



ORGANIC FARMERS ASSOCIATION

August 30, 2021

Sarah J. Helming
United States Department of Agriculture
Whitten Building—Suite 312-E
1400 Independence Avenue SW
Washington, DC 20250

Re: Docket ID: AMS-TM-21-0058-0002, “Investments and Opportunities for Meat and Poultry Processing Infrastructure”

Dear Ms. Helming,

The Organic Farmers Association (OFA) is a membership organization that represents U.S. certified organic farmers. Our organization was founded by and is controlled by certified organic farmers, and only domestic certified organic farmers vote on OFA’s policies and leadership. We appreciate the opportunity to provide comments on “Investments and Opportunities for Meat and Poultry Processing Infrastructure” that will guide USDA’s \$500 million investment in expanding meat and poultry processing capacity (Docket No. AMS-TM-21-0058-0002.)

This investment will help the USDA achieve the goals laid out in President Biden’s Executive Order on Promoting Competition in the American Economy and will rebuild critical infrastructure for food systems that are resilient, competitive, sustainable and fair. We urge you to prioritize assistance to plants that are already certified organic, as well as encouraging plants receiving this assistance to pursue organic certification.

Organic is a growing sector of the U.S. agriculture system, with tremendous potential to address climate change, help family farms flourish, revive rural communities and protect public health. The potential for economic viability for smaller farms has been a major strength of the organic sector, and is an important component of creating a domestic food supply that is resilient. But the dramatic growth of the overall organic sector has not been evenly distributed, and organic meat and poultry have not kept up with other sectors of the organic market. A major reason is the challenge of finding processing capacity.

This lack of organic processing capacity has been frustrating organic producers for years. But the disruption caused by the pandemic in 2020 brought the issue into the headlines. As large, industrialized slaughterhouses and meat processing facilities shut down, causing massive bottlenecks in conventional livestock supply chains, it quickly became apparent that there was nowhere near enough capacity in independent, regional processing facilities to take up the slack. In fact, these small operations were often booked to capacity before the increased demand for their services caused by shutdowns or slowdowns at large plants during the pandemic.

It is not unusual for organic livestock producers to find that there are no processing appointments for their animals within the next year¹ or that processors will no longer accept their animals because they do not have a large enough volume available. This lack of processing capacity in plants that have obtained organic certification (allowing the final product to be labeled as organic) is a major obstacle to expanding the organic livestock sector, and also the organic grain sector that could supply organic feed to organic livestock. Another impact from the lack of organic processing capacity is that some livestock and poultry producers are feeding and managing their livestock as organic, but are unable to put an organic label on the final product because they cannot find an organic processing facility. This makes the marketing premium for organic products unavailable to producers who are using organic methods, and may even have certified their animals, but who are unable to demonstrate their organic status in the marketplace.

1. General Considerations

- 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? What resources exist at the State, tribal, and local level, as well as at academic research centers, to assist new entrants in addressing competition challenges, and how can the Federal government support the effectiveness of those resources?

Organic Integrity

The USDA sets the regulations and standards that must be met by products that bear the organic label. Certified organic farmers rely on this label to accurately convey information about their products in the marketplace. Because consumers believe in the integrity of the organic label, the organic sector has enjoyed tremendous growth and provided a path to economic viability for many family farms. But the USDA has considerable work to do to

¹ Ching Lee. March 10, 2021. *Ag Alert*. "Lack of processing hampers the organic meat business."
<https://www.agalert.com/story/?id=14779>

maintain the standing of the organic label with consumers and ensure a level playing field for organic farmers, including finishing long-delayed updates to regulations and increasing the agency's focus on enforcement. There are two rules in particular that are vital to the organic livestock and poultry sector.

Origin of Livestock Rule: The NOP's failure to strengthen the standards for organic livestock has allowed large-scale organic dairies to undermine those organic farms that comply with the intent of the organic label. Organic dairy farmers need a level playing field. Years of delay in closing loopholes in the organic standards for livestock have caused ongoing economic harm. We need the NOP to finalize an enforceable rule on Origin of Livestock as quickly as possible. Cycling dairy animals in and out of organic production must be prohibited, and once a distinct herd is transitioned to organic, all animals must be raised organically from the last third of gestation.

Organic Livestock and Poultry Practices Rule: The Organic Livestock and Poultry Practices (OLPP) rule is another long-overdue measure to strengthen the organic standards, which was delayed and ultimately withdrawn by the Trump Administration. The OLPP final rule would allow the NOP to consistently enforce stronger animal welfare standards on organic farms and close loopholes being taken advantage of by some large operations. The rule was discussed and vetted in the organic community for more than a decade and has widespread support. We urge the USDA to reinstate the final OLPP rule as quickly as possible.

Organic Certification Cost Share

All certified organic operations must complete annual inspection and certification. Since 2008, the federal government has reimbursed up to 75 percent of organic certification fees paid by organic farms and businesses, with a maximum reimbursement of \$750 per certification scope (crops, livestock or handling) per operation. In 2020, USDA's Farm Services Agency cut reimbursement rates to 50 percent, up to a maximum of \$500 per scope. We urge you to act quickly to restore the funding levels for this program mandated by Congress and explore raising the reimbursement levels to account for increases in certification costs.

Enforcing the Packers and Stockyards Act

USDA should work to address competition issues in the overall livestock and poultry sectors by working quickly to complete three rulemakings to update and strengthen the Packers and Stockyards Act regulations. Ensuring that the underlying livestock and poultry market structures in our nation are more competitive should go hand-in-hand with USDA's efforts to encourage more diverse and resilient meat and processing capacity.

Priorities for Support

As USDA designs the program to invest in this sector, we urge you to prioritize:

- A balance between support for existing plants that would use grants or loans to scale up or improve their facilities and support for new plants. In most regions, there is such a lack of capacity in small and mid-sized plants that the loss of any more of them would be devastating. We need these plants to continue to operate (and ideally expand in a responsible way), while the longer-term effort to get new plants online is happening.
- A balance between plants that can sell their products commercially (because they are federally inspected or state inspected) and those that cannot (custom and exempt plants.) While the direct market option offered by custom and exempt plants is a vital part of the business model for many producers, it can also be limiting not to be able to process some animals for retail sale. If farmers cannot sell all their animals on the hoof, they could be faced with raising them past their ideal market weight or processing them under a custom label without an ability to sell at retail. For regional food economies to develop to their full potential, producers need to be able to go beyond direct marketing and federal, state and cooperative interstate inspection programs allow that to happen.
- The definitions that USDA uses for meat and poultry plant sizes are impractical and USDA should not rely on them to make these investment decisions. The enormous range of what classifies as a “small” plant means that a plant with 11 employees is in the same category as one with 499 employees. These are not going to be the same type of operation serving the same type of markets, and USDA needs more useful size categories to adequately consider which types of plants to invest in. We suggest that USDA support be focused on:
 - Plants with under 200 employees.
 - Plants that are able to process more than one species (to help balance challenges caused by seasonality and other factors that affect the availability of livestock and poultry.)
 - Black, Indigenous, or People of Color (BIPOC)-led processing establishments and establishments that would increase access to slaughter and processing for BIPOC livestock and poultry producers in a region.
 - Cooperative business structures. This type of network could provide useful mechanisms for coordinating supply to avoid the common challenges of seasonality and adequate flow of animals to optimize plant performance.
 - Cost share requirements should be waived or be minimal to ensure these are not a barrier for small business participation.

Finally, we urge USDA to carefully consider what measures of success it will use to evaluate applicants for this support. We strongly urge you to consider more than just the number of head or pounds processed and go further to consider proposals that will alleviate a regional bottleneck or create a new partnership with an institutional buyer that could build new regional food networks. We urge you to consult state departments of agriculture, extension and other institutions on the ground about places where a new or expanded small or mid-sized plant could enhance the regional food system. The USDA's review process should also consider whether new plants have done the outreach to secure commitments from independent producers and meat marketing programs to ensure sufficient demand for slaughter and fabrication services exists in their region.

- How can workforce recruitment, training, and retention needs be addressed to maintain or increase processing capacity?

USDA should increase funding for organic agriculture, education, and technical assistance by non-governmental organizations, land-grant universities, and extension, provide internal USDA staff education on organic agriculture, and hire leadership with demonstrated organic experience throughout the USDA and state agencies. This will help USDA employees dealing with plants that are certified organic understand the nuances of organic practices and provide more effective service to organic processing operations.

USDA should also investigate and support training in local vocational and community college programs, as well support the creation of apprenticeship programs in small and mid-sized operations so that jobs in these facilities set employees on a sustainable, long term career track.

- What regions show demonstrated processing needs, at what levels, and for which species?

We urge USDA to consult with the National Organic Program about the data available in its Organic Integrity Database about organic livestock and poultry producers in different regions of the country. Also, the USDA should encourage the National Agricultural Statistics Service to ask producers in different parts of the country about their ability to access processing for their livestock and poultry and whether they would expand their organic livestock production if processing was more accessible and reliable. This could help the department assess the feasibility of plants that are certified organic in different regions.

In addition, USDA should prioritize livestock and poultry production in its efforts to support farms pursuing a transition to organic. Support could include reduced organic certification costs and mentorship opportunities with existing organic farmers.

- How do processing needs and challenges vary by species and by value-added product types (e.g., organic, local, grass-fed, kosher, halal)? Do these needs require special types of funding (e.g., to encourage continued innovation)?

Because consumers believe in the integrity of the organic label, the organic sector has enjoyed tremendous growth and provided a path to economic viability for many family farms. But the USDA has considerable work to do to maintain the standing of the organic label with consumers and ensure a level playing field for organic farmers, including finishing long-delayed updates to regulations and increasing the agency's focus on enforcement. There are two rules in particular that are vital to the organic livestock and poultry sector.

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USDA should also increase funding for organic agriculture, education, and technical assistance by non-governmental organizations, land-grant universities, and extension, provide internal USDA staff education on organic agriculture, and hire leadership with demonstrated organic experience throughout the USDA and state agencies. This will help USDA employees dealing with plants that are certified organic understand the nuances of organic practices and provide more effective service to organic processing operations.

Additionally, there are some types of projects that USDA should prioritize while designing the funding program to help address the needs of plants serving specialized markets like organic. USDA should consider funding small and mid-sized plants for:

- Validation studies for HACCP plans for unique products.

- Upgrades to equipment and facilities, including construction of separate rooms for slaughter and processing, stainless steel equipment, or upgraded HVAC systems.
- Upgraded IT and digital recordkeeping systems (for food safety, organic certification or other recordkeeping purposes).
- Professional development and technical assistance for new plants, including staff training.

In addition to providing resources directly to facilities, USDA should commit to removing some of the common obstacles these types of plants face when dealing various USDA policies, by:

- Training FSIS, NRCS, extension and other USDA employees on the range of certifications and practices used by small and mid-sized plants serving specialized markets (organic, grass-fed, halal, kosher, animal welfare certifications, and others.)
- Streamlining the FSIS label approval process (small plants are more likely to have a variety of products and to change formulations more often, which requires more frequent FSIS label approvals).
- Lowering the cost of voluntary inspection for non-amenable species.
- Filling FSIS vacancies so that inspector shortages do not become a limiting factor for a new plant to come online or an existing plant to be able to expand production.
- Supporting agricultural extension services, with a requirement that a minimal level of meat industry expertise be available in every state.
- Supporting research into rendering and wastewater treatment options for small and mid-sized plants.

2. Fair Treatment of Farmers and Workers and Ownership Considerations

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

We appreciate USDA's consideration of the importance of Buy American provisions. One note that we will offer is that because there are so few remaining small and mid-sized meat and poultry plants in the U.S., the equipment that is best suited for their specialized needs may no longer be produced here. Some small plant operators have told us that the best options for their plants come from European manufacturers because plants there tend to be smaller. Therefore, while we think it is appropriate for USDA to encourage grant or loan recipients to

source as much of their construction materials as possible domestically, we do not think this funding should preclude recipients from buying specialized equipment they need to be most efficient that may come from international suppliers.

In addition to materials used to construct new or expanding facilities, we urge USDA to consider how to address the source of animals to be processed in a plant receiving this assistance. We urge USDA to encourage plants receiving this assistance to consider organic certification. We also urge the USDA to address the long-delayed improvements to the organic standards for livestock and poultry that will ensure that organic meat and poultry products are trusted by consumers.

- What health and safety standards would encourage a safe and healthy workplace?

To encourage a safe and healthy workplace, USDA should:

- Require that operations that receive USDA investment may not retaliate against whistleblowers and require all recipients of these federal funds to establish and meet with independent worker health and safety committees.
- Require operations that receive USDA investment to provide paid family and medical leave.
- Investigate and support training in local vocational and community college programs, as well support the creation of apprenticeship programs in small and mid-sized operations so that jobs in these facilities set employees on a sustainable, long term career track.
- Coordinate with OSHA and incorporate worker safety into USDA's decision-making process on issues like line speed regulations, what chemicals can be used in processing plants (carcass rinses or sanitizers used on equipment or in chiller water), and other practices that impact workers.
- To respond to the pandemic, work with OSHA to set enforceable workplace safety and health standards, stopping employers from retaliating against workers for reporting infection control problems or taking sick leave, and requiring tracking and public reporting of COVID-19 outbreaks in workplaces.

- 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?

Yes. If a plant that gets funding from USDA through this initiative is sold to a large or foreign-owned corporation within 10 years, the buyer should reimburse the USDA for the grant money the acquired plant received.

- If contracts are utilized, should practices like tournament systems that have been found to be prone to anti-competitive abuse be prohibited? Should contracts have at least a portion of the payments to producers be based on wholesale meat prices?

Yes. These practices are tools used by largest players to create an unfair advantage over producers. USDA funding should not be supporting the expansion of these unfair practices, so recipients of this funding should attest that they will not use abusive practices like tournament pricing systems. But this funding program should not create a two-tiered system in which some high performing plants use fair contracts and transparent practices, while the largest players in the industry continue to lower the bar and base their business model on abusive contracts that exploit livestock and poultry producers. It is critical that USDA not limit their efforts to stop the use of tournament systems to just the plants participating in this funding program. The USDA must also prohibit this practice for all plants, ideally through the rulemaking process of developing new regulations to enforce the Packers and Stockyards Act.

- If contract grower relationships are used that require a purpose-built production facility, should contract be required to cover at least the length of the loan term?

Yes. If a contract grower relationship is used, the meatpacker or poultry company should be required to provide long-term contract guarantees to the grower, with terms at least as long as the term of the loan used by the farmer to finance the construction of the facilities needed to service the contract. Farmers should not be put in a position to take out large loans to finance these facilities without a guarantee of their ability to recoup their investments. Unfortunately, the dominant model for contract growing is for growers to be left with massive loans to repay if a company drops their contract, and few alternative uses for the confinement buildings used for contact poultry and hog production. And just as with the earlier question about restricting the use of tournament payment systems, it is critical that USDA not limit your efforts on matching contracts to loan terms to just the plants participating in this funding program. The USDA must also require this type of contract protection for all plants, ideally through the rulemaking process of developing new regulations to enforce the Packers and Stockyards Act.

5. Technical Assistance Considerations

- What are the top priorities for technical assistance that would facilitate processing expansion or increased capacity (*e.g.*, butchery for key markets, HACCP, humane handling best practices for plant operators, labeling approval and processes, brand and market development)?

To facilitate processing expansion or increased capacity USDA should prioritize technical assistance that addresses:

- Validation studies for HACCP plans for unique products.
- Upgraded IT and digital recordkeeping systems (for food safety, organic certification or other recordkeeping purposes).
- Professional development and technical assistance for new plants, including staff training.
- Recordkeeping for organic certification.

In addition to providing technical assistance and resources directly to facilities, USDA should commit to removing some of the common obstacles these types of plants face when dealing various USDA policies, by:

- Training FSIS, extension and other USDA employees on the range of certifications and practices used by small and mid-sized plants serving niche markets (organic, grass-fed, halal, kosher, animal welfare certifications, and others.)
- Streamlining the FSIS label approval process (small plants are more likely to have a variety of products and to change formulations more often, which requires more frequent FSIS label approvals).
- Lowering the cost of voluntary inspection for non-amenable species.
- Filling FSIS vacancies so that inspector shortages do not become a limiting factor for a new plant to come online or an existing plant to be able to expand production.
- Supporting agricultural extension services, with a requirement that a minimal level of meat industry expertise be available in every state.
- Supporting research into rendering and wastewater treatment options for small and mid-sized plants.

We appreciate the opportunity to comment on these critical issues. For organic agriculture to meet its potential, we need to increase the capacity for organic livestock to be processed and marketed as organic. This benefits not only organic livestock producers by allowing them to receive a premium in the marketplace that reflects their production methods, but will also increase the demand for organic crops that are used to feed organic animals.

If you have questions or need more information, please contact our policy director, Patty Lovera, patty@organicfarmersassociation.org, (202) 526-2726.

Sincerely,

A handwritten signature in black ink, appearing to read "Kate Mendenhall".

Kate Mendenhall
Director