



June 29, 2022

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, D.C. 20250

Re: Transparency in Poultry Grower Contracting and Tournaments; Proposed Rule; RIN 0581-AE03; 87 Fed. Reg. 34980 (June 8, 2022); Poultry Growing Tournament Systems: Fairness and Related Concerns; Advanced Notice of Proposed Rulemaking, Request for Comments; RIN 0581-AE18; 87 Fed. Reg. 34814 (June 8, 2022).

Dear Secretary Vilsack,

The National Chicken Council respectfully requests that the U.S. Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) grant an extension of the comment period for the above-referenced Proposed Rule and Advanced Notice of Proposed Rulemaking (ANPR). For the several reasons set forth below, NCC believes such an extension is warranted.

The Proposed Rule, which would establish numerous additional disclosure requirements in connection with the use of performance-based poultry grower compensation arrangements, and the ANPR, which seeks extensive comments and information to inform policy development and future rulemaking proposals regarding the use of poultry grower ranking systems, would both have wide-ranging impacts on current industry operations. It is highly likely that the Proposed Rule and actions suggested by the Proposed Rule and ANPR would bring significant compliance costs upon the industry during the highest inflationary period in the United States in over forty years.

While presented as furthering "transparency," the 52-page Proposed Rule and the ANPR's wide-ranging, detailed information collection request are tremendously complex and warrant careful scrutiny, analysis, and the submission of comprehensive comments. To that end, it is appropriate that additional time is allotted to the affected stakeholders so that they may provide the most substantive comments possible.

NCC appreciates the opportunity to comment on the Proposed Rule and ANPR and to consider the economic, legal, and operational impacts they would have on all stakeholders. However, USDA has implied in the questions posed by the ANPR that future rulemaking could effectively eliminate the use of the tournament system. Additionally, USDA has announced in press releases¹ and in the 2022 Spring Regulatory Agenda² its intent to conduct rulemaking regarding the Proposed Rules entitled, "Unfair

¹ USDA [press release](#), June 11, 2021.

² USDA [2022 Spring Regulatory Agenda](#), published June 22, 2022.

Practices in Violation of the Packers and Stockyards Act”³ and “Clarification of Scope of the Packers and Stockyards Act”⁴, which are inexorably connected to the Proposed Rule and questions posed in the ANPR referenced above. NCC finds it extremely difficult to ascertain the full impacts – economically, legally, and operationally – of the Proposed Rule and ANPR, without the opportunity also to consider the other proposed rules USDA is preparing for release according to the 2022 Spring Regulatory Agenda.

This is not just one rule; rather, it is three rules and the possibility of more, all of which have been presented as intended to operate together to effect changes to the poultry supply chain. As such, NCC respectfully requests that USDA extend the comment period of the Proposed Rule and ANPR until at least 180 days after the official publication of the “Unfair Practices in Violation of the Packers and Stockyards Act” and “Clarification of Scope of the Packers and Stockyards Act” Proposed Rules in the *Federal Register*. Doing so would allow NCC and its members to fully study the impact that the Department’s full competition agenda would have on industry efficiency and compliance costs, food availability and hunger, and inflationary pressures.

Thank you for your consideration. If you need further information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mike Brown', with a long horizontal flourish extending to the right.

Mike Brown
President
National Chicken Council

Cc: S. Brett Offutt, Chief Legal Officer and Policy Advisor, Packers and Stockyards Division, USDA
Agricultural Marketing Service Fair Trade Practices Program

Andy Green, Senior Advisor for Fair and Competitive Markets, USDA

³ USDA’s Proposed Rule titled, “[Unfair Practices in Violation of the Packers and Stockyards Act.](#)” (AMS-FTPP-21-0045), RIN 0581-AE05.

⁴ USDA’s Proposed Rule titled, “[Clarification of Scope of the Packers and Stockyards Act.](#)” (AMS-FTPP-21-0046), RIN 0581-AE04.