

OUTLINE FOR GIPSA POULTRY FINAL RULE POULTRY CONTRACTS; INITIATION, PERFORMANCE, AND TERMINATION

The proposed rule was published on August 1, 2007. The comment period closed October 30, 2007. GIPSA received 449 comments on the proposed rule. Based on these comments, GIPSA modified three of the four proposed amendments.

The final rule will improve the market for poultry growers in a number of ways:

- A live poultry dealer that offers a poultry growing arrangement to a poultry grower must also provide the grower with a true written copy of the poultry growing contract on the date the live poultry dealer provides the poultry house specifications.

Currently, it is not uncommon for new growers, or growers seeking to expand or make improvements to their facilities, to be promised by word of mouth by the company that if they secure financing and begin construction of their poultry houses, they will be provided a contract. Therefore, a contract is not presented to the grower by the company until after the facilities are under construction.

This rule ensures that before the grower secures financing, they are allowed to know the specifications or costs of the poultry houses they are being asked to build and know the terms and conditions of the contract.

- Poultry growers have the right to discuss the terms of a poultry growing arrangement with a Federal or state agency, financial advisor or lender, legal advisor, business associate, accounting representative, family member, or other growers for the same live poultry dealer.

Until the 2002 farm bill, some contract stipulations barred growers from sharing their contracts with lawyers or even family members for advice. This rule brings this statutory requirement into the regulation, including ensuring that growers with the same live poultry dealer can also discuss terms of their contracts with each other and business associates. Allowing growers to speak to other growers who have contracts with the same company and business associates will improve transparency and allow growers to make informed business decisions.

- Live poultry dealers are required to clearly disclose in the poultry growing contract that a performance improvement plan exists, including the terms and guidelines of the plan.

Currently, it is not uncommon for live poultry dealers to unilaterally decide to place poultry growers who underperform on a performance improvement plan. Yet growers often have no idea that such a performance improvement plan exists until the company places them on it. This rule ensures growers have such

knowledge up front and allows them to decide whether or not they will agree to this potential requirement in the contract.

- Growers are provided the right to a written notice 90 days before a company can terminate, decide not to renew, or allow the expiration and non-replacement of a contract. A poultry grower is also provided the right to terminate his/her contract with the company, provided written notice is provided to the company 90 days prior to the termination.

Currently, it is not uncommon for growers to have their contracts terminated with little or no notice. Yet, these growers have significant debt from financing their poultry houses and equipment upgrades at the behest of the company. This final rule ensures that growers have sufficient time to make needed business decisions.