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**INTRODUCTION TO THE  
LEGAL SYSTEM &  
GIPSA**

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**Outline**

- **Intro to law**
- **The three branches of government**
  - Legislative branch
  - Judicial branch
    - Alternative dispute resolution
  - Executive branch
    - Administrative agencies
- **Checks & balances**
- **GIPSA**

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**“Law”**

- **Laws are enforceable rules; there is a penalty or cost for violating the law.**
  - Possible penalties:
    - Paying a fine to government
    - Compensating another person if the illegal action damaged their property
    - Spending time in jail if the violation warrants imprisonment.
- **Generally, society, through government, enforces the law.**
  - In the United States, the law includes statutes, regulations, and the common law

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### Written Law

- Primary examples:
  - Constitution
  - State and federal statutes
  - State and federal regulations
  - Local laws

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### U.S. Constitution

- The primary source of all laws in the United States
- Establishes three branches of government:
  - Article I: Legislative
    - × Enacts laws
  - Article II: Executive
    - × Enforces laws
  - Article III: Judicial
    - × Interprets laws



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### U.S. Constitution

- “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”
  - 10<sup>th</sup> Amendment to the Constitution
- Basically-
  - Federal government only has the powers granted to it in the Constitution
  - State governments/ people hold the rest of the power

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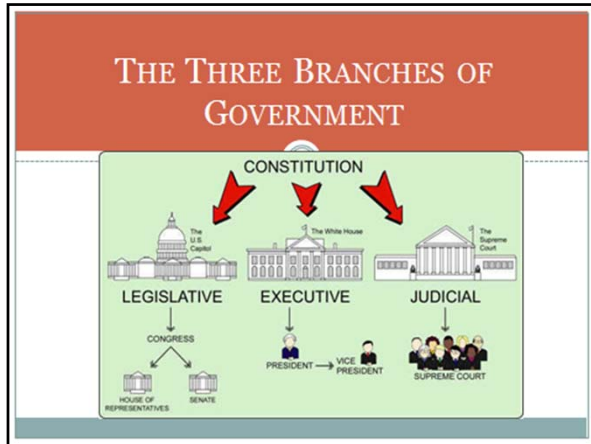
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- Legislative Branch**
- **Includes**
    - Congress (Federal level)
    - State legislatures (State level)
  - **Passes Legislation/Laws/Statutes (Big picture)**
    - Congress passes laws affecting the entire United States
    - State legislatures pass laws affecting specific states
  - They have been given the “power of the purse”
  - Elected by the people they represent

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### United States Legislature

- “Congress”
  - Senate (6 year terms)
    - 100 members
  - House of Representatives (2 year terms)
    - 435 members
- No term limits

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### Missouri Legislature

- “General Assembly”
  - Senate (4 year terms)
    - 34 members
  - House of Representatives (2 year terms)
    - 163 members
- Term limits:
  - House- four terms of two year (8 yrs)
  - Senate- two terms of four years (8 yrs)

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### How a Bill Becomes a Law

- The bill is “introduced”
  - Includes sponsors willing to support the bill
  - In the House, they are numbered with HR \*\*\*, and in the Senate, they are numbered with SB \*\*\*

A BILL BECOMES LAW

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### How a Bill Becomes a Law

- The bill goes to "committee"
  - Committees include Congressmen and women who are "experts" on the topic, and they will vote on whether to send the bill back to the main "floor" for everyone to consider
- Federal Committees
  - 21 Senate committees
  - 21 House committees
  - 5 joint committees
- State Committees
  - 62 House committees
  - 21 Senate committees
  - 22 joint committees

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### How a Bill Becomes a Law

- The bill is debated
  - Congressmen and women discuss the bill and explain why they agree or disagree with it.
  - A reading clerk reads the bill section by section and the Representatives recommend changes. When all changes have been made, the bill is ready to be voted on.

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### How a Bill Becomes a Law

- The bill is voted on
  - Voice vote, division or recorded
- The bill moves to the other chamber
  - The steps are repeated.

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### How a Bill Becomes a Law

- What happens if there is a disagreement between chambers?
  - If different versions are passed, the Chambers appoint conferees to reconcile the differences
  - A majority of each Chamber must then approve the reconciled version of the legislation

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### How a Bill Becomes a Law

- After approval by both houses, the bill is sent to the President
  - It can be signed/passed or vetoed (refuse to sign, can be overridden)

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### Judicial Branch- Interprets Laws



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### Judicial Branch

- Courts hear and decide cases based on law and facts
- They are the mechanism for deciding disputes
- **Federal judges:**
  - Appointed by President and approved by Congress
- **State judges:**
  - Depending on the state, can be elected or appointed
  - In Missouri, judges are elected in nonpartisan elections

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### United States (Federal) Judiciary

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graph TD; SC[Supreme Court] --- COA[Court of Appeals]; COA --- DC[District Courts];
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- All federal judges are nominated by the president and confirmed by the Senate (appointed)
- 9 justices on S.C.
- 13 Circuit Courts of Appeal in U.S.
  - Missouri is in the 8<sup>th</sup> Circuit
- 2 district courts in MO
  - Western (Kansas City)
  - Eastern (St. Louis)
- \* Specialty courts- bankruptcy & tax

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### Missouri Judiciary

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graph TD; SC[Supreme Court] --- COA[Court of Appeals]; COA --- CC[Circuit Court]; CC --- SpC[Specialized Courts]; CC --- MC[Municipal Court];
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- **Supreme Court-**
  - 7 Justices sit *en banc*
- **Appeals-**
  - 3 districts – Southern, Western & Eastern
    - Fairview is in the Southern District
  - 32 Judges in total
- **Circuit-**
  - 45 circuits

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### Two Court Systems

- **Federal**
  - Considers controversies involving federal law or controversies between citizens of different states
    - Ex: "Oklahoma vs. Arkansas" (poultry litter case)
- **State**
  - Considers matters that fall outside the scope of the federal court system
  - Considers cases that are subject to state, not federal, law

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### Types of Cases

- **Criminal**
  - The state charges a person with a crime
  - Penalty will be either imprisonment or a fine
  - Example in agricultural law: animal cruelty statutes
- **Civil** –
  - Dispute between two or more parties, one party brings suit
    - Dispute between buyer and seller
    - Dispute between a landowner and a tenant
    - Dispute between two neighbors
  - Doesn't involve a crime (although a crime may have been committed)
  - Penalty is generally a court order to compensate the injured party and/or to stop an illegal act.

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### Definitions (Civil Suits)

- **Parties**
  - *Plaintiff*: Party who files the lawsuit; the party who is complaining that they have been injured or treated wrong.
  - *Defendant*: Party being sued; the person or persons who have to defend themselves against the accusations being made by the plaintiff.
- **Litigation:**
  - Another word for a court case
- **Burden of Proof:**
  - The responsibility of proving a disputed charge or allegation
  - The PLAINTIFF has the burden of proof
  - The specific burden of proof depends on the type of case (beyond a reasonable doubt, clear and convincing evidence, preponderance of the evidence)

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### Trial Court- Where Lawsuits Begin

#### What happens?

- The jury (or judge) will
  - Listen to the evidence presented by the litigants;
  - Decide what happened; and
  - Determine a solution to the dispute.
- The judge also
  - Oversees the trial process to assure all litigants are given an opportunity to present their information; and
  - Assures the jury appropriately applies the law to the facts of the case.

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### Appellate Courts – The Next Step

- Reviews the action of the trial court
- A litigant will file an appeal if the litigant feels the trial judge made a mistake in:
  - Overseeing the trial process; or
  - Interpreting and applying the law.
- Does not determine the facts of the case
  - That's the trial court's job
- Focuses on whether the law was correctly interpreted and applied during the trial process

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### Alternative Dispute Resolution

MEDIATION AND NEGOTIATION

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### Ways to Resolve Legal Disputes

1. **Litigation**
  1. As discussed above
2. **Alternative Dispute Resolution**
  - a. Mediation
  - b. Arbitration

\* both mediation and arbitration involve third-party intervention

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### Alternative Dispute Resolution

- **Mediation:** “the act or process of mediating; especially intervention between conflicting parties to promote reconciliation, settlement, or compromise”
- Uses a 3<sup>rd</sup> party (called a mediator) to work out a deal where all (or most) parties voluntarily agree to an outcome.
  - The mediator does not have the authority to force an agreement

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### Alternative Dispute Resolution

- **Arbitration:** process by which a dispute is submitted before an impartial third party – an arbitrator – whose decision will, by agreement, be binding on the parties
  - Similar to litigation, but less formal and faster
  - It is important to see who has the ability to select the arbitrator
- **Examples:** Federal crop insurance disputes; some production contract disputes

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## Executive Branch- Enforces Law



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## Executive Branch

- **President/governor**
- **Elected to their position**
  - Slightly different than direct elections (like Congress)
  - Instead, elected through the "electoral college"
- **In charge of most administrative agencies**

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## United States Executive

- **President Barack Obama (D)**
- **Vice President Joseph Biden (D)**
- **Also includes the heads of 15 executive departments**
  - Called "Secretaries"
  - Members of the President's Cabinet



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### Missouri Executive



- **Governor Jay Nixon (D)**
- **Lt. Gov Peter Kinder (R)**
  - Runs for and is elected separately from governor- this is different than many states
- **Also includes:**
  - Attorney General
  - Secretary of State
  - State Treasurer
  - State Auditor

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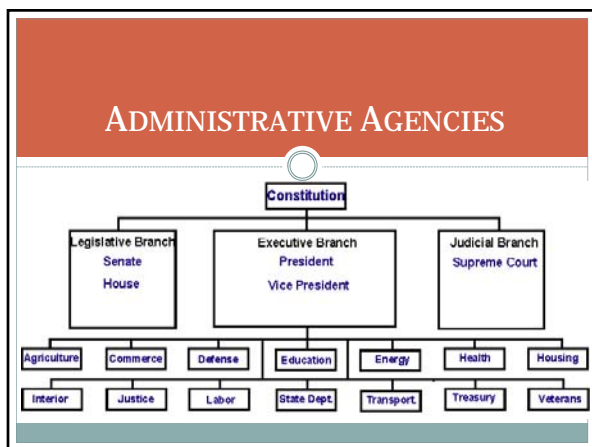
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### What are Administrative Agencies?

- Entities created by Congress and the President to regulate specific areas
- The vast majority of federal employees work for administrative agencies
- Agencies have the powers of all three branches of government
  - They write regulations
  - They enforce regulations
  - The adjudicate any disputes under the regulations.

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### USDA Agencies

**The United States Department of Agriculture (USDA) has many agencies under its jurisdiction.**

<ul style="list-style-type: none"> <li>• Agricultural Marketing Service (AMS)</li> <li>• Agricultural Research Service (ARS)</li> <li>• Animal and Plant Health Inspection Service (APHIS)</li> <li>• Center for Nutrition Policy and Promotion (CNPP)</li> <li>• Economic Research Service (ERS)</li> <li>• Farm Service Agency (FSA)</li> <li>• Food and Nutrition Service (FNS)</li> <li>• Food Safety and Inspection Service (FSIS)</li> <li>• Foreign Agricultural Service (FAS)</li> <li>• Forest Service (FS)</li> </ul>	<ul style="list-style-type: none"> <li>• Grain Inspection, Packers and Stockyards Administration (GIPSA)</li> <li>• National Agricultural Library (NAL)</li> <li>• National Agricultural Statistics Service (NASS)</li> <li>• National Institute of Food and Agriculture (NIFA)</li> <li>• Natural Resources Conservation Service (NRCS)</li> <li>• Risk Management Agency (RMA)</li> <li>• Rural Development (RD)</li> </ul>
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### Why Do Agencies Have So Much Power?

- **Congress, the President, and courts may not have the necessary knowledge and time to make every decision that is needed.**
  - For example, many EPA employees are scientists and lawyers
- **Agencies are limited to regulating issues within their scope of authority**
  - For example, the Department of Labor doesn't regulate the same issues as the Department of Education




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### Notice and Comment Rulemaking

- Method often used by Agencies to implement laws passed by Congress and signed by the President
- Process outlined in Administrative Procedure Act
- Not as complicated as it sounds



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### Notice and Comment Rulemaking

The flowchart shows three stages: Notice, Comment, and Rulemaking. In the Notice stage, the agency provides public notice in the Federal Register and offers a draft rule. In the Comment stage, the agency seeks public comments on the proposed rule. In the Rulemaking stage, the agency reviews comments and implements changes before issuing the final rule.

- Notice**
  - Agency provides public notice in Federal Register that they intend to make a rule and offer a draft of the rule
- Comment**
  - Agency seeks comments from the public on the proposed rule
- Rulemaking**
  - Agency reviews comments and implements changes before issuing final rule

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### Notice and Comment Rulemaking

- Comments may address any part of the rule
  - Agree with some part
  - Disagree with another part
- Anyone can submit comments
  - Individuals
  - Companies
  - Special interest groups
- Comments can be submitted anonymously

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### Final Rules

- Final rules are published in the Federal Register, which is available at: <http://www.gpo.gov/fdsys>

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### Laws v. Regulations



- Laws (or “statutes”) passed by Congress are broad
- Regulations and rules are implemented by Agencies and contain the details
  - To specify, clarify and refine Congress’s work product

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### Laws v. Regulations

Example: National Organic Program

- Law: Organic Foods Production Act
  - Delegates authority to draft regulations to the USDA’s Agricultural Marketing Service
- Regulations published by the AMS are the “rules” for the National Organic Program

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### CHECKS & BALANCES



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### Legislative Branch

Powers	Checks	Limits
Passes federal laws	President can veto federal bills	Constitution
Can override President's veto of a bill by a 2/3 vote	Supreme Court can declare laws unconstitutional	Voters
Establishes lower federal courts and number of federal judges; confirms judicial appointments		

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### Judicial Branch

Powers	Checks	Limits
Interprets and applies the law	Congress can propose Constitutional amendments to overturn judicial decisions	Constitution
Can declare laws passed by Congress and actions taken by executive unconstitutional	Congress can impeach and remove federal judges	"Good behavior"

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### Executive Branch

Powers	Checks	Limits
Approves or vetoes federal bills	Congress can override President's veto by two thirds vote	Constitution
Carries out federal laws	Supreme Court can declare executive acts unconstitutional	Voters
Appoints federal judges and other high ranking federal officials	Senate can refuse to confirm presidential appointments	
Can make foreign treaties	Senate can refuse to ratify treaties	
Can grant pardons and reprieves to federal offenders	Congress can impeach and remove president	

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### What About "Checks and Balances" for Agencies?

- They still exist, but they're slightly different- here's how they work...

The diagram consists of four overlapping circles, each representing a different entity in the government structure:

- Legislative Branch**
  - Statutory Authority
  - Has the "power of the purse"
- Executive Branch**
  - Oversees most of the agencies
  - Appoints agency heads
- Judicial Branch**
  - Hears agency decisions on appeal
- Citizens**
  - Participate in "notice and comment" rule making

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## Grain Inspection Packers and Stockyards Administration

"GIPSA"

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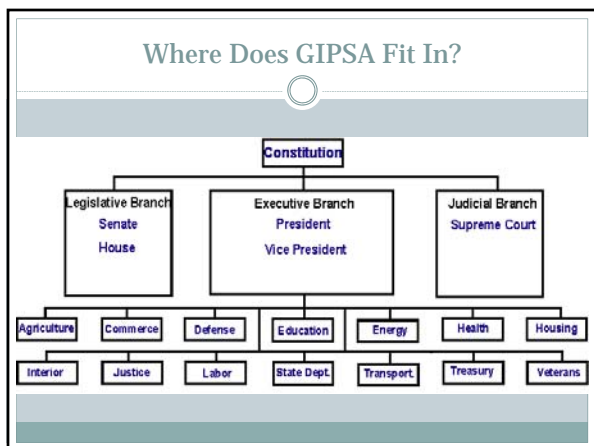
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### GIPSA is:

The federal agency within USDA that is responsible for issuing regulations and enforcing rules that govern the contracting, buying and selling of livestock and poultry.



United States Department of Agriculture  
Grain Inspection, Packers & Stockyards Administration

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### What Does GIPSA Do?

**Main Goal:** Helps “ensure a productive and competitive global marketplace for U.S. agricultural products.”

- Regulates the marketing of poultry, livestock, meat, grains, and various other agricultural products
- Upholds “fair and competitive trading practices”
- Enforces the Packers and Stockyards Act



United States Department of Agriculture  
Grain Inspection, Packers & Stockyards Administration

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### Packers and Stockyards Act

- The Packers and Stockyards Act requirements apply to:
  - Packers
  - Swine contractors
  - Live poultry dealers
- A “live poultry dealer” includes those involved in
  - All stages of a live poultry dealer's poultry production
    - Including pullets, laying hens, breeders and broilers
  - **Excluding egg-type pullets, hens that only produce table eggs, and breeder flocks for the egg industry**

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### Live Poultry Dealers

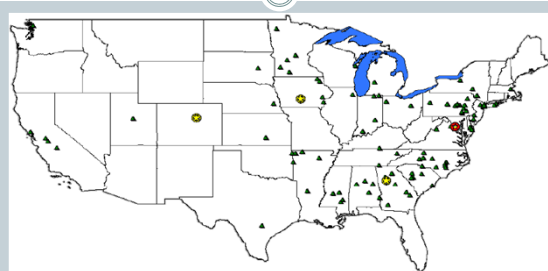


Figure 6. Location of Live Poultry Dealers Headquarters Subject to the P&S Act

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### Responsibility: Prompt Payment

- Live poultry obtained under a poultry growing arrangement must be paid for by the close of the 15th day following the week in which the poultry is slaughtered.
- Integrators must pay before the close of the next business day for live poultry obtained in a cash sale.

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### Responsibilities: Poultry Trusts

- If an integrator doesn't for live poultry, the receivables, inventories, and proceeds derived from such purchases become trust assets.
- The integrator must hold these assets for the benefit of all unpaid cash sellers and/or poultry growers.
- Cash sellers and poultry growers are legally in priority payment position in bankruptcy or in claims against trust assets in the event of a business failure.

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### P&S Trust Provisions

- **What to do if you're not paid?**
  - Give written notice to both the integrator and the closest P&S regional office that the integrator has failed to pay for live poultry or poultry produced under a growout arrangement.
    - The notice must be in writing.
- **How quickly do you have to give notice?**
  - If a payment instrument is not honored for any reason – notice must be given within 15 days of receiving notice that the instrument is dishonored.
    - Ex: A check bounces
  - If no payment instrument is received- notice must be given within 30 days after the date for making final payment.
    - Ex: No check is given
  - If you sell live poultry,- the time limit is 30 days from the close of the next business day following the purchase of the poultry.
  - If you produce poultry under a growing arrangement- the time limit is 30 days from the close of the 15th day following the week in which the poultry is slaughtered.

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### P & S Trust Provisions

- **What USDA can and cannot do.**
  - USDA can penalize an integrator for failing to pay for poultry or for poultry produced under a growing arrangement, as a violation of the P&S Act.
  - USDA can ask a court to stop an integrator from future violations of the P&S Act.
  - USDA cannot furnish a lawyer to collect payment for you, and it cannot compel an integrator to pay you.
- **What a court can do.**
  - A court can order an integrator to hold the specified property in trust for the benefit of growers or unpaid cash sellers of poultry who have given the notices as required.
    - A court can only order this upon receiving a written complaint.
    - A complaint may be filed by any grower or unpaid cash seller of poultry.
- **What you must do after such a court order.**
  - If a court order is issued, you, as an unpaid grower or cash seller, must petition the court to order payment to you from the property held in trust.
  - If you do not, the court may order that property to be distributed to other growers or unpaid cash sellers who file a petition.

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### Packers and Stockyards Trust Provisions

- **Your complaint should include:**
  - Identification of integrator
  - Identification of seller or grower
  - Date of transaction
  - Date of seller's or grower's receipt of notice that a payment instrument has been dishonored (if applicable)
  - Amount of money due

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### Responsibility: Scales

- Scales used to weigh live poultry or feed for purposes of purchase, sale, acquisition, payment, or settlement, must be installed, maintained, and operated to ensure accurate weights
- All scales must be tested for accuracy at least twice during each calendar year—once between January 1 and June 30 and once between July 1 and December 31.
  - The certification form must be filed with the regional P&SP office.
- The scales must be equipped with a printing device which will record weight values on a scale ticket.
- Any scale known to be inaccurate may not be used.

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### Responsibility: Weighing

- Only competent, trained weighmasters should weigh live poultry or poultry feed.
- The weighmaster should ensure that the scale will provide accurate weights prior to weighing.
- The weighmaster should keep the scale balanced at zero at all times; check the zero balance every 15 minutes or 15 drafts, and after every draft of more than half the scale capacity; record the time of zero balance check; and weigh each draft of poultry to the nearest scale division.
- The weighmaster should favor neither the buyer nor the seller; print a scale ticket only while poultry is on scale and scale has settled; complete the scale ticket; allow persons having a legitimate interest in a draft of poultry to observe the weighing; and reweigh a draft of poultry immediately if requested.

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### Responsibilities: Immediate Weighing

- Whenever live poultry is obtained under a poultry growing arrangement, the poultry shall be transported promptly after loading and the gross weight for grower payment purposes shall be determined immediately upon arrival at a the processing plant.

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### Responsibilities: Unfair Practices

- It shall be unlawful for any integrator to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device.
- What is an "unfair practice?"
  - Whether or not a practice is "unfair" is determined on a case-by-case basis after reviewing all the evidence.
  - As an example, using false weights has been determined to be an unfair practice.

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### Responsibilities: Records to be furnished to Poultry Growers

- Each integrator who offers a production contract must provide the grower with a true written copy of the offered contract along with the poultry house specifications.
- Notwithstanding any confidentiality provision in the poultry growing arrangement, each integrator must allow poultry growers to discuss the terms of a poultry growing arrangement offer with a
  - Federal or state agency
  - The grower's financial advisor or lender
  - The grower's legal advisor
  - An accounting services representative hired by the grower
  - Other growers for the same integrator, or
  - A member of the grower's immediate family or a business associate.

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### Responsibilities: Contract

- Each integrator that enters into a production contract with a poultry grower must furnish the grower with a true written copy of the poultry growing arrangement.
- The arrangement must clearly specify
  - The duration of the contract and conditions for termination of the contract by each of the parties;
  - All terms related to the payment to be made to the poultry grower;
  - Whether a performance improvement plan exists for that grower, and, if so, any relevant performance plan guidelines.

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### Responsibilities: Disclosure of Right to Cancel

- Each integrator must disclose in its poultry growing arrangements
  - The poultry grower's right to cancel the contract;
  - The method in which the grower may cancel the contract; and
  - The deadline for canceling the contract.
- Poultry growers have until the later of
  - 3 business days after the date when the production contract is executed, or
  - any cancellation date specified in the contract to mail a cancellation notice to the integrator.

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### Responsibility: Disclosure of Additional Capital Investments

- Each integrator must disclose on the first page of its poultry growing arrangements a conspicuous statement that additional large capital investments may be required of the poultry grower during the term of the contract.
  - An additional capital investment is: a combined amount of \$12,500 or more per structure paid by a poultry grower over the life of the poultry growing arrangement beyond the initial investment for facilities used to grow, raise and care for poultry.
    - × Includes the total cost of upgrades to the structure, upgrades of equipment located in and around each structure, goods and professional services that are directly attributable to the additional capital investment.
    - × Does not include costs of maintenance or repair

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### Responsibility: Requirement of Additional Capital Investments

- To determine whether a requirement of additional capital investments is a violation of the P&S Act, GIPSA will consider:
  - Whether a grower is given discretion to decide against the additional capital investment.
  - Whether the investment is the result of coercion, retaliation or threats.
  - Whether the integrator intends or does substantially
    - Reduce/end operations at the slaughter plant or processing facility, or
    - Reduce/end production operations within 12 months of requiring the additional capital investment.
  - Whether some growers are required to make the capital investments while other similarly situated growers are not.
  - The age and number of recent upgrades to, or capital investments in, the grower's operations.
  - If the additional investment cost can reasonably be expected to be recouped.
  - If a reasonable time period to implement the additional investments is provided to the grower.
  - If equipment changes are required with respect to equipment previously approved and accepted by the integrator, while existing equipment is functioning as intended.
    - Unless the integrator provides adequate compensation incentives to the poultry grower.

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### Responsibility: Resolving Disputes and Choice of Law

- The venue to resolve any dispute among the parties of a production contract must be located in the Federal judicial district in which the principal part of the performance takes place.
- A poultry growing arrangement may specify which State's law is to apply to any contract dispute.

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### Responsibility: Settlement Sheet

- Each integrator, who acquires poultry pursuant to a contract with a poultry grower, must prepare a true and accurate settlement sheet and furnish it to the grower at the time of settlement.
  - The settlement sheet must contain all information necessary to compute the payment due the poultry grower.

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### Responsibility: Use of Arbitration

- In determining whether arbitration provides a meaningful opportunity for the grower to participate, GIPSA will consider whether:
  - The contract discloses sufficient information in bold, conspicuous print describing
    - all the costs of arbitration to be paid by the poultry grower,
    - the arbitration process, and
    - any limitations on legal rights and remedies
  - Provisions governing costs and time limits are reasonable.
  - The grower is provided access to and opportunity to engage in reasonable discovery of information held by the integrator.
  - Arbitration is required only in resolving disputes relevant to the contractual obligations of the parties.
  - A reasoned, written opinion based on applicable law, legal principles and precedent for the award is required to be provided to the parties.

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### Responsibility: Additional Documents Due At Settlement

- When payment to the grower is based upon a grouping or ranking of poultry growers delivering poultry during a specified period, the integrator must furnish the grower, at the time of settlement, a copy of the grouping or ranking sheet which shows the precise position in the grouping or ranking for that period.
  - The grouping or ranking sheet need not show the names of other growers, but it must show the actual figures upon which the grouping or ranking is based for each grower grouped or ranked during the specified period.
- Each integrator who purchases live poultry must prepare and deliver a purchase invoice to the sellers at the time of settlement which contains all information necessary to compute payment due the seller.

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### Responsibility: Reasonable Period to Remedy Breach of Contract

- In determining if an integrator has provided a reasonable period of time for a poultry grower to remedy a breach of contract, GIPSA will consider whether:
  - The integrator provided written notice of the contract violation to the grower when it was first discovered.
  - The notice includes:
    - A description of the act or omission believed to constitute a contraction violation, including identification of the breached section of the contract;
    - The date of the violation;
    - How the poultry grower can satisfactorily remedy the breach, if possible; and
    - A date that provides a reasonable time, by which the breach must be remedied.
  - The integrator took into account the grower's ongoing responsibilities related to the raising and handling of the poultry under their care when establishing the date by which a breach should be remedied.
  - The poultry grower was afforded adequate time from the date of the notice of the alleged breach to rebut the allegation of a breach.

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### Responsibility: Termination Notice

- An integrator that ends a poultry growing arrangement with a grower due to a termination, non-renewal, or expiration and subsequent non-replacement of a poultry growing arrangement, must provide the grower with a written termination notice at least 90 days prior to the termination of the arrangement.
- Such notice shall be in writing and contain
  - The reason(s) for termination,
  - When termination is effective, and
  - Appeal rights, if any, that the poultry grower may have with the integrator.
- The integrator's poultry growing arrangement must also provide the poultry grower with the opportunity to terminate its poultry growing arrangement in writing at least 90 days prior to the termination of the poultry growing arrangement.

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### Responsibility: Suspension of Delivery of Birds

- In determining whether an integrator has provided reasonable notice to growers of any suspension of the delivery of birds, GIPSA will consider whether:
  - The integrator provides a poultry grower written notice at least 90 days prior to the date it intends to suspend delivery of birds under a poultry growing arrangement.
  - The written notice adequately states
    - the reason for the suspension of delivery,
    - the length of the suspension of delivery, and
    - the anticipated date the delivery of birds will resume.
  - Catastrophic or natural disaster, or other emergency, such as an unforeseen bankruptcy, has occurred that has prevented an integrator from providing reasonable notice.
- **NOTE: The "Consolidated and Further Continuing Appropriations Act, 2013" required that the Secretary of Agriculture rescind this provision.**

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### Responsibility: Inspection of Business Records and Facilities

- Each integrator, upon proper request, shall permit authorized representatives of the Secretary of Agriculture to enter its place of business during normal business hours and to examine records pertaining to its business subject to the Act.

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### GIPSA Review Process

- Agent collects background information prior to conducting a site visit.
- Once on-site, the agent will conduct an interview and obtain copies of the grower contract being used at the plant location and 3 months of weekly ranking sheets for the contract.
  - These documents are reviewed to see if they follow P&S Act regulations.
  - One week of payment data from the settlement sheet is selected as a random sample for a detailed review for accuracy and completeness.
- The results are compared to the firm's ranking sheets, settlement sheets, and payments to the growers to ensure consistency with the contract.
- If discrepancies are found, an investigation is opened.
- If the firm's practices are determined to be free of violation, the agent provides an exit interview indicating this to the firm's management.

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### Compliance Metrics

Component	2009	2010	2011	2012
Prompt Pay	75	78	70	85
Custodial Account	85	70	72	75
Weighing Practices	88	95	90	92
Carcass Eval. Accuracy	88	88	88	95
Poultry Payment	65	68	70	85

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### How Violations are Resolved

- Resolved according to their seriousness:
  - *Notice of Violations* – Violators are given notice of the problem, and violations are corrected without resorting to legal proceedings
  - *Stipulation Agreements* – A legal agreement is reached, citing the alleged violations that have been found and specifying the civil penalty that GIPSA will accept in settlement of the alleged violation.
  - *Administrative Actions* - Legal actions taken within the USDA administrative process, where GIPSA and the accused party have a hearing before an administrative law judge, who enters an opinion.
  - *Court Actions* - Legal action may be taken, through the Justice Department, in a U.S. District Court against those subject to the P&S Act.
- Penalties for violations can include:
  - Cease and desist orders;
  - Suspension of business operations subject to the P&S Act
  - Civil penalties:
    - Up to \$32,000 per violation of the poultry trust provisions
    - Up to \$11,000 per violation of the other provisions in the P&S Act and regulations
  - Permanent injunctions, fines, and jail sentences for actions taken through the Justice Department.

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### Penalties

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Table 2. Penalties Levied for P&S Act Violations, 2008-2012

Type Judgment	2008	2009	2010	2011	2012
Administrative Penalties (\$)	657,770	364,700	341,027	662,470	1,473,093
DOJ Civil Penalties (\$)	51,240	59,580	346,705	70,480	425,540
<b>Total Civil Penalties(\$)</b>	<b>709,010</b>	<b>424,280</b>	<b>687,732</b>	<b>732,950</b>	<b>1,898,633</b>
Stipulations (\$)	23,275	30,775	127,787	364,800	305,390
Complaints Issued	46	40	50	38	124
Suspensions	0	19	6	9	24

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### If You Have a Concern

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- **GIPSA Violation Hotline:**
  - (800) 998-3447
  
- **GIPSA Administrator (D.C)**
  - (202) 720-0219
  
- **GIPSA Regional Office(Des Moines)**
  - (515) 323-2579

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### Disclaimer

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The National Agricultural Law Center does not provide legal advice. Any information provided is not intended to be legal advice, nor is it intended to be a substitute for legal services from a competent professional.

Web site: **www.NationalAgLawCenter.org**

Phone: (479)575-7646  
 Email: NatAgLaw@uark.edu

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