



June 21, 2021

Melissa R. Bailey, PhD
Acting Deputy Administrator, Transportation and Marketing Program
U.S. Department of Agriculture, Agricultural Marketing Service
Room 2055-S, STOP 0201
1400 Independence Avenue, SW
Washington, DC 20250-0201

RE: "Supply Chains for the Production of Agricultural Commodities and Food Products";
Docket Number AMS-TM-21-0034; FR Notice Pages 20652-20654

Dear Deputy Administrator Bailey,

On behalf of the nearly 200,000 family farmer, rancher, and rural members of National Farmers Union (NFU), thank you for the opportunity to submit comments on the need to strengthen the resiliency of the United States' agriculture and food supply chains. NFU works to ensure that farm families and their communities are respected, valued, and enjoy economic prosperity and social justice. Resilient, diverse, and secure agriculture and food supply chains are a prerequisite for achieving these ends.

Our comments address several key areas highlighted by USDA in its notice, including facilitating fair and competitive markets, improving local and regional food production, supporting and promoting consumers' nutrition security, and meeting the needs of the agricultural workforce. NFU has also included an addendum to these comments that respond to USDA's request for information to inform its thinking regarding how stimulus relief programs and spending related to food supply chain resilience as authorized by the Consolidated Appropriations Act, 2021 (CAA), and the American Rescue Plan Act of 2021 (ARPA) can help to increase durability and resilience within the U.S. food supply. This addendum is identical to the comments we submitted previously to USDA through the informal "AMS COVID Stimulus Programs" comment period in March 2021.

Facilitating Fair and Competitive Markets

Family farmers and ranchers have long faced immense consolidation in the markets that both supply and buy from their operations. Multiple waves of nearly unfettered mergers and acquisitions over several decades have resulted in agriculture and food supply chains that are uncompetitive, lack resiliency, and underpay farmers while overcharging consumers. Many sectors in American agriculture are dominated by a small handful of multinational corporations. Just four companies controlled approximately 85 percent of beef slaughter and processing in 2018; there are high levels of consolidation in pork and poultry as well.¹ In 2015, four companies controlled 85 percent of the market for seed corn and 76 percent of the market for soybean seeds in the United States.²³ Four firms account for approximately 84 percent of the global herbicide and pesticide market,⁴ and just two companies manufacture about half of the tractors and other essential farm machinery used by farmers.⁵

Corporate concentration in livestock and dairy markets

During the COVID-19 pandemic, extreme concentration in the food system was most evident in the disruption in the livestock and poultry industries, where the closures or slowdowns at several massive meatpacking plants resulted in lost markets for farmers, constrained supplies, and higher prices for consumers. As of June 16, 2021, nearly 60,000 meatpacking plant workers at 574 meatpacking plants tested positive for COVID-19.⁶ Many of these cases were part of outbreaks that led to temporary closures, greatly reducing processing capacity. At the peak of closures, beef and pork facilities were operating 25 percent⁷ and 40 percent⁸ below average,

¹ USDA, Agricultural Marketing Service (AMS), Packers and Stockyards Division, “Annual Report 2019.” <https://www.ams.usda.gov/sites/default/files/media/PSDAnnualReport2019.pdf>

² Jorge Fernandez-Cornejo, “The Seed Industry in U.S. Agriculture: An exploration of data and information on crop seed markets, regulation, industry structure, and research and development,” *USDA Economic Research Service*, https://www.ers.usda.gov/webdocs/publications/42517/13616_aib786_1_.pdf?v=3857.1

³ James MacDonald, “Mergers and Competition in Seed and Agricultural Chemical Markets,” *USDA Economic Research Service*, 2017, <https://www.ers.usda.gov/amber-waves/2017/april/mergers-and-competition-in-seed-and-agricultural-chemical-markets/>

⁴ Claire Kelloway and Sarah Miller, “Food and Power: Addressing Monopolization in America’s Food System,” *Open Markets Institute*, May 13, 2019. <https://www.openmarketsinstitute.org/publications/food-power-addressing-monopolization-americas-food-system>

⁵ Ibid.

⁶ Leah Douglas, “Mapping COVID-19 outbreaks in the food system,” *Food and Environment Reporting Network*, April 22, 2020, accessed June 16, 2021, <https://thefern.org/2020/04/mapping-covid-19-in-meat-and-food-processing-plants/>

⁷ Laura Reiley, “Meat processing plants are closing due to COVID-19 outbreaks. Beef shortfalls may follow.” *The Washington Post*, April 16, 2020, <https://www.washingtonpost.com/business/2020/04/16/meat-processing-plants-are-closing-due-covid-19-outbreaks-beef-shortfalls-may-follow/>

⁸ Laura Reiley, “Tyson says nation’s pork production is down 50%, despite Trump’s order to keep meat plants open,” *The Washington Post*, May 4, 2020, <https://www.washingtonpost.com/business/2020/05/04/tyson-says-nations-pork-production-is-down-50-despite-trumps-order-keep-meat-plants-open/>

respectively. This bottleneck stranded farmers with animals that were market-ready but had nowhere to go, leading to euthanized animals and depressed prices.

Livestock slaughter and processing is heavily consolidated. Today, there are approximately 835 federally inspected slaughter facilities and 1,938 other slaughter facilities in the United States.⁹ In 1968, there were nearly 10,000 total slaughtering establishments across the country.¹⁰ As the number of plants decreased, many remaining plants have become bigger; for example, just 50 plants slaughter and process 98 percent of all cattle in the United States.¹¹ While these larger plants may create certain efficiencies, they also create serious supply chain vulnerabilities.

A stark example of the potential consequences of these vulnerabilities was the fire that shut down slaughtering operations at Tyson Foods' Holcomb, Kansas beef processing plant for months. The plant at the time ranked as one of the eight largest plants in the United States in terms of daily harvest capacity; the fire eliminated approximately 30,000 head per week of capacity. While the company was ultimately able to shift some production to other plants, the event precipitated market reactions that lowered prices paid to ranchers, and increased prices for consumers, for several months.^{12 13}

A more recent demonstration of supply chain vulnerabilities was the cyberattack in late May and early June of 2021 that shuttered plants operated by the world's largest meat processor. JBS, which controls approximately one fifth of U.S. cattle slaughter, was hacked by a Russian-based ransomware group, forcing all nine of its beef plants in the U.S. offline.¹⁴ JBS's poultry and pork plants were disrupted as well.¹⁵ While the long-term effects of this break in the supply chain are yet to be fully felt and understood, market analysts reported anticipating higher consumer prices and backlogs that would negatively impact ranchers.¹⁶

⁹ "Livestock Slaughter: 2019 Summary," *USDA National Agricultural Statistics Service (NASS)*, April 2020, <https://downloads.usda.library.cornell.edu/usda-esmis/files/r207tp32d/34850245n/5712mr72x/lسان0420.pdf>.

¹⁰ "Livestock Slaughter: 1969," *USDA Statistical Reporting Service*, April 1970. <https://downloads.usda.library.cornell.edu/usda-esmis/files/r207tp32d/ht24wp48q/9k41zj37t/LiveSlauSu-04-00-1970.pdf>

¹¹ Michael Corkery and David Yaffe-Bellany, "The Food Chain's Weakest Link: Slaughterhouses," *The New York Times*, April 18, 2020, <https://www.nytimes.com/2020/04/18/business/coronavirus-meat-slaughterhouses.html>.

¹² "The smoldering impact of Tyson's Holcomb fire," *Meat+Poultry*, October 14, 2019. <https://www.meatpoultry.com/articles/22036-the-smoldering-impact-of-tysen-holcomb-fire>

¹³ Elliott Dennis, "A historical perspective on the Holcomb fire: Differences and similarities to the COVID-19 situation and other significant market events," September 11, 2020. <https://farm.unl.edu/historical-perspective-holcomb-fire-differences-and-similarities-covid-19-situation-and-other>

¹⁴ Rebecca Robbins, "Meat processor JBS paid \$11 million in ransom to hackers," *New York Times*, June 9, 2021. <https://www.nytimes.com/2021/06/09/business/jbs-cyberattack-ransom.html>

¹⁵ Julie Creswell, Nicole Perlroth and Noam Scheiber, "Ransomware disrupts meat plants in latest attack on critical U.S. business," *New York Times*, June 1, 2021.

¹⁶ Jacob Bunge, "Meat buyers scramble after cyberattack hobbles JBS," *Wall Street Journal*, June 2, 2021. <https://www.wsj.com/articles/meatpacker-jbs-hit-by-cyberattack-affecting-north-american-australian-operations-11622548864>

Concentrated market structures also increase opportunities for market manipulation and coordinated behavior. There has been a raft of price fixing litigation brought against major livestock industry companies since 2016, with multiple indictments and guilty pleas.¹⁷ These instances of market manipulation are in part a symptom of concentrated markets and, while the pursuit of these cases is a welcome development, the need for these actions is a product of under-enforcement of existing antitrust laws.

While many meat processing plants were shuttered or had reduced capacity during the pandemic due to outbreaks among workers, dairy processing was impacted by COVID-19 because unprecedented demand shifts emerged nearly overnight in March 2020. Consumer spending on food away from home plummeted as restaurants and food service facilities were closed, and demand for more traditional at-home dairy products spiked.¹⁸ The relative efficiencies of the dairy supply chain were a liability during these times, and even with extremely high demand for some products there was very little demand for others. Backlogs ensued; and 2.5 percent of all milk produced in the U.S. in April 2020 was dumped (in a more typical time, about 0.2 percent of milk production is dumped). At the same time, in late spring and early summer of 2020, farm prices for milk dipped while retail prices rose.¹⁹ The Coronavirus Food Assistance Program (CFAP) afforded a degree of short-term assistance to farmers who felt the effects of the drop in prices, but longer-term policy changes should focus on resiliency and adaptability in the dairy supply chain. Further flexibility will help to alleviate volatility in the dairy markets in the event of future shocks to supply and demand.

The importance of truth-in-labeling

Fair and competitive markets also require product labels that are accurate and do not mislead consumers. A supply chain that contains false or misleading product labels is less secure and resilient, placing domestic producers at a competitive disadvantage, while consumers are not empowered to make fully informed decisions about the products they buy. Farmers and ranchers want to provide consumers with accurate information about the origins of the food they purchase and consume, and federal labeling laws should support farmers in achieving that goal.

¹⁷ <https://www.wsj.com/articles/chicken-industry-executives-including-pilgrim-s-pride-ceo-indicted-for-price-fixing-11591202113>; <https://ir.pilgrims.com/static-files/4f802b29-38d5-4474-8581-6a12d0b545b1?source=email>; <https://www.justice.gov/opa/pr/broiler-chicken-producer-indicted-price-fixing-and-bid-rigging>

¹⁸ USDA Economic Research Service, “COVID-19 Economic Implications for Agriculture, Food, and Rural America,” accessed June 15, 2021. <https://www.ers.usda.gov/covid-19/food-and-consumers/>

¹⁹ Christopher A. Wolf, Andrew M. Novakovic, and Mark W. Stephenson, “COVID-19 and the U.S. Dairy Supply Chain,” *Choices*, Quarter 3. <https://www.choicesmagazine.org/choices-magazine/theme-articles/agricultural-market-response-to-covid-19/covid-19-and-the-us-dairy-supply-chain>

Moreover, consumers consistently express a desire to know the origin of their food. A 2017 poll demonstrates that 89 percent of a representative sample of American adults favored requiring retailers to indicate on the package label the country of origin of fresh meat they sell.²⁰ Furthermore, 88 percent of adults favored requiring food sellers to indicate on the package label the country or countries in which animals were born, raised, and processed.²¹ More recently, a survey of a representative sample of American adults showed that 87 percent of Americans think that beef and pork should have a label listing its country of origin, with fairly consistent support across age groups, party identification, and areas of residence (rural, suburban, and urban).²²

NFU has been a stalwart proponent of mandatory country-of-origin labeling (COOL) for meat. NFU's grassroots, member-driven policy states that mandatory COOL "is a valuable marketing tool for producers, and it allows consumers to know where the meat products they consume are born, raised, slaughtered, and processed."²³ NFU also supports the mandatory COOL rules in effect for other agricultural products, such as dairy, produce, honey, and nuts.

Truthful and accurate voluntary labels are important to producers and helpful for consumers, but voluntary labeling is not a replacement or substitute for mandatory COOL. The misuse of voluntary product label claims, including "Product of USA" and "Made in USA," are highly misleading to consumers and financially injurious to family farmers and ranchers. Falsehoods and uncertainty like this make domestic supply chains less secure and less resilient.

Currently, the U.S. Department of Agriculture (USDA) Food Safety and Inspection Service (FSIS) Food Standards and Labeling Policy Book presents standards that do not require a meat product to be born, raised, and slaughtered in the U.S. to be labeled "Product of USA."²⁴ The standard allows imported animals that are processed in the U.S. at USDA-inspected slaughter facilities to be labeled as "Product of USA." Due to the significant number of cattle imported from Canada and Mexico, many beef products of foreign origin are being represented with some variation of a "Made in USA" claim.

²⁰ Consumer Federation of America. "Large Majority of Americans Strongly Support Requiring Origin Information on Fresh Meat." July 24, 2017. https://consumerfed.org/press_release/large-majority-of-americans-strongly-support-requiring-origin-information-on-fresh-meat/

²¹ Ibid.

²² Lake Research Partners. "Results from a National Online Survey Around Rural and Agricultural Issues." Designed by Lake Research Partners, administered by CARAVAN in a national online omnibus survey. Conducted July 20-31, 2020, using a demographically representative sample of Americans 18 years of age or older.

²³ National Farmers Union, *Policy of the National Farmers Union*, March 2019.

²⁴ USDA-FSIS, Office of Policy, Program and Employee Development. *Food Standards and Labeling Policy Book*. August 2005. <https://www.fsis.usda.gov/wps/wcm/connect/7c48be3e-e516-4ccf-a2d5-b95a128f04ae/Labeling-Policy-Book.pdf?MOD=AJPERES>

In response to a petition submitted by U.S. Cattlemen's Association in October 2019, FSIS stated that:

"Permitting imported meat products that are further processed in a federally-inspected establishment to be labeled 'Product of USA' may be misleading to consumers and may not meet consumer expectations of what 'Product of USA' signifies. FSIS also agrees that to address these issues, the Agency needs to establish clear parameters that prescribe which meat product may voluntarily be labeled with U.S. origin statements, such as 'Product of USA' or 'Made in USA.'"²⁵

Thus, the standard used by USDA-FSIS to regulate the labeling of meat products is insufficient.

Recommendations for facilitating fair and competitive markets

To address multiple decades of corporate consolidation and anticompetitive behavior, and significant supply chain vulnerabilities from highly concentrated farm and food supply chains, there is a pressing need to vigorously enforce existing antitrust, competition, and market fairness laws. USDA must act expeditiously to create fairer and more competitive food and agriculture market.

- The Packers and Stockyards Act of 1921 (P&S Act) is a law meant to assure fair competition, safeguard farmers and ranchers, and protect consumers, from unfair, deceptive, and unjustly discriminatory and monopolistic practices of the livestock, meat, and poultry industries. USDA should:
 - Dedicate substantially more resources toward the enforcement of the P&S Act; and
 - Enforce the law more vigorously, including by working with the Department of Justice (DOJ) where appropriate.
- Revisit and update the "Undue Preference" final rule.²⁶ The statutory intent of the "Undue Preference" provision of Section 202(b) of the P&S Act is to provide protections for livestock and poultry farmers against certain practices by meatpackers and poultry companies. But the final rule on "Undue Preference" issued by the previous administration ignored this statutory intent, and instead created a rule that further protects meatpackers and poultry companies. A revised rule should, at a minimum:

²⁵ USDA-FSIS Final Response to Petition. March 26, 2020. <https://www.fsis.usda.gov/wps/wcm/connect/dba58453-e931-4c1d-9b4e-fb36417049ce/19-05-fsis-final-response-032620.pdf?MOD=AJPERES>

²⁶ "Undue and Unreasonable Preferences and Advantages Under the Packers and Stockyards Act," December 11, 2020, Doc. No. AMS-FTPP-18-0101.

<https://www.federalregister.gov/documents/2020/12/11/2020-27117/undue-and-unreasonable-preferences-and-advantages-under-the-packers-and-stockyards-act>

- Clearly state that the P&S Act does not require proof of competitive injury to the entire section where an unfair practice took place;
- Clarify that a reasonable business decision does not justify an undue preference or advantage;
- Establish methods and implement a program to continuously review and monitor industry practices to ensure that new practices do not result in violations of the P&S Act; and
- Provide explicit protections to farmers based on the right to association and communication, based on protected class.
- Discourage and otherwise prohibit the mislabeling of agricultural products by:
 - Re-enacting mandatory country-of-origin labeling (COOL) for meat; and
 - Ensuring that voluntary labels are fair and accurate.

Improving local and regional food production and developing new market opportunities

The COVID-19 pandemic has highlighted how large, seemingly efficient systems of production can falter when there are shocks to those systems. Local and regional food systems also faced disruptions but were often better positioned to adapt rapidly to new conditions, given their shorter supply chains and more direct connection to consumers.²⁷ Given these recent experiences, local and regional farm and food systems play an essential role in protecting against these kinds of shocks.

Local and regional food systems have grown tremendously in recent decades. Nationally, between 1992 and 2007, direct-to-consumer sales of unprocessed products approximately doubled from \$706 million to \$1.4 billion (in 2017 dollars).²⁸ The number of farmers' markets in the United States grew from fewer than 2,000 in 1994 to more than 8,600 registered in the USDA Farmers' Market Directory today.²⁹ This growth can be attributed to many factors, including federal investment and support for local and regional food systems such as through the Local Agriculture Market Program, which includes the Farmers Market Promotion Program (FMPP), the Local Food Promotion Program (LFPP), and the Value Added Producer Grant (VAPG) program. Other key areas of essential federal investment in local and regional food systems include the Senior and WIC Farmers Market Nutrition Programs, the Gus Schumacher Nutrition

²⁷ Dawn Thilmany, Elizabeth Canales, Sarah A. Low, and Kathryn Boys, "Local Food Supply Chain Dynamics and Resilience during COVID-19," *Applied Economic Perspectives and Policy*, October 26, 2020.

<https://onlinelibrary.wiley.com/doi/10.1002/aapp.13121>

²⁸ Jeffrey K. O'Hara and Matthew C. Benson. "Where have all the direct-marketing farms gone? Patterns revealed from the 2017 Census of Agriculture." *Journal of Agriculture, Food Systems, and Community Development*. August 23, 2019.

²⁹ Farmers Market Coalition. <https://farmersmarketcoalition.org/education/qanda/>

Incentive Program (GusNIP), the Healthy Food Financing Initiative (HFFI), and the Farm to School Grant Program.

While continued investment in these programs is essential for strengthening our local and regional food systems, none of these programs adequately address a major gap: insufficient local and regional meat and poultry processing infrastructure. Many farmers are forced to schedule access to slaughter facilities years in advance, and many have no choice but to transport their livestock hundreds of miles to the nearest facility. The rise in massive slaughter and processing facilities and decline in smaller-scale facilities makes our food system more vulnerable to disruptions that can and have occurred at only a small number of facilities.

In the short-term, USDA can take the following actions to support local and regional processing:

- Develop detailed guidance that can help new or existing small meat and poultry slaughter and/or processing establishments comply with federal law;
- Examine how USDA can target existing resources to help smaller facilities achieve federal inspection, or to expand their existing capacity, including through grants and low-interest financing; and
- Evaluate and report on how current regulations may create unnecessary barriers for small facilities that might want to achieve federal inspection.

In the longer-term, USDA should work with Congress and state governments to devise ways to address the severe shortage of local and regional meat processing, such as by:

- Providing increased financial and technical assistance to smaller slaughter and/or processing facilities to expand their capacity;
- Helping smaller processors access interstate markets, including through appropriate regulatory reform, and by increasing the federal share of costs for inspection;
- Offering financial assistance to the development of new processing facilities, with particular emphasis placed on producer- or worker-owned cooperative business structures;
- Facilitating the development of mobile slaughter units that can fill gaps in slaughter where appropriate; and
- Investing financial and technical resources to expand meat processing training programs.

Risks posed by climate change

Climate change presents an immense challenge for farmers, ranchers, and rural communities, and puts the food supply for the United States and the world at risk.³⁰ Rising temperatures, extreme heat, drought, heavy downpours, and wildfires are already disrupting the productivity of agriculture in the United States. While farmers and ranchers are on the front lines of experiencing the impacts of climate change, they also are in a unique position to contribute to mitigation through soil carbon sequestration.

NFU's family farm and ranch members have long recognized the reality and gravity of climate change and are committed to meaningful efforts to address the issue. Thus, NFU was encouraged by the recent release of USDA's progress report on the development of its climate-smart agriculture and forestry strategy (CSAF).³¹ In April 2021, NFU prepared and submitted comments, in consultation with the NFU Climate Change Advisory Panel, to USDA on the Executive Order on Tackling the Climate Crisis at Home and Abroad.³² We would direct the Department to these public comments for full consideration of our recommendations for actions that could encourage the development, adoption, and equitable delivery of climate-smart practices for all family farmers and ranchers to address risks posed to agriculture by climate change. In summary, we encourage USDA to consider the following:

- Publicly state that climate change is an urgent priority across USDA and ensure programs reflect this prioritization;
- Appropriately staff and train USDA Natural Resources Conservation Service (NRCS) employees to ensure all farmers and ranchers across the country have access to technical assistance that addresses the specific needs of their land and operations;
- Implement a range of science-based tools – including private carbon markets, NRCS conservation programs, and state and local initiatives, among others – that provide operations for farmers and ranchers;
- Encourage the installation of on-farm renewable energy systems and use of biofuels; and
- Actively seek input, guidance, and participation from all farmers, including those who identify as Black, Indigenous, and people of color (BIPOC), as well as other socially disadvantaged and underrepresented groups.

³⁰ Gowda, P., J.L. Steiner, C. Olson, M. Boggess, T. Farrigan, and M.A. Grusak, 2018: Agriculture and Rural Communities. In *Impacts, Risks and Adaptation in the United States: Fourth National Climate Assessment, Volume II*. <https://nca2018.globalchange.gov/chapter/agriculture-rural>

³¹ <https://www.usda.gov/sites/default/files/documents/climate-smart-ag-forestry-strategy-90-day-progress-report.pdf>

³² Docket Number: USDA-2021-0003

We look forward to working closely with USDA as the Department continues to build out and implement its strategy.

Supporting and promoting consumers' nutrition security

Across the country, Americans suffered from heightened food and nutrition insecurity during the pandemic, in part due to supply chain disruptions. In July 2020, 1 in 5 Americans with children reported that they were not able to afford enough food to feed their families³³, even though participation in the Supplemental Nutrition Assistance Program rose substantially.³⁴ Many organizations that typically donate large amounts of food shut down, such as restaurants and hotels. Grocery stores had less to donate because panicked customers at times stripped shelves bare. Food banks had to purchase food that would typically be donated.³⁵

Important steps have been taken recently at the federal level to address food and nutrition insecurity, especially through funding provided by the American Rescue Plan Act. These essential actions include emergency increases in SNAP benefits, investment in technological improvements to support the use of SNAP benefits to purchase groceries online, investments in both child and senior nutrition programs, and further investment to support emergency food networks.

There is still a need to increase resiliency in the systems that promote nutrition security for all. The following are some key considerations for USDA:

- Continue to build on lessons learned during the COVID-19 pandemic to improve the systems by which USDA purchases food from family farmers and ranchers, and distributes those products to those in need;
- Help create stronger connections between farmers and ranchers producing for local and regional markets, and food banks and nonprofit feeding organizations;
- Eliminate barriers and increase access for socially disadvantaged farmers and ranchers to emergency feeding systems; and

³³ David Harrison, "More Americans Go Hungry Amid Coronavirus Pandemic, Census Shows," *The Wall Street Journal*, August 16, 2020, <https://www.wsj.com/articles/more-americans-go-hungry-amid-coronavirus-pandemic-census-shows-11597570200>.

³⁴ Ryan McCrimmon, "After long decline, SNAP rising due to COVID-19," *Politico*, June 24, 2020, <https://www.politico.com/newsletters/morning-agriculture/2020/06/24/after-long-decline-snap-rising-due-to-covid-19-788755>.

³⁵ Nicholas Kulish, "'Never Seen Anything Like It': Cars Line Up For Miles at Food Banks," *The New York Times*, April 8, 2020, <https://www.nytimes.com/2020/04/08/business/economy/coronavirus-food-banks.html>.

- Continue to invest in the infrastructure needed to ensure that food banks and nonprofit feeding organizations can supply fresh, nutritious food all communities, including rural and low-income communities.

Meeting the needs of the agricultural workforce

While many employees have been able to work remotely during the pandemic, farmworkers, and other food supply chain workers, such as food manufacturing and grocery store workers, were deemed essential. The past administration’s actions to keep meat processing plants open also kept plant workers working throughout the pandemic.³⁶ Thus, many farm and food system workers continued to work at great personal risk to themselves and their families.

Unfortunately, many of these workers fell ill, or lost their lives while doing the hard work of feeding us. It is important to prioritize protecting these workers as we build a more resilient food system.

According to data compiled by The Food and Environment Reporting Network (FERN), as of June 16, 2021, at least 1,451 meatpacking and food processing plants (574 meatpacking and 877 food processing) and 407 farms and production facilities have had confirmed cases of COVID-19. At least 91,122 workers (58,856 meatpacking workers, 18,601 food processing workers, and 13,665 farmworkers) have tested positive for the virus and at least 465 workers (297 meatpacking workers, 60 food processing workers, and 107 farmworkers) have died.³⁷ These numbers are staggering and deeply concerning.

For much of the pandemic, workplace safety rules and enforcement of standards varied from state to state. The scattershot approach to workplace safety, without a single clear and enforceable standard, put workers at increased risk. In June of 2021, the Department of Labor’s Occupational Safety and Health Administration (OSHA) released a mandatory emergency temporary standard to protect workers from COVID-19 that included physical distancing and other protective measures. However, these new standards were only made mandatory for workers in the healthcare industry. OSHA then issued guidance for other industries;³⁸ however,

³⁶ Telford, Taylor, et al. “Trump Orders Meat Plants to Stay Open in Pandemic.” *The Washington Post*, WP Company, 29 Apr. 2020, www.washingtonpost.com/business/2020/04/28/trump-meat-plants-dpa/

³⁷ Leah Douglas, “Mapping COVID-19 outbreaks in the food system,” *Food and Environment Reporting Network*, April 22, 2020, accessed June 16, 2021, https://thefern.org/2020/04/mapping-covid-19-in-meat-and-food-processing-plants/

³⁸ “COVID-19 Healthcare ETS,” *Occupational Safety and Health Administration*, June 10, 2021, www.osha.gov/coronavirus/ets

guidance cannot legally be enforced. Many workers cannot afford to take days off work to get vaccinated. Thus, failure to set mandatory measures continues to put these workers at risk.

We ask USDA to consider the following:

- Work with OSHA to expand the scope of the emergency temporary standard to include other industries such as meat and poultry processing.
- Work with the CDC to increase vaccine and overall COVID-19 education among agricultural workers and employers. This includes information that can be shared across multiple languages.
- Take the lead on providing incentives and assistance opportunities for agricultural employers that have implemented or plan to implement COVID-19 assessment and control plans.

Conclusion

Thank you again for the opportunity to submit comments. NFU and its members stand ready to work with USDA on these issues. If you have any questions or would like to further discuss NFU's recommendations, please contact Aaron Shier, NFU Senior Government Relations Representative, via e-mail at ashier@nfudc.org or by phone at 202-554-1600. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Larew".

Rob Larew
President



March 31, 2021

Bruce Summers, Administrator
U.S. Department of Agriculture, Agricultural Marketing Service
1400 Independence Avenue, S.W.
Washington, DC 20250-0237

RE: AMS COVID Stimulus Programs

Dear Administrator Summers,

On behalf of the nearly 200,000 family farmer, rancher, and rural members of National Farmers Union (NFU), I am pleased to submit comments regarding AMS COVID stimulus programs. NFU supports the development, coordination and implementation of food purchase programs that help Americans in need of nutrition assistance and support farmer livelihoods. NFU also believes careful work should be done to create and deploy grant programs to support resilient farm and food supply chains.

The COVID-19 pandemic has had wide-ranging impacts across our society and economy, including on American family farmers, ranchers, and their communities. Severe supply chain disruptions, including the shutdown of livestock processing facilities and the closure of schools, restaurants, entertainment venues, hotels, and other facilities, left many farmers without a place to sell their crops and livestock. As these supply chains were and continue to be disrupted, American families are also facing heightened food insecurity. Thus, it is essential that recent funding from federal stimulus bills is harnessed to assist farmers, ranchers, and other food supply chain participants, and help ensure households can put food on the table.

While the temporary Farmers to Families Food Box (FFFB) Program has helped many farmers and families facing food insecurity during the pandemic, there are ways such a program should be modified and improved. NFU recommends changes to ensure a future program is more equitable for farmers and reaches more communities in need. Additionally, NFU recommends the development of grant programs that address the costs farmers and ranchers have incurred while adapting to the pandemic and would also help create more resilient farm and food supply chains.

Modifying and Improving a Food Purchase and Distribution Program

NFU supports a food purchase and distribution program that builds upon the successes and learns from the shortcomings of the FFFB program. The FFFB Program helped many farm and food businesses as well as families struggling to put food on the table. Nevertheless, as USDA AMS has stated, “While the food box effort served some communities well, it faced challenges in others.” Thus, as AMS works to redesign the program, we urge the agency to ensure that small, very small, and socially disadvantaged farmers and ranchers can better access the program, and that the program becomes more flexible so that it can better address the needs of different communities.

The FFFB Program included certain requirements, especially in later funding rounds, that excluded many farm businesses that could have benefited from the program. To increase program effectiveness and inclusivity, a revised program should include size- and scale-appropriate food safety requirements, change the way bid pricing is evaluated, and eliminate the combination box requirement. Additionally, the revised program should find additional ways to address the needs of farmers and the food insecure where direct procurement is impractical.

Ensure food safety audit requirements do not disadvantage smaller farms

Rigid and cost-prohibitive food safety audit requirements made it difficult for many smaller farms to participate in the FFFB Program. All suppliers interacting with the program, whether primary contractors or subcontractors, were required to have either a USDA Good Agricultural Practices (GAP)/Good Handling Practices (GHP) audit or a Global Food Safety Initiative (GFSI) benchmarked certification program audit. This prevented participation from some smaller farmers and ranchers. NFU’s grassroots, member-driven policy states that it is essential that farmers and ranchers use good food safety practices and protect public health while also noting that food safety standards are scale appropriate for all entities.³⁹

NFU was encouraged to learn that the FFFB program helped motivate certain GAP-ready farms to become GAP certified. A future procurement program should recognize this opportunity and ensure it can continue to serve as an onramp for some farmers, producer cooperatives, and food hubs to attain or increase their certification. On the other hand, these certifications can be cost-prohibitive, especially for smaller entities, and the future version of this food procurement program should not exclude them. The program should place the onus on primary contractors or aggregators, such as food hubs, to audit their own supply chain participants to meet a high standard of food safety, rather than require each individual farmer/supplier to meet USDA GAP/GHP or GFSI standards.

³⁹ National Farmers Union, *Policy of the National Farmers Union*, (March 2021).

Bid price evaluation should not discriminate against small farms

In earlier FFFB funding rounds, price to procure food was not the most salient factor when considering whether to award a contract. But in later rounds, AMS modified the program to prioritize least-cost suppliers. While pricing should certainly be a consideration, and fair pricing should be requisite, seeking the lowest-priced bid ignores other important factors. Other important considerations should include quality, supporting the livelihoods of smaller-scale, community-based farmers and local economies, the ability to service rural and other difficult-to-reach communities, and the cultural appropriateness of the food being sourced. A modified program should not focus so heavily on suppliers positioned to harness economies of scale.

Allow for non-combination boxes

Beginning in the third funding round, AMS only awarded contracts for “combination boxes,” which were boxes that included a combination of vegetables, fruit, dairy, and dried precooked meat. While the desire to include variety in each box is understandable, it also caused several problems for farmers, distributors, and consumers. Some farmers who participated in earlier rounds of the program were not able to contribute to later rounds because of the inability to source products they did not grow on their own farm, especially precooked meat. The combination box requirement also created challenges for some food hubs, aggregators, and distribution sites that did not have sufficient or appropriate cold storage to manage the combination boxes. Despite the combination box requirement, some consumers still received boxes with an undesirable mix of goods or products that were not of good quality or culturally appropriate.

A modified food purchase program should have more flexible packing requirements, including allowing for some non-combination boxes. More flexible packing requirements would include a wider array of potential contractors, incentivize more sourcing of local, regional, and seasonal products, and ensure culturally appropriate food can be provided.

Address food insecurity and the needs of farmers where FFFB-style contracts are impractical

A future program should take a more flexible approach to connecting farmers and ranchers with people in need of food. FFFB-style contracts for boxed food distributions are impractical in some cases. For example, some farmers operate at a scale too small to meet volume requirements or may lack access to food hubs or other ways to aggregate their product. Additionally, some communities do not have organizations with the infrastructure for appropriate storage and distribution.

Thus, some farmers and communities would be better served by programs that create a more direct connection between farmers and consumers. For example, in some states, the Senior

Farmers' Market Nutrition Program (SFMNP) approves farmers or small producer-cooperatives as vendors to participate, and eligible individuals receive vouchers to get fresh produce and other food products from the approved vendors at farmers markets or through deliveries. AMS should consider partnering with the USDA Food and Nutrition Service (FNS) to develop creative approaches to create new, or harness existing programs and networks that connect farmers, distributors, consumers, and nonprofit feeding organizations.

Developing and Implementing Successful Grant Programs

The pandemic weakened an already anemic farm economy which added tremendously to farmers' financial stress. While the Coronavirus Food Assistance Program (CFAP) and the FFFB Program helped some farmers weather pandemic impacts, these programs have not covered most costs associated with adapting to the pandemic. Thus, successful grant programs should help farmers, ranchers, and other farm and food supply chain participants absorb new, unexpected pandemic-related costs. Additionally, programs are needed to address the inadequacies of existing local and regional supply chain infrastructure, including severe shortages of local and regional livestock slaughter and processing.

Recommendations for grants for coronavirus-related expenses

The following is a set of recommendations for achieving fair and equitable grant programs to assist family farmers and ranchers respond and adapt to the coronavirus:

- Ensure eligible entities can apply for grants based on expenses incurred retroactively from the start of the pandemic in March 2020;
- Include a reservation of funds for smaller entities to ensure smaller farms, farmers markets, food hubs, cooperatives, and other supply chain participants can access the program;
- Include a simplified, self-certification application option for grants under a certain dollar threshold for an initial funding round;
- Make the application simple and easy to complete;
- Ensure robust outreach, education, and technical assistance is available; and
- Include a flexible and broad range of eligible expenses, including, but not limited to, personal protective equipment (PPE), COVID-19 testing materials and services, cleaning supplies, infrastructure upgrades to protect worker and public health and safety, signage, packing and labeling materials, food safety certification, food safety training, and food safety equipment upgrades.

Supporting additional local and regional supply chain infrastructure

Additionally, a grant program could help facilitate the development of the supply chain infrastructure that is lacking in some localities. Without the necessary equipment and access to important marketing services, some smaller farmers and ranchers were prevented from participating in programs like FFFB. For example, a grant program might help facilitate the development or expansion of producer-owned cooperatives, food hubs, community-based food enterprise centers, and other community-based nonprofit organizations that facilitate acquisition, processing, and distribution of nutrition assistance.

The COVID-19 pandemic has also helped expose the fragility of our highly consolidated food processing system, especially for livestock. For example, only 50 plants slaughter and process approximately 98 percent of our beef supply. In 2020, farmers and ranchers endured historic price spreads between live animal and meat prices, all while consumers faced shortages and higher prices at grocery stores. Temporary plant closures contributed to these problems, but a less concentrated system would be less likely to face the same challenges. Additionally, local and regional processing capacity is inadequate, with many smaller producers needing to schedule slaughter dates as many as two years in advance.

To address this crisis, grants should be made available to help fund the creation or help with the expansion of local and regional livestock slaughter and processing infrastructure, including mobile harvesting units. Grants could cover building of the infrastructure itself, as well as consulting fees, feasibility studies, permitting costs, and other investments needed to help new and existing plants. Additionally, there is a shortage of skilled workers in meat processing, and grant funds should be used to provide educational programs and scholarships to help build a future meat processing workforce, including butchers, managers, and inspectors.

Conclusion

Thank you again for the opportunity to submit comments. NFU and its members stand ready to work with USDA as these programs are implemented. If you have any questions or would like to further discuss NFU's position, please contact Aaron Shier, NFU Senior Government Relations Representative, via e-mail at ashier@nfudc.org or by phone at 202-554-1600. Thank you for your consideration.

Sincerely,



Rob Larew
President