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U.S. Department of Agriculture Proposed rule on "Transparency in Poultry Growing Contracts and Tournaments"

Agricultural Marketing Service, USDA
1400 Independence Avenue
SW Washington, DC 20250-0201

Re: Docket Number: AMS-FTPP-21-0044
Published June 6, 2022. Pages 34980-35031

Thank you for the opportunity to offer our perspective on this important rule intended to promote transparency in poultry production contracting and to give poultry growers and prospective poultry growers relevant information with which to make business decisions.

For nearly forty-five years the Government Accountability Project has worked to empower whistleblowers, truth tellers and citizen activists. Our organization has represented whistleblowers from various industries and addressed their concerns touching upon many issues of vital public interest. Whistleblowers are people who speak out against waste, fraud, threats to public health and safety, and abuse of power. Very often at their own peril, they do the unthinkable when they disclose violations of the public's trust. Government Accountability Project makes sure their voices are heard and their concerns addressed in both courts of law and public opinion.

Government Accountability Project established the Food Integrity Campaign (www.foodwhistleblower.org) over twelve years ago to address the unique issues facing truth-tellers working in the food and agriculture sectors of the economy. FIC's clients include contract growers. Government Accountability Project, in addition to joining the Campaign for Contract Agriculture Reform's coalition comments, is submitting the following comment to share FIC's unique perspective having represented over a dozen whistleblower contract growers.

Interwoven in our comments are the concerns of our non-public clients who wish to remain anonymous. These farmers did not feel comfortable submitting comments on their own behalf. Unfortunately, when companies have this much power, they can cut corners and bend the rules in their favor, even at the expense of farmers, rural communities, workers, our environment, and the consumers. In this David-and-Goliath dynamic, good people could lose everything if they speak

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out against unsafe practices, corruption, and injustice. Heavily in debt and in fear of losing their contracts, growers rarely speak out against the industry.

I. Combatting Information Asymmetry: The Need for Greater Transparency and Relevant Business Information Disclosures

FIC applauds USDA for its movement toward realizing the intent of the PSA by addressing transparency concerns regarding the formation of contracts, the tournament system, and input variability. The commonsense need for business information disclosures in these areas will go a long way toward correcting the imbalance of power between companies and producers.

The PSA rule acknowledges the most basic principle in economics that every farmer already knows - the more information you have, the better decisions you can make for your business. A farmer may not be able to control the weather, but they would never plant without knowing the average frost dates in their county. This would be a red flag for a businessman, but chicken companies routinely ask farmers to invest millions based on little more than vague or verbal promises and glossy advertisements. Farmers across the industry have had to fight for transparency in their contracts with chicken companies. Over time, farmers have been provided less and less information about the nuts and bolts of the business. Are they getting chicks from a good breeder farm? Did the company actually bring the amount of feed they charged them for? Are their birds being weighed fairly? Was there a disease issue at the company hatchery?

Farmers bring to the table roughly 50% of the capital investment required to produce broiler chickens. For a complex of 500 chicken houses, producing 1.2 million chickens per week, the total cost for processing facilities, chicken houses and all capital investments would be around $180 million. Almost $90 million of that would come from chicken farmers themselves, in the cost of constructing and maintaining the chicken houses. Farmers are treated as equals when it comes to helping them part with their savings and assets but are not provided even basic information by their business "partner" once the deal is signed. The regularized failure to disclose critical information is pervasive in this industry.

The PSA rule seeks to address the effects of input quality variability. Specifically, in respect to flock origin, breed, gender ratio, and health, as well as feed quality and disruptions and facility factors. We wish to provide the following additional factual information:

<u>Anonymous Farmer's Comments on Input Transparency</u>

1. *"My company's delivery feed system is complicated, they often don't provide feed invoices and when we do, feed would be short from the invoice. I do bring it to my service*

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tech, and the tech would often brush it off. There were times when the driver would go to the wrong farm. My neighbor would call me telling me to expect the feed truck since it arrived on his farm instead of mine. The tournament system is based on feed and weight, as a grower we don't know the outcome when we have no control over our feed. Delays in pick-up and delivery impact my feed/weight conversions and cost me."

2. *"The odds of a farmer getting more sick birds in 8 houses is higher than for someone with 2 houses. The fewer the houses the less culls, so they'll always do better in the tournament. That's not fair. To make this fairer, all the 2 house farms need to sell together the same week. All the 4 house farms sell together. All the 8 house farms sell together. You can't scatter them around. The bigger farms cannot compete."*

3. *"There were times that my integrator was going to another company's feed mill and getting feed and bringing it back to my houses because their mill couldn't keep up with the feed demand. There's no way that the feed is the same from farmer to farmer. So someone in my week could have gotten all my integrator's feed but I had to get some of the other company's feed to get me by until the next week."*

4. *"Sometimes they'll come to pick up chickens late in my scheduled week and only catch some of my houses. The last house they'll get later that week. Then as far as who you're competing against, you get thrown into the next week's group. Let's say my neighbor down the street gets picked up towards the end of that next week after a cold front has moved in for the mid to end week. Now my birds that they picked up later in the week have lost a ton of weight during the heatwave and my neighbor's chickens were doing well throughout the rest of the week and got picked up late in the week after growing some more. That's not fair. And that happens all the time."*

The proposed rule correctly addresses the problem of asymmetry of information between farmers and producers. We agree with the rule's attempts to assist farmers in estimating a guaranteed cash flow. Many farmers fail to take into consideration equipment and repair costs when calculating their mortgage. We have heard of instances where farmers had to finance equipment on credit cards at high interest rates. One farmer was so underwater in her first year of farming that they had to purchase the family groceries and pay utilities with their credit card. This could have been avoided if they had known they needed to take out more in the initial loan.

<u>Anonymous Farmer's Comments on Asymmetry of Information</u>

1. *"Each flock is different. You have no idea how much money you'll make. You have no idea how many sick chickens you'll get. The weather is always different. You don't know*

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if you're getting the same feed. You can't ever know if it's fair. You can't ever manage your money because you don't know what you're going to make. It's a gamble."

2. *"My chicken houses are in good, working condition, but I'm told I have to make expensive upgrades constantly. And I can't sell my farm unless I make these upgrades, because the integrator won't give the next owner a contract without them. The bank will say hey we'll sell you this farm for this much but the integrator says you have to do this, this and this before they can give you a contract."*

II. Undisclosed/Uncompensated On-Farm Research and Development (R&D)

While supporting the rule's call for greater transparency, we believe that there are more facts the USDA should consider. Specifically, we do not believe the rule addresses the lack of transparency around on-farm R&D.

In poultry contracting, integrators own everything in the supply chain except the farms. Given that poultry companies like Perdue and Tyson largely do not own their own farms, R&D for farm-level changes cannot take place within the company's business infrastructure. The result is that major integrators receive the benefit of pricey R&D and the farmer picks up the bill. Unknowing farmers routinely shoulder the burden of company "experiments" with neither the farmer's consent nor compensation.

For decades, poultry companies have claimed that contract growing is "low-risk" for farmers. Several leading agricultural economists in the 1980s and 1990s backed up company marketing by theorizing that risk-averse farmers would benefit from stability and consistent income in the contract model. But in more recent studies, especially those drawing from on-farm data and less on theory, researchers have pointed out that the American chicken contract shifts significant risk to the grower, while insulating the company through a cost-controlling mechanism.[1]

The development of the contract model illustrates this clearly. In the 1960's a few major poultry companies, including Tyson Foods, experimented with owning their own farms. They found that owning the land and chicken houses was in fact, "a terrible investment." The work was intensive,

[1] Economists such as Knoeber and Thurman (1994) focused on the reduction of market price risk in contracts, backing industry claims that the contract model reduced farmer risk overall. More recent research including a paper by Taylor and Domina (2010) which drew on decades of farm-level income data in Alabama, demonstrates the increased variability and intensification of risks such as biological risk, weather incidents, and input related risk.

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and labor costs were unpredictable due to biological risks. The company decisively moved away from this model and focused entirely on contracting out this single link in their otherwise entirely vertically integrated supply chain.[2] Other companies in the industry followed suit.

The farm was abandoned by poultry integrators because it posed certain uncontrollable risks. Weather, disease, and the price of land are all examples of unpredictable risks that can profoundly impact profitability at the farm level. While poultry companies could strategize to minimize marketplace price risk through vertical integration, mergers, and market dominance, the farm level risks were uncontrollable and costly.

To stay ahead of the field and make advancements, companies use a few common strategies:

- Mergers and acquisitions of smaller companies that are pioneers in new fields. Perdue has used this strategy a couple of times to gain knowledge and techniques as they seek market share in the sustainability and animal welfare markets. They purchased Petaluma Poultry in 2016, a boutique poultry company producing pasture-raised, slow-growth chicken. Beyond buying market presence with these acquisitions, companies are purchasing skills and knowledge.
- Leveraging financial and political influence over research at universities. Since the 1980s public and land-grant universities have been increasingly incentivized by federal policy to collaborate directly with private business in research, especially in agribusiness. Combined with a steady decline in public funds for agricultural research, companies have played an increasingly critical role in funding ag research departments, purchasing new equipment for the schools and labs, providing scholarships and co-funding research itself. Academics have voiced concern over the growing corporate influence in agricultural research. (Example: the "Prestage" Department of Poultry Science at NC State University was renamed after the hog integrator following a $10 million gift.)[3] With so much financial leverage over schools, companies today have unprecedented power to drive research topics, as well as to censor and bury research that may run counter to their objectives. In this article researchers at UNC Chapel Hill and leading Universities in Iowa describe being threatened, harassed, and otherwise prevented from completing research - especially in public health - as a result of agribusiness companies' leverage.[4]

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[2] Leonard, Christopher. (2014) *The Meat Racket*. Simon and Schuster, NY. p. 70-71. https://www.nytimes.com/2017/05/01/dining/chicken-perdue-slow-growth-breed.html

[3] https://cals.ncsu.edu/news/10-million-gift-names-poultry-science-department-for-prestage-family/

[4] https://thecounter.org/agriculture-industry-influence-money-academic-research/

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- Experimentation through mandatory trial-and-error on contract farms. Even as companies gain knowledge and develop new ideas through the first two R&D strategies listed, the reality remains that outside of controlled university research sites, contract chicken farms are spread across the country and pose a diverse setting for introducing new procedures. When companies decide to launch a new program - in biosecurity, animal welfare, or equipment upgrades for example - there is an inevitable adjustment period for lessons to be learned from farmers' real-life experiences in each complex. FIC whistleblower farmers report feeling that they are treated as "guinea pigs" and put through trial-and-error as the company learns how to adjust new policies and programs.

A. The Tournament System and Trial and Error R&D

"Trial-and-error" R&D at the farm level is especially problematic for contract farmers who are competing in the tournament system. The tournament system mechanism used to calculate a farmers' paycheck insulates the company from the biological, farm-level risks, while increasing variability and unpredictability for farmers. The reason tournament payment is significant to the conversation about research and development in poultry is precisely this risk-shifting function. When companies make changes in their production system, these changes can have a significant impact on individual farmers' pay, while the company itself is insulated by this cost-control mechanism from much of the variability.

B. Examples of major shifts in production often implemented through trial-and-error

The following are examples of changes taking place today that will be largely mandated by the company, without full knowledge of the pitfalls, and fine-tuned by contract farmers at their own expense:

- *Windows in chicken houses:* Part of Perdue's animal welfare policies and proposed improvements includes a plan to require farmers to put windows in now solid-wall poultry houses. To kick-start this process, Perdue has committed to pay for the upgrade for a pilot group of 200 farms initially. But for farmers outside of this pilot group, the company has not been clear about who will pick up the bill for the upgrade. FIC's whistleblower farmer in North Carolina reported being asked to sign a promissory note for the cost of the upgrade - an approach that would further impose limitations on farmers' ability to operate as independent contractors. Our whistleblower also noted that there are new challenges that come with adding windows, because the light increases activity in birds that have been bred to be inactive. Farmers will inevitably have to iron out the problems in this new system at their own expense.

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- *Slow growth chickens:* Also, part of Perdue's animal welfare improvement plan is a strategy to introduce a slower-growing chicken. Today's industry standard Cobb breed suffers several health deficiencies as a result of rapid growth. Perdue's acquisition of Petaluma Poultry provided the company with a chance to experiment with slow-growth breeds. But introducing these breeds within a contract, CAFO system, is very different from raising slow-growth chickens on pasture for a niche market. A slower growing bird will alter the normal timeline for farmers' flocks, and thus their paychecks. Most farmers' CAFO mortgages depend on a 6-flock annual cycle. In order to slow down the growth of the bird, Perdue will have to extend flock schedules and adjust farmer pay accordingly. The longer growing time may have major impacts on disease buildup in the litter and the amount of time needed between flocks for cleanout.

In addition to major consumer-driven projects like the two described above, routine adjustments such as cleaning procedures at the hatchery, type of feed and supplier of feed used, equipment mandated for farmers to install, and other changes are made frequently at the regional or complex level.

C. Case Study: The steep learning curve of transitioning to NAE - No Antibiotics Ever

Companies with hundreds of complexes are easily able to contain any impact to their bottom line by slowly rolling-out new programs like NAE and by utilizing tournament systems to contain company costs in farmer pay. Individual farmers within tournament rankings do not have that luxury. Instead, they are asked to work harder, innovate, make new investments and changes, adapt their schedules at home and take time from their family, while at the same time facing lower and more unpredictable paychecks as their complex adjusts to the new procedures.

In direct response to consumer pressure, most major chicken producers in the US have begun a process of transitioning out of routine use of antibiotics in feed. Many are shifting their production to what is known as NAE - or No Antibiotics Ever. Other strategies include No Human Antibiotics, or "antibiotic-free" which has different definitions within the industry. The learning curve for transitioning to NAE or reducing antibiotics in conventional chicken production has not been straightforward for the industry. Several components of the company's vertically integrated supply chain have had to be adjusted to make this work, in addition to changes in procedures on the farms.

Companies have rolled out NAE or reduced antibiotic use systems in different ways across the US. A common approach, used by both Pilgrim's Pride and Perdue, was to introduce the new system in a limited number of complexes as a sort of "experiment."

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In an interview for Poultry World, Perdue Executive Mike Leventini explained the company's approach: "Moving towards an NAE system is not something you do overnight. We didn't have a clear time frame in mind. We simply started our journey," says Mr Leventini. "We also spend a lot of time with our farmers to hear what they need so we can supply them the knowledge and technology they need to make the transition to NAE. Fewer birds, more space. In addition, the farmers are rewarded if the birds perform better, measured by a ranking system based on several zootechnical parameters such as FCR and livability." Levintini's statement underscores the fact that farmers on the tournament system suffered through lower pay and volatility during this time while the company took a "learn as we go" approach.[5]

Similarly, Elizabeth Dale, Pilgrim's Pride's head veterinarian, in an interview with Poultry Health Today, echoes the same trial-and-error approach for rolling out various forms of antibiotic reduction in their complexes. She points to the variability of mortality across complexes, acknowledges that there was an increase in 7–10-day mortality at the farm level, and mentions the importance of having "a better relationship with your growers" to learn what the farmers are doing who *aren't* having major losses—so that the company can educate other growers on how to succeed. She also acknowledges that a lot of the responsibility for these losses starts with sanitation issues in the company-owned hatcheries. It is worth mentioning here that in this case, ***the company is essentially asking farmers to innovate on their behalf, and then providing that innovation as education to other farmers - making the pool more competitive again*** for the ones who have put in the extra work and adjusted early.[6]

In a 2016 Panel at the International Production and Processing Exposition, Bruce Stewart-Brown, Vice President of Food Safety and Quality for Perdue spoke about the company's transition to NAE. He mentioned the impact on farmers briefly: "It became obvious during our migration to NAE production that some of the poultry growers who tended to finish in the top tier in flock performance in traditional production did not readily make the transition to NAE production and fell to the middle of the pack in performance. Other growers who tended to rank in the middle in flock performance in traditional production were more successful in NAE production."[7]

While farmers learned to make some adjustments, like preheating of the barn, so the young chicks are not placed on cold litter, Perdue also needed to make adjustments. These adjustments

[5] https://www.poultryworld.net/health-nutrition/interview-no-antibiotics-ever-at-perdue-farms-in-the-us/
[6] https://www.thepoultrysite.com/news/2019/06/pilgrims-veterinarian-shares-experiences-with-nae-production
[7] https://www.wattagnet.com/articles/26174-secrets-to-antibiotic-free-poultry-production

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include: Extra attention to breeders and sanitation and cleaning of the eggs; changes in vaccination programs to boost the bird's immune system even more; delivering lower flock numbers so birds get more space; and increasing down-time between flocks.

D. Whistleblower Case Study - Farmer transitions to NAE

FIC Whistleblower farmer Craig Watts, a former Perdue contract grower in North Carolina, explained the experience of transitioning to NAE in-depth in our 2015 blog on the topic.[8] Craig raised chickens with Perdue for 22 years. In 2012 his complex began the transition to NAE, and he received his first flock of NAE chicks in 2013.

"At that point, Perdue was still trying to figure out how to successfully raise so many birds without the safety net of antibiotics… When Perdue first began removing antibiotics from their hatcheries, they didn't focus on proper sanitation measures, and so farmers were constantly receiving infected chicks. Without the antibiotics, bacterial infections like Staphylococcus, Salmonella and E.coli skyrocketed. This meant that thousands of infected chicks were being delivered to farms. It was a really difficult time for farmers," he explains.

"I cannot describe how disheartening it is to get a batch of chickens that are completely laden with bacteria from the moment they arrive from the hatcheries. These birds are dumped by Perdue employees into feed pans and they just lay there until removed from the house. I will cull or remove them as quickly as possible, but when I am delivered 114,000 birds per flock, it is impossible to take the proper precautions immediately. In the meantime, the healthy chicks peck feed right under where the sick chicks were just shedding bacteria. It is a gut-wrenching thing to watch."

He describes discrepancies and confusion over the labeling and policies Perdue markets publicly: "One thing that in particular concerns me is Perdue's statement on their website that they will treat animals with antibiotics if necessary for the health of the animal. I have yet to see this practice employed. In fact, in March 2014 I had a batch of infected NAE chicks delivered to my farm. I lost a few thousand birds to infection the first week. Because I'm a contract farmer, I don't have permission to medicate these birds without Perdue's permission and don't have access to antibiotics even if I did. I told Perdue about the infected birds and even sent them pictures of the bacterial infections I was finding. But they didn't do anything – no investigation, certainly no treatment. I was told that they wouldn't do anything until the birds started to die from the infection – something I found especially troubling since it completely ignored the

[8] https://foodwhistleblower.org/what-does-antibiotic-free-really-mean-insight-from-a-contract-chicken-farmer-367/

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welfare of the chickens. It was akin to Perdue telling me that I needed to wait to go to the doctor until I was already dead."

Craig was easily able to summarize the impact of the transition to NAE on the farmers' bottom line: "I can tell you without a doubt that the farmers bear this cost. On occasion, Perdue will partially reimburse us for sick or injured chicks, but this is only occasionally and since it's somewhat arbitrary, you can't in any way rely on it. Unfortunately, this means that Perdue isn't always forced to recognize the actual sacrifices that accompany irresponsible practices. An infected flock can cost a farmer thousands of dollars in lost income. In truth, a significant portion of the cost of Perdue's quest to perfect the NAE production has been shouldered by the farmer."

E. Whistleblower Case Study: Increased Value of Chicken Paws

Multiple farmers contracting with three different integrators have come to FIC expressing concerns about having to change growing practices to promote the health of chicken paws (feet). No farmer was compensated for these changes; however, the companies have experienced a financial windfall.

Until recently, paws were considered a waste product in the United States. However, they are now in high demand in China, according to the USA Poultry & Egg Export Council (USAPEEC). In fact, paws are in such high demand that they are more expensive than actual chicken meat in China. The demand for paws in China has become highly profitable for US producers. Integrators used to sell paws to renderers for pennies on a pound and now can command an average price of nearly $ 1.10 per pound. US chicken paws are highly desirable because of the large size of US chicken paws. In 2020, exported paws to China generates a revenue of $460 million. The US has become the dominant supplier to China with a 44.8% market share in 2021.

Considering this uptick in demand, companies sought to improve the quality of U.S. paws for export. To do this, the producers told growers to make changes on-farm to facilitate healthier, more marketable paws. These changes included changing water lines, adjusting the water flow, and changing out the bedding at different rates. None of these activities were compensated and the farmers were not paid any additional money for the paw meat. In essence, farmers spent their own time and energy to increase company profits and that effort was not reflected in their tournament ranking. In a theoretically free market, a contract grower should be able to bargain his labor for the increase in quality of paws.

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III. Immigrant Growers and Transparency

While we acknowledge past USDA efforts toward bridging racial inequality in agriculture, there are concerns beyond Question 7 that must be addressed.

Previously, it was common for the average farmer in America to be a white male. "In 2012–2014, White people owned 98% and operated 94% of all farmland. They generated 98% of all farm-related income from land ownership and 97% of income from farm owner-operatorship."[9] Today, these statistics are changing; "Racial and ethnic minorities now make up 19% of non-metro residents, [with] Hispanics and Asians [being] the fastest growing minority groups in the United States as a whole and in non metro areas."[10] Historically, immigrants from non-European countries have been favored in the United States for cheap labor.[11] Now, immigrants continue to be taken advantage of within the poultry industry. From our organization's experience, the immigrant grower population is growing. To further transparency, the USDA should track the demographics of the growers in this industry and make the data publicly available.

American-born growers already have a hard time understanding their paperwork and other materials, but non-native English speakers have an even harder time and face more obstacles. Without resources or translations designed to help them understand what they need to do to succeed, they are even more underserved than the other growers competing against them.

One immigrant grower reported to us that his immigrant growing community is too afraid to speak up about the discrimination, for fear of retaliation, or losing their contracts and having nothing left:

> *"The truth is that as soon as they want you to make an upgrade, you are forced into it. They expect us to figure out the cost by taking out another loan or doing whatever it takes. It is unreasonable for us to take on more debt when we are already struggling to pay the debt we have. Because we did not make the big upgrades they wanted, they began harassing, intimidating, and retaliating against us."*

Another immigrant grower told us:

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[9] Horst, Megan & Marion, Amy. (2019). Racial, ethnic and gender inequities in farmland ownership and farming in the U.S.. Agriculture and Human Values. 36. 10.1007/s10460-018-9883-3.

[10] https://www.ers.usda.gov/webdocs/publications/44331/10597_page7.pdf

[11] https://www.ers.usda.gov/webdocs/publications/44331/10597_page7.pdf

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> *"I met other poultry growers and learned about their experiences. From talking with them and comparing the experiences from white and immigrant growers I learned that the integrator put more pressure on immigrant growers and was stricter and quicker to issue deficiencies to them. I heard from white growers that they were never forced to make upgrades. Also, service technicians and flock managers visiting the farms did not take language barriers into consideration, which leaves us at a disadvantage. I had no idea we would be taken advantage of like this."*

These growers feel that they have to sign anything given to them, and do what they're told, even if it's not written in the contract, or else they will be harassed and could lose any chance at an income, or even lose their homes. They are already so riddled with debt, they have little to no access to legal services or help from the government.

Additionally, this community, along with their native-English speaking poultry growing competition, has a direct effect on public health. Without translated resources or a liaison working with them, where will they turn when there is disease throughout their flocks, another pandemic, questions about antibiotic use, or even just problems running their farm cleanly and smoothly? This community has so little trust in the poultry industry and little trust in the government from lack of help, that when a problem arises, it could significantly slow an effective government response to a public health crisis.

The USDA needs to offer educational materials in multiple languages and other resources like a liaison for immigrant growers. The languages needed can be determined by the data on grower populations.

IV. Increased Transparency Regarding USDA Hotline and FarmerFairness.gov

We applaud the creation of the Joint DOJ/USDA Farmer Fairness Portal and this administration's willingness to enforce when there are findings of wrongdoing and illegality. It is our experience representing many growers that GIPSA investigations were not being enforced and that all too often farmer concerns were falling by the wayside. FIC is optimistic that AMS investigations will get the attention they need in accordance with the new MOU, but offers the following for your consideration:

Farmers and their advocates still remain unclear how the USDA/DOJ will evaluate the efficacy of the portal. For example, while FIC has received confirmation that farmers who disclosed

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information on the portal are being contacted expeditiously, we are uncertain how farmers and the concerned public will determine what, if any, actions are or were taken to address the farmer's concern. It is our hope, that in the interest of transparency, some publicly available accounting of the portal will be made available. In the past, USDA FSIS has made certain information available for the public without the use of FOIA (e.g. NR's issued under HMSA at slaughter facilities).

Use of FOIA is tedious and inconsistent. In the past, GIPSA investigations were subject to FOIA and farmers who raised concerns with investigators were able to determine the outcome by using the FOIA process. Unfortunately, the use of FOIA and what is classified as exempt has changed over the last three administrations. Under the Obama Administration, an FIC farmer client was able to submit a FOIA request to and receive the case file for the investigation into his concern. Under the Trump Administration, that ability was largely taken away. Under the current Biden Administration, the same elevated use of FOIA Exemptions that came about under the Trump Administration remains the standard. While it is understandable that from Administration to Administration there may be an exercise of discretion in the use of exemptions, it is disconcerting to see that variability under the same Secretary of Agriculture. Indeed, no farmer or farmer advocate could be expected to make use of a process that is so subject to winds of political change.

In the interest of achieving a fairer and more transparent system, USDA/DOJ should make evaluation of the portal's success public and share information of farmer/public importance that is discovered through the portal. While safeguarding anonymity, the public (especially farmers) should know how often the portal and hotline are used and what if any actions were taken (e.g., decline to investigate/under investigation/referred for enforcement). The portal could also inform USDA educational initiatives. If the portal is receiving a large number of a similar type of concern, USDA can post YouTube videos on the subject. The USDA webinar on how to comment on these very rules done by Andy Green was informative and well done. USDA could build trust and promote a dialogue with farmers by demonstrating a willingness to share information in a variety of formats across different platforms. YouTube videos are especially useful as they are easily viewed on mobile phones (often the way rural growers access internet content).