

Section 2 – Packers’ Reporting of Cattle Procured from Non-Reporting Subsidiaries, Affiliates, and Owners, Officers, and Employees

Congress instructed the Secretary to “examine and report on whether or not the cattle that are procured pursuant to a captive supply arrangement by a packer’s non-reporting subsidiary, affiliate and owners, officers, and employees are being included in the percentages of captive supply.” Cattle that are procured from a packer’s non-reporting subsidiary, affiliate, owner, officer, or employee are included in GIPSA’s captive supply statistics if the non-reporting subsidiary, affiliate,⁷ owner, officer, or employee sold the cattle through a captive supply arrangement.⁸ Purchases by a packer from its non-reporting subsidiaries, affiliates, owners, officers, or employees are not captive supply purchases simply because of the seller’s status.

Packers are not required to report the sellers’ identities in their annual reports to GIPSA. To determine if cattle purchased from each packer’s non-reporting subsidiary, affiliate and owners, officers, and employees were reported in one of GIPSA’s captive supply categories, GIPSA examined transactions records, from 1999, of the largest four packers that purchase steers and heifers. The transaction records usually identify the seller as the feedlot from which the cattle were obtained rather than the owner of the cattle.

For GIPSA to identify the sellers, GIPSA would have to trace more than 200,000 individual transactions back through the records of feedlots that fed the cattle. Because GIPSA does not have access to the records of entities that are not subject to the P&S Act except when it serves them with a subpoena, GIPSA could not routinely trace the underlying transactions to determine how packers reported cattle purchased from their non-reporting subsidiaries, affiliates and owners, officers, and employees.

To determine how packers report their purchases from non-reporting subsidiaries, affiliates and owners, officers, and employees, GIPSA contacted the largest 15 packers that purchased steers and heifers in 1999.⁹ The packers reported that purchases from non-reporting subsidiaries, affiliates and owners, officers and employees were reported as captive supply purchases if they were procured through one of captive supply procurement categories identified in GIPSA’s annual report. If a transaction met the captive supply procurement category definition specified in the packer annual report, the packers reported it as such without regard to the identity of the seller.

⁷ A non-reporting entity is one that does not purchase at least \$500,000 of livestock for slaughter annually, and is not required to file a report.

⁸ Although the legislative mandate requires that Secretary to examine and report on whether or not the cattle that are procured pursuant to a captive supply arrangement *by* a packers’ non-reporting subsidiaries, affiliates and owners, officers, and employees, GIPSA has interpreted the mandate to refer to cattle that are procured pursuant to a captive supply arrangement *from* a packer’s non-reporting subsidiaries, affiliates and owners, officers, and employees.

⁹ Aurora Packing, Caldwell Packing (PM Global), ConAgra, Excel Corp., Greater Omaha Packing, Green Bay Dressed Beef, Harris Ranch Beef, IBP, Moyer Packing, National Beef Packing, Nebraska Beef, Packerland, Sam Kane Beef Processors, Shamrock Meats, and Washington Beef.

To address Congress's instructions and for purposes of GIPSA's verification process discussed in section 4 of this report, subsidiaries were defined as any company or business entity more than 50 percent owned by the packing company. Affiliates were defined as (1) any company that the packing company jointly owns with another firm; (2) any company with which the packing company has joint ownership of cattle; or (3) any company which the packing company, the packing company's parent company, any subsidiary of the packing company or the packing company's parent company provides financing for cattle on feed. Owners were defined as any person or firm having more than 5 percent ownership in the packing company. Officers were defined as all corporate officials of the packing company (including chief executive officer, chief operating officer, chairman, president, vice presidents, secretary, treasurer, and chief financial officer) and members of the packing company's board of directors.

Of the 15 packers contacted by GIPSA, nine reported buying cattle from their subsidiaries, affiliates, owners, officers, or employees. Six of those companies stated they buy some of these cattle under at least one of the captive supply procurement methods specified in GIPSA's annual report and they reported these cattle to GIPSA as bought under the procurement method.

Two of the six companies reporting purchases from subsidiaries, affiliates, owners, officers, or employees buy from feeding affiliates. One buys from its feeding subsidiary. Another one buys approximately 100 head a year from an affiliate, which is not required to report to GIPSA, for performance testing and quality control purposes. One company is a cooperative with feedlot members, and the other is owned outright by feedlots. Both buy cattle from their feedlot owner(s) or members.

Three packers buy small quantities of cattle from employees. The packers stated that such purchases are priced on a grid to avoid any appearance of favoritism or discrimination. A grid is used to avoid any potential conflict of interest with the employee's sale to the packer. The packers consider grids to be impartial because they are based on a plant average or publicly reported price.

Seven of the 15 packers reported company policies prohibiting or restricting cattle feeding by owners, officers, or employees. All of the largest four packers have written policies -- generally "conflict of interest" policies -- on cattle feeding and futures trading by owners, officers, or employees. Several of the largest four companies' policies prohibit cattle feeding, and require owners, officers, and/or employees to sign company conflict of interest policies annually. The policy of one of the largest four companies allows employees to feed cattle as long as doing so does not violate the company's conflict of interest policy. That company's policy also requires that any of these cattle sold to the company must be sold on a grid basis.

Eight packers have no official or formal company policy on cattle feeding by owners, officers, and employees. Seven of the eight stated that the company had no purchases from owners or officers. Two of the eight reported purchasing only small quantities of

cattle from employees. Four of the eight declared they have a *de facto* prohibition on cattle feeding by owners, officers, and employees but no written or formal policy.