

**A REVIEW OF THE
U.S. LIVESTOCK AND POULTRY SECTORS:
MARKETPLACE OPPORTUNITIES AND
CHALLENGES**

HEARING
BEFORE THE
**COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY**
UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS
SECOND SESSION

MAY 26, 2016

Printed for the use of the
Committee on Agriculture, Nutrition, and Forestry



Available via the World Wide Web: <http://www.agriculture.senate.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

23-592 PDF

WASHINGTON : 2018

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

PAT ROBERTS, Kansas, *Chairman*

THAD COCHRAN, Mississippi
MITCH McCONNELL, Kentucky
JOHN BOOZMAN, Arkansas
JOHN HOEVEN, North Dakota
DAVID PERDUE, Georgia
JONI ERNST, Iowa
THOM TILLIS, North Carolina
BEN SASSE, Nebraska
CHARLES GRASSLEY, Iowa
JOHN THUNE, South Dakota

DEBBIE STABENOW, Michigan
PATRICK J. LEAHY, Vermont
SHERROD BROWN, Ohio
AMY KLOBUCHAR, Minnesota
MICHAEL BENNET, Colorado
KIRSTEN GILLIBRAND, New York
JOE DONNELLY, Indiana
HEIDI HEITKAMP, North Dakota
ROBERT P. CASEY, Jr., Pennsylvania

JOEL T. LEFTWICH, MAJORITY STAFF DIRECTOR
ANNE C. HAZLETT, MAJORITY CHIEF COUNSEL
JESSICA L. WILLIAMS, CHIEF CLERK
JOSEPH A. SHULTZ, MINORITY STAFF DIRECTOR

CONTENTS

| | Page |
|--|------|
| HEARING(S): | |
| A Review of the U.S. Livestock and Poultry Sectors: Marketplace Opportunities and Challenges | 1 |

Thursday, May 26, 2016

STATEMENTS PRESENTED BY SENATORS

| | |
|---|---|
| Roberts, Hon. Pat, U.S. Senator from the State of Kansas, Chairman, Committee on Agriculture, Nutrition, and Forestry | 1 |
| Stabenow, Hon. Debbie, U.S. Senator from the State of Michigan | 2 |
| Klobuchar, Hon. Amy, U.S. Senator from the State of Minnesota | 4 |
| Heitkamp, Hon. Heidi, U.S. Senator from the State of North Dakota | 6 |

WITNESSES

| | |
|---|----|
| Brunner, Tracy, President, National Cattlemen's Beef Association, Cow Camp Feedyard, Inc., Ramona, KS | 7 |
| Truex, Ronald, Chairman, United Egg Producers, Creighton Brothers, LLC, Atwood, IN | 8 |
| Hill, Howard, Past President, National Pork Producers Council, Breeze Hill Farms and H&K Enterprises, Cambridge, IA | 10 |
| Goggins, Joe, Producer, U.S. Cattlemen's Association, Vermilion Ranch Co., Public Auction Yards, & Northern Livestock Video Auction, Billings, MT | 12 |
| Zimmerman, John, Producer, National Turkey Federation/Minnesota Turkey Growers Association, P&J Products, Northfield, MN | 14 |

APPENDIX

| | |
|--|----|
| PREPARED STATEMENTS: | |
| Leahy, Hon. Patrick J. | 42 |
| Thune, Hon. John | 45 |
| Tillis, Hon. Thom | 49 |
| Brunner, Tracy | 50 |
| Goggins, Joe | 57 |
| Hill, Howard | 64 |
| Truex, Ronald | 77 |
| Zimmerman, John | 81 |
| DOCUMENT(S) SUBMITTED FOR THE RECORD: | |
| Roberts, Hon. Pat: | |
| Written letter to Hon. Tom Vilsack concerning rules proposed by Grain Inspection, Packers and Stockyards Administration (GIPSA), April 19, 2016 | 88 |
| Written letter to Hon. Gene Dodaro concerning Foot-And-Mouth Disease (FMD), April 28, 2016 | 90 |
| “A Review of the U.S. Livestock and Poultry Sectors: Marketplace Opportunities and Challenges”, written testimony of Livestock Marketing Association (LMA) | 92 |

IV

| QUESTION AND ANSWER: | Page |
|--|------|
| Brunner, Tracy: | |
| Written response to questions from Hon. Pat Roberts | 100 |
| Written response to questions from Hon. Joni Ernst | 101 |
| Written response to questions from Hon. Thom Tillis | 101 |
| Written response to questions from Hon. John Thune | 103 |
| Written response to questions from Hon. Patrick J. Leahy | 103 |
| Written response to questions from Hon. Robert Casey, Jr. | 107 |
| Goggins, Joe: | |
| Written response to questions from Hon. Pat Roberts | 108 |
| Written response to questions from Hon. Joni Ernst | 108 |
| Written response to questions from Hon. John Thune | 109 |
| Written response to questions from Hon. Patrick J. Leahy | 111 |
| Written response to questions from Hon. Robert Casey, Jr. | 114 |
| Hill, Howard: | |
| Written response to questions from Hon. Pat Roberts | 116 |
| Written response to questions from Hon. Thom Tillis | 116 |
| Written response to questions from Hon. John Thune | 119 |
| Written response to questions from Hon. Patrick J. Leahy | 120 |
| Written response to questions from Hon. Robert Casey, Jr. | 125 |
| Truex, Ronald: | |
| Written response to questions from Hon. Pat Roberts | 127 |
| Written response to questions from Hon. John Thune | 128 |
| Written response to questions from Hon. Patrick J. Leahy | 129 |
| Written response to questions from Hon. Robert Casey, Jr. | 132 |
| Zimmerman, John: | |
| Written response to questions from Hon. Pat Roberts | 135 |
| Written response to questions from Hon. Thom Tillis | 136 |
| Written response to questions from Hon. John Thune | 137 |
| Written response to questions from Hon. Patrick J. Leahy | 138 |
| Written response to questions from Hon. Robert Casey, Jr. | 142 |

A REVIEW OF THE U.S. LIVESTOCK AND POULTRY SECTORS: MARKETPLACE OPPORTUNITIES AND CHALLENGES

Thursday, May 26, 2016

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, DC

The committee met, pursuant to notice, at 10:03 a.m., in room 216, Hart Senate Office Building, Hon. Pat Roberts, Chairman of the Committee, presiding.

Present or submitting a statement: Senators Roberts, Boozman, Hoeven, Ernst, Tillis, Sasse, Grassley, Thune, Stabenow, Brown, Klobuchar, Bennet, Gillibrand, Donnelly, Heitkamp, and Casey.

STATEMENT OF HON. PAT ROBERTS, U.S. SENATOR FROM THE STATE OF KANSAS, CHAIRMAN, U.S. COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Chairman ROBERTS. Good morning. I call this meeting of the Senate Committee on Agriculture, Nutrition, and Forestry to order.

We have a variety of farmers and ranchers from across the country here today to give us their perspectives on marketplace opportunities and challenges in the livestock and the poultry sectors. Who better to testify before this committee than producer leaders representing these industries that play such an important role in the economic stability of rural America and certainly in my home State of Kansas and in the state of every member that is privileged to serve on this committee.

It has been five years since our last committee hearing on the state of the livestock and poultry sectors. Thank you to Senator Heitkamp for making this suggestion, and we agreed some time back that it was time. I know everyone is interested to hear about the many events that have taken place during this period that have impacted the economic standing of your industries as well as future opportunities and challenges for growth.

Now, the livestock industry and the poultry sectors, weather ebbs and flows every day. One could argue that recent years have seen greater volatility and unpredictability than most. Today's livestock and poultry producers are operating in a highly cyclical marketplace. One year, they may receive record prices for their animals, and then the next see a dramatic drop in value, like we have seen recently in the beef sector. Other events, like the diseases that

have ravaged the egg, pork, and turkey sectors, can leave our producers with little to no income for months on end.

Unfortunately, we know there has been significant erosion in farm equity due to these disease outbreaks and marketplace volatility. Some producers were unable to weather that storm. Add into this equation the reality that this is an industry where the good times are typically composed of margins of just a few cents or a few dollars per animal and you begin to understand what a tough business animal agriculture is.

This reality demonstrates just how savvy today's farmers and ranchers must be in order to make a living, and that this is a livelihood not for the risk averse or the faint of heart. Yet I am confident that even in the face of today's challenges, the industries represented here will continue to lead the world in delivering safe and affordable meat products to our consumers.

The importance of this sector to my home State of Kansas is immense, not to mention the home states of everybody on the Committee. Eastern Kansas is known for its rolling Flint Hills, spotted with grazing cattle. Western Kansas is home to some of the country's largest and most modern beef feedlots. Kansas is the third largest beef producing state in the country, with deference to Texas and Nebraska. I hate to say that, really, but that is true.

Senator SASSE. You are welcome.

Senator STABENOW. Uh-oh.

[Laughter.]

Chairman ROBERTS. It is also experiencing growth in pork production, which is a boon to many of our small rural communities.

These sectors present here today are a significant driver of our rural economies. In fact, according to the most recent USDA Agriculture Census, the beef, pork, and poultry sectors account for 36 percent of the total agriculture sales on an annual basis, and that number is only going up. Sales of cattle, hogs, poultry, and eggs also accounted for \$141 billion annually. That is a billion with a "B", not an "M." These are impressive numbers.

Thank you for taking the time away from your farms and your ranches and your businesses to educate your elected officials about your industries.

I ask unanimous consent to include in the record, testimony submitted by the Livestock Marketing Association.

[The statement of the Livestock Marketing Association can be found on page 92 in the appendix.]

Chairman ROBERTS. I now recognize the Ranking Member, the distinguished Ranking Member of our committee, Senator Stabenow.

STATEMENT OF HON. DEBBIE STABENOW, U.S. SENATOR FROM THE STATE OF MICHIGAN

Senator STABENOW. Well, thank you very much, Mr. Chairman. This is a very important hearing and we welcome all of our witnesses and appreciate the chance to highlight a very important part of the agricultural economy.

As we know, the last several years have been challenging, as the Chairman said, for livestock producers, and it is one of the reasons why the 2014 Farm Bill made many of the important investments

that help support and bolster this important segment of American agriculture. In fact, one of the first uses of the 2014 Farm Bill was the activation of the livestock disaster programs, which have paid out more than \$5.8 billion to date and helped producers across the country when they faced extreme weather conditions, like droughts, blizzards, and wildfires.

The Farm Bill also expanded the voluntary conservation programs that give our farmers and ranchers the tools they need to address issues on their own instead of regulation. USDA voluntary conservation programs make it easier for a rancher in Kansas or a turkey producer in Michigan to improve wildlife habitat, livestock forage, and water quality through programs like the Environmental Quality Incentive Program or the Agricultural Conservation Easement Program. In addition, the new Regional Conservation Program provides opportunities for locally led conservation solutions to issues like improving water quality in our Great Lakes and addressing endangered species issues like the sage-grouse in the West.

However, for USDA conservation efforts to be successful, I would ask today for your continued help to encourage more producers to take advantage of these opportunities and tell their story about why voluntary conservation is the best way to address resource concerns.

As we look to other issues impacting our livestock industry, we know how important it is to make investments in agriculture research. In fact, this need was underscored by last year's rapid emergence of highly pathogenic avian influenza, which affected more than 48 million birds in 15 states, and we know what that meant. This type of animal health crisis has devastating economic impacts on our producers, drives up the cost of food for consumers, and threatens international trade. That is why the investments we made through the Farm Bill to establish the new Foundation for Food and Agriculture Research are so important, and I look forward to seeing the Foundation begin to roll out new programs shortly to support your efforts.

Despite these challenges, however, there are also plenty of reasons for the livestock sector to be optimistic. As I look to my home State of Michigan, I see livestock producers breaking new ground on processing facilities, expanding into new value-added markets like organics.

Just last summer, the Clemens Food Group broke ground in Coldwater, Michigan, on one of the first new Michigan pork processing facilities in decades. They are expected to create 800 jobs and will source from producers in Michigan and throughout the Midwest.

Nationwide, the demand for organic eggs has more than doubled since 2012, and producers like the Herbruck's in Michigan have continued to step up to meet the need. Now is the critical time to ensure that we continue to support these organic producers so organic eggs can continue to be available and affordable for American families.

Lastly, Mr. Chairman, I want to highlight action by this committee last year to unanimously pass and get signed into law a reauthorization of mandatory price reporting, which we did together.

This authorization made important advances that were supported by producers to increase market transparency, and I am pleased we are able to do this in an overwhelmingly bipartisan way.

Mr. Chairman, I appreciate you holding this hearing. Again, I stand ready to work with you and our colleagues on the Committee to ensure our farmers and ranchers have the tools they need to be successful. Thank you.

Chairman ROBERTS. I thank the Senator.

A study was just conducted a while back saying that members of the Senate are supposed to be in two or three places at the same time.

[Laughter.]

Chairman ROBERTS. That explains a lot.

Senator Klobuchar is supposed to be at the Judiciary Committee. I note that Senator Grassley is supposed to be, as well. We have provided him a muffin and a cup of coffee, but he has not shown up—

Senator SASSE. Can I have his muffin?

Chairman ROBERTS. —demonstrated by the distinguished Senator from Nebraska, who took time from reading from the Constitution to demonstrate that. I am going to get in trouble for that.

[Laughter.]

Chairman ROBERTS. Senator Klobuchar, I know that you want to introduce John Zimmerman, who is a turkey grower, on behalf of the National Turkey Foundation from Northfield, Minnesota. Why don't you proceed with that?

STATEMENT OF HON. AMY KLOBUCHAR, U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator KLOBUCHAR. All right. Well, thank you very much, Mr. Chairman and Ranking Member Stabenow, and also Senator Heitkamp for suggesting this hearing. I think it is so important, and the work that we have done in the Farm Bill on a bipartisan basis for our livestock and poultry industries has been key, but also there is a lot of work to be doing going forward and I am glad we are doing this.

Minnesota is number one for turkeys. I just always like to say that. We are number one for turkeys, as Mr. Zimmerman knows, in the country, and number two for hogs, which sometimes surprises people. So, this is pretty important to us.

John Zimmerman is a second generation Minnesota turkey farmer who also raises corn and soybeans on his farm with his wife, Cara, and son, Grant. He has previously served as President of the Minnesota Turkey Research and Promotion Council and he is a current board member of the National Turkey Federation. He is also the current Board Chair of the River Country Co-Op.

He is a graduate of Iowa State University, which we will not hold against him, being from Minnesota, where he earned a Bachelor's Degree in animal science.

Thank you for being here, John, and I know the Committee will benefit from the expertise that you will bring to a turkey farmer, and also as a turkey farmer, and also as an industry leader. We look forward to hearing from you.

Chairman ROBERTS. I would like to now proceed with the introduction of the witnesses.

I am very proud to introduce Mr. Tracy Brunner, President of the National Cattlemen's Beef Association. Mr. President, I am not going to go any farther with that.

Tracy is a fourth generation rancher from Ramona, Kansas. He has served as President of his family corporation since its inception in 1988, where he manages the feed yard, the yearling grazing operation, cattle and grain marketing decisions, commodity risk management, and customer relations. He is a busy guy. Tracy's family also operates a seedstock enterprise, raising bulls and replacement heifers for many ranchers all throughout the United States.

Tracy graduated from Kansas State University, home of the ever-optimistic Fighting Wildcats, with a degree in animal science and a Master's of agribusiness. He has held many leadership positions in the U.S. beef industry, including Executive Committee Member and President of the Kansas Livestock Association, a member of the Kansas Beef Council Executive Committee, a member of the Kansas Governor's Agriculture Advisory Board, as well as Policy Division Chair, Executive Committee Member, and Board member for the National Cattlemen's Beef Association for nearly 20 years.

Tracy, you have been a true leader for our Kansas agriculture and the U.S. beef industry. I am very pleased, very proud to welcome you to the Committee today.

[Pause.]

Chairman ROBERTS. We will proceed with your statement in just a moment. We will introduce the rest of the witnesses.

Ron Truex, who is Chairman of the United Egg Producers, Atwood, Indiana. Mr. Truex's career in the egg industry began over four decades ago when he joined Creighton Brothers, LLC, an egg production, processing, grading, and marketing company. Ron has held positions in sales and operations and has served as President and General Manager of Creighton Brothers since 1998.

Ron has held several leadership positions within state and national agriculture organizations, including President of the Indiana State Poultry Association, President of the Indiana Egg Board, past Chairman of the American Egg Board, and as chairman of several committees within the United Egg Producers.

Thank you so much for being here today Ron, I look forward to hearing your views of the egg industry.

Senator Grassley was supposed to be here to introduce Dr. Howard Hill. He is obviously over at the Senate Judiciary Committee. Dr. Hill is the Past President of the National Pork Producers Council from Cambridge, Iowa. Dr. Hill is a pork producer and a veterinarian from Cambridge, Iowa, where he runs a farrow to finish hog operation, raises Angus cattle, and grows 2,700 acres of corn, soybeans, and alfalfa.

Dr. Hill earned his Bachelor's and Doctorate of Veterinary Medicine degrees from the University of California-Davis and a Master's and Doctorate degree from Iowa State University in veterinary microbiology and preventive medicine. He has worked as a veterinary practitioner, a fellow for the National Institutes of Health, head of the Microbiological Section of the Iowa State University Vet Diagnostic Lab, head of veterinary services for Murphy Family

farms, and Director of Production and Chief Operating Officer for Iowa Select Farms.

Dr. Hill is the Past President of the National Pork Producers Council and the American Association of Swine Veterinarians, a former Board member for the Iowa Pork Producers Association, and was recently appointed to serve on the U.S. Department of Agriculture's Advisory Committee on Animal Health.

Dr. Hill, that is quite a distinguished career. I look forward to your testimony.

Senator Heitkamp, I recognize you to introduce Joe Goggins, a producer on behalf of U.S. Cattlemen's Association from Billings, Montana.

**STATEMENT OF HON. HEIDI HEITKAMP, U.S. SENATOR FROM
THE STATE OF NORTH DAKOTA**

Senator HEITKAMP. Welcome, Joe. Joe is a rancher and auctioneer from Billings, Montana. He is a native Montanan who, in addition to working on his family's ranch, has auctioneered for some of the top purebred sales in America and remains directly involved in his family's livestock auction market. He is the owner of J&L Livestock, which merchandises from 3,000 to 5,000 top bred commercial Angus females annually. His family's three livestock auction yards and Northern Livestock Video Auction is often cited as a primary influencer in the cash cattle market across the nation.

We are proud to have him, because he is not only an active Montanan, he is also a regular at North Dakota's bull sales, most notably Ellingson Angus in St. Anthony, Frey Angus in Granville, Prairie Pride in Enderlin, Schaff Angus Valley at St. Anthony, and Stuber Ranch in Bowman, and we really appreciate your involvement in North Dakota, and I know that you know that we produce some of the best bulls in the world.

His reach into the cattle industry extends nationwide with his family's widely subscribed publication The Western Ag Report. Continuing to be an active member in the livestock industry, he served one term as President of Montana's Livestock Marketing Association and two terms as President of Montana Angus Association. He is currently the Director of the Livestock Marketing Association and a member of the United States Cattlemen's Association.

Joe remains very involved in the ebb and flow of the cattle market. With all of that on his plate, he and his family are still able to help market 600,000 head of cattle annually, along with his wife, Linda, and his three children and 250 employees who help him through that process. Quite a record of achievement.

Welcome to the Committee. We look forward to your testimony.

Chairman ROBERTS. Thank you, Senator Heitkamp.

We thank you all again for taking the time to join us today. We appreciate your sharing your expertise, firsthand experience as leaders of the livestock and poultry sectors.

Mr. Brunner, Tracy, could you tell me in your perspective how we get past this recent downfall in the beef sector.

STATEMENT OF TRACY BRUNNER, PRESIDENT, NATIONAL CATTLEMEN'S BEEF ASSOCIATION, COW CAMP FEEDYARD, INC., RAMONA, KANSAS

Mr. BRUNNER. Well, thank you, Mr. Chairman, members of the Committee. Good morning to everyone.

Always at the mercy of Mother Nature, our industry is rapidly recovering from extensive drought. Herd rebuilding and expansion are taking place at a rate where U.S. cattle numbers will soon be equal to 2012. Additionally, American cattle producers continue to be more efficient in producing beef. Today, we can produce the same amount of beef that we produced in 1977 at one-third less cattle and land.

The beef supply chain is always focused on the consumer. Our cow-calf ranchers tell their seedstock suppliers what they need and also ask their stocker and feeder calf buyers what they will pay the most for. Cattle feeders, likewise, look to packer processors for signs of greatest value, who in turn have an ear for retail and food service needs.

Cattle prices have been a topic of focus for NCBA and our members. In early 2015, we saw record high cattle prices, but soon those started back down. One factor was the increase in overall protein supplies. Last year, U.S. per capita red meat and poultry supplies increased by nearly ten pounds per person. In addition, the strong U.S. dollar has impacted our ability to ship beef to our international customers.

All of this additional supply puts downward pressure on our markets, but we are used to the ups and downs of the cattle cycle. In order to manage this cycle, we need risk management tools that work. We currently rely on market forums like CME Groups, cattle futures contracts, to add transparency to our price discovery process. Changing technologies and a transition to automated trading and commodity futures have increased market volatility, making interpretation of those price signals different than what we are accustomed to in the past. The integrity of our market forums is very important to us, for without futures contract integrity, our industry will abandon their use.

We have recognized the volatility and are working directly with the CME Group to find ways to address it. We have a joint NCBA-CME working group which is analyzing potential changes, such as slowing down the market to help ensure a level playing field for producers who are using these tools to manage their price risk.

Today, we ask for no direct action from our government in our cattle marketing systems and forums. In fact, I am concerned at some of the action that we have seen.

Secretary Vilsack has announced he is going to dust off the proposed GIPSA marketing rule that resulted from language included in the 2008 Farm Bill. This is very concerning to us, because bipartisan efforts already resulted in appropriations language which defunded any additional work on or implementation of the ideas included in the draft rule. The proposed GIPSA rule would have made USDA the ultimate arbiter on how cattle are marketed. We urge USDA to enforce the Packers and Stockyards Act as it exists now. We do not need them dictating how we can or cannot market our cattle.

We have worked for years to find ways, new and innovative ways to market cattle. Alternative marketing arrangements have been studied by USDA and independent groups and the results show that these alternative marketing arrangements benefit producers and consumers alike. Any Congressional or executive action to interfere will only add to our price problems, not solve them.

Solving our price problems relies on addressing the true issues of consequence in our industry. We have capitalized on the growing demand for U.S. beef overseas, and Japan has become our leading export market. But Australia now has a ten percent tariff advantage over us, resulting in a loss of \$300 million. The tariff advantage for Australia will continue to grow until we pass TPP.

In closing, I would say you could also help our bottom line by easing the regulatory burden that our industry is under. Taking action to reform the Endangered Species Act and helping us keep the EPA at bay would go a long way in easing the pressures on our industry.

Again, thank you very much for this opportunity to be with you.

[The prepared statement of Mr. Brunner can be found on page 50 in the appendix.]

Chairman ROBERTS. Thank you, Tracy, for a very good statement.

Mr. Truex.

STATEMENT OF RONALD TRUEX, CHAIRMAN, UNITED EGG PRODUCERS, AND PRESIDENT, CREIGHTON BROTHERS, LLC, ATWOOD, INDIANA

Mr. TRUEX. Thank you, Mr. Chairman. My name is Ron Truex and I am an egg producer from Atwood, Indiana. I am also Chairman of United Egg Producers and we appreciate being invited to this hearing.

I would like to talk about two major events that have had a dramatic impact on our industry in the past year. Then I would like to mention two current issues where we could use the Committee's help.

The first event was last year's devastating outbreak of highly pathogenic avian influenza. I have some statistics in my written testimony, but I am sure I do not need to tell anyone on this committee what a difficult experience that was. Thankfully, my farm was not directly involved, but every single egg producer was affected one way or another, from much more stringent biosecurity to a loss in demand for egg products, which we hope is temporary. We are still dealing with the aftermath of the HPAI crisis.

This year has brought another challenge. Our customers in food service, food manufacturing, and retail grocery sales are announcing their decisions to source only cage-free eggs in the future. In most cases, they have specified a transition period, often as much as ten years.

There are about 300 million hens in the U.S. egg laying flock. Today, about 30 million of those, just under ten percent, are cage-free housing. Of those 30 million hens, just under half of those are on organic farms, with the remainder in non-organic production. The remaining 90 percent of the U.S. flock is cared for in cages, the vast majority of which comply with our UEP Certified Program,

which provides space requirements for each hen. A small but important portion are kept in enriched cages, where space allowances are greater and enrichments like perches and nest boxes are provided.

According to the estimates by USDA, if you add up the current egg usage of all companies that have publicly made cage-free commitments, by 2030, 60 percent of the nation's egg laying flock, not the current ten percent, but 60 percent, or 174 million birds, will need to be in cage-free housing. USDA also added up the number of egg producers that have publicly announced plans to convert some or all of their operations to cage-free status. However, those commitments only add up to 63 million hens, about a third of the 174 million requested by our customers.

Our industry is highly competitive and we will always try to produce what our customers want, but it will be extremely difficult for us to meet the cage-free demand. The new construction, capital investment, additional land acquisition, and higher production costs will all be daunting.

UEP believes, and science shows, that hens can be humanely housed in a variety of ways, through conventional cages, enriched cages, and in cage-free environments. Good management, not production technique, is the most important variable in hen welfare.

Now, in the time I have left, let me conclude with two recommendations for Congressional action. Like most other farm groups, we are hoping for a national standard on GMO labeling that will override state laws. We appreciate the hard work that the leaders of this committee are continuing to do and we fully understand it is not an easy task. We would simply like to point out that while most of our hens consume genetically engineered feed, the corn and the soybeans, neither the hens nor the eggs they lay are genetically engineered. Therefore, eggs should not have to be labeled as GE or GMO merely because they were laid by hens that consumed GE feed.

A second way that we hope Congress will help us is by encouraging USDA to carry out a better economic analysis before finalizing a new proposed rule on organic livestock and poultry production. For the egg sector, USDA is proposing to ban production systems that have been approved by that Department since 2002. These so-called porch systems provide outdoor access to hens on solid floor structures that are open to the air and the sunlight on the sides, but have roofs in order to keep out predators and avoid contact with wild birds, which are carriers of avian influenza.

Our farm is not organic, but a number of our UEP members have entered organic production in recent years and this is a major issue for them. They believe the economic impact of this proposed regulation will be well in excess of \$100 million and perhaps more. Besides banning porches, the proposed rule has an outdoor space requirement that will be impossible for many producers to meet without expensive new land purchases. It also requires that outdoor areas be at least 50 percent soil, which increases the possibility of contact with salmonella as well as animals that carry it, like rodents.

If this rule is finalized, the supply of organic eggs for consumers will fall substantially and many producers will exit organic produc-

tion. This committee's Chair, Ranking Member, and other members have already been very helpful in questioning USDA's factual basis for this rule and we hope you will continue asking questions, filing comments, and asking USDA for an extension of the comment period for at least an additional 60 days so the Department will have a better factual basis for the final rule.

Egg producers appreciate this committee taking a strong interest in animal agriculture, and thank you for the opportunity to testify.

[The prepared statement of Mr. Truex can be found on page 77 in the appendix.]

Chairman ROBERTS. Dr. Hill, you are recognized next, but I want to just say something on behalf of the Ranking Member and myself on this latest rule with regards to chickens and this whole exercise we are talking about, the big yard and sort of an over-leverage.

Senator STABENOW. Perches.

Chairman ROBERTS. We have been talking—I think we might include a requirement that we play Mozart to just sort of calm the chickens down. I do not know if that would be helpful or not.

[Laughter.]

Chairman ROBERTS. On this comment period, I sure hope you are standing up, and I know we are, to make sure that the Department hears that this is just—sometimes it is hard to understand what happens in our federal government. This is one of those cases. So, thank you for your comments on that, and all of us are working to solve the GMO problem. I did not mean to interrupt the flow of the witnesses here, but thank you for those comments.

Dr. Hill.

STATEMENT OF HOWARD HILL, D.V.M., PAST PRESIDENT, NATIONAL PORK PRODUCERS COUNCIL, BREEZE HILL FARMS AND H&K ENTERPRISES, CAMBRIDGE, IOWA

Dr. HILL. Good morning, Chairman Roberts, Ranking Member Stabenow, and members of the Committee, and thank you for this opportunity to visit with you. I am Dr. Howard Hill, a veterinarian and pork producer from Cambridge, Iowa, and Past President of the National Pork Producers Council.

The U.S. pork industry is in pretty good shape right now economically. In the past couple of years, it has overcome some disease issues and weather-related record-high feed grain prices and now appears to be moving into a period of cautious calculated expansion.

Pork production is forecast by USDA to increase this year by two percent, to almost 25 billion pounds, and in 2017 by 2.6 percent, to more than 25.5 billion pounds. Of course, producers' fortunes can be affected for good or bad by any number of factors, some controllable and some not so controllable, such as disease and weather.

I am going to first address an opportunity that would be very positive for hog farmers like me and that Congress can control, the Trans-Pacific Partnership, or TPP. But another issue recently has come up that if not addressed would wipe out any of the benefits we gain from TPP.

Pork producers are very concerned about the so-called GIPSA rule, which you have heard about from Mr. Brunner. As many of you know, the rule was borne out of the 2008 Farm Bill, which in-

cludes five specific issues, mostly related to the poultry industry, but Congress wanted USDA to address. But the Grain Inspection, Packers, and Stockyard Administration in 2010 proposed an expansive rule that would have had a significant negative impact on the livestock industry.

In November 2010, an Informa Economics study of the rule found it would have cost the pork industry more than \$350 million annually. Tens of thousands of comments, including 16,000 from the pork producers, were filed in opposition to the rule, and Congress several times included riders in the USDA's annual appropriation bill to prevent it from finalizing the regulation. Such an amendment was not included in the USDA's fiscal year 2016 bill.

Now, the agency is moving forward with the rule and we have grave concern it will mirror the 2010 proposal. If it does, the livestock industry would be fundamentally and negatively changed and the increased exports and jobs created from TPP will be negated.

Additionally, the fact that we have to deal with the GIPSA rule issue is diverting valuable resources away from the pork industry's top priority, and that being the approval of TPP. TPP, the benefits of which will exceed all past Free Trade Agreements, represents a great opportunity for U.S. pork producers and for the entire U.S. economy. TPP includes the United States and 11 Pacific Rim countries, and those nations include nearly a half-a-billion consumers and represents 40 percent of the world's GDP. The agreement has become the de facto global trade vehicle and other countries in the region already are lining up to be part of TPP. Because other Asia-Pacific trade agreements are being negotiated, such as China-led 16-nation regional comprehensive economic partnership, the United States cannot afford either to economically or geopolitically walk away from the fastest growing region in the world.

To give you an idea of the importance of Free Trade Agreement to the U.S. pork producers, the United States now exports more pork to the 20 countries with which we have an FTA than it does to the rest of the world combined. Congress must pass TPA and it must do so soon.

Finally, a challenge that would be out of everyone's control but that could be tempered through preparedness is a foreign animal disease outbreak, specifically an outbreak of Foot and Mouth Disease. A foot and mouth outbreak in this country would be economically devastating to the pork producers and other food producers. USDA and the livestock industry has been working on a plan to combat an outbreak, but the only practical way is through the use of vaccination. Unfortunately, we currently do not have the ability to produce the number of doses needed for an initial outbreak or the capacity to produce more vaccine.

The U.S. pork industry believes, consistent with Homeland Security Presidential Directive 9, that an adequate Foot and Mouth Disease vaccine bank must be established. This would require, one, an offshore vendor maintained bank that would have available antigen concentrate to produce against all 23 of the most common Foot and Mouth Disease types currently circulating in the world. Two, a vendor managed inventory of ten million doses, which is the estimated need for the first two weeks of the outbreak. Third, a contract with

an international manufacturer or manufacturers for the surge capacity to produce at least 40 million additional doses.

Given the costs of dealing with a Foot and Mouth Disease outbreak and the economic impact on the livestock industry and, indeed, on the entire U.S. economy, Congress should appropriate enough money to set up such a vaccine bank.

Those are a few of the opportunities and challenges pork producers face and I will be happy to answer any questions at the appropriate time. Thank you.

[The prepared statement of Dr. Hill can be found on page 64 in the appendix.]

Chairman ROBERTS. Thank you, sir.

Mr. Goggins.

STATEMENT OF JOE GOGGINS, PRODUCER, U.S. CATTLEMEN'S ASSOCIATION, AND VICE PRESIDENT, VERMILLION RANCH COMPANY, PUBLIC AUCTION YARDS, BILLINGS LIVESTOCK COMMISSION COMPANY, WESTERN LIVESTOCK AUCTION, AND NORTHERN LIVESTOCK VIDEO AUCTION, BILLINGS, MONTANA

Mr. GOGGINS. Good morning. It is truly an honor to be here on behalf of the livestock industry addressing this distinguished committee and the great people you represent.

In the next 15 to 20 years, when you look at the massive population growth not only in this country but worldwide, the deal maker for the United States of America when it comes to trade with our world partners will not be our technology or our energy, it will be our food.

The American producer, feeder, and packer have the know-how, work ethic, and pride to produce the highest quality, most affordable, and safest protein in the world. This is why we must demand that we in America do everything in our power to keep an open, fair, competitive marketplace for our producers and feeders of all sizes. Another key component is to assure our domestic livestock herd remains safe and free from both domestic and foreign diseases.

There have been many success stories in the previous Farm Bill programs, for example, the voluntary conservation effort that kept the sage-grouse from being listed, the beginning farmers and ranchers program, the disaster funding program that aided the producers in the Dakotas after the Atlas blizzards of 2013, just to name a few.

In the years 2013 and 2014, we all saw our once-in-a-lifetime up in the cattle market. Since then, in the last year, I hope we have seen our once-in-a-lifetime down. The last year represents the largest loss in equity in the history of the U.S. cattle industry.

Following are some concerns and challenges that need to be looked at and addressed by this committee. We need to find a fairer and more competitive way of determining a weekly cash price on live fed cattle. There are many avenues by which to do this, but we undoubtedly need to create more transparency and competitiveness at the fed cattle level.

Volatility in the marketplace is causing huge problems for everyone in the industry. The Futures Board has always been a very

good tool for producers and feeders to manage risk. At the present time, it no longer can be used because of violent moves in the market, mostly due to, in my opinion, the expanded limits, and high frequency algorithmic trading. It is a speculator's market. For example, just two weeks ago, we sold fed cattle at a \$134 to \$136. The Board the same morning went near limit down on the front month June to \$121-something. That is a \$15 basis. Now, that is proof fundamentals do not have much to do with this market.

However, my biggest concern about the volatility in this market is how it affects the average producer and young producers that have to borrow most of their money from the bank to purchase and feed these cattle. The lenders, in turn, are almost 100 percent of the time requiring these people to hedge 75 percent of those cattle they buy in order to acquire such a loan. These massive, violent moves on the Futures Board cause people to pay huge margin calls, which drains their available cash, forcing them to get out of the hedge at a very unfavorable position.

I know in our own family feeding operation, currently, we background and feed near 50,000 head of calves a year. The Futures Board is no longer a viable tool for us due to the volatility of the market and the amount of money it takes to hold a position. This may allow us only to feed half as many cattle going forward.

We need to modernize and update the Packers and Stockyards Act of 1921. This 95-year-old Act needs to be modernized.

Another challenge I would encourage the Committee to be conscientious of is the concerns that come with over-regulation. Too much government on the farm and ranch is a major concern in the country. One example is the uncertainty surrounding the EPA's Waters of the U.S. rule.

I would also suggest caution on making too stringent requirements on the trucking and interstate movement of livestock. Livestock are a highly perishable commodity. If we hamper the ability to move livestock quickly and efficiently, we might actually limit opportunities for producers in parts of this country.

In closing, as a producer of protein, I challenge this committee to address the concerns and issues I have just laid out. Restructure restrictive laws. Update outdated laws. Ensure that we have some transparency and competitiveness in our industry. Last but not least, put some sideboards on the futures market and the influence the Board has on the cattle market.

Keep in mind, in the years to come, trade policies and currency values will heavily play on our markets and the nations with the capabilities to produce an abundant quality, high quality safe and affordable food supply will be the powerhouses in the global economy.

[The prepared statement of Mr. Goggins can be found on page 57 in the appendix.]

Chairman ROBERTS. We thank you, Mr. Goggins. Thank you for the challenge. We accept it.

I would just note that I have been to 18 Kansas counties here recently. I was way out there in Western Kansas, in St. Francis, and a good friend of mine who I have known a long time put on a cowboy hat like Tracy has there, pulled it down, and said, "Pat,

you have done a good job, but I have got news for you. I am done.” He just said, “I feel ruled. I do not feel governed.”

I think that pretty well sums up some of the concerns that you raised. Those of us who serve on this committee in a bipartisan fashion want to address all of these concerns, and I thank you for pretty well summing them up.

Mr. Zimmerman.

STATEMENT OF JOHN ZIMMERMAN, PRODUCER, NATIONAL TURKEY FEDERATION/MINNESOTA TURKEY GROWERS ASSOCIATION, P&J PRODUCTS, NORTHFIELD, MINNESOTA

Mr. ZIMMERMAN. Good morning, Chairman Roberts, Ranking Member Stabenow, and members of the Committee. I appreciate the opportunity to testify on behalf of the 63,000 men and women who put their boots on every day to keep the turkey industry working. Our industry raises approximately 238 million pounds of turkey annually, and USDA’s latest forecast puts 2016 turkey production at an all-time record of 6.4 billion pounds, 14 percent above 2015.

This year, the turkey industry has made significant strides and learned a lot in recovering from high path avian influenza after suffering through the worst animal disease outbreak in U.S. history last year. However, our preparation was tested earlier this year in Indiana when a small outbreak occurred in a commercial turkey flock. This outbreak was small precisely because of the lessons we have learned.

The important lesson is that immediate action needs to be taken at the local level to limit virus spread. No matter how good the intentions are at the state and federal level, industry must be given clear permission to act within minutes, not hours or days, to protect other nearby farms from becoming infected. I must emphasize the need for rapid stamping out procedures and methods that ensure humane treatment while eliminating virus spread. Currently, there is no one method that achieves perfect results in all circumstances.

NTF is deeply appreciative of the indemnification program implemented by USDA/APHIS, strongly supported by Congress, that helped us manage through this crisis, and I would be remiss if I did not take a moment to personally thank my fellow Minnesotan, Senator Klobuchar, on behalf of myself, the NTF, and the entire turkey industry for all you did to help us last year. Thank you.

Finally, the billion dollars in losses are well documented. In order to prevent future outbreaks, the U.S. needs to adopt a forward looking mandatory animal pest and disease prevention program designed to limit the impacts of foreign zoonotic diseases on livestock and poultry producers, and we look forward to working with Congress to get this accomplished.

All poultry exports were severely damaged by the trade restrictions that resulted from the 2015 outbreak. Specifically, last year’s turkey exports declined 34 percent and over 33 countries enacted some form of ban on U.S. poultry. Without the hard work of APHIS, it could have been a lot worse. They reopened closed markets as well as continue to establish protocols that will limit bans to regional levels in the future.

We also continue to see high path outbreaks in Europe, Asia, and South America, and now is the time to reengage with our trade partners to discuss how HPAI can be treated moving forward. This is a global disease, and working with the government, we can develop a plan that minimizes export disruptions now.

With regard to non-scientific trade barriers, it is important that USDA's FAS continue to work with both APHIS and the turkey industry to fully understand how we differ from chicken and livestock production. For example, while never covered under U.S. COOL regulations, turkey has now been subjected to COOL-like regulations by both Korea and South Africa, who banned U.S. turkey raised and processed in the U.S. just because it was hatched in Canada. This is not science-based and is a problem for many companies that hope to expand sales into these promising growth markets.

Finally, we support TPP as an important step forward in reducing trade barriers and opening new markets for the turkey industry and we encourage Congress to approve this agreement as soon as possible.

Recently, USDA proposed a rule to amend the organic livestock and poultry production requirements based on recommendations by the National Organic Standards Board. NTF is concerned about the potential disruption to existing organic producers and their supply chains as well as the impacts this proposed rule may have on ensuring animal health. Before moving forward with the rule, the turkey industry feels that USDA should conduct a thorough assessment of the costs of compliance, increased animal health and welfare risks, and alternatives for existing organic growers, producers, and supply chains to ensure minimal impact.

Six years ago, USDA proposed sweeping rule changes on farmer contracting. With the expiration of a Congressional prohibition on implementing these changes, USDA is once again threatening to fundamentally change the rules by which our members operate. We believe that the changes would increase costs, reduce productivity, and possibly lead to increased live production ownership by integrated poultry companies to the detriment of independent farmers. We support the continued prohibition of USDA's implementation of these proposed changes.

A recent report by the National Academy of Sciences found that foods made from genetically engineered crops are as safe to eat as those made from conventional crops. Regarding food labeling, NTF actively supports two critical components of any GMO bill. One, that the bill maintains federal preemption for meat and poultry labeling, which is already regulated by USDA/FSIS, and two, that it ensures that animals fed GE feed should not have to be labeled GE. We look forward to a bill that prevents a patchwork of state rules that create a labeling nightmare for food producers, but these two conditions must be met.

Finally, we have a worker shortage all across this country and meat and poultry producers are no different in feeling the pain of this shortage. The turkey industry supports immigration reform that addresses the needs of year-round meat and poultry producers and processors. Our members need access to a pool of legal general labor immigrant workers and a visa program that can address

these needs. However politically difficult it seems, we must get this job done.

Once again, thank you for the opportunity to testify today on behalf of the U.S. turkey industry and I would be happy to answer any questions.

[The prepared statement of Mr. Zimmerman can be found on page 81 in the appendix.]

Chairman ROBERTS. We thank you all for taking the time to join us today and appreciate your sharing your expertise, your first-hand experience as leaders within the livestock and poultry sectors.

Tracy, tell me, in your perspective, what is the best thing we can do to get this recent downfall in the beef sector addressed?

Mr. BRUNNER. Well, Mr. Chairman, the current situation, as I have said, is one of growing supplies and we need growing markets, growing market access for our beef to match. Trans-Pacific Partnership is the trade agreement of the day. As was said earlier, 40 percent of the world's economy. It will level the playing field. Currently, we are paying 11 percent higher tariff going in to our best customer, Japan, \$300 million loss already, and that is only going to continue to grow until we pass TPP.

Then, very briefly, the increasing regulatory burden from EPA, Endangered Species Act, and other government agencies.

Chairman ROBERTS. I would also like to hear your perspective on what you have already brought up, along with many of the witnesses here, on the real world impacts of the proposed GIPSA rule. I have sent a letter to the Secretary, I think it has been about a month ago. Maybe the letter was too, a little too much for him to take, but anyway, we have not gotten a reply back. In the House, they have taken action on the GIPSA rule and I would expect the same effort when we consider agriculture appropriations on this side.

But, I have heard value-added programs stand to face a lot of legal threat due to the premiums they pay to producers potentially being considered as unfair. In your business, do you utilize any unique or niche marketing that you think could be jeopardized by the implementation of the GIPSA rule, or do you have other examples like this that you could share?

Mr. BRUNNER. Mr. Chairman, the GIPSA rule as it was written into the 2008 Farm Bill would have severely restricted our ability to participate in alternative marketing arrangements. As I had said earlier, research has shown that those alternative marketing arrangements, value-based marketing, if you will, has encouraged our industry and allowed individual producers to meet and be rewarded for consumer demand.

As a very brief example, our family actively participates in marketing most of our cattle through a value-based marketing system. Over time, this has allowed us to not only meet consumer demand by developing and producing products that consumers want and are willing to pay for, but also receive an average of \$50 a head premium to the cash market.

Chairman ROBERTS. Dr. Hill, can you describe in a little more detail some of the recent outbreaks of FMD that have occurred in other countries, how your industry and the Department came to the conclusion that the best way of addressing an FMD outbreak

here in the United States is to vaccinate animals rather than trying to stamp out the disease.

Dr. HILL. Two of the most notable outbreaks have been the recent outbreak in Korea and then several years ago the outbreak that was in Great Britain. In the past, APHIS has used the approach of destroying animals and disposing of the carcasses, and if you look at the recent outbreak of high path AI, that was one of the big challenges, was how they got rid of the carcasses. So, working with APHIS, the industry has come to the conclusion that slaughtering these animals, killing these animals and burying them or burning them or however you dispose of them is not practical.

We have about a million pigs on the road in the United States every day and about 400,000 cattle. If we have an outbreak of Foot and Mouth Disease, we do not think it is going to be an isolated, small outbreak.

Chairman ROBERTS. No, it will not.

Dr. HILL. So, the only really practical way to try to control the disease is to have available vaccines. Fortunately, this is a disease that does not affect the humans, so the meat is usable, and if we had a vaccine bank available, we could have an aggressive vaccine program and try to limit the losses to producers and basically live for another day.

Chairman ROBERTS. I thank you for that. I had a little experience with that as Chairman of the Intelligence Committee when we were discussing agroterrorism. Not many people wanted to hear about that. We had an exercise exactly as you have described. Acting as President at that particular time—there was not anybody else in town—but in doing that exercise, all hell broke loose and all of our exports stopped. Then we faced the dilemma of what to do with the diseased animals. I am not going to go into the rest of it. It just turned into an absolute disaster. But one thing happened. People discovered that their food did not come from grocery stores and there was panic everywhere. It shows you just how important this research is.

I am over time here. I will get back to some of the rest of you later.

Senator Stabenow.

Senator STABENOW. Well, thank you very much, Mr. Chairman, and welcome again. We appreciate your testimony.

Let me start with Mr. Truex. I wonder if you might speak a little bit more about what you talked about in your testimony in terms of the organic livestock standards rule, and if you could share some of the additional potential costs and impacts beyond purchasing additional land. When we look at those issues, I know that the producers most impacted are those that are actually producing 70, 80 percent of the organic eggs, and do you think there will be a sufficient number of new egg producers transitioning into organics to meet the rising demand?

Mr. TRUEX. Thank you. I do not. What we are concerned about is that, as you said earlier, a large majority of the organic production is relatively new. The facilities are new because of the great increase in organic consumption in the past few years. So, the producers have a significant investment in relatively new facilities

that was totally accepted by USDA until this proposed rule. So, they are going to be faced with a lot of changes.

The other thing that we are concerned about is this rule that protects the birds from rodents and birds and all the other things, our current practice supports the FDA Egg Safety Rule, and we have concerns that if you put the birds out on the ground, let them out where they can get access to other birds and rodents, it is going to be a real challenge to protect those birds.

In addition to that, you have the thought that, well, if there is an avian influenza problem, we will just put them back inside, but unfortunately, as we learned in Indiana this spring, sometimes you do not know you have avian influenza until the second day and then it is too late.

So, if you take that in, all those things and add it together with the problems in local permitting and building and cost, our members are telling me, and, of course, I am not in organic production. In a commercial for your state, I buy my organic eggs from Herbrucks—

Senator STABENOW. Great.

Mr. TRUEX. But, the problem is, to maintain the production you have, will be impossible with the added space. So even the producers that are in organic are going to have to build additional buildings and get additional land, and I think it is going to be very challenging for the others that are not currently doing it to get the funding and the land purchases and the buildings and the permits to build that. So, I believe we would limit the amount of organic eggs for the consumer.

Senator STABENOW. Thank you very much.

Dr. Hill, the Iowa Pork Producers Association is a leading member, I know, of the Iowa Ag Water Alliance, and working with the Iowa Corn Growers and Soybean Association, you are working to improve farm conservation and water quality through the locally led efforts that we have put together. I wonder if you could explain how the Iowa Pork Producers and Iowa Ag Water Alliance have worked with other partners using the new Regional Conservation Partnership Program to further your water quality goals.

Dr. HILL. Yes. Well, thank you. The Iowa Pork Producers, of course, have worked closely with that group and also with the Department of Agriculture. There are state funds that help producers with some technologies, like cover crops. In my area, five, six years ago, we saw very few farmers using cover crops. Today, it has just had an exponential growth. Some of that is partially supported by government funds, but most of it is, I believe, just producers trying to do the right thing, especially on highly sensitive soil.

If there is an ask, I would say the ask would be for more funding for research to develop new technologies, different technologies, maybe things that we are not doing today that we had not thought about. I think there is a big need to—you are not going to solve the water quality thing with one technology. Cover crops is not going to do everything we want it to do. So, added funding for research, I think, is very, very important, and we appreciate the support you have given us so far.

Senator STABENOW. Well, thank you, and I hope we are going to be able to see more producers get involved in these efforts. I think that is very, very important.

Finally, let me ask, for everyone on the panel, and maybe I will start—Dr. Hill, you are a veterinarian, I understand——

Dr. HILL. Yes.

Senator STABENOW. —so let me start with you, as well, again. The FDA has taken several steps, as we know, like the Veterinary Feed Directive that goes into effect in December, to ensure that antibiotics are used judiciously and only when appropriate for animal health. This is going to require more regular relationships between veterinarians and producers and this is an area I have worked a lot in, supporting efforts to get more people into veterinary medicine.

When you look at this, large producers may very well have veterinarians on their staff. I am concerned about smaller cow-calf producers or people in remote areas and so on. So, when we look at—earlier this month, the USDA announced \$2.4 million available through a new Veterinary Services Grant Program that I authored in the last Farm Bill to support veterinarians in underserved areas, and Senator Crapo and I have just introduced another bill, a Veterinary Medicine Loan Repayment Program, to provide even more incentives.

But, I am wondering what you think. I mean, what is happening here? I continue to hear concerns about not enough veterinarians to serve the need, and what more should we be doing to help with that?

Dr. HILL. Yes. Well, first of all, our industry has fully supported 209 and 213 and producers have already, for the most part, reduced or eliminated feed additives that are of medical importance from the diets.

The concern you have is a real concern, not necessarily in Iowa, where I am, because we have a lot of veterinarians. Your concern is valid in more remote areas, particularly, I think, in the cattle industry out West. I think any support that you can give for veterinarians working in these under-supply areas would be very, very important.

We work closely, though, to get some of the things with the Feed Directives in place, like electronic rather than hand-written things. So, there are some ways that we have, working with the government officials, that we expedited the process that will make it easier. But I think there are still some challenges.

The groups that are working on this on the pork side are the American Association of Swine Veterinarians, the National Pork Board and NPPC all working together to try to help producers. There is a lot of education going on right now about what to expect and be ready for January 2017.

Senator STABENOW. I do not know, Mr. Chairman, if I might just ask—Mr. Brunner.

Mr. BRUNNER. Yes. I just might briefly add, our organization worked hand-in-hand with FDA in the formulation of the Veterinary Feed Directive to try and make it as workable as possible for the cattle and beef industry. I would also like to point out that our even larger concern is with the jeopardy that is being placed on

some very important technologies that are classified as antibiotics but are not—have no application in human medicine, specifically ionophores. Ionophores are very important to increasing the efficiency in beef production, but they have been classed as antibiotics. We are working with FDA to get clearer interpretation on that, as well.

Then I might summarize by saying that it seems that over time, an increasingly higher share or percent of veterinarians seem to be going into companion animal practice versus large animal practice and a more robust and growing animal agriculture should show more opportunity for veterinarians there, as well.

Senator STABENOW. Thank you.

Thank you, Mr. Chairman.

Chairman ROBERTS. Senator Grassley.

Senator GRASSLEY. Thank you, Mr. Chairman. It is very important that you have a hearing like this. A big industry, agriculture, it is very important.

So, I would first welcome my fellow Iowan, Howard Hill. He has been involved with the pork industry probably most of your life.

Dr. Hill, in your testimony, you mentioned the Waters of the U.S. rule, that is a major concern to the pork industry. It is also a major concern to most every agricultural group in Iowa and every agricultural organization. Could you share with the Committee a few examples of just common practice within your industry that you—where there is uncertainty regarding the Waters of the U.S. rule.

Dr. HILL. Thank you, Senator Grassley. We do have a lot of concern about it. You know, the swine industry and the cattle industry is highly regulated with state requirements with manure application. The way we interpret what the EPA is proposing, it would impact severely how we would be applying manure. It, depending on how far they go, it could impact crop production just because of waterways that we use, setbacks. So, in our opinion, it is an overreach by EPA that we would strongly oppose.

Senator GRASSLEY. Mr. Brunner, I have a question for you, because I have heard from numerous Iowans about what has been going on in the beef market, and some of these people in Iowa would blame industry structure. Others would blame futures contracts. In your testimony, you state that only five or six percent of cattle are owned by packers. In addition, we know that nationally, only about 21.3 percent of the cattle are traded in the cash market, according to USDA data. The percent of cattle traded in the cash market has dropped significantly since 2005, when 52 percent were traded cash. While cash traded cattle have dropped 30 percent since that 2005, the formula based sales with packers are up 23 percent.

Do you have any concern that the drop in the amount of cash traded cattle has contributed to that contract being more volatile, since it is less liquid and represents such a small percentage of the overall cattle market today?

Mr. BRUNNER. Well, thank you, Senator. The increased volatility in the futures market, we believe, comes from the advent of and administration of new technology, high frequency trading. As I said before, our organization is working directly with the CME Group, trying to identify possibilities of dampening the effects of the high

frequency trading on the cattle market. You know, you cannot deny the application of an emerging technology. Technology will go on regardless and practices will move beyond borders. So, we have to be cognizant that we cannot stop progress.

What we do believe is that we need some data. We need to have information from CME. We have asked them to share data and information with us the effects of high frequency trading and are working to get that information so that we can better work with them on what changes might need to be made in the cattle contract.

Senator GRASSLEY. Okay. That is my last question, but I have a minute left. Let me take a couple seconds for summation.

In the cattle market today, only 21 percent of the market is traded on the cash market, even though the price discovery from that 21 percent is utilized for nearly 60 percent of the cattle that are marketed through formulas. So, to me, it seems like the cattle market has experienced a structural change over the last decade where the tail wagging the dog situation has developed. So, I will continue, Mr. Chairman, to watch this situation. I have heard a great deal from cattle producers in Iowa about the current structure of the beef industry.

Thank you, Mr. Chairman. I yield.

Chairman ROBERTS. I thank the Senator.

With apologies to Senator Klobuchar, it is your time——

Senator KLOBUCHAR. Okay.

Chairman ROBERTS. —but on WOTUS, I think everywhere we go in farm country, whether it be Kansas or wherever we are, the number one issue that comes up, Waters of the U.S. I am talking about dry creek beds and farm ponds where no self-respecting duck would ever land, and it goes on and on.

I remember the meeting that we had with the Administrator of EPA, Gina McCarthy. There were two pages in this bill where it said normal farming operations are exempt. Then it had parentheses and it said, see regs, and then there were 88 pages of regulations, probably eight-point. You can hardly read it without a magnifying glass. I defy anybody in this room, any of you, any of us, any farm organization and any commodity group, any CPA, any lawyer, to define what the heck was in those regs.

We were not successful in the Senate with what we thought was an answer to it. We have not given up and we will continue that effort. It is before the courts. But, it is the number one issue that has been brought up all throughout farm country. We are very cognizant of this and we are trying very hard to find an answer.

Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Mr. Chairman.

I was proud to introduce Mr. Zimmerman earlier, and I guess I will address my first questions to you and Dr. Hill, and it is about the importance of investment in animal health research. We have seen some issues with our turkeys. You brought up the scourge, the health scourge that we had where so many producers were hit.

But, Mr. Hill, you spoke about the need for more investment in the vaccine bank. Can you elaborate on how the industry has worked with APHIS to address this need and how APHIS has—and

if APHIS has engaged at all with the Department of Homeland Security, as you suggested in your testimony?

Dr. HILL. Well, I believe APHIS has engaged. Right now, the amount of money that is in this bank is a drop in the bucket compared to what is really needed.

Dr. Roth at Iowa State University has done extensive studies on what would happen in an outbreak and how much vaccine we would need. The current bank of, not vaccine, but of the virus that would make the vaccine, is held at Plum Island. There are 23 strains that circulate in the world, and I think Plum Island has about 14 of those available.

What would happen is, because we cannot have a live virus in the United States, there is a contract to ship that to Europe. They would make the vaccine there and ship it back to the United States. The company that has that contract says that they can do that in a matter of four days. But we are talking about basically two million doses.

Dr. Roth's study says we would need ten million doses in the first two weeks and we would need an expansion of that to 40 million doses within the first month to try to control the disease. This is based off of studies that say that we are not going to probably have a small little outbreak.

Senator KLOBUCHAR. Okay. All right. Thank you.

Mr. Zimmerman, could you just bring me up to speed quickly on what is happening with the flocks and the repopulation of flocks since last year.

Mr. ZIMMERMAN. We are almost approaching normal now. It took about a year to get our breeder flocks back online, and as of this spring, I would say we are back to close to 100 percent production in the turkey industry.

Senator KLOBUCHAR. Yes.

Mr. ZIMMERMAN. I would like to just take a moment to echo Mr. Truex's thoughts on the organic rule. We talk about avian influenza and all we did with APHIS to limit the possibility of introduction of this virus into our barns, and here AMS brings up a rule to increase the outdoor requirements of our birds, which flies in the face of everything we have been doing with APHIS to try to limit the exposure of our birds to waterfowl and other diseases, so it is—

Senator KLOBUCHAR. Right, which appeared to have been one of the factors. I was just going to ask you about that, so thank you.

One last topic here, and I think I will put some questions about beginning farmers, which has been important, on the record. But Cuba, I am carrying the bill in the Senate, along with Senator Flake and many others, Senator Heitkamp has worked on this issue, lifting the embargo and ways to lift the embargo to Cuba. While Cuba is by no means our biggest export market, it is 11 million people 90 miles off our shore. Estimates are five million Americans a year would visit, and my fear is that if we do not lift this embargo, our five million Americans are not only going to be sleeping in Spanish hotels, but they are going to be eating food from China and Venezuela and other places.

Could you comment about how—the beneficial effect lifting the embargo could have on the industry and poultry in general, as well

as, I know, beef and other forms of food that we want to send over there.

Mr. ZIMMERMAN. To reiterate what you said, it is a very close market, and any time you can open up a new market to our—turkey is the perfect protein and we would be happy, more than happy to sell that product to a new market, such as Cuba. So, my understanding is there needs to be some infrastructure put into place and building their tourist industry would help tremendously to get more people to that country that would, therefore, eat our turkey.

Senator KLOBUCHAR. Yes. Does anyone else want to comment on Cuba?

Dr. HILL. I recently visited Cuba, and the big—after the 2004 hurricane, the government allowed food and medical supplies to be exported to Cuba. The big problem we have right now, we can export pork, we can export beef, but the problem is the credit, because our government does not let—

Senator KLOBUCHAR. That is part of the embargo, right?

Dr. HILL. Yes. So, that is why we are not exporting pork there right now.

Senator KLOBUCHAR. Exactly, and Senator Heitkamp has a targeted focus on that, on the financing, and, obviously, the easiest way to do it overall would be to just lift the embargo, but we are looking at compromises to try to get some of our fellow Senators on board, although there is just growing support. Representative Emmer, who is a Republican over in the House from Minnesota, is carrying one of the bills in the House. So, we just see a lot of growing support for this effort and I want to thank you.

Thanks.

Chairman ROBERTS. Dr. Hill and Senator, I just want to say I have been to Cuba here recently and talked to the Ag Minister there, whose main concern was access to our export programs, which I would agree that if that would work, certainly it would work out very well. However, they are not receiving any help from Russia, and I do not think that is going to start any time soon. On Venezuela, my question to him is, will you pay it back, and that was never answered. So, that is one of the concerns that I have. I think we ought to proceed on the best way possible, but that is a worry that I have.

Senator Tillis.

Senator TILLIS. Thank you, Mr. Chairman. Thank you for holding this important hearing. I know that committees pertaining to this subject matter are few and far between and I think it is very important. We can talk about trade opportunities, we can talk about a number of other things, but if we do not start lifting this regulatory burden and the additional barriers that we have, trade expansion will be a moot point because our farmers will not be able to produce protein and export it. We are reaching a very dangerous point. That is something I want to focus on.

When I travel across North Carolina, back in the day, you would be talking about the cost of feed, you would be talking about the prices of beef and pork and poultry. Now you talk about EPA regulations. You talk about FDA regulations. You talk about USDA regulations and all the impediments that are making it virtually im-

possible for farmers to continue to do what they want to do, which is to produce the most abundant, safe food supply in the world.

If I appear to be a little bit angry about it, I am. I mean, we have had a few committee hearings that almost focus on who is in Grant's tomb. We know who is in Grant's tomb. We know what regulations need to be changed. We know a number of things we have to get focused on and Congress has to act.

Dr. Hill, I want to start with you on the GIPSA rule. I would like for you, if you could, to explain it in kitchen table terms, so people can understand how this rule affects farmers and potential consumers.

After you do that, I would like for you to tell me whether or not the USDA has reached out to you and your organization about the latest livestock marketing practices and how the 2010 rule, which we successfully pushed back, will be updated for 2016 modern practices.

Also, if you have an opportunity, give me an idea of whether or not USDA has indicated to you or your organization what will be included in the rule.

Dr. HILL. Well, thank you. Anticipating this might be a question, I contacted the CEO of the National Pork Producers Council and asked him if USDA had contacted our organization or the National Pork Board, and to his knowledge, we have not had any direct contact with USDA—

Senator TILLIS. So we have a sweeping regulation, and have not consulted with major organizations to understand what the modern rule would need to look like to not be disruptive.

Dr. HILL. Does that surprise you?

Senator TILLIS. Not at all.

Dr. HILL. No.

Senator TILLIS. It angers me, but it does not surprise me. This is just another example of why these regulators need to get out. They need to go and talk to farmers and understand that this regulation is disruptive in a time when we have so many other disruptive forces. They need to actually go and talk to the people that are producing safe food and modernizing their practices because they cannot continue to disrupt what our farmers are doing.

We will submit another question for the record for you to follow up.

Mr. Brunner and Dr. Hill, I also want to talk about biotech with regards to the Vermont law and the patchwork of another 20 or 30 states that could come into effect. I'm afraid that if proteins are not exempted from these labeling practices the food companies are going to reformulate. Can you give me some sense of what this is going to do to the industry in terms of reformulation practices? You know, we had to beat down the COOL regulations last year. This could be another mandatory product labeling initiative that will place another burden on our farmers. If we do not act, can you give me an idea of how this is going to affect your business operations and future prices?

Mr. Brunner, we will start with you.

Mr. BRUNNER. I think that is a very good example. The mandatory country of origin labeling, failed experiment, left us with increased industry costs and facing \$1.1 billion in tariffs from our

two best trading partners. I believe there is a huge lesson to be learned there, from trying to furnish something to consumers that they are not willing to pay for.

Specifically to the beef industry, it takes somewhere in the neighborhood of 70 to 100 bushel of corn per animal to finish those animals—

Senator TILLIS. 90-plus percent of the corn produced in the United States is a product of biotech engineering, is that correct?

Mr. BRUNNER. Exactly, sir.

Senator TILLIS. So you are not going to reformulate since there is not enough non AE corn grown to feed these cows.

Mr. BRUNNER. There is no way to identify preserve without adding very significant cost. It would—it is just commercially impossible.

Senator TILLIS. Dr. Hill, do you have anything to add to that?

Dr. HILL. Well, I would think it would have the opposite effect on what I think the USDA wants. It would cause—the packers would be so fearful of all these regulations, they would increase their own production. So, we have a lot of programs, as Mr. Brunner pointed out, that add value for the producer, antibiotic-free, ractopamine-free, housing, all different kinds of, like, genetics that we get premiums for, and if the GIPSA was—if they implemented what was in 2010, that would be a huge problem for those kind of programs and would be detrimental to the profitability of not only large producers, but small producers, because small producers are the ones that really take advantage of some of these niche markets.

Senator TILLIS. Well, thank you.

Mr. Zimmermann, I am going to submit for the record some questions on HPAI for you. I know that my state's Agriculture Commissioner, Steve Troxler, sent officials to Minnesota, to learn from practices that were established up there during the outbreak. I have got a couple of questions that I will follow up on, but I want to personally thank you for your leadership and dedication in this area.

Mr. Chairman, if I appear to be a little bit frustrated, it is because I think that time is running out. We have had enough discussions and we know what the issues are. We have got to solve the biotech labeling issue in the near future. We have got to beat back GIPSA again. All of these disruptive forces that do not add value, do not do one thing to accomplish any progress on food safety. Instead, it puts another burden on our farmers that they cannot possibly afford to have lopped on them. Thank you.

Chairman ROBERTS. Senator Tillis, I have not noticed any change in your demeanor at all.

[Laughter.]

Chairman ROBERTS. Senator Stabenow has a brief question.

Senator STABENOW. Mr. Chairman, I want to follow up on this—

Chairman ROBERTS. Senator Heitkamp, you are next.

Senator STABENOW. —if my colleagues would indulge me, because, obviously, the issue was raised and biotech is a very difficult issue for all of us who support biotechnology and production agriculture, and at the same time, through no creation of ours, there is a growing demand and actions coming from consumers.

So, I just think it is important as we are wrestling with this to be clear, and Mr. Brunner, maybe you can tell us how you are affected by the Vermont law.

Mr. BRUNNER. You know, I would not be expert on the Vermont law. We have not spent a lot of time studying it. I do know very—

Senator STABENOW. It is my understanding you are exempt. Meat is exempt, correct?

Mr. BRUNNER. That would be a very important aspect of any efforts into genetic labeling. You know, as I—

Senator STABENOW. But I just think it is important to know that you are exempt, so there is a different kind of urgency around this because you guys are exempt from Vermont.

Mr. BRUNNER. Well, we might also be concerned about what might follow, and the press—

Senator STABENOW. No, I understand. I just think this complicates the issue for us as we are looking.

But, I also wanted to just ask anyone who would want to respond, I think there is a general exemption around feed that is very important, the feed exemption, but the challenge that is being debated is from a consumer standpoint. If we have a can of soup that is vegetable soup or a can of soup with beef broth and meat in it, one would be labeled and one would not be, which I think is probably more of a challenge if we were following the Vermont labeling law, which from a consumer's standpoint or from a grocery manufacturer's standpoint is a different issue, when you are having to go through and sort of figure that out with two cans of soup and one is exempt and one is not exempt.

So, I wonder if anybody would want to speak to how we deal with that or why that is a good idea.

Mr. BRUNNER. Senator, very briefly, could not the voluntary labeling program that we already have serve that need and find out if there is a willingness for a significant enough portion of the market to pay for the cost?

Senator STABENOW. Well, Mr. Chairman, I am not going to go on and debate this more at this point in terms of voluntary and mandatory. I think what we are trying to do is how to figure out at this point what is coming at us, which is something that is a requirement, and how do we put together a balanced coalition that is going to allow us to get something done in a reasonable way that addresses very different requests and very, very different needs, and this is a tough one. So, just wanted to get your perspective on this one issue that has been an issue of concern and trying to work through. Thank you.

Mr. GOGGINS. Senator, if I may add—

Senator STABENOW. Yes, sir.

Mr. GOGGINS. I think, speaking in that regard, I think we should—I mean, something needs to be done to get some uniformity—

Senator STABENOW. I agree.

Mr. GOGGINS. —and less confusion for the consumer.

I think as far as the beef goes, on probably a different note here, but I do think we have to remember that these cattle that do eat GMO feed are not genetically modified themselves by eating it.

Senator STABENOW. I agree, and I think there is general agreement on that, so thank you.

Chairman ROBERTS. Well, Tracy and Mr. Goggins, thank you so much for your commentary. It is exactly what I think is appropriate. If any of you are into wine production, maple syrup, ice cream, dairy, meat, you do not have to worry about it. So, that is an example of what happened in Vermont, which means every state could exempt their home products and have about 30 or 40 labels and the entire food industry would collapse. We are trying our very best to reach an accommodation and the Committee has already spoken to this and we have already had an attempt on the floor of the Senate. The House has already spoken. So, we hope that we can find an answer just as soon as we possibly can. Tempus is fugiting. Time is a factor. So, thank you for your commentary.

Finally, Senator Heitkamp.

[Laughter.]

Senator HEITKAMP. Thank you, Mr. Chairman and Ranking Member. It has been an interesting dialogue.

I want to make maybe a couple points before I start getting into high frequency trading, and one of the reasons why I particularly was interested in this hearing, which is the cattle market.

First off, a lot of the challenge here is your relationship to your consumers, whether we are talking about new regulations on organics, whether we are talking about antibiotic regulations, we have got to have more informed consumers and that has been one of our challenges, which is try and maintain a readily available, high quality food source in this country that people accept as high quality and accept as available to them.

You know, I would challenge you that as we are dealing with these challenges, you need to deal directly with consumer challenges, because even if we eliminate the regulation, I have a feeling that consumers are going to continue to demand a label that then becomes voluntary and takes us to a place where we erode the availability of high quality food. I think there are some real challenges in all of this.

But where everybody points a finger at government, I would suggest that this movement did not start at USDA. It did not start in this committee. This movement started as a consumer information movement. If your only response to this is, "you do not need to know," I will tell you, as producers, you will lose. You know, if we said that to our constituents, well, you do not really need to know what our position is on that, we would probably lose, too.

These are challenges. I have supported the Chairman and I have supported trying to get to some kind of preemption for a label. But, I remain frustrated that we have not been able to really drill down and do a better job involving consumers in this discussion.

I also, Mr. Brunner, would tell you I held a hearing, or a meeting last week, and one of the answers to the concerns about the cattle market was reestablishing COOL. So, we know that is not a unanimous opinion within the cattle industry.

But, my main focus, I hope, will be on how do we get trust back into the cattle market. I know you have just been—your organization, Mr. Brunner, has done yeoman's work with Chicago Mer-

cantile. They are trying some things right now that they think may help kind of correct the market. I think, Mr. Goggins, you know what this has cost cattlemen in my country and in Montana. You understand what these fluctuations have meant.

What else should we be doing with the cattle markets to bring people back into the markets and stop what I think is speculation and start getting to a real cash price that reflects fundamentals? I am going to start with you, Mr. Brunner.

Mr. BRUNNER. Well, as I said in my opening comments, we are in the situation of growing cattle numbers, growing beef supplies, and not access, not competitive market access to the markets that we need. Trans-Pacific Partnership would increase our ability to compete on a competitive basis with Australia into Japan. We have already lost \$300 million into that market and the disparity will continue to grow, because Japan and Australia have a bilateral agreement that grants them preferential treatment. So—

Senator HEITKAMP. I start every one of my discussions about trade saying 95 percent of all potential consumers in the world do not live in this country.

Mr. BRUNNER. I believe that is very accurate.

Senator HEITKAMP. If you think we can continue to be a country that is a dominant economic power without accessing markets, we are wrong. If you do not think we need to lower trade barriers, you are wrong, especially for the products that we grow in North Dakota.

Mr. Goggins, can you just offer some insights on the current problems that we have in the cattle market and what we should be doing to fix them.

Mr. GOGGINS. I think there are quite a few things that are contributing to what we have gone through. I mean, I think the strength of the U.S. dollar right now has prohibited our ability to export our product, not just beef, but commodities in general. I think there is—a huge problem has been the volatility in the Futures Board market. I just—

Senator HEITKAMP. So, how do we fix that?

Mr. GOGGINS. I am not really sure. I think we do things like NCBA and people within the industry are doing as far as working with CME and coming up with some way to slow the market down.

Senator HEITKAMP. So, would you not agree that it is a problem when—I think the number that was used was about a fourth of all cattle actually move through the market this way on a cash basis but yet establishes the price, and that is a—when you have a thin market, there is always room for mischief in a thin market when you do not have enough participation. So my question is, how do we expand participation?

Mr. GOGGINS. I think there are several things going on. Today, right now when we are having this hearing, they are having their first Internet sale. There are feedyards putting a certain percent of their show list on the sale today and they will be sold across that video auction, trying to get a truer, more immediate, more transparent way of seeing what these cattle are actually worth. Hopefully, we can get more cattle sold on a cash basis, because it is—the cash basis then forwards on to the Futures Board and that is how we are supposed to make our market on the Futures Board.

Right now, there is—the Futures Board just does not follow the fundamentals of what cash is bringing. It is really becoming a serious problem, I think, especially from a risk management side, because I think there has been—I do not think any of us know the amount of equity that is going to be lost and has been lost, but it is going to be unbelievable——

Senator HEITKAMP. Yes. When——

Mr. GOGGINS. —what we see in this deal. These bankers, when I go in or a young person goes in and wants to get a loan, these bankers, the lenders are definitely going to make them get a hedge position on that Board. So we have to make it a more stable market.

Senator HEITKAMP. Well, I do not think there is any doubt about it, or people are going to move out of the cattle business, which is just going to compound this.

Mr. Brunner, I will give you the last comment, but I do want to applaud your work and your Association's work with the market. You suggested in the beginning of your testimony that you were not interested in any changes. You guys are going to watch it. But I want you to know that we are watching it very closely. I associate myself with Senator Grassley's remarks. We want to know what more we can do to push for a fair and open market so that we do not lose equity and that we do not lose producers.

This is a tough business. Anyone who thinks it is easy being a rancher in North Dakota, you are wrong. I mean, when you are pulling a calf at 2:00 in the morning and there is a snowstorm on the way, that is not an easy life, but it is a life they want to continue living. But if they cannot make a living, that is bad for all consumers, it is bad for America, so——

Mr. BRUNNER. Senator, very quickly, I think one thing that we are discovering is high frequency trading is utilized throughout all financial markets and the CFTC has told us that they have been observing it, as well. I think in many other markets, it gets covered up, because cattle are a somewhat unique commodity. We are a perishable commodity. We cannot put the grain back in the bin and wait until the market stabilizes.

I would also like to give due respect to Senator Grassley's figures, or information that he supplied. I would not directly contest any of those, but those are symptoms of an evolving industry that is trying to maintain and increase its competitiveness in the global economy. As we work to try and achieve efficiencies within our industry, relationships develop as we coordinate up and down the value chain. So those decreasing number of animals trading on a cash market or spot market is bound to diminish.

But, it is an industry question. We are very concerned about it. I have been thinking about this, worrying about it. It has been going on for 20 years and we are going to continue to work on it and we will solve it.

Chairman ROBERTS. Senator Hoeven.

Senator HOEVEN. Thank you, Mr. Chairman. I appreciate our witnesses being here today.

First question, just—well, actually, the first one is for Mr. Brunner and Mr. Goggins. What is the number one thing we can do to

help our cattle producers right now with low prices? What is the number one thing we can do to help them?

Mr. GOGGINS. I think the number one thing would be, I really think, passing of the TPP will open up our trade with Japan and lower our tariffs. I really think that would be a huge thing.

I also think helping us with stabilizing this market as far as the Futures Board would—some way or another, getting it to where it is a more viable risk management tool, I think would be huge for this industry and for the way we can go forward.

Senator HOEVEN. Meaning what when you say stabilize the futures market? That would mean doing what?

Mr. GOGGINS. Well, I think maybe getting the limit—right now, the feeder cattle limits are four-and-a-half, and I personally, and a lot of us within the industry that trade it every day, believe that limit does not fit the industry. The algorithmic trading along with that, it causes huge violent moves and it—I mean, when feeder cattle move \$13 in one week one way or the other, it might go \$15 one way or the other, there is no way these feeder cattle move that much on a cash basis consistently the way it has done the last year.

Senator HOEVEN. Mr. Brunner.

Mr. BRUNNER. What Mr. Goggins has proposed might help and it might not. Our organization believes that it would be fruitless and maybe foolish to try something without really studying what effect it might have, and that is why we need the data. We need data from the CME on what is going on in the futures market, what the high frequency trading is really doing to the market, how prevalent it is, and how it is moving the market on these large move days.

So, in direct answer to your first question, though, I agree with Mr. Goggins. The one thing that you could do is help us pass TPP. We need expanded markets for the expanding supplies that we have in our industry.

Senator HOEVEN. So, my next question is for whoever wants to take a swing at it, but whether it is cattle or poultry or other livestock, we are seeing growing exports, but at the same time, we are seeing prices continuing to go down. So we have low inputs, so you have got low feed cost. You have got growing export. How come our price continues to go down? We are down about 15 percent, I think, since the start of 2015. But think about it. You have got cheap feed and you have got growing exports. Why is the price going down?

Mr. BRUNNER. We do not have—

Senator HOEVEN. It is not just cattle now, you know.

Mr. BRUNNER. I think I said earlier, we had ten pounds of total protein available to the domestic consumer last year than we had the year before, and this year it will be even an increase. We have growing supplies of all proteins, pork, poultry, as well as beef, and our export markets are not growing fast enough to take those up. Part of the reason, the value of the dollar has been cited. I cannot help but go back to TPP. We are on unlevel playing field. Australia has—

Senator HOEVEN. I think the value of the dollar is the biggest problem in terms of our—all exports, certainly ag exports, but all exports. The dollar being so strong is really tough on us.

Mr. GOGGINS. Senator, may I add, according to the USDA, through 2015, as far as beef production goes, we had a 500 million pound increase over 2015 in our imports. We had a 250 million pound decrease in our exports. That is 750 million more pounds that is being put on the domestic—

Senator HOEVEN. So you are saying import volume is part of this price depression, import volume.

Mr. GOGGINS. I really do.

Senator HOEVEN. Well, that is important.

Mr. GOGGINS. I think that is about a three percent increase. So, it takes, according to the USDA, it takes—for every one percent sway one way or another in supply, it affects your price one-and-a-half to two percent. So, I really think that extra 750 million pounds of beef product that we had on the domestic, it is our trade deficit.

Senator HOEVEN. Let me—one final question. I am about out of time. WOTUS, Waters of the U.S., how does it affect your producers? I would like all of you to take a swing at that one.

Mr. BRUNNER. It affects our producers' ability to enjoy their private property rights in the most efficient, economical manner for their operations. It is a massive federal government overreach. It goes far beyond clean water and navigable waters of the United States. It is an intrusion into private property rights.

Mr. TRUEX. I agree with that. In our industry, it limits the amount of land we can apply manure on. It has all kinds of restrictions. There is a lot of overreaching burden that goes with the current regulations.

Dr. HILL. Yes. The only thing I would add is that I think it will be a boom for environmental lawyers because we will be sued until who knows what happens.

Senator HOEVEN. Mr. Goggins.

Mr. GOGGINS. It affects every sector of agriculture, the rule, and it is basically—it touches every state, every corner of this country, and I think it takes—it will take due consideration and time for the review. I mean, the voluntary conservation has been a really good success. I think the best stewards of the land are those of us on the land. I think it really affects our property rights, as well.

Senator HOEVEN. Mr. Zimmerman.

Mr. ZIMMERMAN. I would concur. Manure management plans will be much more difficult and still the unknowns. We really do not know how it is going to affect us. There is too much uncertainty there.

Senator HOEVEN. Thank you.

Chairman ROBERTS. Senator Donnelly.

Senator DONNELLY. Thank you, Mr. Chairman.

I would like to thank Mr. Truex for being here. He is a leader in Indiana agriculture. He is someone we are very, very proud of, and I will tell you, Mr. Truex, since you told the Ranking Member, Senator Stabenow, that you buy your organic eggs from Michigan, she has become a big fan of yours, as well.

[Laughter.]

Senator STABENOW. That is right.

Senator DONNELLY. I know you have had your hands full with the avian flu outbreak. I am very, very proud of how we responded

in Indiana, how we have worked on this. Can you tell us some of the things that you think that were done right in responding to that.

Mr. TRUEX. Yes. I think government, USDA, and the industry learned a lot of lessons from the Iowa situation, and as we were preparing for this, we had our state vet, Dr. Marsh, speak to the entire UEP organization in October of last year about how Indiana is prepared for this in our state. Then, unfortunately, as this spring, Indiana had its own high path AI outbreak in Southern Indiana, and I think it is a testimony to the lessons that USDA learned, that the states learned, that we were able to control that outbreak rapidly. It was put away.

I think the lessons learned are there is a way to control it, and I think as Mr. Zimmerman said, the key is instant response. You have got to have a plan. You have got to know what you are doing. You have got to have it all prepared so you do not get the different agencies fighting with each other over what you can do in a state, what you can do in a county, and what needs to be done.

So, I think the industry and USDA is much more prepared to deal with any future outbreaks and keep it contained in a much smaller area with fewer bird numbers.

Senator DONNELLY. So, do you think, and it sounds like this is one of the keys, that it is not the moment that you learn about the fact that avian flu has arrived as it is, in effect, almost preparing for the worst, hoping for the best, but having every single thing you can think of lined out and ready to go.

Mr. TRUEX. Absolutely. Our state Poultry Association and our state vets' office have worked together very, very hard and they have really put the effort in and we are prepared in the State of Indiana too, when we find we have a problem, we will deal with it quickly, rapidly, and control it.

Senator DONNELLY. Let me ask you just to pick up on some of the other questions that have come before us so far. I was just wondering the difficulties that you will face and the industry will face logistically if we cannot find a federal solution to the labeling of GE materials as we move forward, if we are not able to get that done.

Mr. TRUEX. Well, our industry is very concerned, and as the Ranking Member pointed out, thankfully, meat, milk, and eggs are exempt at this point in time and we hope it continues that way. A patchwork of different states would be a nightmare when it comes to—we sell our product in probably 40 or 50 different states, along with export. So, a standard has to be set. You cannot label your cartons on 30 or 40 different standards. So, a federal level that overrides all state regulations has to happen.

Senator DONNELLY. Thank you.

Thank you, Mr. Chairman.

Chairman ROBERTS. Senator Thune.

Senator THUNE. Thank you, Mr. Chairman.

Thank you to the panel for being with us today. I appreciate your testimony and your responses to all the questions, and I am sure a lot of these issues have been probably beat to death by now, but I did want to just follow up a little bit on the labeling issue.

As you know, and I am sure it has been discussed that the Senate is considering a path forward on biotech labeling, and the ques-

tion I guess I have is does anyone on this panel believe that animal products should be included in mandatory labeling of biotech products, or should meat, dairy, and other animal products all be exempt from biotech labeling?

Let me just say that I know that there has been this argument made that consumers really want meat to have mandatory biotech labeling, but I guess my question is, is that what they really want or is that what they are being told they want by labeling supporters, because that strikes me as that is not something that I certainly hear from my constituents out there.

But, tell me what you all think about whether or not the labeling issue that we are having the discussion about here ought to apply to meat, dairy, and other animal products, or whether they ought to be exempt.

Mr. BRUNNER. Well, very quickly, our organization does significant consumer market research and the consumers that we talk to, they are not telling us that, either.

Senator THUNE. Okay. Anybody else?

Mr. TRUEX. We would just like to say that the science of the animals that eat genetically modified grains, there is no scientific evidence that passes through the meat or the product, the egg or the milk. So, we would like to stand behind that very firmly.

Senator THUNE. All right.

Dr. HILL. Yes, and that is a view that the Europeans take, too. So, I think that tells us a lot right there—

Senator THUNE. Yes.

Dr. HILL. —because they tend to be more reactive on these issues.

The other thing is that, the more and more sorting that we ask the packing industry to do, the less efficient they become, and there is just so much sorting that they can do. If we had non-GE and GE meat, it would be a nightmare for them to try to track that product through the whole meat chain. That would be a disaster.

Senator THUNE. Well, it strikes me that, yes, I guess that pretty much answers the question. When we are getting to the left of Europe on some of these issues, we are probably out of the mainstream when it comes to this country.

One of the things when I visit with cattle producers in South Dakota, one concern I hear quite often is regarding the consolidation across the beef industry. So, I guess I would direct this to Mr. Goggins. What role does consolidation play in the competition in the markets, and what trends and producer marketing strategies are you seeing in response to consolidation?

Mr. GOGGINS. Well, I think as far as our organization, I mean, with our auction markets, with our video company, we are promoting the highest—and actually in this part of the world, the United States, we raise the highest quality, as good of beef cattle as there is in the world, and we are putting a pretty good show list up. I mean, I grew up in the auction business, not only the ranching business, but went to the stockyards every morning and kind of grew up there, and as my father always said, competition is good. We need competition in the marketplace. We promote it every day and we do the best we can to get competition and buyers in the seats every day. We work at it. I think we need to move that

up the chain as we go, at the fed cattle level, as well. But, we do everything in our power to do that.

Senator THUNE. On a scale of one to ten, regulatory burden of government. I know it has all been talked about probably at some length today. In terms of the issues that you have to deal with or the issues that concern you with regard to the future of the livestock industry in this country, where would that rank?

Mr. GOGGINS. Twelve.

[Laughter.]

Senator THUNE. Okay.

Mr. BRUNNER. Ten.

Mr. GOGGINS. It is high. Since you brought that regulatory up, in the feeder cattle business, especially in your part of the world, South Dakota, Montana, you get especially our way West and South, you get further away from the corn belt. You get in the East Coast, Florida, where a lot of feeder cattle are, I think we need to be real conscious of—we have had the livestock haulers exempt, I mean, the movement of these—the interstate movement of these feeder cattle, livestock in general. If you load a set of cattle in Western Montana and go clear to Kansas with them, it takes more than ten hours—

Senator THUNE. Right.

Mr. GOGGINS. —and I think if you get those cattle loaded up, you have got to unload them somewhere ten hours down the road and then let them stand in a dry old lot, not taken care of very well for another ten hours, load them back up. I mean, we always base our death loss as far as the feeder cattle that we buy from one to two percent. Now, we start unloading these things, because the trucker has got to have ten hours of sleep, I think it becomes a real animal welfare issue. I think these cattle are—instead of a one or two percent death loss, we are going to be looking at ten, 20, 30 percent death loss on these cattle, which, in turn, it is going to affect the value of these feeder cattle in those areas that are quite a way from the feed, and I think it is something that we really need to address.

Senator THUNE. You referenced, I think, in your testimony, the commercial livestock hauling, and I want to point out, because I serve as Chairman of the Commerce, Science, and Transportation Committee, that we were involved in leading the successful effort to make hours of service exemption from rest breaks permanent for those who are carrying livestock and bees and it—the provision takes into account the health of the livestock, which—and the practical reality that these animals should not be left on the roadside.

So, the exemption was granted, I think, on multiple occasions by the FMCSA, the trucking agency, and we made it permanent to prevent the need for repeated consideration of these same facts. So, there is—it is in Section 5206 of the FAST Act and hopefully that will provide some relief on that front.

But, I know that in terms of regulations, and I am sure it has been covered, as I said, at length, Mr. Chairman, but I just have to say that when you are trying to make a living in production agriculture these days and the government is constantly your biggest enemy, something is wrong. We just see it on every front, and I hope that changes. Obviously, we are going to do everything we can

at this branch of the government to keep that from becoming the biggest liability to making a living in agriculture. But we could certainly use some help from a lot of the agencies who evidently have way too much time on their hands around here, because it just seems like every day, there is something new coming out that makes it more expensive and more difficult to do what you do and to help us feed the world. So, that has got to change.

Thank you. Thank you, Mr. Chairman.

Chairman ROBERTS. Senator Ernst.

Senator ERNST. Thank you, Mr. Chairman.

I would like to thank all of our witnesses today for being here, especially Dr. Hill. Thank you for coming out from Iowa. It is really good to see you again, so thank you. We have got a lot of important topics that have been discussed today and I want to thank all of you for your input.

I am glad that you have highlighted the challenges that your sectors are facing right now, whether it is from market volatility, burdensome agency regulations—jeeppers, how many times have we talked about WOTUS—foreign animal diseases, international trade barriers—I am going to come back to that—or labeling requirements that would disparage our products. Let us talk a little bit about—I know everybody has wanted to talk about it, TPP.

About a year ago, I was in Vietnam and Singapore and the topic of discussion there, of course—and this was a defense conference that I had traveled to in that region—but they wanted to talk about TPP, because a number of those world leaders, the military leaders, they really wanted to have the United States as a primary trade partner, and the push-back was that if you are not our primary trade partner, there is another country in the region that does want to be our trade partner, and that, of course, is China.

So, I would like to hear your thoughts on that in relation to if we are not stepping up to the plate, what are the other players out there that might fill in the gaps if the United States is not involved in trade with these nations, or expanded trade with these nations. Mr. Brunner, if you could start, please.

Mr. BRUNNER. Well, China has their own 16-nation potential trade agreement that they are actively promoting in the advent that the United States does not go forward with TPP. As has been said, TPP would include 40 percent of the world's economies. It is also based on ethical standards and sanitary standards that are dictated by the United States and I do not believe we want to abdicate our role in the global community and the Pacific Rim to China. You know, it has been pointed out to me, and I firmly agree, that we do not maintain world peace and competitive position in the world economy by shirking our responsibility. So, we firmly believe TPP now.

Senator ERNST. Very good.

Mr. Truex.

Mr. TRUEX. I really do not have a comment on that because of our industry does not really play into that so much. Thank you.

Senator ERNST. Wonderful.

Dr. Hill, of course.

Dr. HILL. Well, I would agree with what Mr. Brunner said. You know, it is obviously important from an economic standpoint, but

I think it is equally important from a geopolitical standpoint. Countries that work together, trade together, are going to be able to sit down and talk and work out problems a lot better than if they are not trading. So, I think it—I do not know if you could say the economic impact or the geopolitical impact of TPP is more important, one than the other, but they are both very, very important, and—

Senator ERNST. Very good.

Dr. HILL. —we would encourage the Senate to work hard to get it passed as soon as possible.

Senator ERNST. Absolutely.

Mr. Goggins.

Mr. GOGGINS. Yes. I think it is a very positive thing, if we do get it passed, for the U.S. cattle producers. I mean, I think it opens up the export market back to Japan and reduces our tariffs. I do think we need to—there need to be measures in place, though, to address the cyclical and the perishable nature of the cattle and beef in addition to protections against dumping.

Senator ERNST. Very good.

Mr. Zimmerman.

Mr. ZIMMERMAN. Well, I have a specific trade barrier example that we are dealing with currently and it involves Canada. A lot of our poultry, baby turkeys, come from Canada. They are hatched in Canada, but then they cross the border and are raised and processed in the United States. Currently, that poultry, when it comes in the United States, can no longer be exported to South Africa. But if that poult, baby turkey, stays in Canada and is raised and processed in Canada, it can be exported to South Africa.

So, technically, it bans all U.S. turkey from the South African market and it is just an incredibly silly rule, and we mix our birds. One of my flocks may be ten percent Canadian and 90 percent U.S. hatched, but they are all no longer eligible for South African use. So, it is an incredibly silly trade barrier that we would really appreciate your help in revisiting and removing.

Senator ERNST. Absolutely. Thank you.

I see that my time is expiring, but I do appreciate it. I think we do need to look very carefully at the TPP, not only as trade, but also as a way to leverage cooperation with other nations out there. So thank you very much, Mr. Chairman.

Chairman ROBERTS. Thank you, Senator Tillis for another round.

Senator TILLIS. I am not going to ask any questions, just maybe a comment, and Mr. Chairman, I hope, without objection, I can submit my opening statement for the record.

[The prepared statement of Senator Tillis can be found on page 49 in the appendix.]

Chairman ROBERTS. Without objection.

Senator TILLIS. Thank you. I just want to go back and maybe lower the temperature a little bit, but maybe focus on the one theme that I hope comes out of this meeting.

First, the TPP and trade with Europe and Africa is absolutely essential to our future in farming, and I completely get that. I voted for TPA. I hope that we can get the TPP to a point where we get support and I will be working to that end.

Mr. Zimmerman, I will be submitting a question that touches on a comment or an answer that you gave to Senator Ernst on the

sort of barriers to entry with South Africa. I think we have another issue with Korea, where the HPAI seems to be used as a pretext for them putting up protectionist measures. We will be submitting a question for you so that we can better educate our staff and other members on those challenges.

But, I want to go back again to the biotech labeling and something Mr. Brunner said. Mr. Brunner, you said you have not had a chance to study the Vermont law in particular. It does turn out that in the Vermont law, beef, poultry, milk and eggs have been exempted. As a matter of fact, a piece of pizza that has meat on it is exempted, but its vegetarian equivalent is subjected to the rule.

This is the sort of mentality that is being used by the states to create a patchwork of regulations that will be absolutely burdensome on food companies if Congress does not act. Back to the point that Senator Heitkamp made, regarding labeling but doing it in a consistent, high value way for the consumer, but with a low impact to the producer. That can only be done if Congress does its job and acts on preemption.

On GIPSA, we need to work very hard to see if we can accomplish this Congress what was accomplished in 2010. Either get the regulations to a point that you think are fair and can be dealt with or do our very best to try and disallow them so that we are not adding just another burden on an industry that really cannot afford more burdens.

Thank you, Mr. Chairman.

Chairman ROBERTS. I thank the Senator.

I think both the distinguished Ranking Member and myself have additional comments we would like to make with regards to the agriculture biotechnology situation. It is called ABT. It is not called a GMO.

We had a hearing with the USDA. We had a hearing with FDA and the EPA, all three. I raised the question, is our food safe? Are GMOs safe? The answer was yes, yes, yes. This is not a human health problem. This is not a safety problem. This is a marketing challenge, and you all know what I am talking about. But, it has been very difficult to get this pulled together. We had over 800 organizations come to this committee and ask us to settle this.

We passed a bill 14 to six in this committee. Unfortunately, we were not able to go to the bill. That takes 60 votes in the Senate and that has posed—our Founding Fathers wanted us to go a little slow as opposed to those folks who were closest to the people, the House of Representatives. I understand that, and that is not going to change, I hope.

So, we have 60 votes to overcome to at least go to the bill, which was the second bill that we introduced that we tried to draw some folks over. The distinguished Ranking Member and I have been meeting overtime on this issue. So, I want you to know that this committee wants to get an answer.

I also want you to know that every person on this committee, I do not know of any exception, are standing behind efforts to get TPP done. Tough atmosphere. Every trade bill that I have ever been associated with has been over-criticized and it has been over-sold, and it takes hard work.

Senator Tillis and I were in Australia, Indonesia, Singapore, Japan, did not have time to get to South Korea before we could get back. That was the number one issue. By the way, the second issue was do you have our back, but that is another whole discussion.

So, with regards to TPP, and now we call it agriculture biotechnology, or just biotech, we are determined to get an answer and we will keep working on it.

I want to thank you all for sharing your experiences related to the opportunities and challenges that your industries face. You are all leaders of the livestock and poultry sectors and your testimony today has been invaluable to this committee.

To my fellow members, we ask that any additional questions you may have for the record be submitted to the Committee Clerk five business days from today, or 5:00 p.m. next Friday, June 3.

This concludes our hearing—

Senator STABENOW. Could I say something?

Chairman ROBERTS. —except for the comments by the distinguished Ranking Member.

Senator STABENOW. Well, thank you, Mr. Chairman.

I just want to say thank you to everyone again and to the Chairman for the hearing and just indicate we are working very hard on a difficult issue that both Democrats and Republicans voted no on when it came to the floor. There was bipartisan support and bipartisan opposition. Because of the nature of the Senate, we are looking for that common ground and magic number to be able to get to 60, and I remain, as I have been saying now for I do not know how many years now, that from my perspective, this is about making sure that we stop a 50-state patchwork. We know biotechnology is safe. Thirdly, we have consumers that are moving at the state level and are asking for transparency and we have to find that, as well.

This is not an easy issue, because, frankly, we have people coming from very different worlds. Depending on who you talk to, it is like a totally different issue, which is one of the challenges as we move through all of this. But in the interests of agriculture in our country and production agriculture, we need to find a way to come together and have common ground and, frankly, be willing to compromise in order to be able to get there, and that is what the Chairman and I are working on and we need everybody here being willing to do that, as well. Otherwise, it is going to be very difficult to get there.

We are willing to do that and we are working hard and we are being asked to basically step up and take on the consumers on behalf of the industries involved and wrestle back and forth with this. I am hopeful that part of what happens long term is that we have an education effort I have been suggesting to folks for years, to be able to truly talk about what biotechnology is so that people understand that. Ignoring that discussion, or not having it in a way that addresses the world we live in, in terms of communicating with people, it is just not going to work.

We have to engage people so we understand the positive side, what has happened in terms of moving agriculture forward and the positive benefits of biotechnology in that process. I would just encourage everybody to make a commitment to tell that story, be-

cause if that story is not told, this is going to be very difficult going forward, I think. So, thanks.

Chairman ROBERTS. I thank the Senator for her comment. I would offer only one observation. The best, most effective form of communication from consumers is their pocketbook, perhaps not government mandates.

Senator STABENOW. Sure.

Chairman ROBERTS. That concludes our hearing. The Committee is adjourned.

[Whereupon, at 12:10 p.m., the Committee was adjourned.]

A P P E N D I X

MAY 26, 2016

Senator Patrick Leahy - VT
Statement for the Record
U.S. Senate Committee on Agriculture, Nutrition, and Forestry
Review of the U.S. Livestock and Poultry Sectors
May 26, 2016

I would like to thank the Chairman and Ranking Member for holding this hearing on the state of the livestock industry and thank the witnesses representing the many, varied sectors of livestock industry for testifying and providing their perspectives. I am, however, disappointed that there was no witness invited from the dairy sector. While our dairy farms are primarily in the business of producing milk, they also produce beef from market cows and bull calves. In fact, sometimes as much as 20 percent of the beef produced in the United States comes from dairy animals.

While dairy is the dominant agricultural commodity in Vermont, we are experiencing a renaissance of farmers' markets, farm stands, and other forms of direct sales from farmers to consumers. In response to this exciting local foods movement, there is a mounting interest in raising more Vermont-grown beef, pork, lamb, goat, and poultry. Traditionally, Vermont's agricultural economy thrived on multi-generational family farms, but today we also have many newcomers to Vermont that are adding an exciting vigor to the industry and diversifying the agricultural landscape in the state. Our livestock producers in Vermont serve as stewards for not only the livestock they raise, but also the land and environment that has been entrusted to them.

While there are opportunities for more local poultry and grass-fed beef in Vermont, there is a shortage of slaughter and processing facilities, especially for small farm-to-table producers. I hope that as this Committee begins to consider the next Farm Bill we can look for ways to address this shortage to better support our country's farmers.

Organic Livestock and Poultry Practices

An issue raised by several of the witnesses, and one that is of great interest in Vermont, is the proposed rule for the National Organic Program Livestock and Poultry practices that was published on April 13, 2016. As the father of the organic program, I wrote and lead to passage the Organic Foods Production Act (OFPA) as a part of the 1990 Farm Bill. That law has helped the organic agriculture industry to grow from what many considered merely a niche market to one that is now a more than \$39 billion per year sector of the American economy. It was in that original 1990 Farm Bill that the Secretary of Agriculture was directed to hold public hearings and develop detailed regulations, with notice and public comment, to guide the implementation of the standard for livestock products under the National Organic Program. Now, 26 years later, we finally have a proposed rule on these livestock and poultry practices. This proposed rule is the product of years of numerous meetings and hours of expert witness testimony before the National Organic Standards Board and it is subject to public comment.

I cannot stress enough to these witnesses, to this Committee, and to the entire Senate, that this is merely a proposed rule at this point – there remains nearly another month to go before the comment period closes. This proposed rule specifically asks the industry for comments on whether farmers can readily determine how to comply with the proposed regulations. It also asks about the accuracy of the assumptions and estimates in the Regulatory Impact Analysis and

Regulatory Flexibility Analysis pertaining to organic poultry and egg production. Additionally, the proposed rule asks for input on the implementation approach and timeframe. So, to those witnesses who raised concerns about the impact that this proposed rule could have on their industry, I implore you to submit comments to the USDA. If you feel like the economic and regulatory analysis missed the mark, then I urge you to comment to the USDA. That is the express purpose of the comment period. Please submit your economic analysis if you think the figures USDA was using are flawed. If you feel that the five year implementation timeframe granted for operations that have been certified for three years is not sufficient, then please submit comments to that effect.

I note that some witnesses and companies have made statements about this proposed rule implying that it is full of new ideas that have taken them by surprise. They have suggest that the proposed rule does not take science or health concerns into account. The reality is that these technical and scientific issues, including avian influenza, have been publically debated by the NOSB going as far back as 2002, and even earlier, when the United Egg Producers and several of its cooperative members testified before the NOSB on this very issue of outdoor access. And yes, while some operations have had screened-in porch systems approved since 2002, some of those farms initially ran into problems with certifiers who denied them certification because of the livestock living conditions and outdoor access. We have clear examples that some agents were later directed by USDA headquarters to certify a porch operation over the certifier's objections. The past approval of these porch-systems is not as clear cut as some would like to make it appear.

I am pleased that I was able to work closely with the Senate Appropriations Committee and specifically the Agriculture Subcommittee Chairman and Ranking Member to develop report language as part of the Fiscal Year 2017 Senate Agriculture Appropriations bill that directs the Secretary of Agriculture to ensure that all comments on the proposed rule are taken into consideration when finalizing the regulation. This includes both the comments of those producers who believe they would be adversely impacted by the new requirements, as well as those producers who feel that they would be adversely impacted if these regulations were not finalized as they have been proposed with outdoor access requirements. With the comment period still open, I would encourage all organic livestock and poultry producers, and those considering transitioning to organic, to comment on this proposed rule. Since the public still has ample opportunity to make their concerns and suggestions known, I do not believe that there is any need for congressional action at this point on this proposed rule.

Genetic Engineering

Since several of the witnesses before the Committee today have raised Vermont's Act 120, which requires the labeling of genetically engineered foods sold in Vermont, I would like to clear up some confusion about that law. First, while Act 120 takes effect on July 1 of this year, the state has in place a six month grace period through January 1, 2017 to help manufacturers, producers, and retailers come into compliance with the law. Next, I hope that each witness before this committee and every livestock producer in the country understands that was general agreement in Vermont, just as we have before this Committee today; that animals that consume GE feed are not genetically engineered themselves, nor is the milk or meat that they produce

Some members of this Committee have claimed that Vermont acted in its own self-interest in exempting home state products like maple syrup or dairy. They have tried to stoke fears in the industry that other states will enact different requirements, which will lead to 30 or 40 different labels across the country. That could not be further from the truth and is a stunning misrepresentation of what Vermont's Act 120 actually does and why the Vermont legislature made the decisions it did in crafting its law. Vermont and the other two states that have laws on the books to require the labeling of foods with genetically engineered ingredients, Maine and Connecticut, all carry the same exemptions, as does the European Union, by not requiring labels just because food was acquired from animals that consumed GE feed.

The claims that there is a patchwork of state laws, or that Vermont acted to protect its home state products, are blatantly false. Expecting that the state would have challenges to the labeling law, the legislature made sure that they were not providing advantages to Vermont businesses. With respect to the arguments about a patchwork of laws, I hope the record for this hearing will show clearly that all of the states that have passed laws or introduced legislation are looking to Vermont for guidance and working to create a seamless system. These laws and bills have been carefully crafted so that they are virtually identical specifically to make it easier for producers and manufacturers to comply.

With respect to beef, pork, lamb, turkey, and chicken, the state felt that it was already federally preempted by USDA labeling laws for meats so even if a processed food does contain GE ingredients, the state was not able to require a label for those foods. This is the so-called pepperoni pizza or beef stew example that we have heard raised many times. While an incomplete solution, the state's hands were tied on this matter. This was not some effort to create home state product protections. The witnesses should understand that their fears of reformulation for meat products are unfounded; they are exempt from Vermont's Act 120 not only for whole animal products and products produced entirely from an animal, but also for food that currently requires USDA approval of its label.

**SENATE COMMITTEE ON AGRICULTURE, NUTRITION &
FORESTRY**

FULL COMMITTEE HEARING

**A Review of the U.S. Livestock and Poultry Sectors: Marketplace
Opportunities and Challenges**

Thursday May 26, 2016

216 Hart Senate Office Building

Opening Statement

Senator John Thune

- Chairman Roberts and Ranking member Stabenow, thank you for holding today's hearing on "A Review of the U.S. Livestock and Poultry Sectors: Marketplace Opportunities and Challenges".
- Based on the testimony from today's witnesses I would say the livestock industry is facing more challenges than opportunities right now.

- Most of the challenges are linked to an overreaching and overzealous regulatory effort by several federal agencies that promulgate rules without consideration and sensitivity to the negative impacts they would have on the farmers, ranchers and other livestock producers who feed not only this country but a considerable share of the rest of the world.
- Mr. Chairman, the Trans Pacific Partnership or TPP is mentioned several times as a vehicle that would greatly improve our livestock industry outlook – we need to get TPP approved, sooner rather than later.
- And we need to resolve the biotech labeling issues and as part of that agreement exempt meat, poultry and dairy products from mandatory biotech labeling requirements.

- As we think about future ag policy I look forward to hearing ideas from these witnesses that we can include in the next Farm Bill.
- Mr. President, I have a few questions for our witnesses:

- Mr. Goggins, in reference to your testimony about commercial livestock hauling I would like to point out that as chairman of the Committee on Commerce, Science, and Transportation, I led the successful effort to make the hours of service exemption from rest breaks permanent for those who are carrying livestock and bees. This important provision takes into account the health of the livestock, and the practical reality that these animals should not be left on the roadside. The exemption was granted on multiple occasions by FMCSA, the trucking agency, and we made it permanent to prevent the need for repeated consideration of the same facts. This can be found in Section 5206 of the Fixing America's Surface Transportation (FAST) Act.

**Sen. Thom Tillis's Opening Statement for the Senate Agriculture, Nutrition and Forestry
Committee livestock hearing on Thursday, May 26, 2016**

Thank you, Mr. Chairman.

From what I understand, hearings of this nature are few and far between and I thank you for your leadership in bringing livestock issues to the forefront. Agriculture is North Carolina's number one industry and livestock is a major reason why. Our pork and poultry producers compete on the national and global levels and I look forward to hearing how this committee and Congress can support those responsible for thousands of jobs across the country and a significant portion of our food supply.

As you can imagine, North Carolina livestock producers remain bewildered that WOTUS is still a rule and the January 20th vote to override the President's veto on the Resolution of Disapproval was unsuccessful. Last week, this committee held a hearing to discuss the farm economy and the low prices our farmers are experiencing. As I travel through North Carolina and speak with our farmers, it is never prices that first come up.

Over and over again, North Carolina farmers want to talk to me about a specific regulation at EPA or USDA or FDA that is hampering their ability to maximize opportunities. As with WOTUS, North Carolina farmers cannot wrap their heads around the fact that a response to the Vermont law has not yet been finalized by Congress. The resurrection of the GIPSA language and this Organic Livestock Rule, which I think is just terrible policy, are additional layers of regulations at a time the federal government should be doing everything to help farmers survive a bad market.

The North Carolina livestock sector has a lot to be proud of, but as long as the federal government continues its relentless pursuit of overregulation, it will remain hard for farmers to survive this downturn.

Testimony on behalf of the

National Cattlemen's Beef Association

With regard to

**A Review of the U.S. Livestock and Poultry Sectors: Marketplace Opportunities
and Challenges**

Submitted to the

United States Senate – Committee on Agriculture, Nutrition, and Forestry

The Honorable Pat Roberts - Chairman

Submitted by

Tracy Brunner
President

National Cattlemen's Beef Association

May 26th, 2016



**National Cattlemen's
Beef Association**

Mr. Chairman, members of the committee, my name is Tracy Brunner and I am the president of the National Cattlemen's Beef Association. I am a fourth generation rancher and cattle feeder from the Flint Hills area of Kansas, and our nearest Post Office is at Ramona. Our family operation includes three brothers and three sons. We are involved in cattle genetics, seed stock, grazing, and finishing cattle. I surely appreciate the committee's interest in cattle marketing issues, and it is an honor for me to be asked to share our viewpoints.

The National Cattlemen's Beef Association (NCBA) has for nearly 120 years represented America's beef cattle industry. We have over 30,000 direct and 170,000 affiliated members nationwide. America's cattle industry is extensive and constitutes the largest segment of American agriculture. Always at the mercy of Mother Nature, our industry is recovering rapidly from extensive drought. Herd rebuilding and expansion are taking place at a pace where U.S. cattle numbers will soon be equal to 2012. Additionally, American cattle producers continue to be more efficient in producing beef. We can produce the same amount of beef that we produced in 1977 with 30% fewer cattle, 18% less feed, 12% less water, and 33% less land. However, we need to continue our efforts to be more efficient as we strive to do our part in providing 70% more food to meet the expected population of 9 billion people in 2050.

Our industry requires extensive tracts of land to run cattle allowing us to preserve the ability for family cattle farms and ranches to stay viable. The beef industry is diverse in structure, yet the drive to stay competitive with other proteins has shown us the need to coordinate among all the stakeholders from field to fork. Cow/calf ranchers tell their seed stock suppliers what they need, and also ask their stocker and feeder calf buyers what they will pay most for. Cattle feeders likewise look to packer-processors for signals of greatest value, who in turn have an ear for retail and foodservice needs. As a complete beef supply chain, we have learned that without ultimate consumer focus, we can soon blindly produce our way into irrelevancy.

Due to the diverse and broad-based nature of the cattle industry operating in an environment of increasing need for coordination and cooperation, we have market needs more unique than other animal proteins and commodities. We rely on clear and accurate price signals to be passed up and down the beef value chain. A cow/calf producer must have not only precipitation, but also market confidence that his decision to mate a bull and heifer today will be rewarded beyond costs by the time it heads to market nearly two years later. Cattle grazers and feeders that purchase those calves need a clear view of future prices in order to determine if there is a return on their investment. In addition, packer-processors use price discovery and analysis in order to price beef in a way for consumers to be assured of a constant supply of the highest quality beef anywhere on earth.

Cattle prices have been a topic of focus for NCBA and our members. 2015 saw a record high for cattle prices, but those soon started back down due to several reasons. One factor was the increase in overall protein supplies. In 2015, U.S. per capita red meat and poultry supplies increased by nearly 10 pounds per person. In addition, the strong U.S.

dollar impacted our ability to ship beef to our international customers. All of this additional supply puts downward pressure on the markets. This has been compounded by the break in the drought throughout most of the cattle producing areas of this country which has resulted in more abundant and cheaper feed, and the resulting decision by many producers to increase the size of their herds. Larger supplies always lead to lower prices, but we are used to the ups and downs of the cattle cycle. In order to manage this cycle, we need risk management tools that work.

Price discovery is ultimately driven by supply and demand. The fundamentals of markets are universal. The cattle industry today relies on transparency of price discovery to send clear signals up and down the beef chain. Cattle and beef are a wonderful but perishable creation. We are not grain that can be stored for great lengths waiting on fundamentals to steady an uncertain market. We currently rely on market forums like CME Group's cattle futures contracts as solid information in our price discovery process. Changing technologies and a transition to automated trading in commodity futures trading have increased market volatility, making interpretation of those price signals different than what we were accustomed to in the past. The integrity of our market forums is very important, for without futures contract integrity our industry will abandon their use.

We have recognized the volatility and are working directly with the CME Group to find ways to address it. We have a joint NCBA/CME working group which is analyzing potential changes which could slow the market down and ensure a level playing field for producers who are using these tools to manage their price risks. Today we ask for no direct action from our government in our cattle marketing systems and forums. In fact, I am concerned at some of the action we have seen from USDA and the Senate.

Secretary Vilsack has announced that he is going to dust off the proposed GIPSA marketing rule that resulted from language included in the 2008 Farm Bill. This is concerning to us because bi-partisan efforts resulted in appropriations language which defunded any additional work on, or implementation of, the ideas included in the draft rule. The provisions in the draft rule would have taken away our ability to market cattle the way we want to. The proposed GIPSA rule would have made USDA the ultimate arbiter of how cattle are marketed. We urge USDA to enforce the Packers and Stockyards Act as it exists now. We do not need them dictating how we can or can't market our cattle.

I am also aware of the recent introduction of a bill to ban packer ownership of cattle. This is another solution in search of a problem which has been tried, and defeated, many times before. Over the past decade, USDA's Mandatory Price Reporting has shown that only five to six percent of cattle are packer owned. This is not the source for the downward market.

We have worked for years to find new and innovative ways to market cattle. Alternative marketing arrangements have been studied by USDA and independent groups, and the results show that these alternatives benefit producers and consumers alike. Any

Congressional or Executive action to interfere will only add to our price problems, not solve them.

Solving our price problems relies on addressing the true issues of consequence to our industry. Beef trade is one of those issues. Globalization is not feared by the American beef industry, but embraced. In fact we continue to export an increasing volume and value of American beef to destinations worldwide. Last year we exported over 14% of all finished cattle value, that's worth over \$300 extra for every calf in America. Many of you can likely attest that NCBA is always talking about more market access for the ability to sell more beef. Our beef does compete on the global market, however our industry is not easily replicated globally.

If Congress passes TPP this year, the U.S. beef industry will be one of the biggest winners in agriculture. At the same time, if Congress fails to pass TPP or delays action on TPP, the U.S. beef industry will be one of the biggest losers in agriculture, and here's why that is the case.

Roughly 80 to 85 percent of the beef we produce is for the American market. American consumers love the ribeyes, tenderloins, and briskets from our cattle, but not all cuts of the carcass can be sold domestically at a premium. The small percentage of beef that we export are cuts like tongues and short plates that are not desirable to the American consumer. Rather than send these cuts to a landfill or process them into pet food, we have found that Asia has proven to be a great destination for these cuts.

As a result, we have capitalized on the growing demand for U.S. beef overseas and Japan has become our leading export market. In 2015 the Japanese purchased \$1.3 billion of U.S. beef and was one of the leading export markets for beef tongue. Even with a 38.5 percent tariff rate on our beef, we have seen a tremendous growth in export sales to Japan over the past four years and we have been able to gain significant market share because of the quality and price of our beef.

Our leading competitor in the Japanese beef market is Australia. In January 2015 the Japan-Australia Economic Partnership Agreement took effect and gave our leading competitors a 10 percent tariff advantage over us in our leading export market. In other words, the Japanese tariff on U.S. beef is 38.5 percent and the Japanese tariff on Australian beef is less than 28 percent. This disadvantage for U.S. beef in Japan resulted in nearly \$300 million in lost sales to Japan in 2015. The tariff rate advantage for Australia will continue to grow for the next decade unless something is done to level the playing field in Japan. The good news is TPP will level the playing field for U.S. beef in Japan by lowering the tariff rate on U.S. beef to match Australia's tariff rate upon implementation of TPP and will continue to decrease to 9 percent over 16 years. This the greatest beef market access ever negotiated into Japan.

Japan market access is not the only highlight of TPP. TPP eliminates tariffs on U.S. beef exports to other countries including Vietnam and Malaysia, and also includes a strong set of rules that prevent governments from putting in place non-science based barriers and

technical barriers to trade. TPP also gives us leverage over countries like Indonesia, Taiwan, the Philippines—all countries who want to join TPP and all are countries where U.S. beef has outstanding issues with market access.

The benefits of TPP are great, but so are the costs of inaction. If the United States fails to enact TPP, then we will send a strong message to our allies in the Pacific Rim that we are no longer willing to lead in the Pacific and the United States will simply resign our position of leadership to China regarding international trade and the geopolitical affairs of the Pacific Rim.

Unfortunately China already has leverage over the United States in terms of beef market access and has exerted that leverage since it banned U.S. beef in 2003 following the classical BSE case involving a Canadian-born cow in the state of Washington. In 2006, China unilaterally re-opened its market to de-boned beef from cattle under 30 months of age with the stipulation that US beef imports meet 22 requirements that included traceability of the animal to place of birth and the exclusion of meat from cattle that were of Mexican-origin. A year later, in 2007, China expanded access for U.S. beef to include bone-in beef from cattle under 30 months of age, subject to the same 22 conditions they introduced in 2006. The U.S. beef industry did not agree to meet these non-science based and commercially restrictive terms and worked to educate the Chinese government on how these unnecessary requirements did nothing to address food safety or animal health concerns. In 2012, the United States received negligible risk status for BSE from the World Organization for Animal Health (OIE); this is one of the highest levels of safety awarded by the OIE. Even with our negligible risk designation, China has not modified its BSE restrictions on U.S. beef and we are still prohibited from the Chinese market.

Regaining market access to the large and growing Chinese beef market is essential to the future health of the U.S. beef industry. For several years the U.S. government has been meeting with Chinese officials to discuss re-opening the Chinese market to U.S. beef. Unfortunately whatever progress has been made in these meetings has simply led to further questions and delays. Despite the frustrating process, NCBA remains strongly committed to working with the U.S. government to address China's concerns. With the guidance and direction of our volunteer leaders we will continue to provide the necessary advice that our government needs to arrive at an agreement that will address China's concerns and help us regain access for beef. One of the points of concern for China is the U.S. capacity to identify at the slaughter plant the birth premise of every animal from which beef is certified for export to China. The U.S. beef industry and the U.S. government have worked extensively to find a solution that does not place mandatory production requirements on producers regarding traceability. We believe there are existing voluntary marketing programs that address China's concerns and look forward to our negotiators being able to find a common-sense solution and restore access to China. Even if there is a consensus position to address China's concerns, China may bring up other potential roadblocks that will have to be addressed at that time. A healthy dose of caution is needed in working with China.

Other actions can also be taken to help our industry recover from downward prices. We continue to be hit with over burdensome regulations which hamper our ability to be as efficient as possible. One such over burdensome regulation is the Endangered Species Act. Despite being essential to protecting habitat for wildlife everywhere, cattle producers throughout the country continue to suffer the brunt of regulatory and economic uncertainty as a result of the US Fish & Wildlife's implementation of the Endangered Species Act.

Simply put, the ESA is broken. Years of abusive litigation by radical environmental groups have taken a toll, and the result is a system badly in need of reform. Today more than two thousand species are listed as either Threatened or Endangered, with new petitions stacking up by the hundreds due to groups that have set up "petition assembly lines" to churn out new filings by the dozen. When the Fish and Wildlife Service fails to respond to this avalanche of procedural paperwork, the groups sue, tying up the court system and sapping the agency of money that should be used for species recovery and delisting efforts.

If we want to fix the Endangered Species Act we are going to have to get serious about ending this taxpayer-funded litigation abuse. The Equal Access to Justice Act and the ESA Judgement Fund were not created to serve as bank accounts for activist groups, yet that's how they are being used. Every time the FWS settles a lawsuit or enters a settlement agreement like the infamous 2011 "mega-settlement" with the Center for Biological Diversity and WildEarth Guardians, these "factory litigants" receive a windfall profit, which only reinforces their action and encourages more abuse.

The result of this cycle of abuse is a dismal 1.4% recovery rate for listed species – a failure by any standard. Since all available resources are devoted to listing petitions and litigation, virtually nothing remains for recovery and delisting efforts. Some species have been listed for 15 years or more without a valid recovery plan or recovery benchmarks in place. For cattle producers operating in the range of a listed species, that means playing a game we can't win using rules we're not allowed to see.

After 40 years, Congress must step in to reform this broken law. We need to restore balance to the ESA by making recovery plans and delisting benchmarks a requirement to list a new species. Certainly if the Service has enough information to determine that a species is threatened, it should also have enough information to determine what "recovered" looks like. Congress must also ensure that effective conservation tools like Candidate Conservation Agreements with Assurances (CCAAs) aren't marginalized through the rulemaking process. The assurances provided to producers through such instruments are critical to effective preemptive conservation efforts on the ground. With clear guidance, realistic recovery goals, and a focus on truly threatened species, cattle producers stand ready to continue their work on the front lines of species conservation. It is my hope that Congress will act to provide the Fish and Wildlife Service that badly needed guidance.

When we talk of over burdensome regulations, we always need to talk about the Environmental Protection Agency (EPA). Cattle producers rely on clean water, clean air, and clean land to run successful businesses. We pride ourselves on being good stewards of our country's natural resources. Since our livelihood is made on the land, through the utilization of our natural resources, being good stewards of the land not only makes good environmental sense; it is fundamental for our industry to remain strong. We maintain open spaces, healthy rangelands, provide wildlife habitat, and feed the world, but to provide all these important functions, we must be able to operate without excessive federal burdens. Unfortunately, the livestock industry is threatened daily by urban encroachment and natural disasters, and the last thing we need is additional regulatory burden and government overreach.

The Waters of the U.S. (or "WOTUS") rule continues to be a top concern for cattle producers, despite the temporary court-ordered stay. I am extremely concerned about the devastating impact this rule could have on me and other ranchers and farmers. As a livestock producer, I can tell you that the rule has the potential to impact every aspect of my operation and others like it by regulating every tributary, stream, pond, and dry streambed on my land. What's worse is the ambiguity in the rule that makes it difficult to determine just how much of my operation will be affected.

WOTUS is just the tip of the iceberg for incoming environmental rules that impact beef producers. Another pending regulation is the Spill Prevention, Control, and Countermeasure (or "SPCC") rule for farms, which requires farmers to develop and certify a control plan and install secondary containment structures for oil storage. There's also the new ozone standard which can impact a rancher's ability to conduct a prescribed burn, which is an environmentally beneficial practice for burn-dependent ecosystems. I'll also mention the Resource, Conservation & Recovery Act – a law designed by Congress to regulate landfills – which for the first time ever was determined by a federal court judge to apply to agricultural operations. Ironically, these regulatory and enforcement regimes ultimately disenfranchise agricultural producers instead of incentivizing conservation efforts.

As I explained earlier, our industry is quite diverse and independent by nature, but by necessity we come together to solve our challenges. I sincerely appreciate your invitation and attention for these few minutes today. We want to work with you to ensure that legislation passed and regulations promulgated are ones which help producers, not hinder us.

**Testimony of Joe Goggins
Vice President
Vermilion Ranch Co., Public Auction Yards, Billings Livestock Commission Co.,
Western Livestock Auction, & Northern Livestock Video Auction
On Behalf of the United States Cattlemen's Association**

**Submitted to the U.S. Senate
Committee on Agriculture, Nutrition, and Forestry**

**“A Review of the U.S. Livestock and Poultry Sectors:
Marketplace Opportunities and Challenges”**

**May 26, 2016
Washington, D.C.**

Introduction

Mr. Chairman, Ranking Member Stabenow, Members of the Committee, I am Joe Goggins, Vice President of Vermilion Ranch Co., Public Auction Yards, Billings Livestock Commission Co., Western Livestock Auction, and Northern Livestock Video Auction based in Billings, Montana, and serving thousands of ranchers and feeders across the United States. I come from a family of six kids. Most all of our spouses, children and grandchildren are involved in some aspect of running our current businesses which include ranches, feedlots, livestock auctions, a video auction and our 75 year old weekly livestock newspaper, Western Ag Reporter. I have spent nearly every day of my life involved in the production, management and marketing of livestock. I appreciate the invitation to represent U.S. cattle producers on this panel.

I am here today on behalf of the United States Cattlemen's Association (USCA). USCA represents cow-calf producers, backgrounders, and feedlot operators from across the country. USCA was founded on the idea that a grassroots effort by U.S. cattlemen can work positively and effectively with the U.S. government to reform U.S. agriculture policy and ensure a fair, competitive marketplace. USCA has spent the last decade charting a course for the long-term health and vitality of the U.S. cattle industry. Our interest is in the future of the industry—not just 5, 10, or 15 years from now, but for the century ahead.

Agriculture is the strongest card in our country's deck. The next generation of Americans will see monumental advances made in the fields of technology and energy, but none will grow to be as important as our agricultural industries. Our producers hold America's greatest strength within their operations—the ability to cultivate a safe, affordable, and abundant food supply. For this reason, we need to ensure that our producers are able to operate in a fair and virtuous marketplace. U.S. cattle producers strive every day to produce a high-quality product; let's provide them with an honest and common sense set of principles that will take the industry into the 21st and 22nd centuries with the ability to tackle the challenges and opportunities that lie ahead.

Background

In the last five years, the U.S. cattle industry experienced a period of strong demand and high prices for both cattle and beef. However, within the last year, there was a steep drop in prices resulting in the largest loss of equity in the history of the U.S. cattle industry. The cattle market experienced abnormal price adjustments during this period. The following sections represent areas that have played, and continue to play, a key role in the overall state of the industry.

U.S. Livestock Herd

The U.S cattle producer, feeder, and packer produce the highest quality, most affordable, and safest protein in the world. An increase in proposed import rules with countries that have a history, or direct risk, of Foot-and-Mouth Disease (FMD) is a threat to the overall health of the U.S. cattle herd. The domestic industry must not be compromised at the sake of expanded trade; we must

ensure that FMD is not brought across U.S. borders. It has been calculated by the World Organisation for Animal Health (OIE) that a FMD outbreak within the United States could result in \$14 billion in losses, calculated to include both farm income and the effect on consumers and international trade relations. USCA opposes any action that jeopardizes the health and well-being of the U.S. cattle herd.

Free Trade Agreements

It is vital for the U.S. to continue to export its beef products globally. However, our trade agreements must reflect the unique nature of the cattle and beef industry. Cattle and beef are perishable products, meaning the duration and shelf life of beef products immediately decreases upon processing. Perishable agriculture products, such as beef and finished cattle, have limited and time-sensitive marketing periods and, therefore, face unique challenges in obtaining relief when trade is injurious, either from dumping, subsidies, or related surges.

Past Trade Promotion Authority (TPA) measures have promised the inclusion of specific language for perishable and cyclical agricultural products, including cattle and beef. Unfortunately, these guidelines have not always been included in final negotiated trade agreements. The lack of guidance on this issue in the current Trans Pacific Partnership is concerning. US trade laws must represent the same policies and protocol that govern and regulate our domestic markets. Meaningful and timely countervailing and anti-dumping laws are imperative to maintain a level playing field and ensure that international trade is not detrimental to our domestic US cattle industry. These laws are in place only to address those countries not adhering to trade protocol. If countries are found to be subsidizing production which in turn creates artificially cheap products, or are dumping at below their cost of production into the US markets, then there must be mechanisms in place to correct and address these violations immediately. US trade laws, especially those pertaining to the beef industry, must recognize the highly fragmented aspect of our industry, which includes downstream players who may actually benefit from such trade violations. Additionally, more timely resolution and reactionary measures must be in place to account for the perishable nature of our industry's product. Currency manipulation must also be a component of our trade laws as it will continue to distort the flow of trade if left as-is.

The U.S. government and the World Trade Organization (WTO) must address this within any trade agreement that is negotiated and implemented. Significant and timely dumping and countervailing laws and remedies must be in place to ensure U.S. producers are not disadvantaged by injurious dumping, subsidies, and import surges. Too often, trade distortions that artificially suppress domestic prices are looked at on a short-term basis as highlighted by their resulting reduction in costs to consumers. However, when reviewed over a longer period of time, the results often show the subsequent detrimental effects to the state of domestic production. This decline in domestic production compromises not only food security in this country, but also the long-term vision of encouraging production for a growing global population and production needs. The U.S. cattle industry cannot continue to give access to gain access.

Determining Weekly Cash Price & Volatility in the Market

Markets are the driving force of any commodity. Over the past 12 months, the U.S. cattle industry has faced unusual volatility and uncertainty in the marketplace. Prices have risen dramatically to historic levels and then bottomed out to figures reminiscent of three years prior. The livestock industry is a historically up and down, ever-changing marketplace due to its dependence on foreign market factors, domestic and international policies, and consumer trends; however, today's marketplace has created an unstable and non-transparent arena for U.S. producers. We ask the Committee to review all of the factors contributing to today's marketplace, both the market-specific driven factors and industry concerns alike.

We must come to consensus on a more competitive, and fair, means by which weekly cash price on live fed cattle are determined. Transparency and competition must be achieved at the fed cattle level, and it must be addressed.

The futures board has always been a tool for producers and feeders to help mitigate risk. However, recent volatility in the futures market has led to uncertainty across the industry, which has consequently deterred members of the cattle industry from using these markets because of the risk of losing capital. Risk mitigation plays a key role for the entire industry; but most importantly for our average and young producers who borrow the majority of their operating funds from banks. Without confidence in the ability to hedge risk in a volatile futures market, producers will not be able to secure operating loans from lenders.

Additionally, we request this Committee work with the Commodity Futures Trading Commission and relevant market participants to ensure disruptive trading practices are prohibited so as to not compromise the foundation and role of the futures market as a risk management tool for cattle producers.

There is a severe disconnect within the cattle market as to the true fundamentals of what should be driving the prices versus what prices are actually being offered. Cattle marketing agreements and livestock commodity trading are all essential to the health and vitality of the industry.

Packers and Stockyards Act; Mandatory Price Reporting Law

Every five years, the Mandatory Price Reporting law is reauthorized, presenting new opportunities to modernize the cattle industry. As producers, our members develop a product consisting of slow-changing fundamentals. However, formula cattle contracts and automated trading in the futures marketplace has introduced a new paradigm that USCA believes should be closely monitored to ensure market transparency, stability, and accurate price discovery.

The Packers and Stockyards Act (P&S Act) must continue to modernize and change as the industry evolves. I operate three livestock auction markets that are all regulated under the P&S Act; as the business has changed over the years, so too must the laws governing it. Specifically, the current

law dictates prompt payment as a check in the mail by the close of the next business day or a wire transfer of funds. Other forms of electronic payment such as ACH payments must also become an option.

As online and video auctions continue to be a prominent form of marketing cattle, clarification on whether these formats fall under the P&S Act, and how funds must be handled, is necessary. A law that exists without a definition and authority to carry it out is without standing, no matter the issue. USCA proposes long-overdue modernizations and revisions to the P&S Act via the 2018 Farm bill and the 2020 Price Reporting reauthorizing bill.

Opportunities in the 2018 Farm Bill

We have seen great success in the implementation of Farm Bill programs. From supplementary conservation funding and programs to disaster-relief funds and beginning farmer and rancher support, the public-private relationships driving our industry today could not be stronger. In 2015, we saw ranchers and USDA-NRCS, along with conservation and sportsmen's groups, work together to conserve Greater Sage Grouse habitat and prevent a listing of the species. Public-private relationships and a strong industry commitment to habitat and species conservation cemented the reality of the statement "What's good for the bird is good for the herd" campaign. The successful model employed in the Greater Sage Grouse effort is now being reflected elsewhere in non-species listings, due to successful habitat conservation, such as the Lesser Prairie Chicken.

Across the country, livestock producers continue to be at the mercy of adverse weather and climate events. The importance and need for effective, and fully funded, disaster relief programs was more apparent than ever during the aftermath of the 2013 Atlas Blizzard. We worked with several cattle producers that suffered devastating losses from this storm. The availability of funds allocated specifically to feed and livestock reimbursement through the Livestock Indemnity Program enabled producers to support surviving herds and recoup losses once the storm and recovery efforts had passed. The timing of the Atlas Blizzard fell directly during the 2013 government shutdown and prior to the passage of the current Farm Bill. The importance of government support and funding of Farm Bill programs was made clear and remains a priority for producers across the country.

A true bright spot in the industry has been the success of the Beginning Farmer and Rancher program. As our industry continues to transition to the next generation, opportunities and avenues for success must be a priority. The continued inclusion of this program, and expansion on its fundamentals, must be a component of the 2018 Farm Bill.

As the industry and Congress look to drafting the next Farm Bill, the focus will be on the development of a livestock-specific title including many of the items noted above. The 2018 Farm Bill provides a vehicle to address many of the issues we are discussing today, including revised

and enhanced market reporting and market transparency; continued emphasis on public-private partnerships in conservation; and addressing industry concerns such as transportation and environmental regulations. In January of 2017, USCA will announce its livestock title overview detailing specific opportunities and partnerships designed to enhance and assist the industry.

Updated Federal Grazing Laws

Public lands are intended for sustained, multi-use purposes, including hunting, hiking, and livestock grazing. The most imminent threat to our public lands are incremental decreases in federal budgets that erode the ability of agency officials to continue necessary upkeep and management of federal lands. “Special Interest” groups that “specialize” in litigating against the management of public lands remain a danger to all of those who use and enjoy public lands. Federal grazing laws must reflect the current legal environment. The success we have seen first-hand in private-public partnerships on federal lands represents a means by which to overcome the challenges of managing land for multiple uses. We can continue to build on these successes and maintain the multiple use aspect of our federal lands to the benefit of producer and the general public.

Commercial Livestock Hauling

The Federal Motor Carrier Safety Administration is removing an exemption that allows livestock transporters to forgo portions of the Hours of Service rules, in the best interests of the animals on board. The lifting of this exemption will harm the commercial independent livestock haulers by requiring mandatory breaks, regardless of whether they are hauling live cattle, and placing additional regulations on what constitutes an hour of drive time, thereby decreasing their ability to travel longer distances without stopping.

Livestock are a highly perishable commodity. If we hamper the ability to move livestock quickly and efficiently, we might actually limit opportunities for producers in many parts of this country by reducing the number of people interested in buying their livestock. USCA, in coordination with other interested groups, will be forming a working task force to address the concerns of this critical segment of the beef production industry in a positive and productive manner.

Updated the Endangered Species Act

It has been consistently demonstrated that wildlife, soil, and water quality all benefit when managed livestock grazing plans are implemented. However, ranchers continue to face regulatory threats and pressures due to the Endangered Species Act (ESA). The ESA must be revised to reflect the new era of conservation and partnerships between agency officials and livestock producers. Increased regulation is no longer the answer; producer-driven partnerships and producer-inspired

solutions result in the best outcomes for the land and industry. The recent successes of the Greater Sage Grouse and Lesser Prairie Chicken non-listings are testament to this work.

EPA's Waters of the U.S. Rule

The Environmental Protection Agency's "Waters of the U.S." rule has proven to be a divisive issue. The livestock industry prides itself on the importance of clean water for healthy herds. The rule is currently being held up in the courts, where producers and the industry will continue to monitor its movement. The Administration and Congress must continue to involve industry stakeholders in regulation-based discussions in order to secure transparent and effective decisions. The success of any regulation is dependent on the information, facts, and stakeholder knowledge backing it; the Waters of the U.S. rule is a prime example of this disconnect.

Conclusion

The next generation of agriculture is here. Changes are taking place in farming and ranching as families are transitioning roles and parts of the operation to sons and daughters and, in some instances, grandsons and granddaughters. The cattle industry needs to begin looking ahead to 21st century goals rather than short-term objectives.

My family has been an active member of the livestock industry for multiple generations. The concerns facing us today and that have been outlined above are real, but not insurmountable. I ask the Chairman, Ranking Member and all Committee Members to review and seriously consider the challenges and opportunities that face today's U.S. livestock industry. Today's laws and regulations must continue to evolve and reflect the changes in our industry. We must carefully consider new market protections and greater transparency in order to further the competitiveness and strength of our domestic market. We must keep in mind that in the years to come, the ability to produce an abundant, high-quality, safe and affordable food supply will be more important than ever. The U.S. livestock industry currently lands at the top of such producing nations and we must do everything in our power to remain.

**Written Testimony Of
National Pork Producers Council**

On

**A Review of the U.S. Livestock and Poultry Sectors:
Marketplace Opportunities and Challenges**

**United States Senate
Committee on Agriculture, Nutrition & Forestry**

May 26, 2016

Introduction

The National Pork Producers Council (NPPC) is an association of 43 state pork producer organizations that serves as the global voice for the nation's pork producers. The U.S. pork industry represents a significant value-added activity in the agricultural economy and the overall U.S. economy. Nationwide, more than 68,000 pork producers marketed more than 115 million hogs in 2015, and those animals provided total gross income of nearly \$24 billion. Overall, an estimated \$23 billion of personal income and \$39 billion of gross national product are supported by the U.S. pork industry.

Economists Daniel Otto, Lee Schulz and Mark Imerman at Iowa State University estimate that the U.S. pork industry is directly responsible for the creation of more than 37,000 full-time equivalent pork producing jobs and generates about 128,000 jobs in the rest of agriculture. It is responsible for approximately 102,000 jobs in the manufacturing sector, mostly in the packing industry, and 65,000 jobs in professional services such as veterinarians, real estate agents and bankers. All told, the U.S. pork industry is responsible for nearly 550,000 mostly rural jobs in the United States. The U.S. pork producers today provide 25 billion pounds of safe, wholesome and nutritious meat protein to consumers worldwide.

Exports add significantly to the bottom line of each U.S. pork producer. U.S. exports of pork and pork products totaled 2.13 million metric tons in 2015, representing more than 24 percent of U.S. production, and those exports added more than \$48 to the value of each hog marketed. Exports supported approximately 110,000 jobs in the U.S. pork and allied industries.

Cautious Expansion, Continued Focus on International Markets

The state of the U.S. pork industry has been shaped in recent years by disease. Recall the H1N1 flu in 2009 and the Porcine Epidemic Diarrhea virus (PEDv). The latter first was documented in the United States during the spring of 2013, and over the next 18-plus month killed between 8 million and 10 million piglets. The dramatic reduction in the supply of available market hogs led to record hog prices throughout 2014 after four straight years of economic losses primarily because of record-high feed costs.

Pig mortality since then has fallen dramatically, with the U.S. Department of Agriculture's Quarterly Hogs and Pigs report for the fourth quarter of 2015 showing the highest level of live births per litter in history at 10.53 pigs.

Seemingly recovered from the worst of PEDv's catastrophic effect on production, the U.S. pork industry appears to be moving into a period of cautious, calculated expansion. Pork production in 2015 increased year-on-year by a whopping 7.3 percent, albeit from the PEDv-ravaged calendar year 2014. Pork production this year is forecast by USDA to increase by 2 percent to 24.99 billion pounds, and 2017 production is forecast to increase 2.6 percent to 25.64 billion pounds. The total hog herd in the United States today is 67.6 million head, up slightly from 2015.

The typical cycle of barrow and gilt prices peaking in the summer and bottoming out in the November-December timeframe was essentially abandoned in 2014 and 2015 but is expected to return this year. The annual average for barrow and gilt prices received by producers, at \$50.23 per carcass weight hundred (cwt.), fell dramatically in 2015 from its 2014 high of \$76.03/cwt. Prices are expected to remain in the \$46-\$48/cwt. range for the remainder of the calendar year and lose another 6 percent throughout 2017. Estimated returns for farrow-to-finish producers continue to be positive for the year as a whole, with fourth quarter 2016 forecast at or below breakeven price levels.

There is currently a tremendous amount of red meat and poultry in the marketplace and coming down the pipeline. Per capita consumption of pork registered at just under 50 pounds in 2015, and pork retail prices have been historically low relative to beef retail prices over the past 18 months. Moving into grilling season (roughly Memorial Day through Labor Day), it will be interesting to see what happens to consumer demand and how it plays out in the marketplace.

Per capita consumption of pork is forecast to remain nearly even in 2016 before increasing by 1.8 percent in 2017. That marginal increase, coupled with the growing production expected throughout this year and next, highlight the importance of being able to send pork products to consumers outside the U.S. borders.

But economic growth in importing countries has been lackluster, and the value of the U.S. dollar has served as a headwind to growing exports of U.S. pork products, particularly in 2015. The Russian import ban on Western products and other global geopolitical events also have served as barriers to export growth. Total U.S. pork exports fell in 2015 on a value basis by 16.4 percent and on a volume basis by 2.1 percent. The top four markets for U.S. pork products on a value basis (Japan, Mexico, Canada and China/Hong Kong) all imported less in 2015 than they did in 2014. U.S. pork producers lost a tremendous amount of market share in the Chinese market to European producers, particularly from Germany, Denmark and Spain.

Through the first quarter of 2016, U.S. pork exports were down 9 percent year-to-date on a value basis and up 2.5 percent on a volume basis. In particular, the volume of exports to China/Hong Kong were up 83 percent year-on-year, marking the largest first quarter pork shipments the United States ever has made to that market.

World economic conditions are expected to improve some, especially in Asian countries. The Chinese hog market, for example, currently is in flux, with red hot demand for imported pork and Chinese hog farming profits larger than ever. Rapid pork inflation potentially presents an opportunity for larger shipments of U.S. product into the Southeast Asian nation, but economics does not always drive reality in China.

USDA forecasts pork export volume to grow 5.2 percent in 2016 and 2 percent in 2017, but geopolitical events, the strength of the dollar and removal of non-tariff trade barriers will play an important role in realizing those export gains.

Looking forward, there is no shortage of both opportunities and challenges for the U.S. pork industry. As the world becomes more globalized, so too do grain and livestock markets. A flood in Argentina or a drought in Brazil are felt locally and have an impact on producers' bottom line. Since each finished hog consumes approximately 150 pounds of soybean meal and 10-11 bushels of corn, feed price levels and volatility are of the utmost importance to pork producers. The recent run-up in soybean meal prices has caught many by surprise, as did the initial estimate of prospective corn plantings.

Total U.S. red meat and poultry production is projected to be above 2016 levels. Hog supplies will be adequate over the summer and will be plentiful in the fall. Strong competition for slaughter hogs by packers could support hog prices, and the prospect of at least four new packing plants coming on line in the next couple of years could help boost producers' bottom line moving forward. The pace at which these new plants come on line and begin processing hogs will be an interesting storyline to watch and will have significant implications for both domestic pork supplies and the availability and competitiveness of exports overseas.

While the vagaries of Mother Nature – diseases affecting production and weather affecting feed grains – are out of anyone's control, the pork industry's fortunes can be affected, for good or for ill, by what passes through the halls of Congress; government policies can and do offer opportunities or pose challenges for pork producers.

Trade and the TPP Benefit Agriculture

One of the policies that could have a positive effect on the U.S. pork industry – and indeed on all of U.S. agriculture – is trade, specifically expanded trade.

Through free trade agreements (FTAs) and bilateral and multilateral trade initiatives, the United States has been very successful in removing barriers to U.S. exports and increasing trade in U.S. goods and services.

U.S. exports of pork, for example, have increased by 1,550 percent in value and nearly 1,300 percent in volume since 1989, the year the United States implemented the FTA with Canada and started opening international markets for value-added agriculture products. The importance of trade deals is evident given that the United States now exports more pork to the 20 countries with which it has FTAs than to all other nations combined.

Exports add to the bottom line of producers, spur economic growth and create tens of thousands of U.S. jobs. Last year, U.S. pork producers shipped 2.13 million metric tons of pork worth \$5.6 billion to foreign destinations. Those exports added more than \$48 to the price producers received for each hog marketed, and they supported more than 110,000 pork industry jobs. (USDA's Economic Research Service calculates that every \$1 billion in U.S. agricultural exports generates more than 7,500 jobs across the U.S. economy.)

The United States has been, on average, the top global exporter of pork over the past 10 years, and given continued economic growth in the world and rising per capita incomes, U.S. pork producers stand to benefit significantly from new FTAs that eliminate tariff and non-tariff barriers to U.S. exports.

The importance of FTAs is evident by the fact that the U.S. pork industry now exports more product to the 20 countries with which the United States has FTAs than to the rest of the world combined.

That's why the U.S. pork industry has been among the most aggressive pro-trade voices in the U.S. private sector and why it is a strong supporter of the Trans-Pacific Partnership Agreement (TPP), the benefits of which will exceed all past FTAs.

NPPC was among the biggest cheerleaders for the U.S.-lead Asia-Pacific regional FTA negotiations from the beginning of the Obama administration. It was instrumental in getting Japan included in the TPP talks, which were concluded last October after nearly six years of negotiations.

The organization also led agriculture's efforts to gain congressional approval for Trade Promotion Authority to permit the administration to carry through with the TPP negotiations and conclude an agreement.

The TPP, which includes the United States, Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam, presents an opportunity to open and expand markets to U.S. pork that include half a billion consumers and nearly 40 percent of the world's GDP.

The three key markets for U.S. pork producers in the TPP are Australia, Japan and Vietnam. Those countries account for the overwhelming majority of economic benefits that will accrue to the U.S. pork industry. While NPPC continues to have TPP implementation concerns, it is confident that the issues will be resolved. Here's a look at the benefits U.S. pork will gain from the TPP countries:

- **Australia** – Tariffs on pork were eliminated under the U.S.-Australia FTA. But while pork is the top U.S. agriculture export to Australia, it is not eligible to be sold at retail in that country because of non-science-based sanitary-phytosanitary barriers. While the issue is not technically part of the TPP negotiations, NPPC is working closely with the U.S. government to facilitate a review of the matter in Australia. There is no credible scientific reason to prohibit the sale of U.S. pork at retail in Australia.
- **Chile** – Tariffs on U.S. pork are zero under the U.S.-Chile FTA.
- **Japan** – The largest value and second largest volume market in the world for U.S. pork exports, Japan will eliminate tariffs on all pork products, including its Gate Price – a complex system of protection – on processed pork, in six to 11 years from entry into force of the agreement. For processed products not subject to the Gate Price such as seasoned ground pork and sausages (the United States shipped more than \$400 million of these products in 2014), tariffs will be eliminated in year 6. Japan also immediately will reduce the impact of the Gate Price on chilled and frozen pork upon entry into force of TPP. The Gate Price will remain at 524 Yen per kilogram indefinitely. However, the specific duty that is assessed when products do not meet the Gate Price will phase down to 50 Yen per kilogram in year 10. There will be one safeguard on processed product and two safeguards on chilled/frozen pork. These safeguards disappear in year 11.

- **Malaysia** – Nearly all of Malaysia’s tariffs on pork and pork products will be eliminated upon entry into force of the agreement. In addition, Malaysia dropped its non-tariff barriers on U.S. pork in December 2014.
- **New Zealand** – Currently, pork exports from Australia, Canada and China enter New Zealand duty-free, but the United States must pay an import tariff. Under TPP, New Zealand will eliminate all pork tariffs for the United States and other TPP nations upon entry into force of the agreement except on hams and shoulders, which will go to zero in year 3.
- **Peru** – Tariffs on U.S. pork either now are zero or will be within three years under the U.S.-Peru FTA.
- **Singapore** – Tariffs already are zero on U.S. pork as a result of the U.S.-Singapore FTA. Separately, NPPC is working with the U.S. government to facilitate a review of certain non-tariff measures in Singapore.
- **Vietnam** – Despite being a larger consumer of pork than Mexico (the largest volume destination for U.S. pork), pork imports represent less than 2 percent of Vietnam’s pork consumption. U.S. pork exports have been limited by tariffs and a series of non-tariff barriers. Under the TPP, Vietnam will eliminate tariffs on pork and pork products, currently as high as 30 percent, in five to 10 years. It will eliminate tariffs on frozen cuts and shoulders in eight years and on preserved pork, fresh pork cuts and shoulders in 10 years. Additionally, Vietnam’s non-tariff barriers, which are being eliminated, are the subject of a side letter.

The TPP represents for the U.S. pork industry the biggest commercial opportunity ever negotiated. Economist Dermot Hayes, with Iowa State University, estimates that if the deal that was concluded last October is implemented – that is, if all tariff and non-tariff barriers are eliminated on pork in each TPP nation – U.S. pork exports to those countries will increase exponentially and more than 10,000 new U.S. jobs tied to those exports will be created.

But the reality is that if Congress does not expeditiously pass TPP, there will be no implementation, and that means the U.S. pork industry and the rest of American agriculture not only won’t get the benefits of expanded trade but will lose market share in the fastest growing economic region in the world. The European Union and other nations are negotiating FTAs with Japan and other TPP countries. Of even greater concern is that if TPP fails, a much bigger regional trade agreement is likely to fill the void. The Regional Comprehensive Economic Partnership (RCEP) is comprised of 16 countries, including Australia, China, India, Japan, Korea and New Zealand as well as the 10 countries of the Association of Southeast Asian Nations (ASEAN). It does not include the United States. Make no mistake, U.S. exporters will be significantly prejudiced if TPP is not soon passed by the Congress.

NPPC urges Congress to quickly pass the Trans-Pacific Partnership Agreement.

Vaccine Bank Needed To Address FMD

On the disease front, while PEDv is still an issue for the pork industry, producers seem to have the disease in check. But other bacterial and viral diseases remain challenges for producers. The industry has devoted significant resources to endemic and foreign animal diseases, funding more than 120 research projects and spending more than \$5 million for studying, monitoring and addressing swine diseases over the past 10 years.

But more must be done, particularly to address foreign animal diseases (FADs), which present a significant threat not just to the U.S. pork industry but to the entire animal agriculture sector.

Increased travel and trade among countries have made the United States increasingly vulnerable to several FADs, including African Swine Fever, Classical Swine Fever and Foot and Mouth Disease (FMD).

FMD is one of the most economically devastating foreign animal diseases affecting animal agriculture. It is highly contagious and spreads easily through livestock movement, by wind currents, on vehicles that have traveled to and from infected farms and even on inanimate objects that have come in contact with the virus. It affects all cloven hoofed species, including wildlife such as deer and elk.

FMD is endemic in Africa, Asia, South America and the Middle East. The FMD virus has seven viral serotypes and more than 60 subtypes, with wide strain variability. Managing and ultimately eradicating FMD requires strain-specific vaccines, making vaccination challenging and very expensive. Sporadic outbreaks with different types continue to pop up in countries around the world.

Because North America is free of FMD, an outbreak of the disease in the United States would immediately shut off all exports of U.S. livestock, meat and dairy products, creating a precipitous drop in livestock markets. Since U.S. consumers have little knowledge of the disease, there also likely would be serious disruptions in the domestic market because of decreased demand for those products. According to one recent study, prevention of FMD is estimated to be worth \$137 million a year to the U.S. pork industry.

The House Agriculture Committee Nov. 4, 2015, held a hearing on “American Agriculture and National Security” that highlighted the vulnerability of the U.S. food supply to the potential for FAD introduction by terrorists or by accident.

Additionally, the bipartisan Report of the Blue Ribbon Study Panel on Biodefense – the panel was co-chaired by former Department of Homeland Security Secretary Tom Ridge and former Sen. Joe Lieberman – released Oct. 28, 2015, concluded that improvements are needed to the U.S. system for protecting the U.S. livestock herd and the nation’s food supply from FADs.

Since 2013, several diseases affecting swine have been introduced into the U.S. herd, including PEDv, Delta Corona Virus and Orthoreovirus. Government officials responsible for overseeing port-of-entry inspections and disease risk management have been unable to specifically identify the source or means of introduction of those viruses even though USDA’s Animal and Plant Health Inspection Service (APHIS) conducted a root cause investigation.

If there is an unidentified gap in the U.S. safety net that allowed the introduction of these new diseases, it also remains open for FMD.

In a USDA foreign animal disease preparation strategy document on the phases and types of an FMD outbreak, Dr. James Roth, professor and researcher at Iowa State University, identified four phases of the disease: 1) confirmation of an outbreak (typically three days); 2) surveillance and epidemiological work necessary to provide timely evidence of the extent of an outbreak to support decision making by government officials; 3) recovery from the disease; and 4) freedom from the disease (possibly with vaccination).

He characterized an FMD outbreak as having six types: Type 1, Small Focal; Type 2, Moderate Regional; Type 3, Large Regional; Type 4, Widespread or National; Type 5, Catastrophic U.S.; and Type 6, Catastrophic North American, which includes Canada and Mexico.

Given the structure of the U.S. livestock industry, the likelihood of having a Small Focal or Moderate Regional outbreak is remote. The livestock industry estimates there are approximately 1 million pigs and 400,000 cattle moved daily in the United States, some over long distances. In addition, there are numerous auctions, fairs and exhibits that concentrate large numbers of animals in a single location, providing the opportunity for one infected or exposed animal to spread disease to many animals. Thus, it seems unlikely that, if the United States had an outbreak, it would be a Small Focal outbreak that could be controlled without widespread administration of vaccine.

The World Organization for Animal Health (OIE) sets standards for managing and declaring freedom from FMD. Those standards range from “stamping out” (killing all infected and exposed animals) to being free of FMD with vaccination.

After watching countries such as the United Kingdom, Korea and Japan, whose livestock populations pale in comparison to the United States, struggle to manage an FMD outbreak by killing large numbers of animals, APHIS changed its existing policy on managing the disease from “stamping out” to using vaccine to limit the spread. This policy change was endorsed by the livestock industry as a cheaper and more practical alternative given the enormous size of the U.S. livestock herd and the rapid movement of livestock around the country. The United States simply cannot “kill” its way out of an FMD outbreak.

But after reviewing the impacts of the policy change, it became apparent under the current structure of the FMD vaccine antigen bank that APHIS did not have the quantity of vaccine needed to implement the new policy, nor could vaccine be obtained in a timely manner in the event of an outbreak.

At APHIS’s request, the U.S. livestock industry began a series of meetings with senior APHIS officials to develop a strategy for improving the vaccine antigen bank and vaccine availability. There has been significant progress in FMD preparedness through the development of secure supply plans for milk, pork and beef, and APHIS continues to work with the livestock industry to improve its preparedness capability. Fixing the antigen bank capacity and improving vaccine availability must be a priority in future preparedness efforts.

Current U.S. law prohibits live FMD virus from being introduced onto the U.S. mainland, so foreign production companies are the only source of finished vaccines. It has been suggested that recombinant DNA vaccines that do not use live FMD virus can be produced in the United States, thus avoiding the legal prohibition of having live virus on the mainland. However, current data is not sufficient to determine how quickly, and indeed whether, such vaccines provide protection outside of the laboratory environment and for all species.

The United States likely is years away from the development and commercialization of such novel vaccines. But the U.S. livestock industry must have vaccines that are protective against the strain of FMD that might be in a sample sitting at the Plum Island Animal Disease Center (PIADC) for analysis at this very moment.

The United States is the only country in the world to maintain its own antigen bank, located at the PIADC. The bank maintains antigen for a limited number of FMD strains. APHIS contracts with foreign vaccine production companies to produce finished vaccine from the antigen stored at Plum Island. If an outbreak occurs, the antigen is shipped to Europe to produce vaccine, and the finished product is shipped back to the United States. Based on the current production contract, after three weeks, this process would produce only 2.5 million doses of vaccine, and there is no surge capacity to produce more.

Iowa State's Dr. Roth estimates that the U.S. livestock industry would need 10 million doses for the first two weeks of an outbreak.

The FMD vaccine bank is currently funded at \$1.9 million, and there have been no requests for a substantial increase in the President's budget despite the fact that Homeland Security Presidential Directive 9 (HSPD9) requires an adequate vaccine stockpile to be maintained.

Although APHIS is the agency charged with managing and controlling FADs, there is no logical reason there could not be mutual cooperation with the Department of Homeland Security on funding an enhanced vaccine bank and improving vaccine availability.

Another factor complicating upgrades to the vaccine bank is that it also serves as the North American Bank and thus includes Canada and Mexico. NPPC believes it is appropriate to include those neighboring countries, but the United States should not wait for negotiations with those countries to be completed before making necessary improvements, which are critical to the U.S. livestock industry.

There is concurrence among the livestock sectors that fixing the vaccine bank will require the following actions: 1) Contract for an offshore, vendor-maintained vaccine antigen bank that would have available antigen concentrate to protect against all 23 of the most common FMD types currently circulating in the world; 2) Contract for a vendor-managed inventory of 10 million doses (the estimated need for the first two weeks of an outbreak); and 3) Contract with an international manufacturer(s) for the surge capacity to produce at least 40 million doses.

For more than a year, NPPC and others in the livestock industry have urged APHIS to identify changes needed to modernize the antigen bank and increase vaccine availability by requesting information from vaccine producers to identify the cost of fixing the vaccine problem. The industry anticipates that the agency soon will make that request.

NPPC knows that fixing the vaccine shortage will require a significant increase in budget outlays. However, that cost pales in comparison to the cost of an FMD outbreak. Iowa State University economist Dermot Hayes estimates revenue losses to just the U.S. pork and beef industries from an FMD outbreak at nearly \$13 billion per year over a 10-year period; the corn and soybean industries are estimated to lose \$44 billion and almost \$25 billion, respectively. A recent study by Kansas State University estimates cumulative losses to consumers and livestock producers at \$188 billion, with an added cost to the government of \$11 billion for eradication efforts if vaccination is not employed. If vaccination is employed, the study estimates – depending on the strategy used – the losses to consumers and producers could be cut by 48 percent.

The history of government involvement in disasters like an FMD outbreak is that, once an outbreak occurs, unlimited resources are committed to getting control of the situation. In the case of FMD, there is a clear opportunity to invest in a robust vaccine bank that would limit the economic impact on producers, feed suppliers and consumers and reduce the government's cost for control and eradication of the disease.

NPPC urges the committee and Congress to work with the administration to address the alarming gap in the preparedness for an FMD outbreak. Whether the disease introduction is the result of terrorism, careless travelers or carried on traded commodities, the calamitous result is the same: devastation to the U.S. livestock industry and a significant hit to the U.S. economy.

Legislation and Regulation

Finally, the U.S. pork industry is, or can be, greatly affected by federal legislation and regulation.

NPPC works on behalf of America's pork producers to ensure that laws and rules don't impose unnecessary costs on the U.S. pork industry, restrict it from meeting consumer demands in an economical manner or prevent market-based solutions to issues. The structure of the pork production and packing sectors should be allowed to change with the demands of the growing global marketplace. This includes allowing producers and packers to adopt new technologies and pricing and marketing mechanisms that enable the former to reduce their risks and the latter to capture economies of scale.

The U.S. pork-packing sector is the envy of the world in terms of efficiency and food safety, and legislation and regulation should not take away or hamper that source of international advantage. Allowing producers and packers the freedom to develop new ways of doing business will only enhance the value of U.S. pork products, at home and abroad, and reduce costs and risks.

Today, the U.S. pork industry has developed a wide variety of marketing and pricing methods, including contracts, to meet the changing needs of a diverse marketplace. U.S. pork producers will not be well served by having certain types of contracting mechanisms eliminated, a move that only would force livestock markets to revert to a system used more than half a century ago in which animals were traded in small lots and at prices determined in an open-market bid system. Such a system was inefficient and makes no economic sense in today's economy.

That is why NPPC is very concerned about the revival of USDA regulations to amend the Packers and Stockyards Act, which is administered by the Grain Inspection, Packers and Stockyards Administration (GIPSA). The regulations, collectively known as the GIPSA rule and first proposed in 2010, would regulate the buying and selling of livestock and poultry. Congress in the 2008 Farm Bill asked USDA to address five specific issues related to production contracts:

- Criteria for determining whether an undue or unreasonable preference or advantage has been given to any producer.
- Whether a poultry dealer or swine contractor has provided sufficient time for a grower to remedy a breach of contract that could result in contract termination.
- Whether a poultry dealer has given reasonable notice of any suspension of delivery of birds to a grower under a contract.
- When a requirement of additional capital investment during the life of a contract constitutes a violation of the Packers and Stockyards Act as an unfair practice.
- The factors that comprise a fair usage of arbitration, including notification and the option for producers to opt out of automatic arbitration to resolve disputes.

U.S. pork producers were stunned in June 2010 when USDA proposed a rule that not only went well beyond the five issues Congress asked it to address but included provisions considered and rejected by congressional lawmakers during the 2008 Farm Bill debate.

One provision included in the rule, for example, would have required meat packers to justify and document, including with revenue and cost analyses, price differences paid for livestock, making it difficult for producers to negotiate premiums based on certain production practices, or accept lower prices for livestock of lesser quality. Such a “justification” provision was voted down by the Senate.

The rule would have had a devastating impact on livestock producers. According to an analysis of the regulation conducted by Informa Economics, it would have cost the U.S. pork industry more than \$350 million annually. Industry analysis of the rule concluded that it likely would have had a chilling effect on innovation and flexibility, leading to a race toward mediocrity. It would have created legal uncertainty, driving costs higher and causing an increase in vertical integration in the livestock sector, forcing producers out of business and possibly affecting meat supplies. All of those effects would have harmed the U.S. pork industry’s international competitiveness, costing U.S. on-farm and pork-processing jobs as well as negatively affecting the U.S. balance of trade.

While there was overwhelming opposition to the GIPSA rule, including more than 16,000 public comments from pork producers, it took yearly action by Congress to prevent its implementation. Unfortunately, no such action – in the form of language in USDA’s annual appropriation – was forthcoming for fiscal 2016.

In March, at a meeting of the National Farmers Union, which supported the 2010 GIPSA rule, Agriculture Sec. Vilsack indicated that his agency will move forward with implementing the regulation, and NPPC confirmed last week that several of the regulations are with the White House Office of Information and Regulatory Affairs, the last step before rules are proposed final or become final.

Pork producers again are very concerned that USDA's GIPSA rule will be too expansive, limiting farmers' ability to sell animals, dictating the terms of private contracts, making it harder to get farm financing, raising consumer prices and reducing choices, stifling innovation and leading to more vertical integration in the livestock industry.

The U.S. pork industry opposes any legislation or regulation that restricts marketing opportunities and interventions into hog markets unless such actions address a clear, unequivocal instance of market failure or abuse of market power. To date, USDA has not presented any evidence that either is taking place.

NPPC urges Congress to ensure that any USDA rule to amend the Packers and Stockyards Act not restrict producers' ability to sell or packers' ability to buy animals and not limit their ability to use technologies and pricing and marketing mechanisms that work for their mutual benefit.

Another regulation that could have a profound negative effect on U.S. pork producers is the "Waters of the United States" (WOTUS) rule issued last year by the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers.

The rule was promulgated ostensibly to clarify the agencies' jurisdiction under the Clean Water Act (CWA) over various waters. Historically and based on several U.S. Supreme Court decisions, those waters were limited to navigable waters, their tributaries and adjacent water bodies that are hydrologically connected or that otherwise affect navigable waters.

Certainly, pork producers are concerned about water quality, and they take a broad view of what it means to be environmentally responsible farmers and business people and have fully embraced the fact that their operations must protect and conserve the environment and the resources they use and effect. Producers take this responsibility with the utmost seriousness and commitment, and it has been in that spirit that they have made major commitments to environmental conservation, including meeting EPA's stringent zero-discharge standard that is part of the 2008 CAFO (Concentrated Animal Feeding Operation) rule and participating in a historic study of air emissions from farms.

But the WOTUS rule issued by EPA – over some objections from the Corps of Engineers – is overbroad, vague and fails to let regulated parties know what conduct violates the law. It includes, among other water bodies, upstream waters and intermittent and ephemeral streams such as the kind farmers use for drainage and irrigation. It also encompasses lands adjacent to such waters.

The rule, for example, would cover any discernable feature that possesses (or previously possessed) a bed, bank and high water mark. This would create uncertainty, confusion and significant legal liability for farmers. In short, the regulation as written could affect farmers' ability to use their land. Moreover, under the CWA, there is an absolute prohibition on discharging any pollutant – whether manure, a chemical pesticide or fertilizer or even a seed of corn – into a WOTUS without a federal permit. Violations of the prohibition are subject to significant criminal penalties as well as civil fines of up to \$37,500 per day per discharge, with the power to enforce the penalties open to private citizens.

It's not so much EPA enforcement but the threat of activist groups suing – using the CWA's private right of action – over alleged WOTUS violations that will have a chilling effect on farmers.

A number of lawsuits brought at the U.S. District Court level were filed against the regulation, which took effect Aug. 28, 2015. (The North Dakota-based District Court in September 2015 issued a temporary injunction against EPA implementing the regulation in the 13 states that brought suit against the rule in that court.) The government wants the District Court cases to be consolidated in the U.S. Court of Appeals for the 6th Circuit in Cincinnati, which in October 2015 issued a stay of the rule until disposition of the cases before it.

In reaching its decision to stay the rule, the 6th Circuit found that there's a substantial likelihood that the WOTUS regulation fails to comply with the U.S. Supreme Court's instructions in previous Clean Water Act cases and that the actions of EPA in the rulemaking process, to which NPPC objected at the outset, are "facially suspect."

Despite its hints about the outcome of the consolidated cases, the possibility exists that the appeals court will find that the EPA and the Corps of Engineers were within their discretion in promulgating the WOTUS rule.

So NPPC continues to urge the agencies to withdraw the rule and to work with all affected stakeholders, including the agricultural community, to develop a rule that clarifies what waters are and are not jurisdictional in a manner consistent with the Supreme Court's rulings and that is workable and cost effective for the regulated community.

Conclusion

The U.S. pork industry is the lowest-cost producer and No. 1 exporter of pork in the world, and U.S. pork producers continue to produce the most abundant, safest, most nutritious pork in the world. They have proved very resilient, weathering financial crises and diseases as well as the vagaries of a supposedly free-market economy pushed and pulled in various directions by government intervention and regulation while investing in and adopting new technologies that have promoted animal health, protected the environment and added thousands of jobs and billions in national income to the American economy.

For America's pork producers to continue as leaders in the international and domestic economies, for them to take advantage of the opportunities and meet the challenges presented to them, Congress and the administration must pursue federal policies and regulations that support U.S. pork production rather than hinder its ability to continue to produce safe, lean and nutritious pork and pork products for the global marketplace.

**Statement of Ron Truex, Chairman
United Egg Producers
Before the
Committee on Agriculture, Nutrition, and Forestry
United States Senate**

May 26, 2016

Chairman Roberts and Ranking Member Stabenow, thank you for inviting United Egg Producers to testify at this hearing. UEP is a cooperative whose farmer-members independently market over 95% of all the eggs produced in the United States. My name is Ron Truex and I am president of Creighton Brothers LLC, a family-owned egg producer in Warsaw, Indiana. I also have the privilege of serving as chairman of UEP.

In the last two years, the egg industry has been dramatically affected by two major events. The first was a disease; the second is a trend in the marketplace.

First, we continue to recover from what USDA has called the worst animal-health crisis in the nation's history: the outbreaks of highly pathogenic avian influenza (HPAI) in 2015. Between December 2014 and June 2015, this disease was detected in commercial and backyard poultry flocks as well as wild birds in 21 states. As a result, 42.1 million layers and pullets had to be depopulated along with 7.5 million turkeys. The federal government incurred costs of \$950 million, and the state of Iowa alone was estimated to have suffered \$1.2 billion in lower economic output, including the loss of over 8,000 jobs, as outlined in a study commissioned by that state's Farm Bureau.

Egg producers sincerely appreciated USDA's response to last year's crisis. Both industry and USDA have learned painful but valuable lessons from the initial experience, and when a different strain of HPAI briefly appeared in Indiana this year, the swift response played a part in containing that outbreak to a small area.

As a result of the 2015 HPAI crisis, egg prices rose sharply and supplies were often short, particularly supplies of processed egg products. Our customers were, in some cases, forced either to import eggs for processing, or to reformulate away from eggs in their food manufacturing operations. As a result, our industry and its organizations, including the American Egg Board, are still working to restore demand for egg products.

This year we have been challenged from another direction. A large number of restaurant and grocery chains, food service providers and consumer packaged goods companies have announced their intention to source only cage-free eggs. In most cases, these customers have stated that they will phase in cage-free specifications over a period of time, often as much as 10 years.

According to statistics from USDA, today there are 30 million cage-free layers out of a laying flock of over 300 million – just under 10%. Of those 30 million, roughly 13.5 million are in organic flocks, and 16.6 million are in non-organic cage-free flocks. The remainder of the U.S. flock – about 90% – is cared for in cages, the vast majority of which comply with our organization’s UEP Certified Program and must maintain certain minimum space requirements for each bird. Of the caged flock, a small but important portion is in enriched cages, where space allowances are greater and enrichments like perches and nest boxes are provided.

USDA has attempted to estimate current egg usage by all the individual companies that have announced cage-free commitments. There is obviously some uncertainty in these estimates, but they are quite sobering. By 2030, according to USDA, current commitments would require that over 60% of the nation’s egg-laying flock – 174.6 million birds -- be in cage-free housing.

Remember, today only about 10% of the flock is cage-free. A number of producers have announced their plans to convert some or all of their operations to cage-free status, but – again quoting USDA – current announcements would only result in about 63 million cage-free birds by 2019. That is a very long way from the more than 174 million that USDA says will theoretically be needed by 2030 (and more than 168 million by 2025).

It will be extremely difficult for our industry to meet all cage-free demand over the next decade. The massive conversion that our customers are asking for will require extensive new construction, new capital investment, the acquisition of additional land, the distribution of large fixed costs over significantly fewer birds in a given space, and the adoption of a sharply higher production-cost structure. Many in our industry would say that “extremely difficult” is too optimistic a phrase, and that it would be more accurate to say “virtually impossible.”

That does not mean there is anything wrong with cage-free production. UEP believes – and scientific studies have shown – that hens can be humanely housed in a variety of ways: through conventional cages, enriched cages and in cage-free settings. Good management, not production system, seems to be the most important variable in whether hens are well cared-for.

Now, so that my testimony does not seem like all doom and gloom, let me tell you some good news about eggs, and then suggest two positive steps Congress could take to help our industry.

For many years, Americans were told to avoid eating too many eggs because they contain cholesterol. But today, more and more people realize that the cholesterol in your food does not really influence the cholesterol in your blood – and it’s the cholesterol in your blood that creates health risks. We now have multiple validation of this scientific view. This year, the 2015-2020 Dietary Guidelines for Americans dropped the longstanding warning about the amount of cholesterol in your diet. Not long before that, the American Heart Association issued its own guidelines, which also did not put limits on dietary cholesterol and stated that there was no evidence linking dietary cholesterol with serum or blood cholesterol.

Eggs are a great way to get protein, vitamin D, choline and other important nutrients, and of course as we all know, they taste great and are easy to prepare. Those are just some of the reasons that per capita egg consumption this year will be about 10% higher than it was in 1998.

Let me conclude with two recommendations for Congressional action. First, like other agricultural organizations, we believe there is a need for a national policy on whether or not to label products for their genetically engineered (GE) content. Although animal products in their pure form are exempt from Vermont's labeling law, they have not been exempted from some proposals in other states. Additionally, egg products are used in many processed foods that will have to be labeled in Vermont.

We commend the bipartisan leadership of this committee for working hard for a solution. We understand the difficulty of reaching consensus, but respectfully urge you to keep trying. As you find solutions, let me underline one very important point from our standpoint: eggs from hens that consume GE feed are *not* genetically engineered themselves, and they should *not* have to be labeled as GE or GMO. The GE material in corn and soybeans is not present in eggs, any more than it is in meat or milk. So it would be illogical to require meat, milk or eggs to be labeled as GE, regardless of the feed consumed by the animals. Vermont's law already has such an exemption, and it is also consistent with policies in the European Union and other countries. This is our top priority in the GMO debate.

There is a second way that Congress can help our industry, and that is to encourage USDA to use common sense in regulating organic poultry practices. USDA issued a proposed rule that would ban certain organic production systems that have been specifically allowed by USDA since 2002. These are called "porch systems," and they allow organic hens access to the outdoors on a porch that is open to the elements but covered with a solid roof in order to protect against predators and carriers of animal disease – such as the HPAI that is carried by wild birds. These systems also help producers comply with the Food and Drug Administration's Egg Safety Rule to prevent *Salmonella* Enteritidis. We support that FDA rule and we know that FDA is currently working on guidance for how farmers can comply with their rules while still providing outdoor access. For that reason, we were quite surprised to learn that USDA did not consult with FDA before issuing this proposed regulation. Basically, FDA learned about it when we did.

In addition, the requirement for increased space for outdoor access (2.25 pounds/ft² or 2 square feet per bird), which does not include existing porch investments, as well as the proposed rule's requirement that the outdoor area be at least 50 percent soil, are two of the most problematic aspects of this far-reaching regulation.

With the stroke of a pen, USDA is proposing to ban previously-approved production systems and basically stipulate that only pasture-based systems are organic. This proposal would drive a majority of current organic production out of business. As a consequence, consumer supplies of organic eggs would be restricted, consumer prices would rise, and growth in organic egg demand would be sacrificed on the altar of ideological purity.

This committee has already been helpful on a bipartisan basis by questioning USDA's proposed rule, and we very much appreciate the interest of both the chairman and the ranking member, as well as other

members of the committee. We would urge you to continue contacting USDA, including filing comments, and ask that the Department extend the comment period for an additional 60 days so that a final decision can be based on more complete facts. We hope you will also urge the Department to conduct additional economic analyses of what the proposed rule's impact will be.

I am not personally involved in organic egg production, but a number of my fellow-producers are, and they are puzzled why USDA would want to take away consumer choice by restricting organic egg supplies. This proposed rule is a bad idea, not only for us but for other animal agriculture industries that would be affected.

I would like to close by thanking the committee for taking an interest in the livestock side of U.S. agriculture. As you continue to oversee current policies, and begin to prepare for the next farm bill, I respectfully ask that you take livestock, poultry and dairy interests into account in all your deliberations. Thank you for the opportunity to testify.

Testimony of John Zimmerman on behalf of the National Turkey Federation**Senate Agriculture Committee Hearing: “A Review of the U.S. Livestock and Poultry Sectors: Marketplace Opportunities and Challenges.”****May 26, 2016**

Good morning, Chairman Roberts, Ranking Member Stabenow and members of the committee. My name is John Zimmerman, and I am a turkey farmer from Northfield, Minnesota and past president of the Minnesota Turkey Growers Association (MTGA). My family and I raise about 4 million pounds of turkeys annually on our farm as well as grow about 500 acres of corn and soybeans. I am also a board member of the National Turkey Federation, which represents the \$32 billion U.S. turkey industry. I appreciate the opportunity to testify before you today on the state of the turkey industry. The turkey industry raises approximately 238 million turkeys annually, and provides employment to over 63,000 people nationwide, directly associated with breeding, hatching, raising and processing turkeys. USDA’s latest forecast puts 2017 turkey production at an all-time record of 6.4 billion pounds, 14% higher than 2015. As an industry, we continue to be challenged with a multitude of issues that impact those of us in the turkey business and we look forward to working with each of you to address these issues.

Avian Influenza

In 2016, the turkey industry has made significant strides in recovering from highly pathogenic avian influenza (HPAI), after suffering through the worst animal disease outbreak in U.S. history in 2015. The losses from HPAI were personal and weighed heavily upon the shoulders of farmers, rural communities, and companies from the West coast to the Midwest.

As an industry, we continue to learn new lessons from the outbreak and guard against the potential return of the deadly virus. Our preparation was tested earlier this year in Indiana when a small outbreak occurred in a commercial turkey flock. This outbreak was so small precisely because of the lessons we’ve learned. The most important lesson is that immediate action needs to be taken at the local level to limit virus spread. No matter how good the intentions are at the state and federal level, industry must be given clear permission to act within minutes, not hours or

days, to protect other nearby farms from becoming infected. I must emphasize the need for rapid “stamping out” procedures and methods that ensure humane treatment while eliminating virus spread. Currently there is no one method that achieves perfect results in all circumstances.

NTF is deeply appreciative of the indemnification program implemented by USDA and the Animal Plant Health Inspection Service (APHIS) along with the strong Congressional support for the turkey industry as we managed through the crisis. I would be remiss at this time if I did not take a moment to personally thank my fellow Minnesotan Senator Klobuchar on behalf of myself, NTF and the entire turkey industry for all you did to help last year.

Our industry continues to work with federal and state officials on key areas such as: biosecurity, depopulation strategy, disposal, repopulation, vaccine usage and future research. However, the road ahead remains long and as an industry we will need continued support from Congress to assist USDA/APHIS on the avian influenza front. The 2016 Indiana incident is a stark reminder that HPAI is still out there looking for an opportunity to strike again. The 2015 damage to the poultry industry exceeded \$1 billion, with much of that cost borne by consumers in the form of higher turkey and egg prices.

In order to prevent future outbreaks, the U.S. needs to adopt a forward-looking, mandatory animal pest and disease prevention program designed to limit the impacts of foreign zoonotic diseases on livestock and poultry producers. We look forward to working with Congress to get this accomplished. As the saying goes, “an ounce of prevention is worth a pound of cure”.

Exports

All poultry exports – turkey, eggs and broilers – were severely damaged by the trade restrictions that resulted from the 2015 HPAI outbreak. Specifically, 2015 turkey exports declined to only 533 million pounds, a 34% drop from 805 million in 2014. Over 33 countries enacted some form of ban on U.S. poultry during the height of the HPAI crisis, and I want to make sure to thank the staff of USDA’s APHIS for their work in reopening closed markets as well as establishing protocols that will limit bans to regional levels in any future cases of avian influenza. We

have seen this hard work pay off in the very limited bans enacted after the two cases in 2016.

However, we continue to see HPAI outbreaks in Europe, Asia and South America. Now is the time, to re-engage with our trade partners to discuss how HPAI can be treated moving forward. This is a global disease and working with the government we can develop a plan that minimizes export disruptions during future outbreaks.

Additionally, as APHIS knows, there is much more work to be done on the international front to protect all sectors from non-scientific trade barriers enacted in the name of protecting animal health. It is important that USDA's Foreign Agriculture Service (FAS) continue its work with both APHIS and the turkey industry to fully understand how our industry differs from chicken and livestock production. For example, while never covered under the U.S. COOL regulations, turkey has unfortunately seen restrictions in response to COOL, with both Korea and South Africa banning U.S. turkey "hatched" outside the U.S. This causes significant problems for many companies that hope to expand sales in these promising, growth markets.

Finally, we support the Trans-Pacific Partnership Agreement (TPP) as an important step forward in reducing trade barriers and opening new markets for the turkey industry. We encourage Congress to approve the agreement as soon as possible.

Organic Rule

Recently, USDA proposed a rule to amend the organic livestock and poultry production requirements based on recommendations by the National Organic Standards Board. NTF is concerned about the potential disruption to existing organic producers and their supply chains, as well as the impacts this proposed rule may have on ensuring that animal health is fully protected. Before moving forward with the rule, the turkey industry feels that USDA should conduct a thorough assessment of the costs of compliance, increased animal health and welfare risks, and alternatives for existing organic growers so that producers and supply chains directly impacted by these changes will be minimally impacted.

USDA's Grain Inspection Packers and Stockyards Administration (GIPSA)

Six years ago, USDA proposed sweeping rules changes on farmer contracting. With the expiration of a Congressional prohibition on implementing those changes, USDA is once again threatening to fundamentally change the rules by which our members operate. We continue to believe that the changes would increase costs, reduce productivity, and possibly lead to increased live production ownership by integrated poultry companies, to the detriment of independent farmers. We support the continued prohibition of USDA's implementation of the proposed changes for the simple fact that the unintended consequences would outweigh any purported benefits.

Food Labeling

A recent report by the National Research Council – the working arm of the National Academy of Sciences, Engineering and Medicine – found that foods made from genetically engineered crops are as safe to eat as those made from conventional crops, and that GMOs generally improve farmers' yields by controlling pests and weeds. With regards to food labeling, NTF continues to actively support the two critical components of any GMO bill that comes out of Congress: 1) That the bill maintains federal preemption for meat and poultry labeling, which is already regulated by USDA – FSIS and 2) that it ensures that animals fed GE feed should not have to be labeled GE. We look forward to having a bill that prevents a patchwork of state rules that create a labeling nightmare for food producers. The U.S. needs a single set of labeling rules that are common-sense and based on the most respected science known.

Immigration

We have a worker shortage all across the country, and meat and poultry producers are no different in feeling the pain of this shortage. The turkey industry supports immigration reform that include policies and provisions that will maximize benefits to the turkey industry and ensure a strong and durable immigration system that meets the needs of the U.S. economy. Most turkey plants are located in rural, low-unemployment areas. To fully staff these plants, producers must recruit from outside of their local areas and in many instances must rely on first-generation Americans. There are very few permanent visas for less skilled workers and the existing temporary programs only apply to seasonal labor. This effectively leaves

year-round meat and poultry manufacturers with no good options. Our members need access to a pool of legal, general labor immigrant workers, and we support a visa program that addresses the needs of the meat and poultry industry. There is currently no one bill that provides a “silver bullet,” but it is time to resolve the immigration debate for the good of the country.

Once again, thank you for the opportunity to testify today on the state of the U.S. turkey industry and the issue impacting our businesses. I will be happy to answer any questions at this time.

DOCUMENTS SUBMITTED FOR THE RECORD

MAY 26, 2016

PAT ROBERTS, KANSAS
CHAIRMAN
 THAD COCHRAN, MISSISSIPPI
 MITCH MCCONNELL, KENTUCKY
 JOHN BOGDMAN, ARIZONA
 JOHN HOSCHKE, NORTH DAKOTA
 DAVID A. PERDUE, GEORGIA
 JONI ERNST, IOWA
 THOM TILLOTSON, NORTH CAROLINA
 BEN RAY, NEBRASKA
 CHARLES E. GRASSLEY, IOWA
 JOHN THUNE, SOUTH DAKOTA

United States Senate
 COMMITTEE ON
 AGRICULTURE, NUTRITION AND FORESTRY
 WASHINGTON, DC 20510-6000
 202-224-2035

DEBBIE STABENOW, MICHIGAN
RANKING DEMOCRATIC MEMBER
 PATRICK J. LEAHY, VERMONT
 SHERROD BROWN, OHIO
 AMY KLOBUCHAR, MINNESOTA
 MICHAEL F. BENNETT, COLORADO
 KIRSTEN E. GILLIBRAND, NEW YORK
 JOE DONNELLY, INDIANA
 REID HESTER, NORTH DAKOTA
 ROBERT P. CASEY, JR., PENNSYLVANIA

April 19, 2016

The Honorable Tom Vilsack
 Secretary
 U.S. Department of Agriculture
 1400 Independence Ave., SW
 Washington, DC 20250

Dear Mr. Secretary:

I write to express concern about recent statements that the U.S. Department of Agriculture (USDA) is considering reissuing controversial rules that were originally proposed six years ago by the Grain Inspection, Packers and Stockyards Administration (GIPSA). The meat, livestock and poultry sectors have long contributed to our country's agricultural economy. Ranchers have shaped the rich history of my home state of Kansas where rural communities and cities were built on the meat and livestock sectors and are still vibrant today because of those successes. I am concerned about any administrative actions by USDA that could have negative ramifications for these industries that we both view as important stakeholders. Further, it was due to this concern that Congress chose to allow implementation of only certain provisions of the 2010 proposal, while preventing implementation of other provisions that were considered the most onerous or beyond congressional intent.

I caution USDA from finalizing controversial provisions of the 2010 GIPSA rule or proposing new regulations related to this subject matter in haste. Extensive departmental outreach to impacted stakeholder groups is necessary in creating an informed proposal, and to date this has not occurred. Furthermore, simply reviewing industry comments submitted for the 2010 proposal is unacceptable given the changes in the meat, livestock and poultry sectors over the past six years. A current Cost Benefit Analysis (CBA) would also need to be conducted to ensure current marketplace conditions are accounted for and the proposal does not result in undue costs. As you will recall, industry estimates determined the 2010 proposal had costs exceeding \$1 billion, and at that time, Congress raised concerns with the development of USDA's CBA.

Finally, the 2010 proposal allowed 150 days for stakeholders to submit comments. I respectfully suggest an equal minimum amount of time for public comment should USDA proceed with taking any action, regardless if the provisions are new or were issued as part of the 2010 proposal. The meat, livestock and poultry sectors deserve the opportunity to take a thorough and renewed look at the impacts the proposal will have on their businesses given the current marketplace conditions.

The U.S. meat, livestock and poultry sectors contribute greatly to the vitality of rural communities across the country. Finalizing controversial provisions of the 2010 GIPSA rule or proposing new, unwarranted regulations related to this subject matter may stifle economic opportunity, increase regulatory burdens, and result in significant negative consequences. USDA

needs to collaborate with these stakeholders and not hastily issue far reaching regulations that will cause undue harm. I appreciate a response in writing with your view of any widespread changes that have occurred in the marketplace that may warrant reconsideration by USDA of these same or related measures. Thank you for your time and attention to this matter.

With every best wish.

Sincerely,



Pat Roberts
Chairman

PAT ROBERTS, KANSAS
CHAIRMAN
 THAD COCHRAN, MISSISSIPPI
 MITCH MCCONNELL, KENTUCKY
 JOHN BOGDANSKI, ARKANSAS
 JOHN HOSCHER, NORTH DAKOTA
 DAVID A. PERDUE, GEORGIA
 JONI ERNST, IOWA
 THOM TILLOTSON, NORTH CAROLINA
 BEN RASE, NEBRASKA
 CHARLES E. GRASSLEY, IOWA
 JOHN THUNE, SOUTH DAKOTA

United States Senate
 COMMITTEE ON
 AGRICULTURE, NUTRITION AND FORESTRY
 WASHINGTON, DC 20510-6000
 202-224-2035

DEBBIE STABENOW, MICHIGAN
RANKING DEMOCRATIC MEMBER
 PATRICK J. LEAHY, VERMONT
 SHERIDAN BROWN, OHIO
 AMY KLOBUCHAR, MINNESOTA
 MICHAEL F. BENNET, COLORADO
 KRISTEN E. GILLIBRAND, NEW YORK
 JOE DONNELLY, INDIANA
 NEIL HEITSCH, NORTH DAKOTA
 ROBERT P. CASEY, JR., PENNSYLVANIA

April 28, 2016

The Honorable Gene Dodaro
 Comptroller General
 U.S. Government Accountability Office
 441 G Street, NW
 Washington, DC 20548

Dear Mr. Dodaro,

Foot-and-mouth disease (FMD) is a devastating virus that affects cloven-hoofed animals, such as cattle, sheep, swine, bison and deer. While FMD does not currently exist in the United States, it is prevalent in more than two-thirds of the world and is widespread in parts of Africa, Asia, Europe, South America and particularly Middle Eastern countries. New strains of the FMD virus continue to appear in other countries, suggesting this highly contagious disease will continue to threaten animal health and the entire agricultural sector for the foreseeable future. Consequently, an FMD outbreak in the United States would have a severe impact on our economy and lasting trade repercussions. Iowa State University estimates that an FMD outbreak in the U.S. would cost the U.S. beef and pork sector approximately \$13 billion per year, the corn sector approximately \$44 billion per year, and the soybean sector approximately \$25 billion per year. Such losses in this country would be devastating to our agricultural producers, rural communities, food manufacturers and consumers.

Due to the breadth of problems FMD could cause if introduced in the United States, FMD is properly considered a potential agent for agroterrorism. The Department of Agriculture (USDA) is responsible for working to protect against introduction of FMD in our country's livestock and it does so by partnering with the Department of Homeland Security, individual states and industry organizations. Considerable federal, state and industry resources have been devoted to preparing for such an event. Yet, despite these efforts, preparing for introduction of this virus within the U.S. will be an on-going and ever-evolving process as we learn from the lessons experienced by other countries who have dealt with an outbreak of FMD.

In recent years it has become apparent that USDA's long-standing plan for addressing a potential outbreak, which included quarantine and slaughter of infected and susceptible animals, otherwise known as "stamping out," presents impracticalities. Recent outbreaks in countries such as Korea and Japan have been dealt with in this manner, resulting in the slaughter of millions of pigs and cattle. However, they have struggled to contain the virus. Most countries are now opting to vaccinate rather than attempting to stamp out the disease. Further, carcass disposal, movement of animals throughout North America, and impact on other sectors including the grain and feed sectors, present distinct and complex challenges that must be considered in FMD outbreak preparedness efforts. As such, FMD preparedness plans, both within industry and government, have begun to focus on the need to develop an adequate bank of vaccine antigen

concentrate and vaccine stockpile to employ in case of an outbreak. Since an outbreak in the U.S. would require millions of doses of vaccine, there must also be an adequate vaccine surge production capacity to provide sufficient quantities of vaccine given the size of the U.S. livestock herd.

While USDA has devoted considerable resources to creating controls and protections to prevent the introduction of FMD in the U.S., other plans for addressing a potential outbreak of FMD have lacked specificity. Among such plans the considerations include how an adequate supply of FMD vaccine would be developed, and how a response using vaccines would be implemented. Due to the potential of FMD to be used as an agent in an Agroterrorism attack, and the devastating effect of such an attack, the federal government needs to increase its commitment to protecting this country from the introduction of livestock viruses. In order to help protect the nation's economy, environment, and agriculture sector, I respectfully request GAO review USDA's efforts to prepare for, respond to, and recover from an FMD outbreak. Specifically, I request GAO to examine the following:

- The strategies USDA intends to use to respond to and recover from a FMD outbreak, including development of a bank of vaccine antigen concentrate sufficient to produce needed quantities of vaccines, and how USDA plans to carry out each strategy.
- Any challenges, including coordination with federal, state and industry partners, which could impair a quick and effective response and recovery.
- Any lessons learned from the response and recovery efforts in other countries, such as Japan, Korea and the United Kingdom that could be applicable to USDA.

Thank you for your attention to this matter. I look forward to GAO's work on this issue, and receiving an update soon. If you have any questions or you would like to discuss this request, please contact Andrew Rezendes of the Committee Staff at 202-224-2035.

With every best wish.

Sincerely,



Pat Roberts
Chairman

cc: The Honorable Debbie Stabenow, Ranking Minority Member

A Review of the U.S. Livestock and Poultry Sectors: Marketplace
Opportunities and Challenges

Written Testimony of Livestock Marketing Association

Provided to Senate Committee on Agriculture, Nutrition and
Forestry
May 26, 2016

Chairman Roberts, Ranking Member Stabenow, and Members of the Senate Committee on Agriculture, Nutrition, and Forestry:

These comments are provided on behalf of the Livestock Marketing Association (LMA), which is the leading national trade organization for more than 800 livestock marketing businesses located throughout the United States. LMA represents more than 75 percent of the regularly selling local livestock auction markets in the U.S. Livestock auction markets serve two important purposes: (1) they sell livestock for producers in a competitive bidding environment and (2) they stimulate the economies in local communities.

According to U.S. Department of Agriculture Grain Inspection Packers and Stockyards Administration (GIPSA) annual reports, livestock auction markets each year sell more than 33,000,000 cattle, 8,000,000 hogs, and 2,800,000 sheep. This amounts to \$30 billion dollars in gross sales of livestock sold in auction markets each year. In talking about the opportunities and challenges for the livestock sector, we'll focus on auction market businesses but also touch on some important topics for the industry as a whole.

Key points:

- The future holds both opportunities and challenges for animal agriculture.
- The Packers and Stockyards Act needs to be changed.
 - The structure of the livestock marketing industry has changed; but the P&S Act has not. Some needed changes can be made on a consensus basis in the short term. Other changes will require more in depth analysis.*
- Market volatility is a serious issue that needs to be studied.

Opportunities and challenges exist for animal agriculture.

First, the good news is we see great opportunity for animal agriculture. The United States is the premier producer of livestock and livestock products, particularly grain-fed beef. We are excited about the opportunities to expand as an industry, especially as the middle class populations in many key countries grow. Factors such as lower feed costs and much needed moisture in many parts of the country have contributed positively to the livestock sector. This positive response is especially evident in the cattle sector by the decision of many cattle producers to take part in a rebuilding of numbers in the U.S. beef herd.

From a marketing sector perspective, livestock auction markets see opportunities to continue our proud tradition of serving our customers. Markets help producers receive the highest price possible for their animals through competitive bidding, sorting, and offering livestock in volume. In addition, markets are often where producers receive the help and information they need to ensure they are complying with state and national

requirements particularly those relating to animal health, such as health certificates or disease testing requirements.

We also see growth opportunities that come with technology. Many markets have expanded their services to include online or video sales. Additionally, our members continue to look for innovative ways to help producers realize additional premiums for their livestock, such as desirable animal health programs.

However, we have some challenges to overcome as well. One of the greatest challenges for the livestock marketing sector is figuring out how to operate under an outdated and cumbersome regulatory structure. Last summer, LMA hosted a nine stop listening tour to hear from market owners, managers, and professional livestock buyers. From Valdosta, Georgia to Modesto, California, and everywhere in between, the message we heard was consistent. First, the laws and regulations governing the livestock marketing industry have not kept up with the times. Second, the greatest concern for livestock markets is making sure they receive payment for livestock they sell.

The livestock marketing industry has changed, but the P&S Act has not.

Our industry has changed greatly over the last 100 years. When the Packers and Stockyards (P&S) Act was passed in 1921, livestock were being transported by rail cars to a handful of large terminal stockyards in places such as Chicago, St. Louis, Kansas City, and Omaha where they were sold by commission firms housed at the stockyards. The stockyards often had close ties (or were controlled by) the packers that bought the livestock and the railroads on whose lines the livestock had to be shipped.

Today, approximately 1,000 regularly selling local livestock auctions are spread out across the United States, and their connections to the railroad and packing industries are completely different from what existed 100 years ago. These auctions have greater transparency than the terminal stockyards of years gone by, due to both the nature of the auction environment and immediate information sharing. Today, in a community of buyers and sellers connected by computers and cell phones used by the markets and our customers, the flow of information is almost instantaneous. It is common today for livestock markets to broadcast their sales online. Finally, many livestock marketers have also added an internet or video sale component to their businesses.

While the marketing industry has adapted to structural changes in the industry, to changes in the banking industry, and to changes in the communications industry, the statutory authority of the Packers and Stockyards Act has remained stagnant. It has been decades since a wholesale review led to significant statutory or regulatory reform. For livestock market owners, this results in GIPSA interpreting and applying laws and regulations designed for the terminal stockyards to the business structure that we have today. The combination of antiquated statutory and regulatory authority coupled with a field staff spread out across the U.S. has led to differing interpretations between

regions and even individuals within a region. We heard on our listening tour that this leaves many market owners and operators feeling like GIPSA compliance is a moving target.

We will readily admit that there has been, and continues to be, significant controversy surrounding proposed GIPSA regulations in recent years. We share the concerns of many in the livestock industry surrounding recent news that GIPSA is again considering regulatory changes similar to those proposed in their 2010 proposed competition rule. Any changes along these lines must be thoroughly vetted with industry input to ensure that changes intended to increase competition do not unintentionally reduce competition instead. This requires significant debate and analysis.

However, at the same time, common sense, consensus-based changes should be made to begin the process of bringing the law into the 21st century. The regulated community needs action now in areas completely unrelated to the controversial topics.

Short-term, targeted changes to the P&S Act are needed.

Language has been drafted and shared with legislative offices and industry stakeholders that would make two targeted changes.

First, Section 301 should be revised to make it clear that online and video auctions fall under the Act. More and more livestock are being sold through online and video sales. As the Act is written, it is not entirely clear whether, or to what extent, those online and video sales are covered and must comply with the Act. Although LMA members who conduct business online already follow the law's requirements when doing so, the lack of clear authority of GIPSA to regulate these sales is concerning. Clarifying Section 301 would ensure that people selling through online and video markets receive the same protections as those who sell at fixed-facility livestock markets, including a custodial account, prompt payment, and bonding. Section 301 should be narrowly revised so that it only applies to those online and video businesses that are charging a commission or other fee and handling, or providing a means to handle, funds due to sellers.

Second, Section 409 should be revised to make it clear that modern electronic payment methods are permissible under the Act. Currently, Section 409 refers to only two forms of payment to meet the prompt payment requirement of payment within the next business day of the sale: checks in the mail and wire transfers. Modern banking practices use many different forms of payment, such as Automated Clearing House (ACH) and credit and debit cards. Revising Section 409 to make it clear that modern electronic forms of payment are permissible will allow for quicker payment, which will reduce the risk of defaults. This is especially important because it is taking longer and longer to receive checks through the mail. Changing the P&S Act in this way would not exclude any current payment options; it would simply allow buyers and sellers flexibility by adding modern options.

These changes should be addressed this year, both to make needed updates to the law and also to prove that, working together, Congress and industry can address problems in a consensus-based manner.

More long-term, in-depth changes to the P&S Act should be considered.

A more in-depth review of the P&S Act is needed on two levels. First, Congress needs to determine if the Act is fulfilling its purpose. Second, there are specific changes that could provide much needed financial protection to sellers of livestock.

Another issue often raised during LMA's listening sessions was the amount of devastating risk sellers of livestock and markets under the P&S Act are exposed to when a buyer fails to pay.

In 2010, Eastern Livestock, the largest livestock dealer in the U.S., defaulted on payment to hundreds of livestock producers, markets, and other dealers. The Eastern Livestock default is not a one-time, isolated occurrence in the industry. Since 2010, there have been several instances of dealer defaults. As recent as this past Fall, a major dealer failed to pay two livestock markets (owing \$980,000 to a market in Kansas and \$2.9 million to a market in Nebraska), as well as several producers who sold to the dealer directly.

Producers who sell through a livestock auction market are protected by both the market's surety bond and by the market's custodial account (trust account). Producers who sell directly to packers are protected by both the packer's surety bond and by the Packer Statutory Trust under 7 U.S.C. 196. Producers who sell directly to dealers are provided little protection. Under the current law, dealers do not have a custodial account or a trust.

Markets are placed in a highly vulnerable position when it comes to payment. Pursuant to 7 U.S.C. 228b, markets are required to pay sellers of livestock by no later than the close of the next business day after the sale, even if the markets are not paid by the buyer of those livestock. When livestock markets are not paid, they are usually left with no feasible way to collect. If the dealer has resold the livestock to a good faith purchaser, that second purchaser has clear title to the livestock, even if the dealer has not paid for them. In addition, a dealer's bank usually will have a blanket security interest on all of the dealer's livestock inventory, which, under current law, will give the bank a perfected security interest in the livestock even though the dealer never paid for them and the bank never loaned the dealer any money for those specific livestock. A producer selling directly to a dealer is in a similar poor position when the dealer fails to pay.

When a dealer mails a check, as the law allows, it may be several days before the seller (whether livestock market or producer) even gets the check or discovers that a check is not coming. In many parts of the country, mail has slowed down significantly, further stretching this critical time period. In some cases, a buyer may buy multiple times before a payment problem is discovered.

Although the P&S law attempts to provide financial protection for sellers of livestock by requiring dealers to maintain surety bonds, bond claims rarely make up for any significant loss. P&S dealer bond claims return, on average, about 15 cents for every dollar claimed (1999 -2013 data). This does not include Eastern Livestock claims where payout was 4.37 cents on the dollar.

Additional protection is needed for markets and producers selling to dealers. Financial protection already exists for those dealing with packers (Packer Statutory Trust) and markets (custodial account) and in other agriculture sectors (statutory trust under the Perishable Agricultural Commodities Act). Simply raising bond amounts is not an acceptable alternative because it would push legitimate buyers out of the marketplace due to the significant assets needed to obtain this type of bond, particularly young and beginning market participants. Instead, the Packers and Stockyards Act should be amended to establish a dealer statutory trust to provide livestock producers and markets financial protection in the event of a dealer default. This would give unpaid sellers of livestock first priority to receive livestock and accounts receivable.

A dealer statutory trust could be modeled after the existing Packer Statutory Trust that Congress added in 1976 to address packer defaults. The trust requires packers to hold all livestock purchased from cash sellers, and all inventories of, or receivables or proceeds from meat, meat food products or livestock products derived from such livestock, in a trust fund for the benefit of unpaid sellers. No separate account would be needed. Instead this simply would give unpaid sellers priority in livestock and accounts receivable for livestock. The need for this protection is more important than ever with slowing mail service delivering checks, increased value of livestock at times, and volatility within the market.

Market Volatility is a serious issue that needs attention.

The final concern we will raise is that of volatility within the futures and, subsequently, live cattle markets. Futures contracts offered by the Chicago Mercantile Exchange (CME) can be an important risk management tool for livestock producers to hedge against changes in the market. In fact, many lenders require farmers and ranchers they work with to hedge their livestock. However, in recent months, the amount of volatility in the CME has turned it from a risk management tool to a liability in some situations.

We understand that due to seasonal supply and demand there will be ups and downs in the market; but what is difficult to understand is the amount of volatility within the

futures market that does not correspond to the fundamentals of the cattle industry that traditionally drive market change. Numerous times in recent months news that should logically and historically move the market in one direction was met with a move by the futures in the opposite direction. This has raised some serious questions about high frequency trading of futures and other trading practices.

For a market operator, it is devastating to watch our customers experience a significant drop in prices received for quality calves simply because the board is down the limit for the day or multiple days in a row, with no fundamental reason driving the drop, and cash market participants are reacting. It is important to remember that a trip to town to market their calves is a producer's main paycheck for the year and, with a perishable commodity like cattle, waiting a week to sell is not always a good alternative.

While there is no specific congressional ask on the topic of market volatility at this time, we appreciate the shared concern on this topic. LMA supports Congressional oversight as a support to industry discussions on this issue in the hope it is one that may be appropriately addressed in the near future.

Conclusion

In closing, we appreciate this opportunity to provide written testimony and thank the committee for its ongoing interest in helping the livestock industry succeed, whether this be through working together to address challenges such as nonpayment and market volatility or allowing businesses to thrive without unnecessary government intervention by modernizing antiquated requirements, such as those that exist under the Packers and Stockyards Act today.

QUESTIONS AND ANSWERS

MAY 26, 2016

Senate Committee on Agriculture, Nutrition, & Forestry

A Review of the U.S. Livestock and Poultry Sectors: Marketplace Opportunities and Challenges

Thursday, May 26, 2016

Questions for the Record

Mr. Tracy Brunner

Chairman Pat Roberts

1. The modern beef and pork sectors in the U.S. demonstrate the ingenuity of our farmers and ranchers as it relates to meeting foreign consumer demand. We have programs that enable hormone-free beef to go to Europe and ractopamine free pork going to China. Can you describe how you think the GIPSA rule could impact these sorts of programs and relationships that have evolved to meet consumer demand?

These programs have been put in place by U.S. producers in order to meet the demand we are seeing for specific types of beef. That type might be based on a quality trait, or on a production practice as we have seen with non-hormone treated beef into the EU. These programs exist because willing buyers and willing sellers put together a deal to produce this type of beef. For our efforts as producers to meet the EU demands, we are getting paid a premium price. This premium makes it worth our while to put the extra effort into producing this niche product. Under the GIPSA rule, however, USDA would be the entity that would approve all contracts. I would have to submit my contract to USDA for approval in order for them to tell me how I can or can't market my cattle. That takes away my fundamental right as a small businessman to create the deal that is best for me. Only I know what kind of market helps me stay successful, not USDA. This type of market interference will drive many of these programs away and leave us only with a simple commodity market where everybody gets paid

the same. That's not how I produce cattle, and it's not how an industry can respond to changing global consumer demands.

Senator Joni Ernst

1. You mentioned in your testimony that the beef market is disconnected from fundamental supply and demand factors, creating challenges for producers at all levels of the supply chain.

What do you believe should be done to address this? Specifically, what should the role of this committee be in ensuring the market is functioning as intended?

Long-term, markets cannot disconnect from supply and demand. In the short-term, though, markets can reflect new technology adaptation such as high frequency trading, which we believe currently is contributing to increased volatility. This can result in lack of confidence in the futures market by commercial users. I believe that the industry needs to work together to solve our problems rather than asking for the Government to fix things for us. That is why NCBA formed a joint working group with the CME Group to look at ways to address market volatility to ensure that the futures markets truly reflect the market fundamentals. We will continue to update you on our progress, and we may need you to help us prod the CFTC at some point in the future. Right now, however, I am not seeking any action from the committee.

Senator Thom Tillis

1. Mr. Brunner, as we continue this debate on biotech labeling in reaction to the Vermont law, I continue to hear from North Carolina livestock producers on their fears of animal feed being included. I would be interested in hearing from you on the consequences of a national standard that required meat to be labeled as biotech if the feed the animal ate included biotech products.

- a. In your opinions, would there be a rush to reformulate feed so as not to need to label?

Yes, there would be a rush to try and reformulate feed, but the problem we have is that most corn we use in our feedstuffs has some sort of biotech trait. Therefore, it is not so easy to just reformulate the feed. We would have to tell the corn producers to stop growing biotech corn, which would take at least another season to do. What do we do in the meantime? Also, we have to keep in mind that corn has been modifying itself for thousands of years. Do we have to label that, too?

- b. Would there be a non-biotech grain supply large enough for our livestock producers to reformulate their feed?

There is no way we could reformulate given the feed stocks in place and the corn already planted this year. It would be a disaster.

- c. If 60-70% of the input costs in your industries is feed, how would the crop price fluctuations that would be inevitable affect producers?

It would put significant strain on our bottom line because of the increased inputs it takes to grow non-GMO corn. That higher price means lower prices for cattle producers.

We just went through a mandatory labeling fight last year with COOL so I know there is a great deal of fatigue around these labeling issues, but I think it would be beneficial for members to hear how requiring meat to carry a biotech label would affect the industry.

Mandatory COOL was a failed experiment. We were continually being told that the consumer wanted to know where their beef came from. The fact is that the vast majority did not. As such, we had a mandatory, government-run program that added costs to our beef production system and cost us money. It also threatened the trading relationship with Canada and Mexico, two of the largest export markets for U.S. beef. Had those two countries retaliated against us, the low prices we are seeing for cattle now would be even worse. Mandatory, government-run COOL was simply the government telling us that they know our consumer

better than we do. That was false and we are still feeling the negative effects it had on our industry. It will take us years to recover the losses from six failed years of COOL.

Senator John Thune

1. As you know the Senate is considering a path forward on biotech labeling.

Do you believe animal products should be included in mandatory labeling of biotech products? Or should meat, dairy, and other animal products all be exempt from biotech labeling?

Animal feed and beef should be exempt from biotech labeling. There is no evidence that shows that an animal changes just because it eats biotech feed. Labeling it so would be selling a false message to the consumer. In addition, the Federal Meat Inspection Act already covers the labeling of our product. Another statute to address labeling is not warranted.

2. What is the greatest challenge facing the beef industry that you would suggest this Committee or Congress attempt to resolve?

Now?

Over-regulation by our Federal agencies. WOTUS by EPA is a great example. Keep the agencies off of the backs of the producers. That will help our bottom line more than you know.

In the next farm bill?

Don't add any additional regulation in the next farm bill that restricts our ability to produce high quality beef like we do now.

Senator Patrick Leahy

1. In your testimony, and in response to several questions at the hearing, you mentioned the proposed regulations that USDA put forward in 2010 under the Packers and Stockyards Act to address reported abusive and anti-competitive practices in the livestock and poultry sectors (the "GIPSA rule"). I am confused by some of the points you made at the hearing regarding the farmer protections proposed by USDA and how

these protections could potentially result in lower prices for farmers. That does not seem to track with what I have seen in the USDA's past proposals or with what Secretary Vilsack has said -- that he would like to improve transparency in the industry and ensure a level playing field for all producers.

I would like to ask you a few questions about the actual, common sense regulations that were proposed by USDA as part of the GIPSA rule, which I hope will become final in the near future, and how they would affect your farmer members.

- a. One of the regulations proposed as part of the GIPSA rule would prohibit meatpackers and poultry companies from forcing farmers to give up their legal right to a jury trial to address future disputes with the company. [*proposed Section 201.210(a)(4)(i)*]

This rule would align with the intent of provisions that I strongly supported in the 2008 Farm Bill to amend the Packers and Stockyards Act to prohibit the use of mandatory arbitration clauses in livestock and poultry contracts. Instead, the Farm Bill provision requires packers and poultry companies to allow farmers an up-front choice about whether or not they would like to settle any future dispute using arbitration. This ensures that farmers are not forced to give up their legal rights and remedies as part of a take-it-or-leave-it contract arrangement that denies them their constitutional right to protect themselves in court.

Soon after that provision became law, farmers came forward with their worries that some poultry companies had started to include new clauses in their contracts that would prohibit the grower from seeking a jury trial to settle any future dispute with the company. The grower would only be allowed to a ruling from the judge, not a jury.

Your organization has been promoting a legislative rider in the annual appropriations process that would prohibit USDA from finalizing or enforcing this commonsense protection for farmers. **Why should farmers be denied the same legal rights and full access to our judicial system that is enjoyed by other citizens and businesses?**

- b. One of the regulations proposed by USDA as part of the GIPSA rule would prohibit, under the Packers and Stockyards Act, meatpackers and poultry companies from retaliating against farmers for exercising their rights to free speech and/or association. [*proposed Section 201.210(a)(2)*]

This was written to provide protections for farmers who speak out publicly, including communication with USDA officials or Members of Congress, about what is taking place on their farms and with their contracts. As we have heard directly from farmers, the threat of retaliation is very real for contract farmers who speak out, or who try to form associations with other growers to bargain for better contracts. This retaliation fear is the main reason that it is difficult for poultry growers, for instance, to talk to their Members of Congress about the abuses addressed in the proposed GIPSA rule. We also saw this play out when USDA and the Department of Justice held joint public workshops to explore competition issues affecting the agricultural sector. Farmers in some parts of the country were fearful of speaking at these workshops out of fear of retaliation from the companies for which they raise hogs or broilers.

Your organization has been promoting a legislative rider in the annual appropriations process that would prohibit USDA from finalizing or enforcing this seemingly commonsense protection for farmers. **Can you explain to me why that is? Why should a farmer not be allowed to speak to their elected officials out of fear retaliation?**

- c. Another regulation proposed by USDA as part of the GIPSA rule was a regulation to require meatpackers and poultry companies to give farmers statistical information and data about how their pay is calculated, if the farmer requests such information. [*proposed Section 201.210(a)(3)*]

Often times farmers have complained that the payment mechanism under their production contracts can be very vague and complicated, making it difficult for farmers to make good business decisions to increase their profits in future years.

This regulation sought to give farmers full transparency into the factors that determine the payment for their services and the animals they raised.

I understand that your organization has been promoting a legislative rider in the annual appropriations process that would prohibit USDA from finalizing or enforcing this commonsense protection for farmers. **Do you agree with me that price and payment transparency is a basic free market principle that is important for any business, especially our farmers? Why would your organization seek to deny this right to U.S. farmers?**

Unfortunately, as the stakeholders who were subject to the proposed rule then, and expect to be subject to the new rule, we don't have the luxury of breaking out the individual components the way you have asked your questions. Therefore, we have to look at the rule as a whole. As a whole, the GIPSA rule was a disaster for livestock producers. It would have taken away our ability to market cattle the way which is best for us as producers. If you will commit to stepping up and helping us stop the rule from going forward, then maybe we can have a more productive discussion about individual components of the Packers and Stockyards Act which can be revised to be more effective in protecting producers.

2. As this Committee considers the next Farm Bill what suggestions do you have for how we can try to address the slaughterhouse "bottleneck" that is often one of the industry's most critical problems in some of our states where we have a scarcity and limited capacity of the existing facilities that is a barrier to efficient, lucrative production for the livestock sector, especially for small farms? Could more support for mobile slaughter/processing units help address some of these challenges for small diversified operations and offer farmers a greater profit?

Mobile slaughter plants already exist, so it would be more important to evaluate their success or failure before looking to add to their ranks. Some have questioned the ability of USDA to provide adequate food safety inspection in mobile processing facilities as well. Unfortunately, I will need more background on the perceived "bottleneck" to give you a more complete answer. We do know that seasonal differences in regional harvest-ready cattle supplies and

corresponding near proximity harvest capacity will likely always exist. Some producers invest in forward contracts and/or supply agreements to assure access to timely harvest of their animals.

Senator Robert Casey

1. You mentioned that your industry has increased efficiency in production. Can you provide more information on ways that the cattle industry has improved efficiency and where additional improvement might be found?

Over the years, we have improved the genetic make-up of our cattle in order to breed the traits which make cattle more tolerant to environmental extremes, to use feed more efficiently, and to produce higher quality beef. We have found ways to handle our cattle better in order to make them more efficient, too. Programs like Beef Quality Assurance have helped us with that. Technological advancement has lowered overall use of water, feed, fuel, and nutrients. As I have said, today we produce the same quantity of beef as in 1972 with 1/3 less cattle and land. From a governmental level, continued USDA investment in the baseline and secondary production research will help further our industry's progress. We must remember, consumers are the ultimate beneficiaries to industry efficiency gains.

2. How has your industry specifically been affected by the transition to automated trading systems?

We do believe that automated trading has caused much of the market volatility we are seeing today. We are working together with the CME Group in order to find ways to fix the issue.

Senate Committee on Agriculture, Nutrition, & Forestry

A Review of the U.S. Livestock and Poultry Sectors: Marketplace Opportunities and Challenges

Thursday, May 26, 2016

Questions for the Record

Mr. Joe Goggins

Chairman Pat Roberts

1. Mr. Goggins, your written testimony mentions your online or video based auction business. I'm interested in hearing about this modern business development and other changes that have occurred in recent years in the livestock marketing sector. Can you describe some of those changes?
 - **Modern technology has played a major role in the advancements surrounding the marketing of cattle. The video sale has helped reach a wider audience of bidders and buyers, directly connecting cattle producers with buyers. We also do livestream weekly cattle auctions, allowing buyers at our auctions to be 3 feet or 3,000 miles away. Again, this technology has made a positive impact in expanding the bidder and buyer base for cattle.**

Technology can also be a bit of a two-edged sword. As referenced in my testimony, the rise of the algorithmic trader has made it very challenging to ensure a transparent and competitive marketplace. The US cattle industry has evolved and embraced the positive role that new technology brings, however, it's critical that our legislative and regulatory framework modernizes along with technology. Modernizing the Price Reporting law and the Packers and Stockyards Act is critical. When it comes to new technology that is being utilized in sale barns the proposed P & S changes that are currently advocated by the Livestock Marketing Association need to be implemented sooner, rather than later.

Senator Joni Ernst

1. You mentioned in your testimony that the beef market is disconnected from fundamental supply and demand factors, creating challenges for producers at all levels of the supply chain.

What do you believe should be done to address this? Specifically, what should the role of this committee be in ensuring the market is functioning as intended?

 - **It would be beneficial to have the Committee request that both the CME and CFTC come before the Committee and outline the problems relayed via my testimony. Our cattle markets are tied to new age speculator and profiteering schemes that need modernized oversight and regulation. As referenced in my testimony, I do believe the limits should be decreased. Currently, the highs and lows are not restricted. That needs to change. As a cattle producer, it's hard to say what the exact remedies should be, which is why it would be very useful for the committee to hear directly from the CFTC and CME on this topic.**

Senator John Thune

1. As you know the Senate is considering a path forward on biotech labeling.

Do you believe animal products should be included in mandatory labeling of biotech products? Or should meat, dairy, and other animal products all be exempt from biotech labeling?

- **If an animal consumes bio-tech produced feed it should be exempt from bio-tech labeling. It is important to ensure consistency and a uniform labeling system. The consumer is king and we in the cattle industry take a great deal of pride in producing a product that meets the consumer's wishes and demand. A common sense labeling program is always a compliment to high quality production standards.**

2. As I visit with cattle producers in South Dakota one concern I hear quite often is regarding the consolidation across the beef industry. What role does consolidation play in the competition in the markets, and what trends in producer marketing strategies are you seeing in response to the consolidation?

- **My Dad always said "never fear competition". Consolidation in the beef industry is a concern. We need more competition in the marketplace, which is why we work hard to promote high quality cattle. Our sale barns and video sales strive to present impressive show lists that expand and encourage the bidder base. We need to continue looking for ways to increase competition throughout all facets of the industry. Everyone benefits in a marketplace operating with informed and active participants.**

3. Management of federal lands is a key issue that has attracted quite a bit of attention, and in your testimony you allude to the need for a multi-use priority in their management. From your perspective what changes in federal grazing policy could be made to ensure that grazing is better utilized on federal lands?

- **It could be argued that the policy is not the problem. It is the implementation of the policy. Congress has mandated through the Taylor Grazing Act and USFS policy that grazing and timber are priority uses of public lands. However, in practice, agencies put other uses first. Some of this is due to fear of litigation. Some is due to the friction of massive amounts of (sometimes conflicting) regulation. On wild horses, the Act is clear, the agencies are to control numbers. The agencies have failed to do so and blame Congress. Congress has withheld funding to deal with excess horses, creating a catch 22 situation where no one and everyone are to blame. Local management does not just mean local federal employees, it extends to local governments, stakeholders, permit holders, and others in the community. Agencies have complicated the NEPA compliance process to the point of paralysis through analysis. Failure to act because there is too much regulation is a form of management. However, it is a form of management that cannot use science or**

judgement to do the right thing; rather, it halts any type of management from being used.

4. Futures and options trading are a critical part of mitigating risk for commodities. One of disadvantage that livestock has is disparities in basis for producers. Do you believe that the development of basis contract and option products could shield the industry from price volatility?
 - **The development of basis contracts and option products is not a viable solution, as the problem is far greater than what these factors can address. The CME Board, in its current form, is broke. The supposed role of the CME is to mitigate risk, not agitate it, and yet using it invites too much financial risk and liability. The price volatility, without market-based influencers, creates a major strain on the entire price-setting mechanisms for the U.S. cattle industry. Congress needs to engage with the CME, CFTC, and the U.S. cattle industry to outline solutions.**
5. Mr. Goggins, there are insurance products available through Risk Management Agency for grazing and forage lands. They use either a vegetative index or rainfall index. Grazing livestock producers also may qualify for the 2014 Farm Bill's Livestock Forage Program when severe droughts. How are the current RMA and Farm Bill grazing loss programs working?
 - **The PRF is an extremely useful and critical risk management tool for cattle producers. I would like to offer the following PRF program improvement ideas:**
 1. **Multiple Benefit Exclusion**
 - a. **Background – The Farm Service Agency excluded PRF indemnity payments from the multiple benefit exclusion rule on 10.26.15 allowing producers to receive NAP and PRF indemnities on the same acres for the same intended use of Grazing for the 2015 and 2016 Crop Years. However, for 2017 producers enrolling in both NAP and PRF on the same acres for the same intended use of grazing must choose whether to receive the benefit under the pilot product or NAP, but not be eligible for both.**
 - b. **Problem – The Rainfall Index only covers one peril (lack of rainfall) while NAP covers multiple perils, therefore requiring producers to choose one benefit over the other will significantly reduce their risk management options. Additionally, under this rule most Western producers with extensive acres will enroll in NAP and Not PRF because NAP covers 100% of their acres at a reduced cost.**
 - c. **Solution – Allow PRF coverage to be excluded from the multiple benefit exclusion rule**
 2. **Policy feature - drought monitor endorsement (endorsement to base PRF coverage)**
 - a. **Background – A 1 to 2-day precipitation event during a producer's critical grazing intervals has significantly reduced indemnity payments during a severe drought.**

- b. Solution – create the following endorsement for the PRF program – If the Drought Monitor Index (<http://droughtmonitor.unl.edu/>) reaches D2, D3, or D4 status where PRF coverage is purchased (In the Grids and *during* a covered interval) an additional % indemnity is paid to the policy holder at the following suggested levels
 - i. D4 Status = 100% coverage less actual PRF loss ratio
 - 1. Example – If the actual PRF indemnity is a 70% loss ratio the Drought Monitor endorsement would pay an additional 30% (100-70)
 - ii. D3 Status = 90% coverage less actual PRF loss ratio
 - iii. D2 Status = 80% coverage less actual PRF loss ratio
 - c. A less expensive (and simplified) Drought Monitor endorsement would pay an additional indemnity if the Grid was in D2, D3 or D4 status all year long.
3. PRF Policy feature – allow producers the option to choose between VI and RI coverage in the 2015 VI states and/or allow for Vegetative Index coverage on non-irrigated hay in the intermountain West.
- a. Background – Producers in the Intermountain West now have a “mediocre” risk management tool with the Rainfall Index compared to the Vegetative Index they were previously able to access. Quite simply, the historic average rainfall in these areas is already so low the actual precipitation needs to be virtually non-existent in order for an indemnity to trigger. The Vegetative Index is a better risk management tool for the Intermountain West. However, agents with ONLY an understanding of the Rainfall Index ignorantly applied their Rainfall Index understanding to the Intermountain West producer with a Vegetative Index offer. Thus unreasonable expectations were established and these producers were harmed.
 - b. Solution - allow producers the option to choose between VI and RI coverage in the 2015 VI states.

Senator Patrick Leahy

- 1. In 2010, USDA proposed a set of regulations under the Packers and Stockyards Act to address abusive and anti-competitive practices in the livestock and poultry sectors (the “GIPSA rule”).

When some of the livestock industry groups talk about this proposed rule, it comes across as a very different regulation than what Secretary Vilsack has said he would like to move forward to improve transparency in the industry and ensure a level playing field for all producers.

Therefore, I’d like to ask you a few questions about the actual, common sense

regulations that were proposed by USDA as part of the GIPSA rule, which I hope will become final in the near future. Specifically:

- a. One of the regulations proposed by USDA as part of the GIPSA rule was a prohibition on meatpackers and poultry companies from forcing farmers to give up their legal right to a jury trial to address future disputes with the company. [*proposed Section 201.210(a)(4)(i)*]

This rule would align with the intent of provisions that I strongly supported in the 2008 Farm Bill to amend the Packers and Stockyards Act to prohibit the use of mandatory arbitration clauses in livestock and poultry contracts. Instead, the Farm Bill provision requires packers and poultry companies to allow farmers an up-front choice about whether or not they would like to settle any future dispute using arbitration. This ensures that farmers are not forced to give up their legal rights and remedies as part of a take-it-or-leave-it contract arrangement that denies them their constitutional right to protect themselves in court.

Soon after that provision became law, some poultry companies started to include new clauses in their contracts with poultry growers that would prohibit the grower from seeking a jury trial to settle any future dispute with the company. The grower would only be allowed to a ruling from the judge, not a jury.

Does your organization have a position on the regulation proposed by USDA in 2010 to protect farmers' access to a jury trial, and if so, what is that position? Do you agree with me that farmers should not be denied the same legal rights and full access to our judicial system that is enjoyed by other citizens and businesses?

- **The US Cattlemen's Association has historically supported several of the proposed GIPSA rule changes. As the witness testifying, I do not have a direct position on the proposed GIPSA rule.**

- b. One of the regulations proposed by USDA as part of the GIPSA rule was a regulation to make it a prohibited practice under the Packers and Stockyards Act for meatpackers and poultry companies to retaliate against farmers for exercising their rights to free speech and/or association. [*proposed Section 201.210(a)(2)*]

This was written to provide some protection for farmers who speak out publicly, including communication with USDA officials or Members of Congress, about what is taking place on their farms, with their contracts, and how they are being treated under their contract. The threat of retaliation is very real for contract farmers who speak out, or who try to form associations with other growers to bargain for better contracts. This retaliation fear is the main reason that it is difficult for poultry growers, for instance, to talk to their Members of Congress about the abuses addressed in the proposed GIPSA rule. This issue came up when USDA and the Department of Justice held joint public workshops in 2010 to explore competition issues affecting the agricultural sector. Farmers in some parts of the country were fearful of speaking at these workshops out of fear of retaliation from the companies for which they raise hogs or broilers. Some livestock industry organizations have been promoting a legislative rider in the

annual appropriations process that would prohibit USDA from finalizing or enforcing this commonsense protection for farmers. Does your organization have a position on the so-called "GIPSA rider", and if so, what is that position? Does your organization have a position on the retaliation protection regulation proposed by USDA in 2010, and if so, what is that position? Does your organization believe that farmers, like all other U.S. citizens should be able to speak to their elected representatives without fear of retaliation?

- **It's never good policy to place a long standing "rider" that prevents the agency tasked with oversight of the Packers and Stockyards Act from doing its job. Democracy and transparency in the marketplace functions best when individuals can freely disclose information without fear of retaliation from companies or individuals.**

- c. Another regulation proposed by USDA as part of the GIPSA rule was a regulation to require meatpackers and poultry companies to give farmers statistical information and data about how their pay is calculated, if the farmer requests such information.
[proposed Section 201.210(a)(3)]

The payment mechanism under many production contracts can often be very vague and complicated, making it difficult for farmers to make good business decisions. This regulation sought to give farmers full transparency into the factors that determine the payment for their services. In my view, price and payment transparency a basic, free market principle that is important for any business.

Does your organization have a position on this payment transparency protection proposed by USDA in 2010, and if so, what is that position?

- **I am not aware of a payment mechanism like this that plays a role in marketing of cattle. To my knowledge this provision is more aligned with the poultry contract setting.**

I would like to summarize my thoughts on the role of both the Packers and Stockyards Act and the Livestock Price Reporting rule. We must come to consensus on a more competitive, and fair, means by which weekly cash price on live fed cattle are determined. Transparency and competition must be achieved at the fed cattle level, and it must be addressed.

Every five years, the Mandatory Price Reporting law is reauthorized, presenting new opportunities to modernize the cattle industry. As producers, our members develop a product consisting of slow-changing fundamentals. However, formula cattle contracts and automated trading in the futures marketplace has introduced a new paradigm that USCA believes should be closely monitored to ensure market transparency, stability, and accurate price discovery. The Packers and Stockyards Act (P&S Act) must continue to modernize and change as the industry evolves. It will be critical to advance a long-overdue modernizations and revisions of both P&S Act via the 2018 Farm bill and the 2020 Price Reporting reauthorizing bill.

2. As this Committee considers the next Farm Bill what suggestions do you have for how we can try to address the slaughterhouse "bottleneck" that is often one of the industry's most

critical problems in some of our states where we have a scarcity and limited capacity of the existing facilities that is a barrier to efficient, lucrative production for the livestock sector, especially for small farms? Could more support for mobile slaughter/processing units help address some of these challenges for small diversified operations and offer farmers a greater profit?

- **Additional options for processing cattle is always a good thing. Support for mobile slaughter/processing units makes sense and should be advanced in a practical manner.**

Senator Robert Casey

1. Are there agreements in process right now that could potentially expose the United States to imports of Food and Mouth Disease? What should we be aware of?
 - **The Administration has proposed, and allowed for, the opening of our markets to beef from regions in Brazil and Argentina, despite the ongoing regionalization and risk of FMD affected areas in the countries, and surrounding regions. The continued "bad acts" of these countries in regards to international trade protocols and following set standards is cause for immediate concern. The level of trust that these countries will adhere by the strict animal health standards and precautions to keep FMD out of the US cattle herd is low. The opening of markets with these countries should be opposed due to the irreparable harm that could be done by an FMD outbreak.**
2. You mentioned that online and video auctions are not currently regulated by the Packer and Stockyards Act. How does this uncertainty affect your industry?
 - **The Packers and Stockyards Act (P&S Act) must continue to modernize and change as the industry evolves. I operate three livestock auction markets that are all regulated under the P&S Act; as the business has changed over the years, so too must the laws governing it. Specifically, the current law dictates prompt payment as a check in the mail by the close of the next business day or a wire transfer of funds. Other forms of electronic payment such as ACH payments must also become an option.**

As online and video auctions continue to be a prominent form of marketing cattle, clarification on whether these formats fall under the P&S Act, and how funds must be handled, is necessary. A law that exists without a definition and authority to carry it out is without standing, no matter the issue.
3. You mentioned the success of the Beginning Farmer and Rancher program. In addition to continued inclusion in the next Farm Bill, how can we continue to promote and support this program, both on the ground and in Congress?
 - **Greater awareness and promotion of the program is needed. Many young producers aren't aware of the benefits and opportunities available. Efforts to promote the program via extension officers, local NRCS offices should continue, however, additional efforts to publicize the programs offered should be taken at**

the university level to reach those young producers who will enter the workforce. Additionally, cost of land and production continues to rise. Many of the programs offered won't begin to cover the costs needed by a beginning/young producer, greater access to funds, tax incentives, and new approaches should be considered.

**Senate Committee on Agriculture, Nutrition, & Forestry
A Review of the U.S. Livestock and Poultry Sectors:
Marketplace Opportunities and Challenges
Thursday, May 26, 2016
Questions for the Record
Dr. Howard Hill**

Chairman Pat Roberts

1. The modern beef and pork sectors in the U.S. demonstrate the ingenuity of our farmers and ranchers as it relates to meeting foreign consumer demand. We have programs that enable hormone-free beef to go to Europe and ractopamine free pork going to China. Can you describe how you think the GIPSA rule could impact these sorts of programs and relationships that have evolved to meet consumer demand?

In today's marketplace, producers are tasked with meeting a growing array of consumer tastes and preferences. To help get these products to market, packers and processors often offer incentives (higher prices) to producers willing to meet consumer demands. The GIPSA rule could negatively impact these sorts of incentive programs and customer relationships that have evolved to meet consumer demands because many packers likely would forgo the hassle of "justifying" and documenting prices – as would be required under the GIPSA rule – and simply pay one price to all producers. Not only would producers be left worse off because of lower prices, consumers would be denied product choices to match their tastes, preferences and values.

Senator Thom Tillis

1. Dr. Hill, being from North Carolina, a state with significant hog and poultry operations, I wanted to make sure you had an opportunity to respond to the announcement earlier this year by USDA that the department will be moving forward with the GIPSA rule. I was not in Congress in 2010, but I was in the State House and

remember the anxiety and concern our livestock producers and packers were experiencing before efforts were successful to roll this rule back.

Unfortunately, it sounds like this bad policy is back again and I am interested if:

- a. USDA reached out to you and your organization to learn about the latest livestock marketing practices or how the rule from 2010 would need to be adjusted to better suit the 2016 marketplace?

No, NPPC did not receive any outreach from USDA on a new or revised GIPSA rule.

- b. If so, what did you tell the department?

N/A

- c. Has USDA indicated to you or your organization what will be included in this rule?

NPPC has not been brought in by USDA to discuss the rule or how a workable solution may be brought forth.

2. Dr. Hill, as we continue this debate on biotech labeling in reaction to the Vermont law, I continue to hear from North Carolina livestock producers on their fears of animal feed being included. I would be interested in hearing from you on the consequences of a national standard that required meat to be labeled as biotech if the feed the animal ate included biotech products.

- a. In your opinion, would there be a rush to reformulate feed so as not to need to label?

NPPC firmly believes that no livestock product should be labelled as “GMO” or be required to use any other biotech label simply because livestock are fed GMO feeds. Such a label would not be warranted from a scientific, safety or wholesomeness basis. It would not be feasible for U.S. pork producers to reformulate feeds to avoid such a label – the entire U.S. feed crop-producing sector has made too much of an investment in biotech crops, and the rewards of those crops have been crucial to providing the American public with a safe, high-quality and affordable food supply.

b. Would there be a non-biotech grain supply large enough for our livestock producers to reformulate their feed?

Following on the above comments, there is unquestionably not a large enough supply of non-biotech grain or other feed sources to supply even a fraction of the U.S. pork producers. In fact, the limited availability of non-biotech feed is currently an obstacle to any further significant growth in “organic” livestock production. This would not be an option for the vast majority of U.S. pork, and indeed all livestock, producers.

c. If 60-70% of the input costs in your industries is feed, how would the crop price fluctuations that would be inevitable affect producers?

The resulting market disruption from any move to produce significantly more non-biotech feed crops would be dramatic. The lower yields, variable quality and higher cost of non-biotech feeds – to say nothing of the availability concerns already noted – would significantly increase feed costs for producers and present critical challenges to the profitability of U.S. pork production. (Some of the higher cost of production would be passed on to consumers.)

We just went through a mandatory labeling fight last year with COOL so I know there is a great deal of fatigue around these labeling issues, but I think it would be beneficial for members to hear how requiring meat to carry a biotech label would affect the industry.

Senator John Thune

1. As you know the Senate is considering a path forward on biotech labeling.

Do you believe animal products should be included in mandatory labeling of biotech products? Or should meat, dairy, and other animal products all be exempt from biotech labeling?

NPPC strongly believes that any biotech labelling mandate must be firmly grounded in science and based solely on the inherent characteristics of the product in question. Therefore, any labelling program that requires livestock products to bear a biotech label simply because livestock were fed biotech-derived feed or provided any other biotech-derived input is untenable. NPPC also believes that any livestock produced through biotech methods that also could be produced (at a slower pace) through conventional breeding techniques (in other words, biotechnology used to speed the dissemination of desirable genetic characteristics native to the pig genome) should be exempt from any labelling requirements. There are currently no pork products being marketed in the United States that would require any sort of biotech labelling under these parameters.

2. In your testimony you say that the GIPSA rule will hamper the pork industry's ability to evolve and develop innovative business practices that ensure consumer demand and food safety requirements can be met.
Could you explain this further? Especially how the GIPSA Rule would hamper the pork industry's ability to evolve.

Pork production is about more than simply producing pounds of meat; it is about producing a healthy, wholesome and nutritious food product to feed consumers worldwide. In today's marketplace, producers are tasked with meeting a growing array of consumer tastes and preferences. To help get these products to market, packers and processors often offer incentives (higher prices) to producers willing to

meet new consumer demands. These incentives have given rise to programs that focus on specific husbandry practices and feed ration developments. The GIPSA rule could negatively impact these sorts of incentive programs and customer relationships that have evolved to meet consumer demands because many packers likely would forgo the hassle of “justifying” and documenting prices and simply pay one price to all producers. Not only would producers be left worse off because of lower prices, consumers would be denied product choices to match their tastes, preferences and values.

Senator Patrick Leahy

1. In your testimony, and in response to several questions at the hearing, you mentioned the proposed regulations that USDA put forward in 2010 under the Packers and Stockyards Act to address reported abusive and anti-competitive practices in the livestock and poultry sectors (the “GIPSA rule”). I am confused by some of the points you made at the hearing regarding the farmer protections proposed by USDA and how these protections could potentially result in lower prices for farmers. That does not seem to track with what I have seen in the USDA’s past proposals or with what Secretary Vilsack has said -- that he would like to improve transparency in the industry and ensure a level playing field for all producers.

I would like to ask you a few questions about the actual, common sense regulations that were proposed by USDA as part of the GIPSA rule, which I hope will become final in the near future, and how they would affect your farmer members.

a. One of the regulations proposed as part of the GIPSA rule would prohibit meatpackers and poultry companies from forcing farmers to give up their legal right to a jury trial to address future disputes with the company. [*proposed Section 201.210(a)(4)(i)*]

This rule would align with the intent of provisions that I strongly supported in the

2008 Farm Bill to amend the Packers and Stockyards Act to prohibit the use of mandatory arbitration clauses in livestock and poultry contracts. Instead, the Farm Bill provision requires packers and poultry companies to allow farmers an up-front choice about whether or not they would like to settle any future dispute using arbitration. This ensures that farmers are not forced to give up their legal rights and remedies as part of a take-it-or-leave-it contract arrangement that denies them their constitutional right to protect themselves in court.

Soon after that provision became law, farmers came forward with their worries that some poultry companies had started to include new clauses in their contracts that would prohibit the grower from seeking a jury trial to settle any future dispute with the company. The grower would only be allowed to a ruling from the judge, not a jury.

Your organization has been promoting a legislative rider in the annual appropriations process that would prohibit USDA from finalizing or enforcing this commonsense protection for farmers. Why should farmers be denied the same legal rights and full access to our judicial system that is enjoyed by other citizens and businesses?

First, it should be noted that grower and producer protections were included in a 2011 GIPSA rule that took effect Feb. 7, 2012, and that generally was supported by the livestock industry.

In the 2010 proposed rule, Section 201.210(a)(4)(i) would have created a new contract grower bill of rights, which typically is applicable only to production contracts. It was very unclear if this section also was intended to apply to marketing agreements. Violations of these provisions would have constituted an unfair practice under the PSA and, therefore, be within the jurisdiction of the federal courts. It was unclear if GIPSA considered the costs to producers and packers of federal litigation in the evaluation of this proposal. Did GIPSA consider the length of time it would take to resolve a simple contract dispute at the federal court level? Likely not. The

vagueness and unintended consequences of the rule created consternation across not only the pork industry, but the entire livestock and poultry sector.

Regardless, the 2011 GIPSA rule did contain reforms to arbitration clauses in contracts, including the ability of growers to opt out of arbitration.

b. One of the regulations proposed by USDA as part of the GIPSA rule would prohibit, under the Packers and Stockyards Act, meatpackers and poultry companies from retaliating against farmers for exercising their rights to free speech and/or association.
[*proposed Section 201.210(a)(2)*]

This was written to provide protections for farmers who speak out publicly, including communication with USDA officials or Members of Congress, about what is taking place on their farms and with their contracts. As we have heard directly from farmers, the threat of retaliation is very real for contract farmers who speak out, or who try to form associations with other growers to bargain for better contracts. This retaliation fear is the main reason that it is difficult for poultry growers, for instance, to talk to their Members of Congress about the abuses addressed in the proposed GIPSA rule. We also saw this play out when USDA and the Department of Justice held joint public workshops to explore competition issues affecting the agricultural sector. Farmers in some parts of the country were fearful of speaking at these workshops out of fear of retaliation from the companies for which they raise hogs or broilers.

Your organization has been promoting a legislative rider in the annual appropriations process that would prohibit USDA from finalizing or enforcing this seemingly commonsense protection for farmers. Can you explain to me why that is? Why should a farmer not be allowed to speak to their elected officials out of fear retaliation?

I am unaware of a situation in the pork industry where this sort of retaliation from companies has occurred or exists. In the 2010 proposed rule, it was unclear if Section 201.210(a)(2) applied to both production and marketing contracts. In

addition, it was unclear what actions would have constituted a disadvantage to producers. The rule did not make clear what would be used to determine whether an action was coercive or intimidating. Certainly this determination could not be based solely on the perspective of the plaintiff. But because of the vagueness of the rule, any sort of balancing of interests was left up in the air.

c. Another regulation proposed by USDA as part of the GIPSA rule was a regulation to require meatpackers and poultry companies to give farmers statistical information and data about how their pay is calculated, if the farmer requests such information. [*proposed Section 201.210(a)(3)*]

Often times farmers have complained that the payment mechanism under their production contracts can be very vague and complicated, making it difficult for farmers to make good business decisions to increase their profits in future years. This regulation sought to give farmers full transparency into the factors that determine the payment for their services and the animals they raised.

I understand that your organization has been promoting a legislative rider in the annual appropriations process that would prohibit USDA from finalizing or enforcing this commonsense protection for farmers. Do you agree with me that price and payment transparency is a basic free market principle that is important for any business, especially our farmers? Why would your organization seek to deny this right to U.S. farmers?

NPPC has long fought for transparent market information to be available for the purpose of making marketing decisions. This is evidenced by our longstanding work in conjunction with Congress and USDA AMS in reauthorizing and, from time-to-time, tweaking Livestock Mandatory Reporting to provide the most accurate, timely and transparent market information available. We are not aware of complaints from pork industry participants with regard to price discovery in contracts. Certainly any rules involving proprietary pricing information must be kept confidential and confined to the parties involved.

A final comment on the proposed 2010 GIPSA rule provisions that have been blocked through riders to the annual USDA appropriations process: Those regulations proposed by GIPSA went well beyond the scope of the 2008 Farm Bill and included language that was considered and rejected by Congress. The provisions would have been so onerous and caused so much legal uncertainty that many packers told us they likely would have responded by raising more of their own hogs rather than relying on producers, as they do now. That would have decreased competition in the pork industry and increased – not decreased – vertical integration in pork production, the opposite of the rule’s purported intent.

2. As this Committee considers the next Farm Bill what suggestions do you have for how we can try to address the slaughterhouse “bottleneck” that is often one of the industry’s most critical problems in some of our states where we have a scarcity and limited capacity of the existing facilities that is a barrier to efficient, lucrative production for the livestock sector, especially for small farms? Could more support for mobile slaughter/processing units help address some of these challenges for small diversified operations and offer farmers a greater profit?

NPPC appreciates that limited access to slaughter facilities is a concern to some U.S. livestock producers, and packing capacity certainly is an issue we’re watching as pork production continues to expand. We currently are in an era of expansion in the pork industry, with two new packing facilities set to open by the end of the year and another two to be constructed within the next 18 months. So capacity should become less of an immediate concern in the medium term. America’s pork producers are among the most efficient and safest in the world today. It is unclear whether mobile slaughter/processing units would help improve this efficiency without sacrificing the high food quality standards we are accustomed to in our country today.

We support USDA FSIS’s intent to issue a Pork Slaughter Modernization Rule that would allow for more rapid and efficient adoption of new technologies and inspection protocols, thereby spurring growth in slaughter capacity in the U.S. pork

sector. NPPC similarly supports other efforts that would increase U.S. slaughter capacity such as providing increased assistance to help new small or very small facilities come online, with the critical caveat that the facilities must continue to be subject to inspection by FSIS or a state equivalent inspection program. NPPC will not support any initiative that would allow for the commercial sale of pork products that were subject to abbreviated or even no food safety inspection.

Senator Robert Casey

1) You mentioned that while there have been improvements, PEDv is still an issue. Can you provide some insight into the spread of this disease? Are there biosecurity practices that farmers can implement to prevent the introduction or spread of diseases or are cases more isolated on the farm?

The spread of PED has slowed since the initial outbreak in 2013. We have learned a lot about managing the disease. Biosecurity plays a big role in keeping it out of our farms. In addition, many farmers are treating feed for their breeding stock in an attempt to kill any pathogens, such as PED, that may be contaminating the feed. Research done by Dr. Scott Dee and South Dakota State University has shown that certain feedstuffs can support the transport of viruses during over-water shipping from China to the United States. We are anxious to see how full implementation of the FSMA Foreign Supplier Verification Rule will impact this potential risk.

2) How can we improve our surveillance efforts for diseases like Foot and Mouth Disease at port-of-entry inspections and what resources are necessary to accomplish this?

Surveillance for FMD needs to start at the country of origin and continue all the way to our farms. I believe that special attention needs to be paid to feed ingredients, including but not limited to grain, soybean meal, minerals, amino acids and vitamins. The inspection of such ingredients should include a consideration of steps taken to produce a pathogen-free product and to prevent recontamination.

Customs and Border Patrol should coordinate on the FSMA Foreign Supplier Verification program implementation and have access to information on the verification of suppliers of the above mentioned products.

That said, we will be hard pressed to prevent the entry of FMD into the United States through inspection only. We need to be prepared to respond to an outbreak in a timely and efficient manner. That is why it is so important to have a fully stocked and functional FMD vaccine bank that is managed by an offshore vendor. We also need to have our National Animal Health Laboratory Network (NAHLN) at full capacity to not only do the tests required to identify FMD but also to do all the surveillance testing that would be required during an outbreak. And finally, the ability to communicate test results needs to be seamless among the laboratory, the state animal health officials and federal animal health officials. We cannot continue to count on communication via spread sheets on these critical issues. The data management piece of this puzzle cannot be overstated.

Senate Committee on Agriculture, Nutrition, & Forestry
 A Review of the U.S. Livestock and Poultry Sectors: Marketplace Opportunities and Challenges
 Thursday, May 26, 2016
 Questions for the Record
Mr. Ronald Truex

Chairman Pat Roberts

1. Mr. Truex, your testimony cited concerns regarding aspects of the proposed organic livestock rule. In addition to the negative effects that rule would have on animal health, prices for consumers, and organic feed producers, could you talk a little about the effects it would have on family farmers in your respective industries?

Farmers have made hundreds of millions of dollars of investments in facilities that were clearly allowable for organic production under current USDA rules. These investments are now in jeopardy because of the new proposed organic rule. The profitability and even viability of some family-owned operations will be at risk under the proposed rule. If implemented, the rule will drastically reduce the flock size of organic hens, this reduction or elimination will not only effect the egg producers but also the family farms producing organic grains. The proposed rule also puts these producers into the middle of a conflict between two agencies. Egg farms are required by a binding regulation of the Food and Drug Administration to take steps to prevent Salmonella Enteritidis. The prohibition on protective structures under the proposed organic rule will make it extremely difficult for producers to both meet USDA's demands for organic production and simultaneously comply with FDA's food safety requirements. The requirement for enrichments to entice the birds to go outside will also entice wild birds, rodents, and other vectors of Salmonella Enteritidis to the outdoor area leading to noncompliance with the FDA Rule. Producers are amazed that two agencies that both regulate the egg industry did not coordinate their approach on these issues. A further potential conflict could arise over the outdoor space requirement because that practice could be curtailed in the event of an HPAI outbreak.

2. I know the Department has taken several important steps to protect against future outbreaks of Highly Pathogenic Avian Influenza and to improve disease outbreak preparedness and response efforts. In your view, what remains unaddressed, if anything, or what recommendations do you have for the Department?

Both USDA and our industry learned a number of lessons from last years' experience. When we had an HPAI outbreak in Indiana earlier this year, the response was quick and effective. For the future, we recommend that USDA ensure that outbreak response will not be delayed due to disagreements with state or local officials about proper disposal, as sometimes occurred in 2015. In addition, we would encourage USDA to complete making all payments owed to producers affected by the 2015 outbreak. In some cases, these payments have not been fully made, although more than a year has passed. USDA can also expedite the process of finalizing draft guidance documents and support materials for producers affected by HPAI in the future.

Senator John Thune

1. As you know the Senate is considering a path forward on biotech labeling. Do you believe animal products should be included in mandatory labeling of biotech products? Or should meat, dairy, and other animal products all be exempt from biotech labeling?

Animal products (including eggs) should not be required to bear a GMO or GE label merely because the animals consumed GE feed. It is well-known that genetically engineered material has not been detected in meat, milk or eggs from such animals. For this reason, UEP supports a clear statutory exemption from biotech labeling requirements for animal products and definitely prefers to avoid being part of any USDA rulemaking on this specific issue.

2. Do you believe the USDA was appropriately and timely responsive to egg producers whose flocks were depopulated due to the avian influenza?

Both USDA and our industry learned a number of lessons from last years' experience. When we had an HPAI outbreak in Indiana earlier this year, the response was quick and effective. For the future, we recommend that USDA ensure that outbreak response will not be delayed due to disagreements with state or local officials about proper disposal, as sometimes occurred in 2015. In addition, we would encourage USDA to complete making all payments owed to producers affected by the 2015 outbreak. In some cases, these payments have not been fully made, although more than a year has passed.

Senator Patrick Leahy

1. In your testimony before the Committee you raised concerns about the proposed rule for the National Organic Program for Livestock and Poultry Handling Practices.

Isn't it correct that Congress set up a process within the National Organic Program specifically to make decisions on issues like the Livestock and Poultry Practices proposed rule that you mentioned in your testimony?

In this case, I understand that the National Organic Standards Board (NOSB) unanimously agreed to the proposed change regarding porches, outdoor space, and other practices for poultry and livestock that are certified as organic, after hearing testimony from countless producers, certifiers, consumers, and national organizations. USDA then issued the proposed rule implementing the NOSB decision in April. That unanimous decision came after years of debate and consideration by the NOSB and its Livestock Subcommittee, a Subcommittee that United Egg Producers testified before in 2002 and 2007.

I further understand that the comment period on that proposed rule is still open so you and your members have yet another opportunity to share your concerns within the regular process. Finally, I understand that language also has been included in both the House and

Senate Agriculture Appropriations reports directing Secretary Vilsack to ensure that all comments on the proposed rule are taken into consideration when finalizing the regulation, both for those producers who believe they would be adversely impacted by the new requirements and those that feel they would be adversely impacted if these regulations were not finalized as they have been proposed with outdoor access requirements. If I am correct, I was told that UEP even supported this report language. So it seems to me that you still have ample opportunities to make your concerns known without requiring any further Congressional action at this point. **Would you not agree, and will you be submitting your detailed comments to USDA?**

We respect the role of the NOSB. However, NOSB recommendations are just that – recommendations. They are not intended to simply be adopted by USDA and the Agencies are mandated by law to consider both economic impacts and other statutory concerns like the FDA egg safety rule and APHIS requirements to protect against HPAI. AMS certainly has the right to consider what portion of those recommendations to implement through notice- and-comment rulemaking. We have the right to make our views known during that process, and are doing so. Members of Congress similarly have the right to take part in this process. We have never asked Congress to prohibit completion of the proposed rule. We have asked Congress to call on USDA to conduct additional economic and other analyses, in part because we believe the impact of the rule substantially exceeds \$100 million per year and it should therefore be considered a major rule under longstanding law. It is also correct that we supported report language in the House and Senate appropriation bills. That language, particularly the House language, is reflective of the same concerns we have repeatedly expressed: USDA has not adequately considered the negative impact of the proposed rule on family farms, existing producers, future organic egg supply, consumers and food safety, and needs to conduct additional analysis.

We have also appreciated the efforts of Members of Congress who requested an extension of the comment period on the rule, partly because of the need for more information as noted above. We were gratified that USDA did announce a 30-day

extension, and while we would have preferred a longer period that would have allowed for more thorough compilation of relevant facts, we nevertheless believe the extension announced will be helpful. UEP strongly requests a thorough comprehensive economic analysis be conducted prior to the rule making process moving forward.

2. In your testimony you mentioned that as a cooperative, the United Egg Producers supply 95 percent of eggs to the market. You also made several comments on the proposed rule for the National Organic Program for Livestock and Poultry Handling Practices, a rule that applies only farms that voluntarily choose to participate in the National Organic Program and have their operations certified as organic. **Can you share with the Committee the number of members UEP has that are currently certified as organic? And to the best of your knowledge, do any of those UEP members who are certified as organic currently offer outdoor access that is not just confined to a "porch- system," so that it would meet the outdoor access requirements of the proposed rule?**

Due to this being a specialty market and the sensitivity around production figures among members, UEP's dues structure is set up so that farmers are not assessed differently if they produce conventional eggs, organic eggs or other specialty eggs. For this reason, we do not maintain records on the mix of organic and conventional production on our members' farms. UEP does have an Organic Committee, all of whose members are actively engaged in organic production. We know the UEP members serving on the Organic Committee have at least some organic production. Among these farmers are some who utilize porch systems and others who have pasture-based operations. UEP's consistent position has been that we support a range of organic production systems as long as they are capable of complying with FDA's Egg Safety Rule. This is the basic reason we have opposed the proposed rule's ban on certain systems, notably those utilizing porches, which provide access to the open air but also protect against predators and vectors for Salmonella Enteritidis and Highly Pathogenic Avian Influenza.

3. From the economic analysis that UEP has been conducting on the proposed rule for livestock and poultry practices, what do you believe is the percentage of currently certified organic egg operations that would need to make substantial changes to their farms in order to come into compliance with the proposed rule as initially drafted for outdoor access? Meaning, what percentage of the current number of farms producing organically certified eggs rely on porch-systems today for organic egg production outdoor access? (Again, percentage of total farms, not total egg production). Do you feel that a longer time frame than the five years currently in the proposed rule is required for these farms to come into compliance with the outdoor access requirements? Would additional time help these farms meet the new regulations, or are you saying that either their farms must have porches or they cannot continue as organic?

UEP does not maintain the numbers for these specific types of production systems our members utilize nor the types of eggs produced. But, one must look at the percentage of organic egg production this would effect and not just the number of farms as the percentage of production will drive supply and price whereas the number of farms does not. Based on the decision by USDA in 2002 to accept the porch as outdoor access, farms were built with funding from financial institutions utilizing production estimates for these flocks. With the reduction of flock size by as much as 2/3 due to how these farms were constructed, to comply with the proposed rule, these systems could not be economically feasible thus resulting in decreased organic egg supply and increased pricing for consumers.

Senator Robert Casey

1. Do you know what the total dollar impact will be to the Organic Egg Industry if the proposed Organic Livestock and Poultry rule becomes regulation?

On the basis of conversations with our organic members, we believe the impact will be well in excess of \$100 million/year, and perhaps several times that. Anecdotally, we

are aware of hundreds of million dollars in investment that has been made in organic porch production, an amount that is more than the statutory threshold for the rule to be considered a major rule. If the USDA estimates are correct for organic hens at 5 million, utilizing a conservative lay rate of 75%, over 114 million dozen organic eggs are produced each year. The result of eliminating a significant percentage of these eggs from the organic supply at the current premium paid for these will provide the bulk of the \$100 million dollar threshold needed to make this rule significant.

2. We have heard from several small family owned farms in Pennsylvania that produce organic pasture-based systems and are already in compliance with the USDA proposed rule for animal welfare standards for organic livestock and poultry. Shouldn't small producers be able to distinguish their premium product for consumers?

We have no issue with small producers distinguishing their product, however, in 2002 when USDA recognized porches as outdoor access, the commercial industry expanded with systems to meet the standards approved by certifiers and allow the organic egg market to thrive thus allowing smaller producers to take advantage of the market due to the commercial availability of organic eggs. UEP's concern is that we do not believe that the proposed rule improves the welfare for laying hens. UEP supports a range of organic production systems as long as they can meet requirements of the FDA's Egg Safety Rule. We do not seek to ban any production system, which is why we oppose USDA's proposed rule that would ban systems that USDA has previously approved and in which family-owned farms have invested their savings.

We also have members who use pasture-based systems and we support their ability to distinguish their product. We have no objection at all to the use of "pasture-raised" or similar terms to describe and differentiate these systems. In our comments to USDA, one of the points that UEP will make is that the intent of this rule could easily be achieved simply by labeling each different organic production process and letting consumers decide which they prefer. It is not the role of government to separate and distinguish one producer over the other simply based on the size of the farm.

3. As an industry, how do you assess and prepare for an outbreak, like avian influenza, that could come at any time? Is it challenging to maintain biosecurity and remain vigilant when it is unclear if or when the next outbreak could occur?

Industry's preparation is fundamentally one of enhancing biosecurity. For most farms, this means strict limits on visitors, including requiring that visitors not have been on another farm premises for a certain number of days prior to their visit. Biosecurity also means strict requirements for workers and other personnel, which may include showering in and out of work; special protective clothing; restrictions on movement from one building to another; and other measures.

Good biosecurity will also involve taking steps to restrict access for wild birds, since they are vectors of avian influenza. (This is one reason we are so troubled by USDA's proposal to ban porch systems from organic certification, since these are designed to limit wild bird exposure.) Another absolutely necessary biosecurity measure involves restricting the access of vehicles to farm property, and sanitizing vehicles before entry when they must come onto the property.

These and other biosecurity measures are integral to such systems as the Secure Egg Supply, already adopted by several states. To further supplement these and other efforts, UEP has formed a Biosecurity Task Force that continues to advance best practices and industry understanding in this area. Our members have also hired consultants and made heavy investments in attempt to reduce the threat of their operations being impacted by HPAI.

Over the years, the funding of USDA /APHIS has seen some significant budget cuts requiring the agency to reduce staff. The absence of these subject matter experts during the outbreak of 2015 were felt by everyone. UEP encourages you to reevaluate the funding opportunities and make necessary adjustments to ensure the animal health experts needed within this agency are provided and supported moving forward.

Senate Committee on Agriculture, Nutrition, & Forestry
A Review of the U.S. Livestock and Poultry Sectors: Marketplace Opportunities and Challenges
Thursday, May 26, 2016
Questions for the Record
Mr. John Zimmerman

Chairman Pat Roberts

1. Mr. Zimmerman, your testimony cited concerns regarding aspects of the proposed organic livestock rule. In addition to the negative effects that rule would have on animal health, prices for consumers, and organic feed producers, could you talk a little about the effects it would have on family farmers in your respective industries?

Answer: We are concerned that the proposed changes will reduce the availability of organic turkey products and drastically increase the price for consumers. In some cases, our family farms will no longer be able to raise organic birds. This new rule as proposed will eliminate much of the progress made in building the organic turkey market over the last several years. While the stated purpose of the new rule is to create greater consistency in organic production, it in fact creates an unnecessary financial burden on the producers of all sizes. Worst of all, it needlessly exposes birds to diseases that are otherwise preventable. Frankly, it's unacceptable.

After the largest animal disease outbreak in American history, USDA –AMS has now proposed a rule to increase our turkeys' exposure to wild birds, rodents, and other animals. This goes against all the advanced bio-security principles that we have worked so hard with USDA- APHIS to develop in order to limit our birds' exposure to disease. Supposedly these new regulations are intended to improve the health and welfare of the animal, so it is odd that AMS admits that mortality rates will substantially increase. How is increasing mortality rate improving animal welfare? Second, letting birds have significantly increased access to land outside barns where water runoff is controlled will certainly require new state and national water permitting requirements.

2. I know the Department has taken several important steps to protect against future outbreaks of Highly Pathogenic Avian Influenza and to improve disease outbreak preparedness and response efforts. In your view, what remains unaddressed, if anything, or what recommendations do you have for the Department?

Answer: First of all there is no silver bullet, but the industry needs assurance that we have access to all tools available so we can eliminate the virus within hours not days. Farmers need to know they have USDA's support to act immediately. Further research needs to be done on stamp out procedures that are the most efficient form of virus elimination and as well tools that help prevent a future outbreak such as vaccines.

Senator Thom Tillis

1. Mr. Zimmerman, thank you for attending this hearing. During the HPAI outbreak, the North Carolina Commissioner of Agriculture, Steve Troxler, sent officials to Minnesota and Iowa to help on the ground. We all came away impressed by the resiliency of the industries in those states and wish you nothing but the best.

You mentioned industry and government continue to review existing protocols for eliminating foreign zoonotic diseases like HPAI. I was hoping you could expand and discuss what you—as a turkey producer—would like to see considered in discussions, for example, are there existing technology limitations that need to be examined?

The state of Minnesota has firsthand experience with an outbreak and as my home state of North Carolina continues to modify its protocols, I am interested in your opinion.

Answer: First of all there is no silver bullet, but the industry needs assurance that we have access to all tools available so we can eliminate the virus within hours not days. Further research needs to be done on stamp out procedures that are the most efficient form of virus elimination so that we have the support to act immediately.

2. Mr. Zimmerman, you mention in your testimony that as a result of last year's HPAI outbreak, several countries—notably South Korea and South Africa—have placed a new restriction on poultry imported from the United States that is not born, raised, and slaughtered in the U.S. What is the impact of such a regulation?

Answer: Today, a poult born in Canada can enter the South African market if it is processed in Canada. If that poult comes to the U.S., however, it is no longer eligible for export to South Africa. This is a result of last-minute language inserted into the U.S.-South Africa trade deal requiring all U.S. poultry products to be verified as "hatched and raised in the US". A large percentage of U.S. turkey poulters are actually hatched in Canada and brought over the border at one day of age. These new restrictions in South Africa, and similarly in South Korea, add an

unnecessary layer of difficulty for U.S. producers seeking to export their products. These new requirements are arbitrary, non-scientific trade barriers that severely limit the turkey industry's ability to export to these two important markets. In short, if two poult are born side by side, and separated at one day of age, only the one that remained in Canada will be eligible for the South African market. The one raised by U.S. farmers will not be. It will be difficult to correct this language, and I must stress that this situation could have been avoided if U.S. trade negotiators had been informed regarding U.S. turkey production. We look forward to working with Congress to fix this issue.

Senator John Thune

1. As you know the Senate is considering a path forward on biotech labeling.

Do you believe animal products should be included in mandatory labeling of biotech products? Or should meat, dairy, and other animal products all be exempt from biotech labeling?

Answer: With regards to food labeling, NTF continues to actively support the two critical components of any GMO bill that comes out of Congress: 1) That the bill maintains federal preemption for meat and poultry labeling, which is already regulated by USDA – FSIS and 2) that it ensures that animals fed GE feed should not have to be labeled GE. We look forward to having a bill that prevents a patchwork of state rules that create a labeling nightmare for food producers. The U.S. needs a single set of labeling rules that are common-sense and based on the most respected science known.

2. You mention two regulations in your testimony, the proposed Organic Livestock and Poultry rule and the GIPSA rule, and others on this panel mention WOTUS or Waters of the US rule.

Based on all the concern expressed by you and others on this panel are you of the opinion that the current federal agency rulemaking processes pay little to no regard to comments and concerns from those in the agriculture industry these rules impact the most?

Answer: In most cases, the federal agencies utilize the notice and comment rulemaking process in a thoughtful, reasonable manner to inform their rulemaking and take into account important information and opinions necessary to produce a workable, effective final rule. However, in some instances the proposed regulation is driven less by factual necessity than by political desire. In these cases, agencies can meet the letter of the law, procedurally, in their responses to the comments of agricultural producers, without having to actually functionally address these comments or conform their proposals to reality.

Senator Patrick Leahy

1. In your testimony before the Committee you raised concerns about the proposed rule for the National Organic Program for Livestock and Poultry Handling Practices.

Isn't it correct that Congress set up a process within the National Organic Program specifically to make decisions on issues like the Livestock and Poultry Practices proposed rule that you mentioned in your testimony?

In this case, I understand that the National Organic Standards Board (NOSB) unanimously agreed to the proposed change regarding porches, outdoor space, and other practices for poultry and livestock that are certified as organic, after hearing testimony from countless producers, certifiers, consumers, and national organizations. USDA then issued the proposed rule implementing the NOSB decision in April. That unanimous decision came after years of debate and consideration by the NOSB and its Livestock Subcommittee, a Subcommittee that United Egg Producers testified before in 2002 and 2007.

I further understand that the comment period on that proposed rule is still open so you and your members have yet another opportunity to share your concerns within the regular process. Finally, I understand that language also has been included in both the House and Senate Agriculture Appropriations reports directing Secretary Vilsack to ensure that all comments on the proposed rule are taken into consideration when finalizing the regulation, both for those producers who believe they would be adversely impacted by the new requirements and those that feel they would be adversely impacted if these regulations were not finalized as they have been proposed with outdoor access requirements. If I am correct, I was told that UEP even supported this report language. So it seems to me that you still have ample opportunities to make your concerns known without requiring any further Congressional action at this point. **Would you not agree, and will you be submitting your detailed comments to USDA?**

Answer: We respect the notice and comment process and will certainly submit our concerns to USDA. As we read the proposed rule, the proposed changes will reduce the availability of organic turkey products and drastically increase the price for consumers. In some cases, our family farms, just now recovering from last year's outbreak, will no longer be able to raise organic birds. This new rule as proposed will eliminate much of the progress made in building the organic turkey market over the last several years. While the stated purpose of the new rule is to create greater consistency in organic production, it in fact creates an unnecessary financial burden on the producer. We also are very worried about the biosecurity lapses this regulation will promote, as well as the significant trade impacts it will have.

2. In your testimony, and in response to several questions at the hearing, you mentioned the proposed regulations that USDA put forward in 2010 under the Packers and Stockyards Act to address reported abusive and anti-competitive practices in the livestock and poultry sectors (the "GIPSA rule"). I am confused by some of the points you made at the hearing regarding the farmer protections proposed by USDA and how these protections could potentially result in lower prices for farmers. That does not seem to track with what I have seen in the USDA's past proposals or with what Secretary Vilsack has said -- that he would like to improve transparency in the industry and ensure a level playing field for all producers.

I would like to ask you a few questions about the actual, common sense regulations that were proposed by USDA as part of the GIPSA rule, which I hope will become final in the near future, and how they would affect your farmer members.

- a. One of the regulations proposed as part of the GIPSA rule would prohibit meatpackers and poultry companies from forcing farmers to give up their legal right to a jury trial to address future disputes with the company. [*proposed Section 201.210(a)(4)(i)*]

This rule would align with the intent of provisions that I strongly supported in the 2008 Farm Bill to amend the Packers and Stockyards Act to prohibit the use of mandatory arbitration clauses in livestock and poultry contracts. Instead, the Farm Bill provision requires packers and poultry companies to allow farmers an up-front choice about whether or not they would like to settle any future dispute using

arbitration. This ensures that farmers are not forced to give up their legal rights and remedies as part of a take-it-or-leave-it contract arrangement that denies them their constitutional right to protect themselves in court.

Soon after that provision became law, farmers came forward with their worries that some poultry companies had started to include new clauses in their contracts that would prohibit the grower from seeking a jury trial to settle any future dispute with the company. The grower would only be allowed to a ruling from the judge, not a jury.

Your organization has been promoting a legislative rider in the annual appropriations process that would prohibit USDA from finalizing or enforcing this commonsense protection for farmers. **Why should farmers be denied the same legal rights and full access to our judicial system that is enjoyed by other citizens and businesses?**

Answer: As the National Turkey Federation has stated on many occasions, its support of the “legislative rider” is based on a concern that the proposed rule, taken as a whole, could have significant unintended consequences that would be detrimental to growers as well as processors. I do not think the current system is perfect, nor do I know of many growers who do. However, we also are aware that processors have options for raising poultry that do not include contracting with family farmers. If the regulatory and legal liability associated with contracting becomes too great, many of these processors undoubtedly will consider such options, and at that point the proposed rule will become largely irrelevant anyway. In the six years since the rule was first proposed, I have yet to personally see any evidence that USDA or Congress has seriously contemplated this possibility. History is full of examples of well-intentioned rules that created worse problems than the ones they were intended to correct. No one has been able to provide satisfactory assurance to me that this is not what will happen here.

- b. One of the regulations proposed by USDA as part of the GIPSA rule would prohibit, under the Packers and Stockyards Act, meatpackers and poultry companies from retaliating against farmers for exercising their rights to free speech and/or association. [*proposed Section 201.210(a)(2)*]

This was written to provide protections for farmers who speak out publicly, including communication with USDA officials or Members of Congress, about what is taking

place on their farms and with their contracts. As we have heard directly from farmers, the threat of retaliation is very real for contract farmers who speak out, or who try to form associations with other growers to bargain for better contracts. This retaliation fear is the main reason that it is difficult for poultry growers, for instance, to talk to their Members of Congress about the abuses addressed in the proposed GIPSA rule. We also saw this play out when USDA and the Department of Justice held joint public workshops to explore competition issues affecting the agricultural sector. Farmers in some parts of the country were fearful of speaking at these workshops out of fear of retaliation from the companies for which they raise hogs or broilers.

Your organization has been promoting a legislative rider in the annual appropriations process that would prohibit USDA from finalizing or enforcing this seemingly commonsense protection for farmers. **Can you explain to me why that is? Why should a farmer not be allowed to speak to their elected officials out of fear retaliation?**

Answer: I believe, as does the National Turkey Federation, that a farmer, or any citizen, should be free to speak to their elected officials. It is a protected First Amendment right. Our support of the "legislative rider" has nothing to do with the free-speech question.

- c. Another regulation proposed by USDA as part of the GIPSA rule was a regulation to require meatpackers and poultry companies to give farmers statistical information and data about how their pay is calculated, if the farmer requests such information. *[proposed Section 201.210(a)(3)]*

Often times farmers have complained that the payment mechanism under their production contracts can be very vague and complicated, making it difficult for farmers to make good business decisions to increase their profits in future years. This regulation sought to give farmers full transparency into the factors that determine the payment for their services and the animals they raised.

I understand that your organization has been promoting a legislative rider in the annual appropriations process that would prohibit USDA from finalizing or enforcing

this commonsense protection for farmers. **Do you agree with me that price and payment transparency is a basic free market principle that is important for any business, especially our farmers? Why would your organization seek to deny this right to U.S. farmers?**

Answer: I have been raising turkeys for many years, and I have never personally had a problem understanding payment mechanisms in the contracts I've signed. I do not personally know of any fellow grower who has had trouble understanding these arrangements. Perhaps some have difficulty. However, the National Turkey Federation previously has not opposed GIPSA proposals aimed at enhancing transparency. This is not the central issue of the current debate.

3. As this Committee considers the next Farm Bill what suggestions do you have for how we can try to address the slaughterhouse "bottleneck" that is often one of the industry's most critical problems in some of our states where we have a scarcity and limited capacity of the existing facilities that is a barrier to efficient, lucrative production for the livestock sector, especially for small farms? Could more support for mobile slaughter/processing units help address some of these challenges for small diversified operations and offer farmers a greater profit?

Answer: At this time, mobile slaughter units do not fit the structure of NTF member companies and we do not utilize this process. Mobile slaughter units can have a economic impact for the rural farmer. Poultry is unique in that if less than 20,000 birds are produced, FSIS personnel does not have to be present during slaughter. Given the smaller size of poultry compared to livestock, they are easier to process in the smaller space of the mobile unit. Usually these units are overseen by state authorities. USDA Rural Development also helps with the development of these units, and guidelines and plans for the units are available from USDA FSIS.

Senator Robert Casey

1. You mentioned that USDA should consider alternatives for existing organic growers under the USDA proposed rule for organic livestock and poultry systems. Can you provide more information on what types of alternatives would be helpful for the turkey industry?

Answer: NTF is concerned about the potential disruption to existing organic producers and their supply chains, as well as the impacts this proposed rule may have on ensuring that animal health is fully protected. Before moving forward with the rule, the turkey industry feels that USDA should conduct a thorough assessment of the costs of compliance, increased animal

health and welfare risks, and alternatives for existing organic growers so that producers and supply chains directly impacted by these changes will be minimally impacted.

2. As an industry, how do you assess and prepare for an outbreak, like avian influenza, that could come at any time? Is it challenging to maintain biosecurity and remain vigilant when it is unclear if or when the next outbreak could occur? Do you think that turkey avian influenza should be handled differently than egg laying hens or broiler chickens?

Answer: Our growers have long been committed to implementing comprehensive biosecurity procedures, and doing everything that we can do in order to keep their birds healthy. Biosecurity is not a single task, but an integral part of every farm's daily operations. Although turkey growers have implemented the most up-to-date biosecurity procedures to address the threats we know of, outbreaks such as those from last spring remind us that new threats may arise at any point. It is imperative that the industry, and our government partners, remain vigilant for new diseases that may emerge, and to ensure that the proper resources are available not just for response efforts, but also for proactive research. Although the specifics of a farm's biosecurity plan may change depending on the type of operation, these principles are universal across the poultry industry. Plans must be tailored to the individual farm, but the need for robust, comprehensive biosecurity is the same.

