NATIONAL FAMILY FARM COALITION

June 21, 2021

Dr. Melissa R. Bailey
Agricultural Marketing Service
USDA
Room 2055-S, STOP 0201
1400 Independence Avenue SW
Washington, DC 20250-0201

RE: Docket AMS-TM-21-0034
Supply Chains for the Production of Agricultural Commodities and
Food Products

Dear Dr. Bailey:

On behalf of the members of the National Family Farm Coalition, we thank you for the opportunity to offer comments on ways to make the U.S. food supply chain more resilient, as part of the larger Administration effort to address resilience economy wide, as highlighted by the President's February 2021 Executive Order 14017, "America's Supply Chains."

National Family Farm Coalition (NFFC) is an alliance of grassroots farmer- and advocate-led groups across 42 states, representing the rights and interests of independent family farmers, ranchers, and fishermen in Washington, DC. NFFC was founded at the height of the 1980s farm crisis, with support from Farm Aid. Today NFFC's 30 state, national, and regional farm and rural organizations are bound by a common belief that communities have the right to determine how their food is grown and harvested; that everyone in the food system should receive fair prices or wages; that all producers have equitable access to credit, land, seeds, water, markets, and other resources; and, that our food and agriculture policy must support sustainable farming, ranching, and fishing practices.

The U.S. Department of Agriculture (USDA), as the lead agency in implementing the President's Executive Order, has invited public comment on a number of broad questions regarding resilience in the food supply chain.[1] Several of the questions posed by USDA are directly relevant to the NFFC's mission and the livelihoods of our members. Specifically, our comments below provide input that is most relevant to the following questions posed by USDA in the federal register notice:

> (iii) the manufacturing or other capabilities necessary to produce the materials identified in subsections (i) and (ii) of this section, including emerging capabilities. USDA is particularly interested in comments on the processing and distribution, capacity, and access issues associated

[1] www.federalregister.gov/documents/2021/04/21/2021-08152/supply-chains-for-the-production-of-agricultural-commodities-and-food-products

with food production across all agricultural commodities, the varying scales at which processing is available (including availability for small to mid-size producers), the geographic distribution of such processing (*e.g.*, availability to local and regional producers and food hubs), access to transportation hubs and export facilities, and cold chain infrastructure and capacity, access to packaging (including the availability of sustainable packaging), as well as the ownership and financial viability of such facilities;

(iv) the defense, intelligence, cyber, homeland security, health, climate, environmental, natural, market, economic, geopolitical, human-rights or forced-labor risks or other contingencies that may disrupt, strain, compromise, or eliminate the supply chain—including risks posed by supply chains' reliance on digital products that may be vulnerable to failures or exploitation, and risks resulting from the elimination of, or failure to develop domestically, the capabilities identified in subsection (iii) of this section—and that are sufficiently likely to arise so as to require reasonable preparation for their occurrence;

(v) the resilience and capacity of American manufacturing supply chains, including food processing (*e.g.*, meat, poultry, and seafood processing) and distribution, and the industrial and agricultural base—whether civilian or defense—of the United States to support national, economic, and nutrition security, emergency preparedness, and the policy identified in section 1 of [E.O. 14017,] in the event any of the contingencies identified in subsection (iv) of this section occurs, including an assessment of:

(A) The manufacturing or other needed capacities of the United States, including the ability to modernize to meet future needs, including food processing (such as meat, poultry, and seafood processing) and distribution;

(C) supply chains with a single point of failure, single or dual suppliers, or limited resilience, especially for subcontractors, as defined by section 44.101 of title 48, Code of Federal Regulations (Federal Acquisition Regulation). USDA is particularly interested in comments related to the role of market concentration and consolidation in agricultural sectors and how it affects food system resilience, including potential system failures in the face of supply chain disruptions;

(ix) specific policy recommendations important to transforming the food system and increasing reliance in the supply chain for the sector. Such recommendations may include sustainably reshoring supply chains and developing domestic supplies, cooperating with allies and partners to identify alternative supply chains, building redundancy into domestic supply chains, ensuring and enlarging stockpiles, developing workforce capabilities, enhancing access to Start Printed Page 20654financing, expanding research and development to broaden supply chains, addressing risks due to vulnerabilities in digital products relied on by supply chains, addressing risks posed by climate change, strengthening supply chains' ability to promote nutrition security, and any other recommendations. For example, as a part of this assessment, USDA is interested in recommendations that could improve local and regional food production, processing, packaging, and distribution, particularly for small to mid-sized producers and processors; support national nutrition security and health; address agricultural workforce needs; strengthen market transparency (such as traceability); and address disproportionate impacts on socially disadvantaged communities. As USDA implements stimulus relief programs and spending authorized by the CAA and ARPA, we seek public comments on targeting funds toward food supply chain resiliency. USDA's initial thinking includes, but is not limited to, funding, through a combination of grants or loans, needs such as: Supply chain retooling to address multiple needs at once (*i.e.*, achieving both climate benefits and addressing supply gaps or vulnerabilities concurrently), expansion of local and regional food capacity and distribution (*e.g.*, hubs, cooperative development, cold chain improvements, infrastructure), development of local and regional meat and poultry processing and seafood processing and distribution, and food supply chain capacity building for socially disadvantaged communities. USDA notes that we will also consider public comments received during USDA's March 19, 2021, listening session and associated written comments on Coronavirus Response Grants related to CAA funding as part of the information considered for this Executive Order report;

(x) any executive, legislative, regulatory, and policy changes and any other actions to strengthen the capabilities identified in subsection (iii) of this section, and to prevent, avoid, or prepare for any of the contingencies identified in subsection (iv) of this section; and

NFFC comments

Independent family farmers, ranchers, and fishermen are fighting for their survival – facing more than six years of sinking prices (often below the cost of production), rising input costs, mounting debt and bankruptcies, and now regular extreme weather events. After years of continued market concentration and consolidated corporate power in food systems, family-scale farmers too often do not have the political or market power to negotiate fair contacts, the input costs for their farms, or the price of the food and products they sell. This free market approach in agriculture, absent fair prices and wage protections for small and mid-scale operations, has decimated America's rural economies. Net farm income has dropped nearly 50 percent since 2013 [1], with farm debt at historical highs [2], federal direct payments are keeping many producers temporarily afloat financially. But farmers want their livelihoods to be made through fair prices in a diversified and competitive marketplace, not through federal support programs that change from administration to administration and historically have prioritized larger-scale operations [3]. This highly inequitable system was designed for, and by, multinational agribusiness firms that have shaped our food system and agricultural supply chains to only be profitable for highly capitalized large-scale operations that these firms control. The scope and impacts of corporate concentration in the U.S. food system and agricultural supply chains is well known to USDA – in 2010 the Department of Justice (DOJ), together with USDA Secretary Vilsack, held a series of public workshop sessions on antitrust enforcement to understand these impacts on rural communities [4]. The lack of political action, public disclosure, and systemic policy reform across all sectors of the food system[2] following these DOJ hearings betrayed the trust of so many producers, many of whom spoke out at significant risk of retaliation from the powerful corporate interests they were denouncing.

If USDA wants to overcome the fallout from this period, it must take decisive action to diversify agricultural supply chains, strengthen antitrust enforcement, invest in local food systems, actively defend and implement the international human Right to Food, and address chronic overproduction of agricultural commodities that persistently drive farmers' prices down below their cost of production. Congress has repeatedly failed to adequately deal with most of these issues in past Farm Bills over recent decades. Instead, the status quo 2018 Farm Bill accepts that farmers will lose money, agricultural economies will become less competitive, corporate agribusiness will make record profits; it further inadequately tries to fill in the gaps with a variety of voluntary and market-based insurance programs to keep farmers afloat. But those Farm Bill programs are failing under the weight of consecutive years of low prices, now compounded by the COVID 19 crisis. The winners in this system are multinational agribusiness firms and large-scale corporate producers, processors, and commodity traders – not people living in rural communities and those working the land. Luckily, USDA has wide authority to address many of these issues today.

As USDA has the opportunity to chart a new path for rural America and agricultural supply chains, focused on decentralizing and diversifying our food and agricultural production and distribution, it is critical that USDA ground this work in a broader conceptual framework than just national and economic security. Instead, USDA should shift from a narrow food and agriculture value/supply chains focus to a more holistic food systems approach that recognizes the interwoven social, environmental, and economic factors inherent in how we produce and consume food and govern food systems at land and at sea. Furthermore, this approach must recognize and enforce the basic foundation of international human rights frameworks, which provide the critical common denominator for equality in agricultural governance systems, upon which all those working and living in our food system can then defend their rights, interests, and dignity. Finally, building upon this holistic understanding of food systems and human rights-based frameworks, federal food and agriculture policies should strive to be place-based i.e. adapted to, reflective of, and accountable toward the people and ecology of a particular region or territory. It is particularly important that indigenous food sovereignty, racial equity, and economic justice, be integrated across USDA's work on food systems.

With this framing, the National Family Farm Coalition provides the following comments on food and agricultural supply chains and looks forward to the opportunity to engage with USDA on these issues in the future.

[2] With the exception of the important actions take in 2016 related to the Packers and Stockyards Act of 1921, as described below.

Strengthen and implement anti-trust measures to address anti-competitive behavior in food and agricultural value-chains

Growing concentration of the agricultural sector and across food value chains has restricted producers' choices on where they can sell their products, buy farm inputs, how they produce food, and ultimately how they sustain their livelihoods. As the bargaining power of agribusiness firms over producers increases, concentrated agricultural commodity markets are stacked against the farmer, with buyers of agricultural commodities often possessing regional dominance in the form of oligopsony or monopsony relative to sellers. Buyers with oligopsonistic or monopsonistic power have incentives to engage in unfair and discriminatory acts that cause farmers to receive less than a competitive price for their goods.

There is growing consensus that economic consolidation contributes to the widening gap in economic opportunity in the United States and bigger, more dominant firms are more likely to deliver profits to investors than to raise wages or benefits. Mega-mergers in the food and agribusiness industries can lead to growing monopsony power abuse resulting in wage suppression, along with massive layoffs as companies shutter factories and facilities, harming working families and communities. Moreover, with the COVID-19 pandemic and cyber attacks, the vulnerability of our current food system was evident [5]. To restore competition in the agricultural economy, and to increase the bargaining power and enhance economic prospects for family farmers, the trend toward concentration must be reversed. This requires government action and policy reform.

<u>Policy action</u>
We call on USDA to:

1) Place a moratorium on large agribusiness, food and beverage manufacturing, and grocery retail mergers. This effort will stem further concentration in the U.S. food system and the extractive impacts on rural communities that come with it while USDA and Congress examine further necessary steps to address this trend.

2) USDA should establish a Food and Agriculture Concentration and Market Power Review Commission to study the nature and consequences of concentration in the U.S. food and agricultural economy, rural communities, the environment, and the potential disproportionate impacts on certain groups of producers, particularly farmers of color. This Commission should then make recommendations on how to change underlying antitrust laws and other Federal laws and regulations to keep a fair and competitive agriculture marketplace for family farmers, other small and medium-sized agriculture producers, generally, and the communities of which they are a part. Finally the merger moratorium should not be lifted until actions are taken to implement the recommendations of the Commission.

NATIONAL FAMILY FARM COALITION

Address anti-competitive, discriminatory, and exploitative practices in livestock supply chains

For decades, deregulatory efforts, anti-competitive behavior, and predatory practices by industry actors in the livestock sector have led to a small handful of corporations overwhelmingly dominating livestock and meat production in the United States, with significant negative impacts on the livelihoods of farmers and ranchers [6]. Compounding the problem associated with horizontal consolidation is the rapid trend toward vertical integration, with processors and packers increasingly controlling all stages of production through commodity ownership and one-sided contracts. This corporate control of production eliminates market transparency, creating an environment ripe for price manipulation and discrimination.

The societal impacts for farmers, workers, and consumers of this system became all too clear to the general public in 2020, when corporations increased meat exports, and meat prices for U.S. consumers skyrocketed with grocery store shelves bare in many parts of the country. Meanwhile, these same corporations failed to provide meat processing workers with adequate COVID-19 personal protection equipment (PPE), farmers were forced to euthanize millions of animals because of an overly concentrated meat processing sector, and farmers and ranchers' pay decreased due to corporate price-fixing. Significant regulatory reform of the livestock sector is needed.

In alignment with our allies in the Campaign for Contract Agriculture Reform, it should be noted that in 2010, USDA released a set of proposed regulations (referred to as "Farmer Fair Practices Rules" or the "GIPSA rules") in compliance with the 2008 Farm Bill requirement, but addressing other PSA reform issues as well. Before USDA could issue final regulations based on the comments, livestock and poultry companies and their allied industry groups successfully lobbied Congress to use the annual appropriations process to block USDA from finalizing the rules. As a result, agriculture appropriations bills for fiscal years (FY) 2012-2015 included "GIPSA riders" to block USDA from implementing the FFP rules and even rescinded some rules which had already been finalized. The Fiscal Year 2016 appropriations bill was the first in four years which did not block USDA from finalizing the FFP rules. Thus, in the final weeks of the Obama Administration a new set of three revised FFP rules were published to address the anti-competitive practices in the livestock and poultry sectors. [7] These proposed regulatory changes were strongly supported by a broad coalition of farm and consumer advocacy groups, with the exception of the "legitimate business justification" loophole language that was added to several of the proposed rule changes. Unfortunately, these rules did not survive the Trump Administration, which quickly delayed and then formally withdrew two of the pending FFP rules in October 2017 (the unfair practice/undue preference rule and the competitive injury clarification rule). The poultry tournament payment system rule was not withdrawn, but has been in limbo since December of 2016 without being finalized.

All three of the Farmer Fair Practices rules address circumstances were livestock and poultry companies are using their concentrated power in ways that are abusive, deceptive, unfair, or unduly preferential or prejudicial. The rules seek to provide more clarity to the meaning of those terms, as used in the Packers and Stockyards Act. We believe that the issues addressed by these three rules, if implemented, would lead to a more diverse and resilient system of livestock and poultry production, by providing farmers with more independence, eliminating economic chock holds that these companies have used against farmers, and eliminating bottlenecks in the supply chain.

Finally. if USDA wishes to provide targeted support to small and mid-scale livestock farmers and ranchers, and encourage these operations to adopt sustainable and regenerative practices, it needs to take steps to avoid regulations and policies that disproportionately impact small-scale and/or pasture-based systems. For example, the move towards mandatory electronic ID for cattle is inherently scale-prejudicial; it also promotes vertically integrated operations, which are overwhelmingly confinement rather than pasture-based. This is reflected in the costs analysis of earlier proposals to mandate electronic ID. A 2006 Kansas State University report found that costs of an RFID-based system are significantly higher for people with smaller herds due to the expense of the electronic infrastructure.[8] USDA's 2009 analysis affirmed this finding that significant greater costs would be imposed on small producers. Specifically, the agency found that large operations would pay $2.48/head as compared to $7.17 per head for what the agency termed the "smallest operations."[9] That's almost three times as high a cost for small operations – and the agency's estimates were deeply flawed. First, the so-called "smallest operations" included up to 50 head of cattle, even though USDA's NASS Census has classifications for cattle operations with 1-9 head, 10-19, and 20-49 head. Lumping all these operations together disguised the true (higher) cost for very small cattle operations. Moreover, the agency did not consider the specific challenges faced by pasture-based operations as compared to confinement operations. Tag losses due to animals getting their tags caught on brush or fences will be higher than in confinement operations. Similarly, most pasture-based operations will not qualify for a group identification number because their herds and flocks are comprised of animals from different sources, rather than being managed together from birth to death and not commingled with other animals. [10] Group ID numbers are used to "identify a 'unit of animals' of the same species that is managed together as one group throughout the preharvest production chain."[11] In practice, this only occurs in the vertically integrated confinement operations. Increasing the costs of the tags through moving to a mandate for electronic ID thus further increases the differential in costs between small, pasture-based farms and large, vertically integrated operations – the small, pasture-based farms will see their costs increase significantly, while the large, vertically-integrated operations that can use group ID will see no increase in their costs at all.

<u>Policy action</u>
We call on USDA to address these supply chain issues in the livestock sector by:

1) Immediately withdrawing the 2020 Undue and Unreasonable Preference or Advantage Rule which unfairly legitimizes and entrenches anticompetitive and discriminatory practices by meatpackers in the livestock sector.

2) Initiate a new rulemaking under the Packers and Stockyards Act of 1921 to address anticompetitive practices in the livestock and poultry sectors, including (but not limited to):

a) Make clear that individual farmers do not need to show anti-competitive impact on the entire industry in order to pursue a complaint under the Packers & Stockyards Act (PSA).

b) Prohibit meatpackers from procuring livestock for slaughter through the use of a forward contract unless the contract contains a firm base price and is bid in an open, public manner.

c) Eliminate "pro-competitive effects" or "legitimate business justifications" as defenses to claims arising from a meatpackers' violation of conduct prohibited under the PSA.

d) Prohibit companies from requiring any additional capital investment in contract growing facilities, unless growers are additionally and fairly compensated at the time of the upgrade and require companies to reimburse growers for contractually required capital investments if the contract is cancelled prematurely without cause.

e) Prohibit the use of a tournament or ranking system for paying contract growers for their capital and services, or any payment mechanism that is based primarily on factors outside the control of the grower.

f) Prohibit poultry companies, meatpackers or swine contractors from retaliating against livestock and poultry farmers for talking to their Member of Congress or other federal officials regarding concerns about their contracts or marketing arrangements, for making lawful disclosures related to potential violations of the PSA, or for joining together in producer associations.

To address the supply chain bottlenecks associated the concentration in U.S. meat processing, we recommend USDA financial resources (both grants and loans) be dedicated to:

3) Expand existing state-inspected and federally inspected meat processing plants.

4) Build new plants to expand geographic diversity of meat processing

Prior to any financial assistance being provided for meat processing infrastructure expansion, USDA should conduct an assessment of the market needs, with a particular focus on ensuring adequate access to meat processing facilities in all regions of the country. Priority should be given to farmer-owned cooperative models of meat processing, to allow the livestock farmers whose animals are processed at the facility to retain a greater share of the value of their product.

USDA funding should also be made available for feasibility studies to be conducted by those entities exploring the construction of a new plant or expansion of an existing plant.

5) Expand flexibility for state-inspected plants by supporting legislation to allow give individual states freedom to permit intrastate distribution of custom-slaughtered meat such as beef, pork, or lamb to consumers, restaurants, and grocery stores. Specifically, the Administration should support and encourage the passage of Processing Revival and Intrastate Meat Exemption (PRIME) Act (H.R.3835).

Address anti-competitive and exploitative practices in the dairy sector

Corporate power in the dairy sector, like the livestock sector, is similarly significant, with extremely concerning implications for the welfare and livelihoods of family scale dairy farmers and the rural communities in which they live [12]. There are fewer than 34,000 dairy farms remaining in the United States, just a fraction of the more than 233,000 family-scale dairies that flourished in the 1980s. Continued volatile milk pricing, the dismantlement of price support systems in-lieu of milk price insurance programs (most recently in the 2018 Farm Bill), and growing production costs for farmers have left the dairy industry in a multi-decade crisis, with family-scale dairies facing particular economic struggles since 2014. While acceleration of the dairy crisis over the past two decades indicates that systemic reform of federal dairy policy through legislation is still needed, some policy tools to address this crisis are available to the USDA and DOJ - with its enforcement of existing anti-trust laws - which are key to stemming concentration and consolidation within the dairy industry.

Dairy farm milk prices are determined by a very thin "market" trading system at the Chicago Mercantile Exchange (CME), attached to a USDA formula. In 2000, and again in 2014, USDA's pricing formula shifted from linking dairy prices to farmers' cost of production, to market prices of milk products (also known as component pricing). This process of determining dairy prices has contributed to dairy prices consistently falling below family-scale operators' cost of production, forcing thousands of small and mid-scale dairies to either scale-up production or exit the sector: in 1997, over 125,000 US dairy farms were milking 9 million cows; in 2017, there were only 54,599 farms, but they were milking 9.4 million cows. During the same period, annual US milk production grew from 167 billion pounds to 218 billion pounds, fueled by the allure of selling into foreign markets to make up for low domestic prices. The impacts of this consolidation on dairy farmers and the rural economies they support have been severe: in 2018, Wisconsin (the second largest dairy state) lost nearly two dairy farms per day, which is 30 percent more than in the previous year, while nationally, 2,700 dairy farms went out of business. For those still in the dairy sector, most are facing significant debt stress. Debt relief is one important tool, but many indebted dairy farmers have been forced out of both federal (FSA) and formal credit systems. Reforming dairy markets, and dairy pricing systems to ensure producers, at a minimum, receive prices that cover their cost of production at scale, is critical to stabilize the dairy industry and the rural economies across dairy country.

As dairy production has consolidated, so too has dairy processing. Since 2017, one-third of milk sales are now from large-scale dairies (with animals usually in confinement) with over 2,500 cows, and the four largest dairy cooperatives market 41 percent of all U.S. milk. Over the past two decades the Government Accountability Office has released two reports (2007 and 2019) related to consolidation concerns in the dairy sector, and the impacts on farmers' economic viability. [13] Despite the clear and consistent concerns about low farmer prices and industry consolidation, no major tangible policy change in the dairy sector emerged from the GAO investigations or the 2010 DOJ hearings.

Policy action

To make progress toward addressing anti-competitive and unfair pricing trends in the dairy sector, we call on USDA to:

1) Hold regular hearings on the dairy crisis and market consolidation in the sector, giving priority voice to family-scale producers and community-based farmer organizations. These hearings should be oriented toward identifying actionable policy solutions to address consolidation, price manipulation, and industry collusion trends in the sector, as well as ensuring fair prices for producers linked to their cost of production.

2) Conduct a public review, with stakeholder input prioritizing family-scale producers, of USDA component pricing formulas and the federal milk marketing orders before 2022.

3) Support model legislation for the next Farm Bill on advancing federal dairy supply management and parity pricing policy tools that ensure average farm-gate prices of raw milk guarantee farmers receive fair prices that (at a minimum) allow cover their costs of production based on scale of herd size.

Reinstitute parity pricing mechanisms and supply management

The first farm bill, passed in 1933 as part of President Franklin Roosevelt's New Deal, aimed (in-part) to stabilize farm gate prices and rural economies, and address concentrated corporate control of food systems through key policy mechanisms such as parity pricing and supply management of commodity agricultural goods. Key components of these programs included:

• Managed supply, ensuring prices don't fall below farmers' costs of production (COP).

• Price floors, which kept prices and farmer incomes steady like a minimum wage.

• Grain reserves, which allowed the government to purchase surplus commodities to keep them off the market, preventing price crashes.

• Conservation incentives, which kept marginal land out of production.

Over the course of the more than seven decades since the 'parity years' these policies and programs have been gradually undermined as agricultural markets in the U.S. have been liberalized. The loss of these programs have resulted (particularly since the 1980s farm crisis) in increasing farm forecloses and farmland consolidation, corporate dominance of key parts of food systems (such as processing), and skyrocketing farm debt. Meanwhile, in countries where similar policy frameworks still exist, such as Canada's largely successful dairy and poultry supply management programs, family-scale operations have been largely protected from these negative consolidation and farm debt trends. As corporate consolidation in the U.S. food and agriculture sector in 2021 has reached levels comparable to the 1930s, and farm debt has reached historic highs, it is time for Congress and USDA to reconsider the benefits of these historical U.S. policies. If integrated with greatly expanded conservation programs supporting more regenerative, climate-resilient systems, the benefits of policies to ensure a parity price for farmers could bring multiple benefits to rural communities. It would remove the constant pressure of wildly fluctuating prices and year-to-year survival, allowing farmers to invest in more sustainable cropping systems supporting greater soil health, lower carbon emissions, and cleaner water. It would reduce financial burdens on taxpayers to bolster farm incomes driven down by overproduction. It would allow farmers to extend crop rotations and transition to more diversified operations that return livestock to the land managed by independent family farmers and ranchers. It would provide a stable market for the next generation of farmers and entice kids back to the farm. And with input from farmers of color and others who have faced historical discrimination within farm programs, it could ensure that these programs provide fair access for everyone. [14]

<u>Policy action</u>
We call on USDA to:

1) Support model legislation for the next Farm Bill on advancing federal supply management and parity pricing policy tools for top (in-terms of volume of production) commodity crops, to ensure average farm-gate prices for these commodity crops guarantee farmers fair prices that (at a minimum) allow cover their costs of production, while limiting overproduction of these crops.

Investment in local and regional land and sea food systems

Local and regional food systems, are critical for both rural economies and addressing food insecurity in the United States, which skyrocketed during the COVID 19 pandemic. As mentioned previously, highly concentrated corporate supply chains have proved highly vulnerable to the public health shocks of COVID-19 in 2020, as well as economic and environmental shocks in years prior. In contrast, smaller-scale and more diversified operations have shown to be more resilient in adapting their production and marketing strategies to keep their communities fed in a safe and sustainable manner. But local food producers' resilience and capacity to pivot in the face of crisis also comes with costs - investing in PPE, new packaging and equipment, and food delivery strategies are up-front costs that many family-scale operations had to make in the last year in particular. Public investment in local food systems have proven broadly successful and need further upscaling and technical support in order to reach more people. But we know that local food infrastructure is not equitable distributed throughout the country - there is extensive evidence showing that low-income communities and communities of color are chronically underserved and do not have access to local food - and smaller-scale, local food producers are consistently economically undercut but large-scale corporate producers. Furthermore, land and sea food systems are too often treated as distinctly separate systems, in-turn failing to recognize the common needs of family-scale farmers and fishermen, the ways in-which land and sea systems both impact and are inter-dependent on each other, and the common challenges of corporate dominance and anti-competitive behavior that undercuts small-scale and diversified operations in both land and sea food systems. Now is the time for USDA to make substantial investments, in-terms of funding, technical assistance, and targeted outreach to underserved communities and producers, to strengthen local and regional food systems.

<u>Policy action</u>
We call on USDA to:

1) Recognize that the 2018 Farm Bill made critical, but limited, investments in the popular Local Agricultural Marketing Program (LAMP) and, in-alignment with Congressional leaders' action in 2020 and 2021, support model legislation [15] that commits $500 million to investing in LAMP and rebuilding local food systems and markets impacted by COVID-19. In particular, we support allocating this additional LAMP investment with stipulations that direct $100 million to farmer support organizations that serve historically underserved producers; provides $50 million for grants to assist producers in finding ways to get their products to historically underserved consumers in need; and reduces matching requirements for certain nutrition programs and grant programs under LAMP.

2) Invest in small and midscale shoreside infrastructure, including docks and cold storage facilities, which decentralizes the fisheries and seafood processing sector.

Transparency in value-chains through Mandatory Country-of-Origin Labeling (MCOOL)
With food and agriculture value-chains being increasingly globalized, family-scale operations in the U.S. must compete against powerful corporate actors, both domestic and multinational, at every stage of production, distribution and sales. Lack of transparency in food and agricultural value-chains makes it difficult for family-scale operations in the U.S. to differentiate their products from those imported by corporate distributors. This lack of transparency similarly relegates consumers from any country, who value transparency in the marketplace, to mere purchasers of generic commodities, unable to exercise choice regarding the country or countries where they want their food grown.

The solution to this impediment to competition and transparency is to distinguish food products according to their origin with a mandatory country-of-origin label (MCOOL). [16] With MCOOL, U.S.

farmers and ranchers can promote their domestic products based on their U.S. attributes, including being produced under U.S. production, safety and quality standards. Similarly, with MCOOL consumers can make purchasing decisions based on desired attributes. Consumers may prefer to support their domestic food industry, invest in shorter supply chains, avoid products produced under certain regulatory regimes, or choose products created in countries in which they have the most confidence. In short, MCOOL facilitates competition by differentiating products based on their origins and it empowers consumers to exercise choice in the marketplace based on origin information.

Mandatory COOL, having been passed into law in the 2002, has already demonstrated strong support by producers and eaters in the U.S. The series of WTO complaints from 2012, and subsequent 2016 regulatory changes that effectively eliminated beef and pork from qualifying for COOL regulation, have not changed the broad support for the market transparency that the COOL regulatory tool provides for both consumers and producers. [17]

Presently, beef and pork are the only outlying commodities no longer subject to the COOL law's requirement that consumers be informed of the country of origin of the food they purchase for themselves and their families at retail.

<u>Policy action</u>
We call on USDA to:

1) Send draft legislation to Congress to require:

    a) All beef and pork in U.S. commerce to be labeled as to where the animal was born, raised and slaughtered.

    b) All retailers to label all beef and pork products accordingly;

    c) Eliminate producer record-keeping requirements by relying exclusively on preexisting import marking requirements to distinguish between imported livestock (those with markings or import documentation) from those without markings or import documentation (meaning unmarked and undocumented livestock are presumed born and raised in the USA). These three elements will address the underlying basis for the WTO's adverse ruling regarding how the current COOL law treated imported livestock.

2) Immediately broaden the range of all other commodities that remain subject to the COOL law as was done in Item 1 above so consumers can receive the benefits of more COOL labels on the foods they purchase. Note that the current COOL law unnecessarily limits both the definition of retailer and the scope of products they must label.

3) Immediately add dairy products to the list of commodities subject to the COOL law.

4) Immediately codify the ongoing requirement that all imported livestock be marked or otherwise identified when entering the United States. This can be accomplished by removing livestock from the U.S. Department of the Treasury's list of imported products that are exempt from the United States general requirement that all imported products be permanently marked with their respective mark of origin as a condition of importation into the United States. This list of exempted items is commonly known as the "J-List".

Equity and access to technical assistance, education, and training

Farmers of color and small-scale producers have historically been underserved by USDA programming. Lack of targeted outreach, limited USDA resources and staff at county offices, and systemic discrimination have all contributed to this inequitable participation. An appropriate response to this historical trend is, in part, to urgently establish an independent, transparent, and accountable equity commission to oversee USDA program implementation at the national and local levels. In addition, USDA should consult, collaborate, and provide material support to community based organizations with historical experience in serving farmers and communities of color to support effective outreach and education strategies at the local level. In particular, we urge USDA to package its technical and advisory services, including information on heirs property policies, for beginning farmers and ranchers, with focus on potential beneficiaries of the Farm Opportunities Training and Outreach (FOTO) Program, who are less likely to have knowledge and experience engaging with USDA.

The 2018 Farm Bill made important investments in the FOTO program, which we encourage USDA to consider as an important reference and starting point for supporting more BIPOC producers in our food system. In that effort, it is critical that the funding, objectives, and transparency of the FOTO remain in-tact and not be diverted or misallocated to other Office of Partnerships and Public Engagement (OPPE) activities or programs.

<u>Policy action</u>
We call on USDA to:

1) On an on-going basis, USDA must ensure that the application process of the FOTO program is accessible to farmers and community-based farmer support organizations with limited technical capacity. USDA should implement a three-year grant cycle for OASDVFR grants, with a funding maximum, in order to assure best investment of the funds for real impact, to remain consistent with the current process for BFRDP grants, and to adhere to the requirements of the FOTO Farm Bill language. Furthermore, USDA should allow a minimum 60-day application period for the FOTO program to ensure those under-resourced communities and organizations with limited technical capacity have a fair opportunity to apply.

NATIONAL FAMILY FARM COALITION

2) USDA should proactively support Congressional action to double funding for the FOTO program.

Thank you for the opportunity to provide these comments.

Sincerely,

Jordan Treakle

National Family Farm Coalition
National Programs and Policy Coordinator

References:

[1] What is Farm Median Income? (February 27, 2019) David Widmar, Agricultural Economic Insight, https://aei.ag/2019/02/25/what-is-median-farm-income/

[2] Agricultural debt continues to increase for today's farmer, (February 22, 2021) AGDAILY, https://www.agdaily.com/news/agricultural-debt-continues-increase/

[3] Parity for Diversified Family-scale Produce Farms, Like Mine, (April 5, 2021), Elizabeth Henderson, https://disparitytoparity.org/parity-for-diversified-family-scale-produce-farms-like-mine/

[4] DOJ and USDA Hold First-ever Workshop on Competition Issues in Agriculture (March 12, 2020) https://www.justice.gov/opa/pr/doj-and-usda-hold-first-ever-workshop-competition-issues-agriculture

[5] Fair Prices & Farm Justice for Racial Equity and Food System Resilience, (December 1, 2020) Garret Graddy-Lovelace, https://disparitytoparity.org/from-disparity-to-parity/

[6] How the Lack of Parity Supports Industrial Livestock Production, (April 16, 2021), Siena Chrisman, Jordan Treakle, Patty Lovera, https://disparitytoparity.org/how-the-lack-of-parity-supports-industrial-livestock-production/

NATIONAL FAMILY FARM COALITION

[7] U.S. Announces Farmers Fair Practices Rules - Clarifications for Industry & Protections for Farmers, (December 14, 2016), USDA, https://www.usda.gov/media/press-releases/2016/12/14/usda-announces-farmer-fair-practices-rules-clarifications-industry

[8] RFID Cost.xls – A spreadsheet to estimate the economic costs of a radio frequency identification (RFID) system, K.C. Dhuyvetter and D. Blasi, Version 7.6.06. https://www.agmanager.info/estimating-costs-rfid-radio-frequency-identification-systems

[9] Benefit-Cost Analysis of the National Animal Identification System, NAIS Benefit-Cost Research Team (Jan. 14, 2009) (hereinafter "Cost-Benefit Analysis") at page 28.

[10] *See* User Guide (Dec. 2007) at p.24 (Group/Lot identification may be sued for animals that "move through the production chain as a group").

[11] 9 C.F.R. sec. 86.1.

[12] Dairy Together: Building a Farmer-lead Movement for Supply Management, (March 30, 2021), Sarah E. Loyd, https://disparitytoparity.org/dairy-together-building-a-farmer-led-movement-for-supply-management/

[13] Dairy Cooperative: Potential Implications of Consolidation and Investment in Dairy Processing for Farmers, (October 28, 2019) U.S. Government Accountability Office, https://www.gao.gov/products/gao-19-695r

[14] Supply Management, Parity Prices, and Ecological Thinking as the Foundation for a Practical Agriculture System, (April 20, 2021), Kathryn Anderson, https://disparitytoparity.org/supply-management-parity-prices-and-ecological-thinking-as-the-foundation-for-a-practical-agriculture-system/

[15] See the Local FARM Act of 2020 (S. 4140); see the Justice for Black Farmers Act of 2021 (S. 300)

[16] Country of Origin Labeling (COOL), (Last updated April 13, 2021), USDA-Agricultural Marketing Services, https://www.ams.usda.gov/rules-regulations/cool

[17] Why and How Mandatory COOL Should Be Reinstated Through the NAFTA Renegotiations, (May 2nd, 2017), R-CALF USA, https://www.r-calfusa.com/mandatory-cool-reinstated-nafta-renegotiations/