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August 30, 2021

Sarah J. Helming
Supply Chain Resiliency Coordinator
Marketing and Regulatory Program
U.S. Department of Agriculture

Submitted via: <https://www.regulations.gov/commenton/AMS-TM-21-0058-0002>

Re: Comments on Investments and Opportunities for Meat and Poultry Processing, Docket No. AMS-TM-21-0058

Dear Ms. Helming:

The Farm and Ranch Freedom Alliance (FARFA) appreciates this opportunity to submit comments on opportunities for USDA to support small-scale meat and poultry processing in order to “improve infrastructure, increase capacity, and hasten diversification” in meat and poultry processing. FARFA is a nonprofit advocacy organization that supports independent family farmers and protects a healthy and productive food supply for American consumers. FARFA promotes common sense policies for local, diversified agricultural systems.

I. Question: What competition challenges and risks might new entrants face from high levels of market concentration or other relevant market conditions, and how can USDA and other federal government agencies assist new entrants in mitigating those risks?

The best way to address the risks to small-scale processors is to address the broader reasons for the consolidation in our agricultural and food system. The bottlenecks in processing are interconnected with the bottlenecks in marketing and distribution.

This market consolidation is sustained by: (1) the failure to aggressively enforce anti-trust laws; (2) allowing large entities to externalize many of their costs, enabling them to achieve significant profits from artificially cheap meat; and (3) the lack of transparency that enables so many consumers to be misled about where, how, and by whom the products they see in the grocery stores were raised.

New entrants can't mitigate those risks. USDA and the other agencies must take action to:

- (1) enforce anti-trust laws, including adopting regulations to clarify and strengthen the Packers & Stockyards Act;
 - (2) require internalizing of all costs, such as by (a) requiring CAFOs to pay for the environmental damage they cause and (b) limiting line speeds at slaughterhouses to prevent worker injuries; and
 - (3) develop more transparent labeling to allow consumers to make truly informed choices, such as by implementing mandatory Country of Origin Labeling.
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II. Question: Should USDA have the ability to block the sale of processing facilities built or invested in through federal funds to large or foreign-owned corporations? What other options should USDA consider in order to prevent new, expanded, and successful facilities from being acquired by the large corporations whose consolidated operations can suffer from bottlenecks and create significant supply chain vulnerabilities?

Yes, USDA should prohibit the sale of a processing facility that receives funds to large or foreign-owned corporations for 10 years, to ensure that the infrastructure necessary for local and regional producers is not simply bought out by large businesses.

The USDA should also limit these investments to facilities with fewer than 200 employees. This size limit would maximize the diversification of our infrastructure, while simultaneously reducing the attractiveness of these facilities to large companies. However, since we have seen large corporations embark on buy-out campaigns of even small businesses in order to undermine competition, such as in the seed industry, a specific prohibition is also still needed.

III. Question: What are the most pressing needs of the meat and poultry processing sector with regard to financing, and what action should USDA take in the immediate term to improve access to capital for small and very small meat and poultry processors?

Eligible plants should include all of the following, because each type of processor plays a different role in diversifying the food chain:

- Custom exempt processors
- State-inspected processors or processors operating under the Cooperative Interstate Shipment program
- Very small federally inspected processors (currently defined by USDA as those with 10 or fewer employees, or less than \$2.5 million in annual sales)
- Small federally inspected processors, **but with a new definition**. Rather than USDA's current very broad definition of "small" as plants with between 10 and 500 employees, this category should be defined as being between 10 and 200 employees.
- A new plant that fits into one of the above categories, if it either has a strong feasibility study or if there is no other plant in its category within 120 miles.

With respect to the last bullet point, several groups have raised the need for feasibility studies for new plants, so that funding is not provided to new plants in areas that already have sufficient capacity, since that could result in the net loss of processors. We support that approach in general. However, there are some areas that lack any realistic processing options for small-scale producers. Consider the example of the Texas Rio Grande Valley. There are several custom exempt processors in the Valley, but a producer who wishes to sell their meat at a local farmers market or retail outlet must drive at least 3 hours (each way) to the nearest inspected processor. A feasibility study would be an unnecessary expense for a proposed new inspected processor in the Rio Grande Valley. The agency should provide some alternative to feasibility studies for regions that lack slaughterhouses that will accept animals from small-scale producers within a realistic travel radius.

IV. Question: How can USDA support access to processing services for smaller-scale producers?

One of the best ways to support access for small-scale producers would be to make small-scale processing less expensive and thus more economically viable. There are two complementary solutions to this issue: expanding the options for using custom exempt slaughterhouses and reforming the scale-prejudicial provisions for inspected slaughterhouses. As discussed below, each would provide benefits; implementing both would create valuable synergistic effects.

A. Expand access to custom exempt slaughterhouses

Custom exempt slaughterhouses can fill a vital role by providing lower cost processing services, but their usefulness is significantly and unnecessarily limited by how USDA currently applies the “for personal use” requirement.

Initially, note that in response to a FOIA request by FARFA, USDA responded that it did not have any documents indicating even a single outbreak of foodborne illness connected to any of these operations. Admittedly, there may have been isolated incidences that were not detected – but this still indicates an excellent track record for safety, which is consistent with the fact that these small, local businesses must maintain the highest possible reputation in their local communities or go out of business.

The USDA has already recognized that more than one person can own an animal and thus consume the meat after the animal is processed in a custom slaughterhouse. But current USDA policy requires that the custom-exempt slaughterhouse record each owner and do the division of the meat, which makes it impractical for more than 4 people to co-own an animal. Legally, this is unnecessary: the statute and regulations merely provide that the meat must be for the personal or household use of the owners. Moreover, in practical terms, it adds nothing to the safety of the meat. Once the meat is processed, packaged, and frozen, having someone other than the processor divide the meat into the appropriate shares for each owner adds little, if any, risk.

FARFA urges USDA to remove the requirement that the slaughterhouse divide the meat into each owner’s shares. This would allow greater flexibility for farmers and people who wish to obtain meat locally, particularly in areas where there are either no inspected slaughterhouses or the inspected slaughterhouses lack sufficient capacity to meet demand (which is a significant percentage of the country). The agency could maintain the requirement that the slaughterhouse have a list of the names and contact information for the co-owners, in the unlikely event that they need to be contacted during a traceback.

This change would improve access to small-scale processors for numerous small producers without any investment of government funds. Custom-exempt slaughterhouses would still remain small-scale businesses dealing solely with their local communities, since the consumers would consist of people who were willing to pre-purchase their meat while the animal was alive. But this added degree of flexibility would enable custom slaughterhouses and small farmers to develop consistent, ongoing business that, in the aggregate, would increase overall meat processing capacity in this country, as well as open up opportunities for farmers and consumers in underserved, or completely unserved, regions.

B. Reform scale-prejudicial regulations and policies for inspected slaughterhouses.

With respect to inspected processors, while providing funding is a positive step, that funding will have a far greater impact if small processors do not have to expend resources unnecessarily.

USDA should thus reform its policies for inspected slaughterhouses so as to reduce the disproportionate impacts on small-scale operations. The current system is biased towards large-scale establishments who can hire a team of consultants and experts to draft their HACCP. Moreover, such establishments also face a much lower burden, both in terms of inspection and testing, on a per-pound basis than small operations. In effect, the current system is actively prejudicial against small-scale slaughterhouses.

In addition to the regulatory requirements, small plants are disadvantaged by the nature of the inspection system. Inspectors at small plants face multiple challenges: long drives to out-of-way locations; having to go to multiple different facilities during the course of a single week; having to cover all the required tasks by themselves rather than having a team to divide the duties. Moreover, just as with the pathogen testing, the tasks required of inspectors are scale-prejudicial. For example, 4 or more times a month, inspectors must observe establishment workers zeroing out a scale after a box is set on it before product is weighed in the box. But workers in a small establishment might only weigh product once a week – which means the inspector has to ensure that he or she is present every time, causing greater hassle and stress than at a large facility where this is a daily activity.

These factors often mean that inspectors will try to avoid being assigned to small plants and, if they are assigned, are biased against the establishment.

FARFA urges the following reforms to create a scale-appropriate system that addresses food safety without unnecessarily hindering small slaughterhouses:

1. Revise the schedule for pathogen testing to ensure that small plants are tested proportionally to large plants, rather than more frequently on a per-pound basis.
2. Reduce the difficulty and expense in developing HACCPs by:
 - a. providing model HACCPs,
 - b. posting applicable peer-reviewed research on the USDA website, and
 - c. identifying the control points for different types of products.
3. Recognize methods for ongoing verification of HACCPs other than expensive pathogen testing.
4. Prioritize inspector availability for small-scale processors, provide training specific to small-scale processors, and allow flexibility in the tasks required.
5. Move forward with implementing the recommendations in the study commissioned in the 2018 Farm Bill on “USDA FSIS Guidance and Outreach to Small Meat Processors” written by NMPAN at Oregon State University, and commit to implementing these recommendations by 2025. The study includes specific ideas for small plant inspections and other regulatory issues, including some of the scale-appropriate regulations mentioned above.

V. Question: Are there opportunities for producers to engage in cooperatives or collaborative arrangements with each other or other facilities, to both ensure access and provide a sufficient supply for a plan to operate?

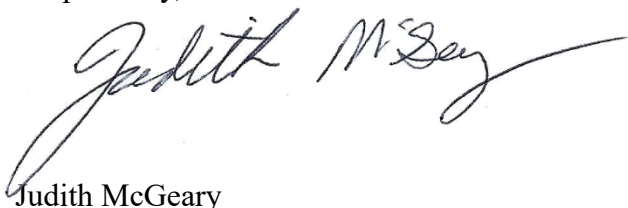
While cooperative and collaborative arrangements carry many benefits, they should not be necessary for producers to access necessary infrastructure for their businesses. USDA should not be in the businesses of encouraging specific business structures, but instead should look at what agency actions are needed – **both in this investment process and in its regulatory policies and procedures** – to provide scale-appropriate opportunities to small producers. See the previous sections for specific suggestions.

VI. Question: What conditions should be included related to the sources of materials being used to construct or expand the facility (e.g., buy American)?

While FARFA supports efforts to buy American at every stage of the supply chain in every industry, such a requirement for small-scale processors would be counterproductive. At this time, the vast majority of our meat supply is provided by massive international businesses who frequently import foreign meat, export processing needs, and in numerous other ways fail to support American businesses. The small-scale processors and the small producers they serve are inherently more supportive of American businesses, by the simple fact of being small businesses located primarily in rural communities. Requiring these small businesses to take on the extra expense and logistical burdens of only sourcing American building supplies, when no such requirement is imposed on the big meatpackers, would be counterproductive.

FARFA appreciates this opportunity to provide comments, and we welcome ongoing dialogue with USDA towards the goal of building a diversified, resilient food system.

Respectfully,

A handwritten signature in black ink that reads "Judith McGeary". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Judith McGeary
Executive Director

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