



TENNESSEE FARM BUREAU FEDERATION

August 5, 2024

S. Brett Offutt
Chief Legal Officer/Policy Advisor
Packers and Stockyards Division
USDA-AMS Fair Trade Practices Program
1400 Independence Avenue SW
Washington, DC 20250

Re: Docket No. AMS-FTPP-22-0046-0171; Poultry Grower Payment Systems and Capital Improvement Systems

Dear Mr. Offutt,

The Tennessee Farm Bureau Federation (TFBF) appreciates the opportunity to provide comments to the United States Department of Agriculture (USDA) regarding the proposed rule titled *Poultry Grower Payment Systems and Capital Improvement Systems* (Proposed Rule). We urge USDA to consider these comments and those submitted by the American Farm Bureau Federation.

With over 694,000 members, TFBF is the largest general farm organization in Tennessee, representing the varied commodity producers across the state. Our policy is developed through a grassroots network of farmer members who identify, research, deliberate, vote on, and adopt policies on various issues related to agriculture and rural living, including fairness of poultry grower payment systems.

According to the USDA National Agricultural Statistics Service 2022 Census of Agriculture¹, poultry and egg products brought in \$1.1 billion in sales in 2022, accounting for 20.8 percent of total sales of agricultural products and ranking second for agricultural commodities in cash receipts in Tennessee. Because of the highly integrated nature of the poultry sector, protecting the relationship between poultry growers and integrators is paramount to the viability of the poultry industry in Tennessee.

¹ "2022 Census of Agriculture – Ranking of Market Value of Ag Products Sold, Tennessee; *USDA National Agricultural Statistics Service*; [USDA/NASS 2023 State Agriculture Overview for Tennessee](#)

Basic Principles

TFBF's Poultry Advisory Committee consists of active poultry growers who annually review policies and positions and make recommendations to guide TFBF's advocacy efforts affecting the poultry industry. Thanks to the work of this committee over multiple years, we have developed extensive policy related to poultry and production contracts. Excerpts of TFBF's 2024 Poultry Resolutions include:

“Growers should be incentivized within their contracts to earn a premium as a result of proper management and capital investment, however growers should not be penalized because of decisions made by the integrator. Growers should not make less than the base earnings presented by the integrator because of decisions made by the integrator.”

“We recognize the tournament/averaging system of pay for broiler production has been accepted as an industry standard but encourage exploration and development of improved pay systems that would meet realistic income needs of producers/growers and still reward exceptional performance. When the tournament/averaging system is used, integrators should keep all variables (such as breed of bird and age of parent flock) equal or make adjustments to growers' settlement to compensate for the difference in parity. We support production contracts allowing growers the opportunity to earn better pay as a result of proper management and capital investment.

Integrators should justify mandatory modification of buildings and equipment through research documentation. Any modification should be a long-term agreement, negotiated in writing, between the grower and integrator before installation. The length of contracts should adequately protect a grower's investment in buildings and equipment.

We recommend pay averaging criteria be revised to compensate for integrator production decisions that influence a grower's settlement.

We oppose discriminating against poultry growers who have older facilities. Growers who have older poultry houses but are still able to meet feed conversion and other payment criteria should be paid at the same rate as growers who have newer houses.

Contract producers should be furnished weight tickets on all poultry sold from their farms and on feed delivered to and picked up from their farm.”

TFBF's 2024 Production Contracts Resolutions include:

“Producers are entitled to fundamental rights when producing commodities under contract. These rights are more important because agricultural consolidation may lead to anti-competitive practices and decrease prices paid to farmers. All contracts should

be written so risks to both parties are disclosed. Contracts should be written that provide protections to producers.”

Contract producers should be allowed a reasonable time period to review their contract. Farmers should receive the first priority lien for payments due under contract if a company goes out of business. Producers should be protected from unfair practices that include, but are not limited to, having their contracts terminated or other retaliatory actions for joining producer organizations.

Producers should be involved in the contract development process. Production contracts should have provisions for addressing the impact of volatile input costs on producers. Contracts should be written for a sufficient length of time to recoup the cost of investment.

We support private enterprise and fair market competition where agricultural producers can choose to freely enter into production contracts and marketing agreements, when producers believe it is in their best interest to do so.

When producers have ownership of a commodity, we support their right to enter into any contractual agreement which they believe is in their best interest, and those contracts should be personal, private, and free from government interference.

We oppose any governmental regulation that limits or adversely affects the rights of producers to work cooperatively with processors, or other entities within the production system to be rewarded as they bring premium value-added products to the market.”

Payment Systems

TFBF commends USDA for recognizing the need for improvements to poultry grower payment systems to ensure greater fairness among poultry growers who enter production contracts with integrators. The tournament pay system was designed to create an efficient system for poultry production in the United States by compensating growers for exceptional performance through pay incentives. As our policy states, TFBF supports a grower’s opportunity to earn better pay for proper management and capital investment. However, growers should not receive pay deductions due to decisions made by the integrator (such as breed of bird and age of parent flock).

Section 201.106 of the proposed rule generally addresses this concern by requiring integrators to prominently and clearly define a guaranteed base pay rate a grower will receive if they perform to the minimum specifications of the relevant provisions of the contract. The integrator would not be allowed to establish pay deductions below the established minimum rate. This allows growers to better prepare for the pay they will receive from the integrator. While TFBF supports this provision and its positive impacts for growers, we encourage USDA to address the impacts of inflation on growers when entering new production contracts. Input costs such as electricity, propane, labor, and

insurance have increased exponentially over the past ten years but pay raises for contract poultry growers have not kept up. Increasingly narrow margins for poultry operations put growers at risk of a small change in prices or in pay affecting whether a farmer has a profit or a loss in any given year. To address this, we recommend USDA to establish base pay on a per pound basis and that the next contract maintain the base pay and index for inflation or cost of living while maintaining stocking density.

Capital Improvement Systems

The proposed rule also would require integrators to provide growers with a Capital Improvement Disclosure Document when additional capital investments (ACIs) are requested. These documents would require integrators to disclose:

1. The purpose of the ACI and summary of research to justify the need for the ACI
2. Financial incentives and compensation to the grower for the ACI
3. Relevant construction schedules for the ACI
4. Approved manufacturers and vendors for the ACI project
5. Assumptions, risks, and/or uncertainties of projected returns for the ACI
6. A statement recognizing the violation of Federal law if any part of the disclosure document is false or misleading

Providing these details in the contract development phase of an agreement between a grower and the integrator allows growers to make informed decisions about suggested capital investments before being contractually obligated. TFBF is supportive of these changes and commends USDA for acknowledging a grower's role in capital improvement decisions. However, we suggest USDA to make the following considerations:

- Section V.C.9(a) of the proposed rule asks the question: "Should AMS establish a categorical presumption of unfairness when the duration of the contract of shorter than the duration of the loan or other similar requirement?"
 - TFBF believes contracts should be written for a sufficient length of time to recoup the cost of investment. The duration of the contract matching the duration of the loan would fulfill this suggestion.
- Many poultry growers have older poultry facilities but can still meet feed conversion requirements and other performance criteria. After evaluating the contents of a Capital Investment Disclosure Document, growers should not be discriminated against if they ultimately decide not to agree to the disclosure document and ACIs associated with it. This agreement should be separate from the production contract, and the finalization of the production contract should not be tied to the outcome of the Capital Investment Disclosure Document.

- When requiring disclosure of construction timelines and approved vendors, USDA must consider factors which are uncontrollable by the grower that may affect these determinations, such as labor and supply shortages. A grower should not be responsible if these factors result in not meeting the goals the contract sets forth. Contracts should contain language providing leniency and flexibility for such circumstances.

TFBF commends USDA's efforts in crafting this proposal to increase transparency and fairness within the highly integrated poultry industry. On behalf of our poultry grower members, we submit these comments and encourage USDA to continue prioritizing the needs of growers across Tennessee and the United States.

Sincerely,

A handwritten signature in cursive script that reads "Eric Mayberry".

Eric Mayberry
President
Tennessee Farm Bureau Federation