



Animal Welfare Institute

900 Pennsylvania Avenue, SE, Washington, DC 20003

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S. Brett Offutt, Chief Legal Officer/Policy Advisor
Packers and Stockyards Division
AMS Fair Trade Practices Program
U.S. Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250

Submitted via regulations.gov

RE: Comments on AMS-FTPP-21-0044, Proposed Revisions to Packers and Stockyards Act: Transparency in Poultry Grower Contracting and Tournaments

Dear Mr. Offutt:

The Animal Welfare Institute (AWI) submits these comments in response to the Agricultural Marketing Service's (AMS) proposed revisions to the Packers and Stockyards Act of 1921. AWI was established in 1951 to reduce the suffering caused by humans to all animals, including those raised for meat, poultry, and egg products. In furtherance of its mission, AWI works to advance policies that protect the welfare of animals used in agriculture, which also includes advocating for a fairer and more transparent marketplace. Additionally, AWI believes improving grower's decision-making abilities has the potential to improve bird welfare.

AWI supports AMS's efforts to require greater accountability from a highly concentrated integrator market. AWI supports robust disclosures to growers including disclosing facility specifications, identifying inputs that affect settlement, disclosing information regarding any known health impairments of the flock delivered to the grower and the origin breeding facility. AWI is also in support of increasing grower preparedness by requiring integrators to commit to minimum poultry placements and stocking densities. As critics of the poultry growing industry have repeatedly discussed, growers face large investment, little choice, and poor ability to make wise financial decisions. These rules will create a fairer and more transparent marketplace by requiring more upfront disclosure and better prepare growers who are investing in this industry.

Transparency in the grower/integrator relationship is also vital to improving bird welfare, particularly with respect to infrastructure expectations. By requiring integrators to disclose expected improvements to infrastructure, growers are better able to plan for updates to housing infrastructure to maintain clean, up-to-date living conditions for their animals. This reduces potential welfare concerns from ill-prepared growers who face financial difficulties related to upkeep expenses. While AWI supports many of the provisions of the proposed rule, AWI makes the below suggestions to § 201.214(b), § 201.100(b), and § 201.100(e).

A. Integrators should be required to disclose known health impairments at least 24 hours before the flock is placed with the grower and be responsible for disease tracking.

AMS's current proposal requires integrators to disclose known health impairments of flocks and offspring within 24 hours of the flock arriving with the grower. 87 Fed. Reg. at 35,024 (§ 201.214(b)). Identifying input sources and alerting growers to potential disease outbreaks in incoming flocks will help reduce animal suffering and farmer financial stress. As the proposal mentions, broiler flocks suffering from salmonella run the risk of dehydration, burned claws, weakness, and diarrhea. If growers are unaware of diseased birds in the flock, the grower runs the risk of salmonella spreading to more birds and creating an unsafe environment for the flock. Alerting growers to potential contamination in the flock decreases response time and increases the likelihood of earlier veterinary intervention. As demonstrated by the hypothetical involving a grower receiving a flock infected with salmonella in Section E of the proposed rule, AMS has recognized the advantage of medical preparedness.

AWI recommends that integrators be required to inform growers of health impairments at least 24 hours **before** the time of flock placement. Knowing health impairments of the flock allow growers to better prepare for the arrival of diseased or injured flock. Earlier notice gives the grower time to make proper housing adjustments, implement biosecurity measures, and make certain the integrator plans to send the necessary veterinary care and medicated feed. Further, giving growers earlier notice ensures a fairer marketplace. Diseases and subsequent treatments have the potential to hinder growth in flocks. The earlier growers can identify disease and administer corrective action, the less likelihood growers' flocks will fall behind the desired growth rate.

AWI also stresses the importance of the proposed rule's inclusion of the breeder facility identifier numbers in the Disclosure Document. This will allow growers to keep track of the quality and health of flocks it receives from specific breeder facilities or monitor facilities known for sending diseased animals. It also further empowers growers to inform an integrator about problematic breeding facilities, or better inform the grower as to which integrator to contract with.

AWI also recommends the poultry integrator's responsibility to disclose a flock's "known health impairments" should extend beyond the time the flock is placed with the grower. If growers are facing difficulties beyond their control with birds from a particular breeding facility or hatchery, the poultry dealers should be required to inform other growers with birds from the same facility as the diseased flock. For example, if a grower receives a flock infected with a pathogen or with genetic problems originating from a breeding facility, growers who received flocks from the same facility need to be on alert for issues in their own flocks. This will broaden the effectiveness of the regulation, as not only will an individual grower have better management of a given flock, but the entire affected community of growers will be better prepared in the event of a disease outbreak.

B. Include the disclosure of animal welfare policies and procedures of both the relevant trade group and the integrator.

AWI suggests that the rule require disclosure of animal welfare policies of both the relevant industry trade groups and the integrator.¹ For example, the National Chicken Council, an industry trade group which many integrators are a member of, has specific guidelines for broiler welfare.² Additionally, companies like Tyson have certain requirements of their growers to maintain animal welfare. In fact, Tyson requires “Independent, third-party auditors visit livestock and poultry farms that supply Tyson Foods to check on such things as animal access to food and water, proper human-animal interaction, and worker training.”³ This information should be disclosed upfront, as it gives growers a more holistic view of their obligations when entering a contract. Moreover, disclosing welfare policies and procedures has potential benefits for integrators and industry. By ensuring growers are informed of the full range of required trade policies and integrator’s policies, potential animal welfare concerns can be lessened.

Moreover, AWI recommends that integrators be required to disclose that these policies are *minimum* animal welfare standards that do not guarantee optimum animal welfare or health. With this information, growers would be well-informed of their basic duties in caring for their flock, but an explanation that these are *minimum* welfare standards would inform growers that more may be required of them to maintain a healthy flock.

C. Initial pre-contract disclosures should include the dealer’s protocol for excessive bird death.

AWI recommends the Disclosure Document include the integrator’s protocol for responding to excessive bird death, or when more than a certain percentage of a given flock, beyond what is typical in the industry, dies within a given period. We encourage AMS to revisit President Biden’s Executive Order, which instructs the agency to consider:

prohibiting unfair practices related to grower ranking systems — systems in which the poultry companies, contractors, or dealers exercise extraordinary control over numerous inputs that determine the amount farmers are paid and require farmers to assume the risk of factors outside their control, leaving them more economically vulnerable.⁴

Given the numerous input variables poultry flocks are subjected to before even arriving at the grower’s operation, poultry flocks can suffer from rates of excessive death outside the grower’s control. Issues like genetic disorders, highly contagious outbreaks, or diseases of unknown causes are beyond the grower’s control yet could potentially kill large portions of their flock. Growers need to be prepared for this scenario by knowing who to contact, how the integrator

¹ This could perhaps be a disclosure under § 201.100(b).

² See generally, *NATIONAL CHICKEN COUNCIL ANIMAL WELFARE GUIDELINES AND AUDIT CHECKLIST FOR BROILERS*, THE NATIONAL CHICKEN COUNCIL (Sept. 2020), https://www.nationalchickencouncil.org/wp-content/uploads/2021/02/NCC-Animal-Welfare-Guidelines_Broilers_Sept2020.pdf.

³ *FarmCheck® Animal Well-Being Program at a Glance*, TYSON FOODS (2018), https://www.tysonustainability.com/downloads/Tyson_Foods_FarmCheck_Program.pdf.

⁴ Exec. Order No. 14,036, 86 Fed. Reg. at 36,993 (July 14, 2021).

wants the grower to act, and what sort of compensation exists for the grower in this event. As the Executive Order stresses, growers should not have to assume the risk for factors outside their control. This addition will not only create more prepared growers, but ensure growers affected by events beyond their control are not significantly disadvantaged by comparison to other growers.

D. A large portion of integrators should not be exempt from the rule.

As written, the proposed regulation exempts small live poultry dealers who slaughter fewer than 2 million live pounds of poultry weekly from providing the Disclosure Document. 87 Fed. Reg. at 35,023 (§ 201.100(e)). AMS should not exempt such a large number of live poultry dealers. Of the total 89 live poultry dealers, 47 qualify as small live dealers and would be exempt from the rule. This equates to almost half of the industry being exempt from the proposed rule. AWI is concerned that growers and flocks involved in the smaller integrator market suffer from the same disadvantages as other parts of the industry but will not benefit from the proposed regulations.

If AMS aims to exempt such a large number of growers, it should at minimum provide empirical data to support this action, rather than generalized assumptions about the small integrator industry. AMS should disclose in greater detail its reasoning behind the conclusion that smaller growers are not susceptible to being taken advantage of or are not lacking important disclosures from integrators. If AMS is unable to support this conclusion, AWI encourages the agency to reconsider this exemption.

Thank you for the opportunity to provide input on these proposed regulations and for consideration of our comments. If you have any questions or would like to discuss this comment, please contact me via email at adrienne@awionline.org or by phone at (202)446-2153.

Sincerely,



Adrienne Craig, Esq.
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Animal Welfare Institute