



For Immediate Release
June 18, 2010

Contact: Martha Noble
PH: 202-547-5754

USDA Moves to Restore Competitive Markets and Contract Fairness in Livestock and Poultry Markets

Washington, D.C. June 18, 2010 - The U.S. Department of Agriculture released new rules today that propose a host of reforms necessary to help restore competitive markets and contract fairness to livestock and poultry markets. The new rules directed by the 2008 Farm Bill, promise to outlaw preferential pricing, expand producer rights to sue over unfair and deceptive practices and compel greater contract fairness for poultry producers.

Under the proposed rules, independent family farmers who meet the same quality standards as mega feedlots must be paid the same price. Those standards must be transparent and made publicly available.

"These rules are crucial to restoring a level playing field for independent family farmers" said Martha Noble, Senior Policy Associate with the National Sustainable Agriculture Coalition. "Undue and unjustified price preferences for industrial scale factory farms have caused substantial harm to markets, small and mid-sized farmers, and rural communities," said Noble.

"Family farm advocates have called for an end to unjustified price preferences for decades and perhaps we have arrived at the point where the government will get serious about enforcing the law," added Noble. "We will be examining the details of the proposed rules carefully in the coming days to make sure they actually do what USDA is claiming they do."

NSAC advocated for the inclusion of the directed rulemaking during congressional consideration of the 2008 Farm Bill and made promulgation of strong rules a major push with the new Administration from the start.

The rule expands and clarifies the rights of independent producers to bring suit against packers for unfair and deceptive trade practices. Some Courts have required farmers to prove not only individual harm but also "competitive injury" to the market as a whole. In explaining their intent, USDA explains its view that an independent producer should not have to prove "competitive injury" to bring a suit for unfair practices.

"It was critical for USDA to address the competitive harm issue," said Noble. "We applaud them for doing so, but will need to read the details of the rule before coming to an assessment of whether further strengthening might be necessary."

The rule also expands the number and character of unfair practices that can be challenged which now include retaliatory actions, unjustified contract termination and refusal to share data needed to determine fair compensation.

The rule dictates practices that will make packer transactions with other packers more transparent. Packers would be prohibited from selling to packers, a common way of sending price signals. Packer buyers could only buy for a single packer at auction and the purchasing packer must be clearly identified.

The new rule made major reforms to the rules governing production contracts between poultry growers and processors. Processors must send sample production contracts to USDA within 10 days of execution. USDA may then post the contracts on line to improve transparency for growers. Contracts must be sufficient in length to allow the grower to recoup at least 80% of any significant capital improvements required by the contract, defined as an investment of \$25,000 or more. To suspend the delivery of birds under an ongoing production contract, poultry processors must give farmers 90 days notice that they are being terminated.

The Farm Bill also directed new rules governing arbitration provisions in poultry contracts. The Farm Bill gave growers the right to opt out of mandatory arbitration. Companies, however, have not been clear with growers about their right to opt out. The new rules require clear and conspicuous language in the contracts giving growers the right to opt in or out of arbitration.

"While additional reforms, including a ban on packer ownership and feeding of livestock are necessary to ensure truly competitive markets, this rule represents a giant step forward for both independent livestock producers and contract poultry producers," according to Noble.

The National Sustainable Agriculture Coalition is a grassroots alliance that advocates for federal policy reform supporting the long-term social, economic, and environmental sustainability of agriculture, natural resources, and rural communities. The Kansas Rural Center is a member of the coalition.