

## **GIPSA FILES NOTICE OF INTENT TO APPEAL EXCEL DECISION**

WASHINGTON, Feb. 14, 2002 - The U.S. Department of Agriculture's Grain Inspection, Packers and Stockyards Administration (GIPSA) has filed a Notice of Intent to appeal an administrative law judge's decision not to assess a civil penalty in a case filed against Excel Corporation.

Following a series of administrative hearings during 2000 and 2001, the administrative law judge found that Excel had violated the Packers and Stockyards Act but failed to assess any penalty for the violations. GIPSA disagrees with many of the factual and legal conclusions reached and with the decision not to assess a civil penalty for Excel's conduct.

At issue in the hearings were GIPSA's allegations that Excel failed to notify swine producers prior to changing a formula that calculated the prices paid on a carcass merit basis. The judge found that Excel's failure to notify producers prior to changing the lean percent formula on which payment is calculated was illegal.

In its complaint, GIPSA alleged that Excel failed to notify its hog sellers that it had changed the formula by which it estimated the lean percent of hogs, prior to implementing the change and in violation of the Packers and Stockyards Act. Excel uses lean percent measurement to compute the purchase price of hogs that it buys on a carcass merit basis. As a result, Excel underpaid producers approximately \$2.9 million for about 3.6 million hogs purchased between October 1997 and July 1998.

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