



August 13, 2021

Elizabeth C. Archuleta
Director, Office of Intergovernmental & External Affairs
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Re: Identifying Barriers in USDA Programs and Services; Advancing Racial Justice and Equity and Support for Underserved Communities at USDA; Docket ID FSA- 2021-0006

Dear Ms. Archuleta,

Center for Food Safety (CFS) appreciates the opportunity to comment on barriers to participation in USDA programs and services. CFS shares USDA's commitment to advancing racial justice and equity in the food and agricultural sector.

Through groundbreaking legal, scientific, and grassroots action, CFS serves to protect and promote the right to safe food and the environment. CFS' mission is to empower people, support farmers, and protect the earth from the harmful impacts of industrial agriculture.

Below are comments in our priority areas addressing barriers in USDA programs across CFS' subject expertise with recommendations to be implemented across the Department.

USDA has Historically Perpetuated Racism and Inequity

Discrimination has existed systematically within the United States since the country's inception and the United States Agricultural System is no exception.¹ President Lincoln created the United States Department of Agriculture (USDA) in 1862. He called it the "people's Department" because of its direct connection to all citizens. However, many Americans do not recognize Lincoln's sentiment. Indeed, the first major governmental effort to promote agriculture distributed homesteading land mostly to white farmers. The land, moreover, was taken from Native tribes. USDA is often referred to as "the last plantation" due to its long, pervasive history of open discrimination against Black farmers. Looking specifically at Black participation in the food system, Black farmers make up less than 2 percent of U.S. farmers.² This is consistent with the historic decline in Black participation in USDA programs: In 1920, 14.3 percent of farms in the United States were owned or operated by Black farmers. Today, these farms account for less than 1 percent. Overtly discriminatory policies have stood at the foundation of the federal agricultural framework, and have been politically, economically and socially codified in the Nation's Farm Bill. Between the Great Migration of the Jim Crow Era, which pushed Black families out of their Southern land, and the structures of USDA loan and benefit allocation

¹ See generally, Kirstol Bradley Ginapp, *Jimm "USDA" CROW: Symptomatic Discrimination in Agriculture*, 8 Drake J. Agric. L. 237, 238 (2003).

² U.S. Dep't of Agric., 2019 Census of Agriculture Highlights (2019).

processes (which has largely been run by local committees of white men), access to land and credit made it nearly impossible for Black farmers to make farming an economically viable profession.

Government-subsidized white corporate farms receive billions in annual subsidies. However, BIPOC farmers are rarely receiving the same federal assistance: For example, according to a USDA Economic report, the output of U.S. farms is, on average, \$136 billion:³ yet, according to the 2017 USDA census, 57 percent of Black farmers made less than \$5,000 in annual sales revenue between 2012 to 2017 and account for only .4 percent of all U.S. farm sales.⁴ In 1999, USDA made an admission of discriminating against Black farmers in the *Pigford v. Glickman* case, a class action lawsuit against USDA for failure to grant Black farmers credit.⁵ The first case resulted in a \$1.06 billion in cash relief, tax payments and debt relief to claimants. However, nearly 9 in 10 claimants who applied for compensation were denied it, and a second *Pigford* case was initiated.⁶ In February 2010, Tom Vilsack reached an agreement known as *Pigford II*. The federal government agreed to pay \$1.25 billion to those who could not obtain determination on the merits in *Pigford I*, due to missing the original filing deadline.⁷ While these cases resulted in demonstrable monetary relief for farmers, it was only for claimants who were farmers between 1981 and 1996. This clearly does not account for those who lost land and were denied services from USDA from Reconstruction until now. Further, this settlement did nothing to ensure that future discrimination in USDA was eradicated. While USDA has made strides towards increasing Black farming, there is a great deal of work to be done to establish equitable access to federal agricultural support.

Hunger and Malnutrition Disproportionately Impact People of Color

Combating hunger and malnutrition is more than a moral duty or a policy choice; it is a critical step in ensuring a safe and secure future for the United States. And USDA works towards, or should work towards, safeguarding and implementing fair policies that protect every citizen in every community in the United States from hunger. As of 2021, due to the pandemic, the number of people facing food insecurity has increased from 35 million to a staggering 42 million people,⁸ with Black and Hispanic households recording the highest rates of food insecurity, of 19.1% and 15.6% respectively, both higher than the national average of 10.5%.⁹ These statistics speak to the lack of racial justice and equity practiced in such important areas of society. Shifting focus to the several federal Food and Nutrition assistance programs in place like SNAP, WIC (the Special Supplemental Nutrition Program for Women, Infants, and Children), and the National School

³ U.S. Dep't of Agric., 2017 Census of Agriculture (2017), <https://www.ers.usda.gov/data-products/ag-and-food-statistics-charting-the-essentials/ag-and-food-sectors-and-the-economy/>

⁴ U.S. Dep't of Agric., 2017 Census of Agriculture: Black Producers (2017), https://www.nass.usda.gov/Publications/Highlights/2019/2017Census_Black_Producers.pdf

⁵ *Pigford v. Glickman*, 185 FRD 82 (DDC 1999), *aff'd*, 206 F3d 1212 (DC Cir 2000).

⁶ Environmental Working Group, *Obstruction of Justice: USDA Undermines Historic Civil Rights Settlement with Black Farmers* (July 20, 2004), <https://www.ewg.org/research/obstruction-justice>.

⁷ *In re Black Farmers Discrimination Litig.*, 29 F Supp 3d 1 (DDC 2014)

⁸ Feeding America, *The Impact of Coronavirus on Food Insecurity in 2020 & 2021* (March 2021), https://www.feedingamerica.org/sites/default/files/2021-03/National%20Projections%20Brief_3.9.2021_0.pdf

⁹ U.S. Dept. of Agric., *Food Insecurity by Household Characteristics* (last updated Sept. 9, 2020), <https://www.ers.usda.gov/topics/food-nutrition-assistance/food-security-in-the-us/key-statistics-graphics.aspx#householdtype>

Lunch Program, the numbers once again consistently follow the pattern of racial inequity. In 2018, around 14 million households in the United States received SNAP benefits, with a whopping 76% of total benefits going to only white households. Black and African-American households received 12.4% of the benefits, Hispanics 13.5%, and Native Hawaiian and Other Pacific Islanders alone received the least amount of benefits at only 0.1%.¹⁰ The WIC program on the other hand had consistently seen more participation from Hispanic and Black community. However, in 2018, the participation rate dropped for both these communities due to lack of access and other hardships, while it remained consistent for white people. People are still eligible but actively unable to participate and get the benefits they need.¹¹ This is data from only three of the many such programs and initiatives undertaken by the USDA.

The Executive Order adopted by the Biden administration is definitely a step in the right direction – increasing diversity within the federal government is a significant step to further reach communities that have historically been underserved or not prioritized. Having equal representation in the federal government and in branches like the USDA would give marginalized communities a louder voice in the fight against hunger, and help ensure overall equity. However, while these programs are regulated at the federal level, state and local agencies have a great deal of authority when it comes to actual implementation.¹² While this definitely hinders and complicates the efforts to ensure equity on all levels, it also makes public forums and comment periods more important – every opportunity to be heard counts. That being said, following are areas where equity can be improved and strengthened:

1. Local authorities should increase outreach efforts to make sure that people of color, who are disproportionately more at risk, are made aware of relevant policies and comment periods.
2. As opposed to a set deadline, docket comment periods should stay open to ensure everybody gets enough time, especially those in low-income and marginalized communities.
3. In terms of initiatives like the National School Lunch Program and SNAP benefits, increase transparency by making the complaint and comment processes available to students and parents.
4. Establish more “Grab-and-Go” and other such meal distribution sites in low-income communities of color, especially the ones that are highly disconnected and remote, to ensure easy access to free meals.¹³
5. Make sure agriculture censuses actively include, not only the owners and the businesses, but also all the farmers, especially from low-income communities.

¹⁰ U.S. Census, *Supplemental Nutrition Assistance Program (SNAP) Receipt by Households: 2018* (June 2020), <https://www.census.gov/content/dam/Census/library/publications/2020/demo/acsbr20-01.pdf>

¹¹ U.S. Dept. of Agric., *National WIC Eligibility by Race and Hispanic/Latino Ethnicity Over Time*, (June 25, 2021), <https://www.fns.usda.gov/wic/eligibility-and-coverage-rates-2018#3>

¹² Anna Karnaze, *You Are Where You Eat: Discrimination in the National School Lunch Program*, 113 Nw. U.L. Rev. 629 (2018)

¹³ Lisa Held, *The Pandemic Reveals Racial Gaps in School Meal Access*, Civil Eats (Jan. 26, 2021), <https://civileats.com/2021/01/26/did-pandemic-disruptions-to-school-meal-programs-leave-out-students-of-color/>

USDA Must Make Changes to Help the National Organic Program Better Serve BIPOC Farmers

We offer these principles, goals and work suggestions to support USDA efforts to promote the transition to organic agriculture by Black, Indigenous and other People of Color (BIPOC) farmers and historically underserved producers.

1. Organic certification should be the end goal for any USDA programs to incentivize transition to organic. Programs that incentivize the transition to organic should address barriers and result in more operations getting certified as USDA organic. Programs should prioritize underserved regions of the country and BIPOC producers.
2. USDA transition-to-organic policies should include restoring and expanding cost share assistance for organic certification, particularly for small-and-medium-scale BIPOC farms
 - a) The annual cost of organic certification is unique to certified organic operations, and therefore one of the factors that farmers must consider when they are exploring the possibility of transitioning to organic.
 - b) To address these costs, Congress created the National Organic Certification Cost Share Program (NOCCP) which was initially established as part of the Farm Security and Rural Investment Act of 2002, also known as the 2002 Farm Bill, to provide organic farmers and handling operations with a reimbursement to cover a portion of their annual organic certification fees. The cost share program is particularly important to small-to-mid-sized organic farms, underserved farmers, and those who are just starting out with organic certification.
 - c) In addition to restoring the reimbursement rates for Organic Certification Cost Share Program (OCCSP) for Fiscal Years 2020 and 2021, starting in Fiscal Year 2022, USDA should streamline and simplify the reimbursement process by having reimbursements go directly to organic certifiers to reduce certification fees, as opposed to reimbursing organic operations for the annual certification fees they pay to certifiers. This will result in a more-timely reduction in certification cost burdens to organic operations, and reduce paperwork burden on these operations. This provision is important for addressing barriers to certification for small farmers, underserved operations, and BIPOC farmers since the upfront additional costs of certification are a barrier for these operations.
 - d) Expand the cost share program to reimburse technical assistance fees paid by farmers transitioning to organic, prior to full certification. Organizations that can competently provide technical services to producers transitioning to organic should be compensated through the cost share program, with priority given to organizations serving Black, Indigenous and other People of Color (BIPOC) producers.
3. Creation of a Farmer-to-Farmer Mentorship Program for BIPOC Farmers Transitioning to Organic

Farmers looking to move toward increased sustainability face difficult challenges during the 3-year transition period prior to certification, during which time the farmer incurs the higher production costs of organic without receiving the benefit of organic premiums.

Transitioning to organic requires the development of an entirely new set of skills and knowledge, and the mentors who can best share that knowledge are the farmers and ranchers who have already gone through the transition process. Mentors should also help transitioning farmers understand marketing options for their products.

USDA should create a farmer-to-farmer mentorship program for farmers transitioning to organic. Transitioning to organic production is challenging. Farmer-to-farmer mentoring programs help new farmers understand organic practices and encourage their success. Under the BIPOC farmer mentorship program National Organic Coalition has recommended, with Center for Food Safety encouragement, both the mentor farmer and the transitioning farmer would be eligible for a stipend of up to \$5,000 annually. NGOs, State Departments of Agriculture, or universities can coordinate the mentorship programs, with priority given to organizations and programs that provide mentorship to BIPOC farmers and historically underserved producers.

4. Addressing Land Access Challenges for BIPOC Organic Farmers

The 2017 Ag Census data¹⁴ shows that people of color are underrepresented in farming, including organic farming. For example, while over 13% of the US population identifies as Black or African American, fewer 1.4% of all farms in the U.S. are owned by Black or African American farm owners. 98% of agricultural land is owned by white landowners. According to 2017 Ag Census data, although organic farmers are slightly “more diverse” than conventional farmers (94% of conventional farmers and 92% of organic farmers identify as white), fewer than 1% of organic farmers identified as Black or African American, and 0.5% identified as American Indian or Alaska Native.¹⁵

The upfront costs of organic certification present a barrier to less well-off farmers. Reimbursement rates should be increased for the organic certification cost share program and the program should be restructured to target producers who need the most assistance.

The USDA cost share program should be used to compensate organizations that provide technical assistance services to producers transitioning to organic production. Priority should be given to organizations that serve BIPOC farmers.

Land ownership and control over land is important for organic certification because organic operations must demonstrate that their land has been free of prohibited substances for a three-year period before crops can be harvested and sold as organic. In addition, land must have distinct and defined boundaries and buffer zones to prevent contact with substances prohibited in organic production. Loss of tribal lands and systematic discrimination against Black farmers exacerbate challenges that BIPOC farmers face in participating in organic agriculture and the USDA National Organic Program.

¹⁴ U.S. Dep’t of Agric., 2017 Census of Agriculture (2017), www.nass.usda.gov/Publications/AgCensus/2017/Full_ReportVolume_1,_Chapter_1_US/st99_1_0052_0052.pdf (usda.gov)

¹⁵ U.S. Dep’t of Agric., 2017 Census of Agriculture, *Characteristics of All Farms and Farms with Organic Sales* (Apr. 2019), https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/Organics_Tabulation/organictab.pdf

For farmers who want to farm organically, the barrier of access to land is even higher because of the three-year transition period and higher cost of certified organic land. Data show that these barriers of access to land are even higher for farmers who identify as BIPOC. Policy initiatives to help address the land-access limitations in the organic sector should include:

- Expansion of the Agricultural Conservation Easement Program (ACEP) to include a prioritization for conservation of land that has been managed organically and BIPOC-owned land;
- Creation of a federal land-link program to connect retiring organic landowners with young or beginning farmers who are seeking organic land but cannot afford it.
- Expansion of FSA grant and loan guarantee programs (such as the Highly Fractionated Indian Land Loan Program and Indian Tribal Land Acquisition Loan Program) for land acquisition for beginning and socially disadvantaged farmers under sustainable agriculture covenants.
- Establishment of lending guidelines for the Small Business Administration (SBA) and private loans to low-income resident farmers and BIPOC-led farmer cooperatives.
- Appointment of a USDA-led “land commission” to conduct a periodic national-scale land tenure study to provide a holistic perspective on socio-economic, political, and market-based factors limiting BIPOC access to land.
- Many BIPOC farmers have concerns about social isolation, acceptance and safety. Cooperative models of land ownership can help BIPOC farmers overcome these barriers as a group. These models should be recognized by USDA as viable alternatives to individual land ownership and prioritized for support.

5. Creation of a new Organic Stewardship Program within the NRCS

We recommend the creation of a new Organic Stewardship Program within the Natural Resources Conservation Service to reward organic farmers for their use of climate-friendly farming practices, and thereby encourage farmers to become certified as organic. This program would provide annual payments to certified organic operations in recognition of the suite of climate-friendly practices that is required by the organic regulations and verified through the rigorous organic certification process. This program would also encourage more participation in organic certification by underserved and underrepresented BIPOC farmers.

6. Expanding Processing Capacity and Regional Distribution for Organic Processing

The meat supply in the United States has been vulnerable to disruption for decades due to high levels of corporate consolidation. This fragility has been exposed by the COVID-19 pandemic. The poor treatment of the mostly BIPOC plant workers compounded the problem. Even as the CDC issued worker safety recommendations, the four major meatpacking companies continued to operate without adequate worker safety precautions and their slaughterhouses became some of the worst COVID-19 hotspots in the country. With just twelve slaughterhouses processing more than half the cattle in the country and similar concentrations in pork and poultry, problems in even just a few slaughterhouses can – and did – lead to a breakdown in the entire system nationwide.

However, we encourage USDA to also address the lack of access to meat processing for organic farmers, a bottleneck that has limited the supply of certified organic meat since the inception of the USDA National Organic Program. More meat processing facilities would help BIPOC ranchers who raise meat producing animals.

Organic standards require all organic ruminants to be grazed on pasture during the growing season. Data show that pasture-based farming systems are among the most climate-friendly farming systems. However, for many organic farmers, the lack of organic meat processing capacity in their regions creates significant hurdles for entering this market. Therefore, as USDA fleshes out the details for plans to incentivize expansion of local and regional meat processing capacity, we urge special attention to the need for additional organic meat processing, especially in areas with a significant BIPOC farmer populations.

7. More inclusive staff will reduce discrimination against BIPOC farmers

USDA must ensure adequate training among FSA and NRCS staff at the state and county levels regarding existing opportunities to support historically underserved producers, landowners, and communities. FSA and NRCS should recruit and hire more BIPOC individuals to serve as FSA and NRCS agents by partnering with 1890 Land Grant Universities, Native American Universities/colleges, Hispanic colleges/universities and by offering internships that may lead to employment opportunities. It is critical that FSA and NRCS staff, including BIPOC staff, undergo literacy training with regards to organic standards and production methods. USDA should allow producers to choose to be served by a USDA service center that has trained staff who can best serve the needs of organic and BIPOC producers, including staff who can provide services to producers in other languages, even if that service center is not the closest office.

The National Organic Program should increase its number of BIPOC staff as well.

8. Native American Tribes should be encouraged to provide organic certification to their enrolled members.

Some larger Native American tribes have their own agriculture departments. USDA should support these tribes in developing their own organic certification programs that would be recognized by USDA as equal to USDA certification just as the USDA certifies the programs of other nations.

Pesticide Exposure Disproportionately Impacts People of Color

The agricultural sector would not exist without the millions of farm workers across the country. However, workers risk exposure to a myriad of toxic pesticides. Though the Environmental Protection Agency (EPA) has been tasked by Congress with the regulation of pesticides, USDA is not exempt from considering the harm caused to agricultural workers by pesticides. Exposure to pesticides has been linked to higher rates of cancer, reproductive complications, neurological damage, endocrine system disruption, Parkinson's disease, Alzheimer's disease, kidney disease, heart disease, autoimmune conditions, and respiratory conditions. The greater the exposure the higher the risk of harm, placing agricultural workers at risk of significant health impacts.

Pesticide harm disproportionately affects communities of color and immigrant communities. The vast majority of farm owners are white and non-Hispanic; in 2017, USDA reported that 95

percent of farm producers identify as white,¹⁶ with all other races combined representing only about 200,000 farm owners.¹⁷ However, the approximately 2.4 million farmworkers in the United States are 83 percent Hispanic, including 69 percent that were born in Mexico.¹⁸ In total, around 75 percent of farmworkers are immigrants.¹⁹ 64 percent of farm managers and supervisors are white, compared to only 30 percent Hispanic. Yet people of Hispanic ethnicity represent 64 percent of farm laborers.²⁰ Spanish is the dominant language for 77 percent of farmworkers, with 30 percent of workers speaking no English.²¹

Data collection of pesticide usage is essential for evaluating the effects of the agricultural sector on underserved communities. Currently no national reporting system exists to determine the quantity of pesticides used each year. California is the only state with mandatory pesticide use reporting requirements. EPA bases countless reports every year on approximate values that could in reality be wildly inaccurate. Therefore, there is no real measurement of the pesticide exposure that farmworkers face every day. USDA should work with EPA to develop mandatory reporting for pesticide usage and pesticide exposure in order to build a system protective of vulnerable

Food System Workers at Higher Risk for COVID-19 and Antibiotic Resistance

Restaurant workers, slaughterhouses, and meat packing plant workers were one of the groups at highest risk for Covid-19 infections.²² Demographically, 45% of meat processing workers in the United States are categorized as low income, 80% are people of color, and 52% are immigrants.²³ Evidence shows people from these communities are much more likely to become seriously ill and die from COVID-19. Greater vulnerability stems from discrimination, higher rates of pre-existing risk factors, lack of access to health resources, and income inequality in addition to increased likelihood of exposure through work.²⁴

¹⁶ U.S. Dep't of Agric., 2017 Census of Farm Producers (2017), https://www.nass.usda.gov/Publications/Highlights/2019/2017Census_Farm_Producers.pdf

¹⁷ U.S. Dep't of Agric., 2017 Census of Agriculture, Selected Farm Characteristics by Race (2017), https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_1_US/st99_1_0061_0061.pdf

¹⁸ Suan Gabbard, Trish Hernandez, *Findings from the National Agricultural Workers Survey (NAWS) 2015-2016: A Demographic and Employment Profile of United States Farmworkers* (Jan. 2018), https://www.dol.gov/sites/dolgov/files/ETA/news/pdfs/NAWS_Research_Report_13.pdf

¹⁹ Farmworker Justice, *Selected Statistics on Farmworkers: 2015-2016 Data* (2019), <http://www.farmworkerjustice.org/wp-content/uploads/2019/05/NAWS-Data-FactSheet-05-13-2019-final.pdf>

²⁰ U.S. Dep't of Agric., *Demographic Characteristics of Hired Farmworkers* (Apr. 22, 2020), <https://www.ers.usda.gov/topics/farm-economy/farm-labor#demographic>

²¹ Farmworker Justice, *Selected Statistics on Farmworkers: 2015-2016 Data* (2019), <http://www.farmworkerjustice.org/wp-content/uploads/2019/05/NAWS-Data-FactSheet-05-13-2019-final.pdf>

²² Chen, Yea-Hung, et al., *Excess Mortality Associated with the COVID-19 Pandemic among Californians 18–65 Years of Age, by Occupational Sector and Occupation: March through October 2020*, Institute for Global Health Sciences, University of California, San Francisco (Jan. 22, 2021), <https://doi.org/10.1101/2021.01.21.21250266>.

²³ Taylor, Charles A, et al., *Livestock Plants and COVID-19 Transmission*, Proceedings of the National Academy of Sciences (December 15, 2020), <https://doi.org/10.1073/pnas.2010115117>

²⁴ Centers for Disease Control, *Healthy, Equity Considerations & Racial & Ethnic Minority Groups*, Centers for Disease Control and Prevention (Feb. 11, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/race-ethnicity.html>; Gold, Jeremy A. W., *Race, Ethnicity, and Age Trends in Persons Who Died from COVID-19 — United States, May–August 2020*, MMWR. Morbidity and Mortality Weekly Report 69 (2020),

Under the Trump administration, OSHA was negligent in ensuring meat packing and slaughterhouse workers received proper Personal Protective Equipment (PPE) and additional support from their employers.²⁵ The presence of a slaughtering plant in a county was associated with four to six additional COVID-19 cases per thousand. Further, plants that received permission from USDA to increase their production line speeds saw more county wide cases. Additionally, high infection rates of COVID-19 in meat packing plants likely contributed to the extensive spread of the virus in surrounding communities where packing plants are located.²⁶

In tandem with the threat of COVID-19, farmworkers, meatpackers, and other food system workers are also disproportionately impacted by antibiotic resistance. Due to the nature of their work and regular exposure to raw meat, workers of color have been found to be more likely to be exposed to resistant bacteria, become infected, and become a source of resistant infections in their communities.²⁷

To support equity throughout the USDA, workers on the farm, in slaughter and meat packing plants must be more highly prioritized. USDA needs to: implement interventions that address ongoing health disparities and inequities in worker and other vulnerable communities, strengthen workplace protections for food chain workers, especially from infectious disease, and properly investigate and include interventions related to racial disparities in health outcomes when addressing antibiotic resistance.

Climate Change and Cumulative Impacts for Farmworkers

As temperatures increase across the country at records broken earlier than expected and predicted, agricultural farmworkers face multiple concerning threats at the same time. Wildfires, COVID-19, heat stress, and potentially increased pesticide use and volatility just to name a few.

In Western states, many Latino populations who move to rural agricultural areas for farm work settle in areas that face the highest wildfire risks.²⁸ Further, with extreme heat conditions in combination with heat from wildfires, farmworkers face a work environment that can be life threatening. Farmworkers die of heat related causes at a rate of 20 times that of all other

<https://doi.org/10.15585/mmwr.mm6942e1>; Centers for Disease Control, *Risk for COVID-19 Infection, Hospitalization, and Death By Race/Ethnicity*, Centers for Disease Control and Prevention (Apr. 23, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html>.

²⁵ Kindy, Kimberly, *More than 200 Meat Plant Workers in the U.S. Have Died of Covid-19. Federal Regulators Just Issued Two Modest Fines*, Washington Post (Sept. 13, 2020), https://www.washingtonpost.com/national/osha-covid-meat-plantfines/2020/09/13/1dca3e14-f395-11ea-bc45-e5d48ab44b9f_story.html

²⁶ *Ibid.*

²⁷ Allison Johnson & Avinash Kar, *Workers Suffer When Meat Producers Overuse Antibiotics*, National Resources Defense Council (July 2019), <https://www.nrdc.org/sites/default/files/workers-meat-producers-overuse-antibiotics-fs.pdf>

²⁸ Zach Colman, *Wildfires threaten all of the West—and one group more than others*, Politico Pro, (July 2, 2021), <https://www.politico.com/news/2021/07/06/wildfires-latino-threat-498273>

professions.²⁹ H-2A workers are especially at risk due to lack of adjustment to new climates.³⁰ When workers are simultaneously trying to prioritize their health by protecting themselves from multiple stressors, that can mean covering up to protect against pesticides and risking additional overheating. A projected global temperature increase of 3.6 Fahrenheit by 2050 suggests that agricultural workers who currently work through an average of 21 dangerously hot days a year will see a doubling of that number overtime.³¹

As of right now, only a few states have any regulations to safeguard workers from extreme heat. This is unacceptable and USDA must ensure farmworkers receive proper protection that addresses multiple issues at the same time. For example, PPE such as N95 masks should be properly provided either to protect against COVID-19 or when the Air Quality Index (AQI) meets dangerous inhalation levels. To protect against heat-related illness, OSHA must establish a federal heat standard and create an enforceable set of criteria involving temperature thresholds, water, and shade requirements. Historically, OSHA has lacked the resources to properly enforce any standard of this sort.³² This must be rectified and addressed immediately or the long-term consequences have the potential to be dire for farmworkers across the country.

The Packers and Stockyards Act

With regard to racial equity, the Packers and Stockyards Act needs special and immediate attention. Corporate consolidation of the meat industry negatively impacts communities of color for innumerable reasons. Concentrated Animal Feeding Operations (CAFO's) pollute rural drinking water and disproportionately impact communities of color. Consolidation makes it easier for meat corporations to price fix, drive small farmers off the land, trap farmers in exploitative contracts, conspire against workers, and perpetuate racial discrimination. For example, in 2018 USDA found Koch Foods guilty of discrimination against black farmers.³³

Biden's Executive Order on Promoting Competition in the American Economy is a promising step in the right direction, but it doesn't go far enough in stating that USDA should "consider" making rule changes.³⁴ USDA needs to make a clear commitment to properly enforce and utilize the Packers and Stockyards Act (PSA). USDA should consider the suggested amendments outlined in the previously introduced Justice for Black Farmers Act. The act makes multiple

²⁹ *Farmworkers at Risk: The Growing Dangers of Pesticides and Heat*, Union of Concerned Scientists (Nov. 2019), <https://www.ucsusa.org/sites/default/files/2019-12/farmworkers-at-risk-report-2019-web.pdf>

³⁰ Greta Moran, *As the Climate Emergency Grows, Farmworkers Lack Protection from Deadly Heat* (June 14, 2021), <https://civileats.com/2021/06/14/as-the-climate-emergency-grows-farmworkers-lack-protection-from-deadly-heat/>

³¹ Michelle Tigchelaar et al., *Work Adaptations Insufficient to Address Growing Heat Risk for U.S. Agricultural Workers*, IOPscience (Aug. 25, 2020), <https://iopscience.iop.org/article/10.1088/1748-9326/ab86f4>

³² *Farmworkers at Risk: The Growing Dangers of Pesticides and Heat*, Union of Concerned Scientists (Nov. 2019), <https://www.ucsusa.org/sites/default/files/2019-12/farmworkers-at-risk-report-2019-web.pdf>

³³ Isaac Arnsdorf, *How a Top Chicken Company Cut Off Black Farmers, One by One*, ProPublica, (June 26, 2019), <https://www.propublica.org/article/how-a-top-chicken-company-cut-off-black-farmers-one-by-one>

³⁴ Lisa Held, *Just a Few Companies Control the Meat Industry. Can a New Approach to Monopolies Level the Playing Field?*, Civil Eats, (July 14, 2021), <https://civileats.com/2021/07/14/just-a-few-companies-control-the-meat-industry-can-a-new-approach-to-monopolies-level-the-playing-field/>

amendments to the Packers and Stockyards Act that would protect black farmers by prohibiting unfair contracts and making it easier for meatpackers and other producers to file discrimination complaints without retribution. Under the PSA, USDA has the necessary administrative authority to take enforcement actions against unfair and deceptive company practices. It should act accordingly.³⁵

Thank you for considering our comments,

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³⁵ Emily Liss, *Policy Update: Sens. Booker, Warren, and Gillibrand Release Justice for Black Farmers Act*, American Farmland Trust, (December 3, 2020), <https://farmland.org/policy-update-sens-booker-warren-and-gillibrand-release-justice-for-black-farmers-act/>