricultural Marketing Service (AMS) under the Livestock Mandatory Price Reporting Act. The findings from the study contribute to GIPSA's analysis of anomalies in spot market prices, especially in circumstances where major market participants are known to be procuring livestock jointly through AMAs and in the spot market.

Question 15: One part of the study suggests that prices paid by meat packers for cattle sold on a live weight basis are higher than the prices for cattle sold on a carcass weight basis and a cash grid with quality and yield premiums and discounts. Why? Do these results suggest price manipulation by packers?

Answer: Basically, a seller chooses either to sell in the cash live weight market or to sell on the grid (or by carcass weight). With respect to grid pricing, cattle with certain quality characteristics are the target of the grid. The outcome for cattle that do not meet the specifications of the grid is that the seller receives a sharply discounted price. When a seller sells on the grid, the seller takes a risk that the livestock will not meet the desired specifications, or target, to earn the base price. Those sellers that do meet the target get the base price, while those that exceed the target receive premiums. Similar arguments apply to carcass-weight

transactions; ultimately, each seller makes its own evaluation of the payoff for taking the risk and of how it sells its livestock. On average, the numbers are showing that the discounts are outweighing the premiums. So, if you are unsure your livestock will meet the base price in carcass-weight pricing, go with the live-weight pricing. This is not price manipulation.

Question 16: Haven't other studies found that AMAs cause a net loss to livestock producers? How can you explain the different results from this study?

Answer: We have seen results of a limited number of other analyses that use the coefficient from single-equation estimates of the negative association between spot prices and use of AMAs, and multiply that coefficient times the total volume of livestock to arrive at an alleged "loss" to producers due to use of AMAs. Such estimates assume nothing else would change if AMAs were somehow eliminated from the economy, and ignore the totality of interrelationships such as were modeled in this study. For example, those estimates don't consider the effects on procurement and processing costs and on quality that are modeled in this study, and resulting changes in demand and supply that would occur as industry participants adjust in response to restrictions on use of AMAs. More comprehensive studies do not support the conclusions drawn from the restricted analyses. The study was unique in the amount of data that was available for analysis, its use of models that linked supply and demand in the respective market channels, and the quality of the analytical approach to evaluate the net effects of AMAs on the livestock and meat economy. As a result, the study set a scientific standard by which other study results will be judged.

Question 17: Does GIPSA intend to take legal action against any packers as a result of the study?

Answer: The study was not intended or designed as an investigation of individual packers. The Congressional mandate was a request for research into the overall costs and benefits of alternative marketing arrangements to provide objective information for possible legislative action. In order to facilitate industry cooperation and ensure confidentiality, data collected for the study are protected from disclosure by the provisions of the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA). CIPSEA provides assurances of confidentiality to all entities that provided data by requiring that the data be used for statistical or research only, and through the assurance that no legal action can be taken against any individual entity based on data provided for the study.

Question 18: Much of the benefit of AMAs is supposed to be related to improved quality. Can't the same benefits be obtained from cash sales on a grid basis?

Answer: In principle perhaps, but in actuality, AMAs often include additional quality terms that are difficult to build into grids such as specified genetics and feeding practices. This is especially true in hog

procurement, but increasingly true in fed cattle procurement as well. While in theory even these types of quality terms might be made a part of grids used in spot market purchases, assurance to the packer that the livestock possess these characteristics, and assurance to the producer of appropriate payment for committing to provide these characteristics, is facilitated by use of AMAs. This may be evidenced by the existence of numerous alliances that incorporate more detailed quality criteria in their production and marketing programs.

Question 19: Some have asked if the study was too heavily influenced by economic criteria rather than based on broader legal criteria. How does GIPSA respond to this criticism?

Answer: The study was not designed as nor intended to be an investigation of specific firms' behavior. Congress did not ask GIPSA to determine whether one or more firms were breaking the law. Congress asked GIPSA to identify and evaluate the costs and benefits of AMAs. GIPSA believes the methods used for the analysis were appropriate for this objective. GIPSA relied on independent peer reviewers to ensure that the research met standards of scientific analysis.

Question 20: Do the study results provide support for the argument that there is potential competitive harm from the use of AMAs with base prices tied to spot market prices. Why did the study not examine ways of addressing this concern?

Answer: GIPSA agrees that the study highlights the critical role of price discovery in spot markets, not only for pricing the livestock traded in those markets but, additionally, for establishing base prices of many AMAs. The results reveal a need for continued focus on pricing in spot markets, and as noted in several of the earlier responses, GIPSA will be devoting continued attention to this. There is merit in additional work in exploring possible alternatives to the use of spot markets for establishing base prices of AMAs. However, GIPSA did not believe it appropriate for the agency or the researchers to independently propose specific alternatives since this could have been construed as a bias that would negatively affect credibility of the overall results of the study.

Management Initiatives

Management Initiatives

OIG Audit Report

USDA's Office of Inspector General (OIG) initiated an audit in April 2005 of GIPSA's management and oversight of the Packers and Stockyards Program (P&SP). OIG issued report 30601-01-Hy—Grain Inspection, Packers and Stockyards Administration's Management and Oversight of the Packers and Stockyards Programs, on January 10, 2006, citing four major findings and providing 10 recommendations. P&SP concurred with the findings and recommendations; and during fiscal years 2006 and 2007, initiated and implemented significant progress in improving management controls and in strengthening the program policy and delivery. OCFO accepted final action on all recommendations, as follows:

- recommendations 1, 5, and 8 were closed May 8, 2006;
- recommendations 3, 4, 6, and 7 were closed August 10, 2006; and
- recommendations 2, 9, and 10 were closed March 16, 2007.

On March 16, 2007, the OCFO notified GIPSA that all of the planned corrective actions were completed and that no further reporting to the Office of the Chief Financial Officer (OCFO) was necessary for this audit.

In response to OIG's call to agencies for FY 2008 audit and investigation planning, GIPSA recommended that OIG conduct a follow-up audit of the P&S program. On May 23, 2007, OIG notified GIPSA that they agreed an audit is warranted and tentatively scheduled a follow-up review to begin in early 2008.

Toll-Free Hotline And E-mail

GIPSA maintains a toll-free number (1-800-998-3447) and e-mail address (PSPCComplaints@usda.gov) to allow members of the grain, livestock, and poultry industries and the public to report complaints and share concerns. Alternatively, individuals or firms with complaints about the livestock and poultry industries are encouraged to call the appropriate Regional Office to discuss their complaints.

Competitive Sourcing

GIPSA prepared and submitted its 2007 Federal Activities Inventory Report as required. GIPSA updated and submitted its long-range competitive sourcing plan and is scheduled to complete feasibility studies on all of its commercial "B" positions by fiscal year 2010. The agency has completed feasibility studies on 42 percent of its Commercial "B" positions. The studies completed thus far have concluded that it would not be feasible to conduct A-76 competitive sourcing studies.

Explosion Data

GIPSA receives information on agricultural dust explosions through the cooperation of Dr. Robert Schoeff, Professor Emeritus, Kansas State University, Mavis Rogers, GIPSA, the Internet, employees, and newspapers. GIPSA does not investigate agricultural dust explosions and the private sector is not required to report explosions to GIPSA. This data is subject to change as new information becomes available.

**Summary of Reported
Agricultural Dust Explosions
Fiscal Years 2005 –2007**

	2007	2006	2005
Number of Explosions	4	9	10
Number of Injuries	6	11	3
Number of Deaths	0	1	1

**Reported Agricultural
Dust Explosions
FY 2007**

Facility	Location	Date	Injuries	Fatalities
Cargill Facility	Wichita, Kansas	07/03/07	0	0
ADM Grain Company Elevator	Newburgh, IN	02/20/07	0	0
Canby Farmers Grain Company Elevator	Canby, MN	02/01/07	6	0
Dean Chuck Feedyard Elevator	Gruver, TX	02/01/07	0	0

Financial Information

Financial Information

Status of GIPSA User Fee-Supported Accounts* Fiscal Year 2007

Program	Revenue 09/30/07	Obligations 09/30/07	Profit/(Loss) 09/30/07	Retained Earnings 09/30/07
US Grain Standards Act				
Inspection & Weighing ⁹	31,408,894	30,526,565	882,329	3,638,142
Official Agencies	2,307,230	1,793,710	513,520	1,962,599
USGSA Subtotal	\$33,716,124	\$ 32,320,275	\$ 1,395,849	\$5,600,741
Agricultural Marketing Act				
Rice Inspection	3,436,071	4,082,211	(646,140)	(621,721)
Commodity Inspection	1,951,882	2,399,453	(447,571)	1,824,185
AMA Subtotal	\$ 5,387,953	\$ 6,481,664	\$ (1,093,711)	\$ 1,202,464
Total Fiscal Year 2007	\$39,104,077	\$38,801,939	\$302,138	\$6,803,205

*Number may not sum due to rounding.

GIPSA's Appropriated Budget Authority Fiscal Years 2003-2007

Dollars in thousands

Appropriated Funds	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Federal Grain Inspection Service	\$15,244	\$16,939	\$17,491	\$18,186	\$17,613
Packers and Stockyards Program	23,426	18,951	19,510	20,257	20,172
Total Budget Authority	\$39,950 ^{2/3}	\$35,890 ⁴	\$32,299 ⁵	\$38,443 ⁶	\$37,785

⁹ Includes Canadian Weighing and Inspection and Registration programs.

² Reduced by a rescission of \$259,675.

³ Includes \$2 million that was reprogrammed to the FGIS Inspection and Weighing user fee account.

⁴ Reduced by a rescission of \$212,000 under H.R. 2673.

⁵ Reduced by a rescission of \$298,392 under P.L. 108-447.

⁶ Reduced by a rescission of \$384,430 under P.L. 109-97.

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