Statement of

Alec Sheffer

Director of Retail Sales

Agri-AFC

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Introduction

Good Morning Chairman Roberts, Ranking Member Stabenow, and distinguished members of the Senate Committee on Agriculture, Nutrition, & Forestry. Thank you for allowing me to testify in regards to America's farm economy today.

My name is Alec Sheffer and I serve as Director of Retail Sales for Agri-AFC headquartered in Decatur, Alabama. At Agri-AFC, our roots have been firmly planted in the Southeast since 2003. With offices in Georgia, Mississippi, Florida, and Alabama, we have made a name supporting crops of all varieties. From cultivation to harvest, our goal is to provide an abundance of information and resources, to help guide farmers. We take pride in equipping our clients and communities with the knowledge and resources required for a successful harvest.

I also appear before you today on behalf of the Agricultural Retailers Association (ARA). ARA is a trade association based here in Washington, DC. ARA advocates, influences, educates and provides services to support its members in their quest to maintain a profitable business environment.

America's retail farm suppliers have been hit hard by the downturn in the agricultural economy over the past decade. There are a growing number of factors that have led to this decline including a steep drop in farm commodity prices, increased regulatory burdens, and market uncertainty. As an agricultural retailer, we have seen this firsthand with our customers spending and declining revenues.

However, we are confident these winds are beginning to shift. We believe Congress will make changes in the upcoming farm bill to help strengthen the safety net provided by crop insurance programs and assist in improving conservation efforts. Secretary of Agriculture Sonny Perdue, testified before the House Agriculture Committee last week and I was heartened to hear that, despite the steep drop in commodity prices and market uncertainty, he was hopeful rural America will strengthen in the coming years as the United States Department of Agriculture looks to improve existing safety nets for farmers and ranchers.

Farm Income Outlook

A recent forecast from USDA's Economic Research Service reported a dim outlook for farm profits.

"Relative to 2016 levels, farm sector profitability measures forecast for 2017 range from nearly flat to declining. Net cash farm income, one measure of profitability, is forecast at $93.5 billion ($82.2 billion after adjusting for inflation) for 2017, up 1.8 percent compared to the 2016 forecast. Net farm income, a broader measure of profitability because it includes noncash values such as inventory flows and economic depreciation, is forecast at $62.3 billion ($54.8 billion after adjusting for inflation) for 2017, down 8.7 percent compared to 2016. The calendar year 2016 net cash farm income and net farm income forecasts are $91.9 billion and $68.3

billion, down 12.2 percent and 15.6 percent from their respective 2015 levels." (United States Department of Agriculture Economic Research Service, 2017).

Other indicators of a weakening farm economy include a decline in farm credit access while the demand for loans remains strong. As noted in Secretary Perdue's testimony last week, "since 2009, USDA has provided approximately 243,000 loans totaling over $35.2 billion to farmers and ranchers. The recent increase in demand led to full utilization of the program level for farm operating loans for fiscal year (FY) 2016, with record loan levels at $6.3 billion." (Perdue, 2017) A decrease in loans while demand is high creates a strong uncertainty level among America's farmers.

In addition to declining revenues USDA ERS predicts a decline in crop cash receipts. In this kind of economic uncertainty for farmers and the retailers supplying them, safety nets through USDA are crucial in making sure their industry is supported by the government. I fully expect your committee will work swiftly to ensure these gaps are filled when crafting the upcoming farm bill authorization. I strongly urge the committee to review this forecast as it informs a broader outlook than allowed in my testimony this morning.

We also feel it is necessary to push for comprehensive tax reform to help agricultural retailers and their farmer customers. In addition to a full repeal of the estate tax, we believe it is equally important for Congress to preserve policies which help keep farm businesses in-tact and families in agriculture.

U.S. farmers and ranchers understand and appreciate the role of taxes in maintaining and improving our nation's infrastructure but believe the most effective tax code is a fair one. For this reason, we respectfully request that any tax reform legislation considered in Congress will strengthen the business climate for farm and ranch families while ensuring agricultural businesses can be passed to future generations.

The ag community also understands the need for infrastructure improvement, especially in rural America. Roads, bridges, ports, and lock and dam systems all play crucial roles in our delivery of important farm inputs like seed, fertilizer, and equipment. Additionally, expansion of broadband infrastructure throughout rural America is sorely needed. From precision agriculture technology to rural healthcare needs, a greater and more robust broadband network will mean more effective, efficient, and safer farm communities.

Regulatory Burdens

First, I would like to address several regulatory burdens affecting our industry. The legislative, regulatory and judicial landscape is vastly different from what the agricultural retail industry experienced decades ago. In the past eight years, federal regulators completed hundreds of major rules that impacted many sectors, including agriculture.

Our industry would like to prevent excessive expansion of federal regulations such as EPA's Risk Management Program (RMP), the current Waters of the U.S. (WOTUS) rule, remove duplicative permit requirements, delay and amend the new Worker Protection Rule (WPS), pull back and reform the new Certification & Training Applicator rules, and resetting the process, science, transparency and predictability to the registration and review of pesticides.

Additionally, the Environmental Protection Agency (EPA) has targeted several important crop protection products over the years attempting to remove these important compounds from the marketplace. This creates a great amount of uncertainty for farmers struggling to determine which products will be made unavailable to them in the coming growing seasons. Our industry asks that the new administration and EPA reset the process by which crop protection products are assessed and help preserve risk-based regulation of pesticides based on sound science and a predictable registration and regulatory review process. Agricultural retailers employ commercial pesticide applicators that receive extensive education and training to apply pesticide products in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) laws and regulations. Ground pesticide applicators treat about 80% of all U.S. commercial cropland while aerial applicators treat just under 20%. Certified commercial pesticide applicators participate in EPA financially supported state training programs that cover Best Management Practices (BMPs) for safe pesticide use as well as environmental issues such as endangered species, human health, and water quality protection.

Another regulatory burden for ag retailers has been the EPA's assessment of National Pollutant Discharge Elimination System (NPDES) pesticide general permits under the Clean Water Act (CWA). In 2009, the U.S. 6th Circuit Court of Appeals drastically expanded the enforcement reach of the Clean Water Act into pesticide policy. The court ruling invalidated decades of precedent and an EPA regulation that had exempted pesticide applications made into, over or near water from the numerous requirements of CWA's NPDES permits.

Numerous aerial applicators nationwide have shut down their mosquito and invasive species control efforts due to the paperwork cost and threat of lawsuits associated with the NPDES PGP requirements. EPA estimated the paperwork costs alone to be $50 million per year. State and local officials advised EPA that the costs would far exceed that estimate. Currently, mosquito control programs are vulnerable to lawsuits for simple paperwork violations of the CWA where fines may be up to $35,000 per day for activities that do not involve harm to the environment. In order to attempt to comply with this potential liability, these governmental agencies must divert scarce resources to CWA monitoring. In some cases, smaller applicators have simply chosen not to engage in vector control activities. Requiring NPDES permits for the discharges of mosquito control and other pesticide products provides no additional environmental protections beyond those already listed on the pesticide label, yet the regulatory burdens are potentially depriving the general public of the economic and health benefits from the use of important pest control products.

The court ruled that such applications require compliance with NPDES discharge permits whenever they occur "into, over or near" one of the many types of "waters of the U.S.," though the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) already regulates pesticide use. FIFRA requires demonstration that registered pesticides can be safely applied per product labels in a manner that poses no unreasonable risk to humans or the environment. Therefore, this duplicative regulatory requirement has put an undue burden on American farmers and pesticide applicators.

Additionally, we support the administration's plan to review and restructure the Waters of the U.S. (WOTUS) rule promulgated under the last administration. Farmers continue to be America's best stewards of land conservation and work diligently to follow best management practices when applying pesticides and fertilizer ensuring the quality of land and water is uninhibited allowing improving farm production.

Earlier this year, the U.S. House of Representatives passed a regulatory reform bill. It is now time for the U.S. Senate to take action. S. 951, the Regulatory Accountability Act of 2017 (RAA), introduced by Senators Rob Portman (R-OH) and Heidi Heitkamp (D-ND), is bipartisan legislation that would modernize the rule-making process so that agencies would have to implement laws as Congress intended and requires the agencies to get the rules right.

I would also like to address the commercial driver shortage in our industry. Commercial truck traffic is a vital component to our nation's economic prosperity. Virtually every industry segment depends on truckers and commercial drivers to deliver billions of tons of commodities used and consumed annually in the United States. The nation is experiencing a shortage of truck drivers that is worsening each year. The American Trucking Associations (ATA) estimates that the current shortage of drivers is roughly 35,000 to 40,000, but because of retirements and individuals leaving the industry, trucking companies will need to recruit nearly 100,000 new drivers a year over the next decade to keep pace with the country's freight needs.

Many of ARA's agricultural retail members operate near state lines with their farm and ranch customers located within 150 air mile radius of the facility. Their drivers spend significant time on the job during the peak seasons primarily in the fields applying product, not driving on public roads, and typically return to their own home to sleep at night. Only allowing employees over the age of 21 with a CDL to deliver product to certain customers, due to current federal regulations, places undue restrictions on employees under the age of 21 and limits their work opportunities.

Historically, young workers (ages 16 to 24) face considerably higher unemployment rates than prime age workers (ages 25 to 54). The youth unemployment Rate in the United States increased to 12.30 percent in March of 2015 from 11.90 percent in February of 2015. According to the U.S. Bureau of Labor Statistics, youth unemployment rate reached an all-time high of 19.50 percent in April 2010. Unemployment early in a young person's career can have a lasting negative effect on their earnings, productivity, and employment opportunities. It is important to provide our nation's youth with the skills necessary to obtain an important job in the labor market.

ARA believes it is time for this outdated federal age requirement regulation to be reformed due to the growing driver shortage and high young adult unemployment rate. Without truck drivers, America's economy and major industries like the agricultural sector will be adversely impacted. We have seen what minor and major disruptions to the trucking industry have caused due to natural disasters such as Hurricane Katrina and Sandy, from food and fuel shortages to medical supply shortages. The current federal regulations will cause a man-made disaster unless Congress and the Administration take steps to modernize outdated CDL federal age restrictions.

Another regulatory burden plaguing our industry is the lack of a North American Industry Classification System (NAICS) code that truly represents our businesses. The NAICS system was developed as the standard for use by Federal statistical agencies in classifying business establishments for the collection, analysis, and publication of statistical data related to the business economy of the U.S. NAICS was developed under the auspices of the Office of Management and Budget (OMB), and adopted in 1997 to replace the old Standard Industrial Classification (SIC) system. There is no central government agency with the role of assigning, monitoring, or approving NAICS codes for establishments. Individual establishments are assigned NAICS codes by various agencies for various purposes using a variety of methods. The U.S. Census Bureau has no formal role as an arbitrator of NAICS classification.

The NAICS categories and definitions were not developed to meet the needs of regulatory applications. However, certain federal agencies such as OSHA and EPA are using the NAICS code to try to capture certain types of agri-businesses such as agricultural retailers (i.e. farm supply retailers) under regulations designed for manufacturers even though it does not fit the original intent of these regulations established by Congress. Farm Supply Retailers do not manufacture fertilizer at their facilities. Farm Supply Retailers are primarily engaged in the retail distribution of farm supplies, such as animal feeds, fertilizers (including custom blended products), agricultural chemicals, pesticides, plant seeds, and plant bulbs to agricultural producers (i.e. farmers and ranchers). However, because there was not a good definition under the NAICS code for farm supply retailers, most facilities / businesses have been using the code 424910: Farm Supplies Merchant Wholesalers as it was the closest to describe the products they sold to farmers. There is not a code classification under 44-45 Retail Trade that adequately covers the sale of farm supplies. The NAICS code needs to be immediately fixed to prevent OSHA, EPA and other federal agencies from attempting to treat farm supply retailers as manufacturers or it will have far reaching, adverse financial ramifications for the agricultural industry.

Creating a new NAICS code for Farm Supply Retailers would be a great way to resolve this issue. This industry comprises establishments primarily engaged in the retail distribution of farm supplies, such as animal feeds, fertilizers (includes custom blended products), agricultural chemicals, pesticides, plant seeds, and plant bulbs to agricultural producers (e.g. farmers, ranchers) and other end users.

Conclusion

While my testimony this morning highlights some of the negative effects the rural economy has had on the agriculture community recently, I am encouraged by the new administration's goals and priorities for the coming years. I am keenly aware of the terrific job Secretary Perdue and his staff have already done at the helm of USDA. Likewise, I know the honorable members of both the House and Senate Agriculture Committees and their staffs will work tirelessly to promote and protect America's farmers.

These men and women are some of the most resilient people on the planet and they should be commended for their hard work and dedication to feeding a growing world population. As a farm supply retailer, I am confident that improvements to safety nets in the upcoming farm bill, free and fair trade amongst agriculture producers and customers, and changes to the regulatory landscape hindering farm production will all contribute to a once again burgeoning farm economy.

Thank you for your continued commitment to supporting America's agriculture industry and I look forward to your questions.