MODERNIZING AGRICULTURE PRODUCER SIZE STANDARDS

HEARING

BEFORE THE

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MODERNIZING AGRICULTURE PRODUCER SIZE STANDARDS

THURSDAY, JULY 24, 2014

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
SUBCOMMITTEE ON AGRICULTURE, ENERGY AND TRADE,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:00 a.m., in Room 2360, Rayburn House Office Building. Hon. Scott Tipton [chairman of the subcommittee] presiding.

Present: Representatives Tipton, Luetkemeyer, Murphy, and Schrader.

Chairman TIPTON. Good morning. I would like to call this hearing to order.

I would like to thank all of our witnesses for taking time out of your busy schedules to be able to join us today and to discuss the Small Business Act and how it currently applies to small agricultural enterprises.

As Members know, the Small Business Act authorizes the Small Business Administration to develop small business-size standards to specific industries.

The SBA currently has size standards for over 1,000 different industries, and size standards ranging from $4.5 million to $35.5 million in annual receipts, or 50 to 1,500 employees.

The SBA sets the size standards only after studying a number of statistical factors and industry-specific considerations, including technological changes and industry growth trends. The law also now requires the SBA to revisit each industry's size standard at least once every five years, and to ensure public participation in the process through notice and comment rulemaking.

However, we treat small agricultural enterprises different; Congress statutorily sets this size standard.

It was not always this way. Until 1985, the SBA set the size standards for these 46 industries. In 1984, the SBA set the size standard for these industries at $100,000, a level Congress believed would harm family farms because it was too low.

Therefore, in 1985, Congress amended the Small Business Act to create a $500,000 size standard for small agricultural enterprises. This size standard was updated in the year 2000, when it was set at $750,000 in annual receipts.

The $750,000 standard is currently the lowest revenue-based standard for any industry, and it simply has not kept pace with inflation or changes in the farming sector of the economy.

If the size standard is too low, it limits agricultural producers' access to billions in federal prime contracts and subcontracts. By lumping all small agricultural enterprises into a one-size standard, we also are not accurately capturing distinctions between the various industries.

Furthermore, the Department of Agriculture typically relies on the $750,000 size standard when assessing the effects of its proposed rules pursuant to the Regulatory Flexibility Act. An artificially low standard could lead to additional regulatory burdens for small agricultural enterprise. Thus, a provision that originally helped small businesses may now actually be harming them.

The purpose of today's hearing is to examine whether the current statutory size standard continues to meet the needs of small agricultural businesses, and if not, what alternatives Congress should pursue to ensure equitable treatment for small businesses and their concerns in this industry.

Andrew Jackson once said that the American farmer is the bone and sinew of our economy, so we need to make sure that the policies we create help, rather than hinder, our small farmers.

Before I introduce the witnesses for our next panel, I would like to yield to Ranking Member Murphy for his opening statement.

Mr. MURPHY. Thank you, Mr. Chairman. Thank you all for being here.

This Committee has long recognized the vital role small businesses play in our national economy. Small firms remain a cornerstone of economic growth and make up the vast majority of employer firms and create two-thirds of all net jobs. Given the many economic benefits of a strong small business sector, Congress and the federal government have established a range of programs helping small companies flourish and hire new workers.

How a small business is defined can vary widely by industry. For some sectors, a measurement of number of employees makes sense. For others, annual revenues are a better benchmark. Regardless of which benchmark is used, what qualifies as a small business under federal law can have major consequences. For example, small businesses qualify for billions of dollars in government guaranteed loans every year, and being deemed a small business can give a firm pursuing federal contracts boost in the procurement process. Everything from regulations to tax write-offs are impacted by whether a firm is classified as a small business or not.

In that regard, how this Committee, Congress, and the SBA define a small business very directly shapes our nation's small business policy. The size standards SBA uses determine which businesses are eligible for assistance and which firms have grown so large as to no longer warrant assistance under the Small Business Act.

With regards to small firms and agriculture production, SBA has encountered significant difficulty setting a practical standard. In the 1980s, Congress took some responsibility for setting the agriculture size standard. Since then, the threshold has been adjusted only once since 2012. Given changes in the major differences with the sector, it is important that this Committee and Congress evaluate whether it is time to update this standard so as to better reflect the modern landscape of American agriculture.

Since Congress began setting the small business size standard for agriculture, the midpoint for crops has grown 88 percent, from 589 acres to 1,105. As of 2011, farmers with at least 2,000 acres now account for more than 34 percent of crop land. Additionally, with the advent of new technologies, many agricultural businesses have vastly increased their production rates.

Despite these changes, there has also been a reduction in the number of small and mid-size farms. According to the Department of Agriculture, the number of farms with at least one million in sales more than doubled between 1982 and 2007. Small commercial farms, those with $10,000 to $250,000 in sales, fell by two-thirds. Although SBA has issued proposed size standard changes for a number of industries, agriculture has been left out of that process as Congress took on this responsibility in the 1980s.

Today, we will examine how current size standards function in the real world. We will hear from those in the relevant industries as to how the standard is working for them and whether it is in need of a change. Additionally, we will hear from SBA as to their current methodology and how it could be applied to set new size standards for those operating in those industries. It is my hope that we can come to the best solution as to how to review the size standard for those in agriculture production. This is an important task with resources already stretched thin. It is important that small business assistance truly reaches agriculture producers, thereby maximizing economic growth and job creation.

I want to thank all the witnesses for traveling here today. Your participation and insights will help this Committee as we consider this timely topic.

Thank you, Mr. Chairman.

Chairman TIPTON. Thank you, Mr. Murphy.

If Committee members have an opening statement prepared, I would ask that they submit it for the record.

I would like to take a moment to be able to explain our timing lights for you. You will each have five minutes to be able to deliver your testimony. The light will start out as green, and when you have one minute remaining, the light will turn yellow. And finally, at the end of your five minutes, it will turn red, and we would ask that you adhere to the time limit.

We will now begin with our testimony.

I would like to be able to introduce our first witness, Mr. John Shoraka, associate administrator for Government Contracting and Business Development at the United States Small Business Administration. Prior to his service at the SBA, he served as vice president of the Aries Group at Silver Spring, Maryland.

Mr. Shoraka, welcome back, and we look forward to your testimony.

STATEMENTS OF JOHN SHORAKA, ASSOCIATE ADMINISTRATOR FOR GOVERNMENT CONTRACTING AND BUSINESS DEVELOPMENT, UNITED STATES SMALL BUSINESS ADMINISTRATION; MARK OESTMAN, OWNER, OESTMAN FARMS, LLC; KEN KEESAMAN, OWNER, KK FARMS RED ANGUS; ROBERT GUENTHER, SENIOR VP, PUBLIC POLICY, UNITED FRESH PRODUCE ASSOCIATION

STATEMENT OF JOHN SHORAKA

Mr. SHORAKA. Thank you for having me.

Chairman Tipton, Ranking Member Murphy, and Members of the Subcommittee, I am honored to be here today to discuss SBA's size standard methodology as it pertains to agricultural enterprises.

As you know, with the exception of certain agricultural enterprises, the Small Business Act provides the U.S. Small Business Administration with statutory authority to establish small business size definitions, referred to as size standards, for federal government programs. The size standards for agricultural enterprises, as was mentioned earlier, are unique in that they are directly established by statute. The size standard for agricultural enterprises was first set by statute in 1985. Currently, the size standard for 46 industries in the North American Industry Classification System (NAICS) Section 11, which includes agriculture, forestry, fishing, and hunting, is set by statute at $750,000 in annual receipts.

SBA is capable of conducting the analysis to establish size standards for small businesses for agricultural enterprises, as SBA would use the same process that it currently uses to establish size standards for business concerns in other industries. When establishing size standards, SBA examines economic characteristics, such as average firm size, industry concentration, start-up costs and entry barriers, and federal market conditions in each industry. At SBA, we believe in a transparent process. A detailed explanation of how we establish size standards is provided in our Size Standards Methodology White Paper, which is available on the Agency's

Website.

Establishing size standards based on characteristics of individual industries is consistent with Section 3(a)(3) of the Small Business Act, which requires the administrator to ensure that size standards vary, to the extent possible, to reflect the differing characteristics of individual industries. SBA believes its methodology for establishing standards meets this requirement by incorporating economic characteristics and federal market conditions into its analysis of an industry-by-industry calculation.

The Small Business Jobs Act of 2010 requires SBA to review all size standards and make necessary adjustments to reflect market conditions every five years. The Small Business Act does not require SBA to review size standards for most agricultural industries, so the Agency did not review agricultural size standards under the current review. In addition, SBA reviews all monetary based size standards every five years for inflation and makes necessary adjustments. Currently, SBA does not adjust the statutory agricultural size standards for inflation. As a result, again, the agricultural size standard has remained at the $750,000 receipts level since 2000, while SBA has reviewed and adjusted monetary-based size standards for inflation four times in that same time period.

If SBA were mandated to review agricultural size standards, adjustments for inflation and other economic conditions could be made.

Thank you for your continued leadership and support. I am happy to be here today, and I look forward to your questions.

Chairman TIPTON. Thank you, Mr. Shoraka.

I would now like to be able to introduce Mr. Ken Oestman, owner of Oestman Farms located in Eckley, Colorado, which is a town in the recognized center of the universe, the Third Congressional District of Colorado. In addition to his farming operation, Mr. Oestman served a term as president of the Colorado Corn Administrative Committee. He is testifying today on behalf of the Colorado Corn Growers Association.

Mr. Oestman, thank you for appearing today, and you may now deliver your testimony.

STATEMENT OF MARK OESTMAN

Mr. OESTMAN. Good morning, and thank you.

Chairman Tipton, Ranking Member Murphy, and all Committee Members, my name is Mark Oestman, and I am a fourth generation farmer and rancher from near Eckley in Northeast Colorado. I farm 2,500 acres of irrigated ground raising corn, wheat, and soybeans in a family partnership with my dad. Together, we also run about 400 steers in a grower/stocker operation. My wife Dessany and I are raising our children to hopefully be the fifth generation to operate our farming operation. In addition to farming, I currently serve as the president of the Colorado Corn Administrative Committee, which is the state corn “check-off” organization.

When someone asks me today to sum up production agriculture, I like to say that farmers are just like everyone else, except that the cost of running our business adds a few extra zeroes to the income and expense columns at the end of the month. From the combines that we use to harvest our crops, which coast as much, if not more, than many homes, to the enormous increases in the input costs associated with producing that crop, such as fertilizer, seed, and energy costs, the challenges of staying in the farming business can be difficult to manage.

I believe part of the reason for increased costs can be attributed to an unprecedented period of growth in the agricultural industry. Many things have contributed to this period, such as an ever-increasing population demand for more protein and more grain, along with improved markets for ethanol. These factors and others have led to record demand for most production agriculture commodities and, in turn, to higher prices for these commodities as well.

With these higher prices, both for the commodities we grow and the inputs we must purchase, there has been a trend of consolidation in modern agriculture resulting in larger farms. These additional acres help us to spread our machinery costs and land payments over more acres and use our equipment more efficiently. With the average age of the American farmer continuing to rise, we will see more and more farms sold or rented out.

Increased yields are another trend we are seeing in agriculture today. Thanks to advanced technologies, I am able to select hybrid seeds. I can effectively plant a field and know that because of seed selection I have reduced the amount of inputs needed to combat weeds and insect attacks. Precision technology has helped me to maximize yields, minimize inputs, all while protecting the environment.

Any single one of these variables I have talked about could support a need to increase the $750,000 level for production agriculture to meet the small business criteria. When you consider all of them together, it becomes abundantly clear that this level needs to be increased, and by a substantial amount.

If you take my farm for an example, we usually raise roughly 1,500 acres of corn, 500 acres of soybeans, and 500 acres of wheat. In a typical year, we would hope to raise 300,000 bushels of corn, 25,000 bushels of soybeans, and 50,000 bushels of wheat. I did some research, and from 1985 to 2006, an average price for corn was approximately $2.27 per bushel. So, our farm receipts just from our corn during that period would have been $681,000. Compare that to today's average price. From 2007 to 2013, it was around $4.94 per bushel; the same 300,000 bushels would bring in around $1,482,000.

So in summary, I believe that the Small Business Committee should consider substantially raising the arbitrary $750,000 in receipts that currently exist for agriculture producers. The dynamics of today's farms and farmers, especially those who farm as their sole source of income, have changed dramatically, and I believe the limit should as well. Due to factors largely out of a farmer's control, my total receipts can change dramatically from year to year, and I believe the SBA standard should take many of those factors into consideration and increase the standard.

Thank you.

Chairman TIPTON. Thank you, Mr. Oestman.

I would now like to be able to introduce Mr. Keesaman of Osborn, Missouri. Mr. Keesaman is owner of KK Red Angus Farms, where He raises breeder livestock. He is testifying today on behalf of the National Cattlemen's Beef Association.

Mr. Keesaman, thank you for appearing here today. Pleasure to visit with you. You may now deliver your testimony.

STATEMENT OF KEN KEESAMAN

Mr. KEESAMAN. Thank you, sir. It is a pleasure of meeting you sir and talking about Colorado.

Good morning, Chairman Tipton, Ranking Member murphy, and Members of the Committee. I am Ken Keesaman, a cattle farmer from Osborn, Missouri. My family and I are members of the National Cattlemen's Beef Association and the Missouri Cattlemen's Association. It is a pleasure to testify before your Committee today on how the livestock industry, and particularly our farming operation, KK Farms Red Angus has evolved over the years.

Our family started in the cattle business in the 1870s, and I began farming full-time in 1969 when I returned from active duty with the Missouri Air National Guard. KK Farms consists of 1,500 acres, of which 900 are owned by our family and the remaining acres are leased. Of the 900 acres, 240 of the farm have been in the family since the establishment of our farm, earning us the Missouri Century Farm award. Maintaining the original farm acreage continues to be a priority for my family, and we have expanded our business model throughout the years to maintain our livelihood. Raising cattle is the foundation of our farm, and we have been in the Registered Red Angus business since 1972.

The face of the livestock industry is much different today than it was in 1969 when I returned to the farm. In 1969, there were approximately 845,000 beef cattle farms with more than 34 million head of beef cattle. Other than the expansion of farms and herd size in 1974 and 1995, there has been a steady decline of the number of farms and the total number of head of beef cattle in the United States. Today, we have approximately 29 million head of beef cattle, and according to the 2012 Ag Census, there are 729,000 beef cattle farms. Even though we have the smallest beef herd since 1951, our industry has been able to utilize the latest science and management practices to produce approximately 25 billion pounds of beef.

When you evaluate the success of America's cattle farmers and ranchers, we have developed a successful business model not only domestically, but also globally. In terms of production, the United States has only seven percent of the world's cattle supply, but we are able to produce 20 percent of the world's beef. We have found ways to utilize more of our natural resources and the latest science to be more efficient than our international competition.

Our demand has changed, like many other small farms since 1985. During the late 1980s, due to changing trends in agriculture, we downsized our hog operation and increased our Red Angus herd. Our production costs have increased also, making it difficult for family farmers to compete in today's environment.

The cattle industry in Missouri is comprised of a lot of small family farms who make a big impact. We have a lot of small players who make a big impact nationwide. The average herd size in Missouri is 36 head, but overall, we are the second largest beef cattle state behind Texas. We have to do everything we can to send signals to these families that the climate is right to expand.

We use risk management by utilizing research and technology afforded to us through land grant universities, like the University of Missouri. Examples include planting cover crops over our corn and soybeans, which can be grazed by livestock. This helps us manage our feed costs during the recent droughts of 2012 and 2013. Also, in regards to risk management, we have added new ventures. In 2009, my son Kraig and his wife added Windy Wine Company and planted nearly eight acres of Missouri grapes. My son Kody and I ventured into the All-Natural Meat production/sales of our Red Angus Beef, and another son Kasey and his wife started a microbrewery called Blackbelt Brewery. Future plans to help spread risk are to include a farm-to-table restaurant, event center, and bed and breakfast. All of this adds value to our products and helps spread risk. It also ensures that every family member and sons and their sons will have a place on our family farm.

The evolution of today's livestock industry has shifted, and in order for family business to survive, we have expanded, diversified, and in terms of agriculture, today's small business has changed. It is appropriate for the size standards to be changed by the Small Business Administration to most accurately represent today's small operations. It is my understanding that agriculture is the only industry where the statute establishes our size standard. With that being the case, Congress needs to change the statute and consider alternatives to these standards. Smaller operations play a significant role in the beef cattle industry.

In closing, I appreciate the work that the Committee has done, and there are opportunities for individuals to pursue the American dream. Small businesses are the life-blood of America and rural communities. We also appreciate the good work the Committee has done to bring small business perspective into the regulatory climate and it is appreciated by smaller operations, like KK Farms.

Thank you for the opportunity today to share our family's history and commitment to agriculture. It is more than a business; it is our way of life.

Chairman TIPTON. Thank you, Mr. Keesaman, for your testimony. We hope those sample are going to be passed out. We noticed that.

Mr. KEESAMAN. You are more than welcome to come take one. I think they are one ounce samples, so I think the Ethics Commission will be all right with that.

Chairman TIPTON. I would now like to yield to Ranking Member Murphy so that he may introduce our final witness.

Mr. MURPHY. Thank you, Mr. Chairman.

It is my pleasure to introduce Mr. Robert Guenther, senior vice president of Public Policy for United Fresh Produce Association, which represents the fresh fruit and vegetable industry. During his time there he has been interviewed and quoted by CNN, C-SPAN, Wall Street Journal, New York Times, and other major publications. Formerly, Mr. Guenther served as congressional aide to the U.S. House Committee on Agriculture, and also worked as an environmental protection specialist for the Environmental Protection Agency's Office of Pesticide Programs.

Welcome, Mr. Guenther.

STATEMENT OF ROBERT GUENTHER

Mr. GUENTHER. Thank you, Ranking Member Murphy, Chairman Tipton.

My name is Robert Guenther, and I am the senior vice president of Public Policy for the United Fresh Produce Association. As you know, United Fresh is the national trade association representing the entire distribution chain of fresh fruit and vegetable production, including growers, shippers, wholesale distributors, processors, and retailers. Since 1904, United Fresh has worked with Congress and the administration to help shape legislative and regulatory policies to provide a strong business climate for our members that encourages growth and development. We thank you for the opportunity to address an issue that impacts the ability of many of our United Fresh members to utilize key programs designed to assist small businesses as they seek to develop and diversify their operations. And on a personal note, I, like two of my other colleagues at the table today, also grew up on a small family farm, which is located in North Central Florida and has focused on citrus and nursery production for over 100 years.

For a variety of reasons, such as changes in the economy or fluctuations in commodity prices, the number of agriculture producer operations classified as small businesses has been on a continual decline, even though many of these operations made no significant changes that would otherwise justify a reclassification. Taking into account current agriculture business models, a standard many times higher than the current $750,000 in annual receipts would be the norm in today's agriculture community. More importantly, fruit and vegetable producers, like producers of other commodities, will tell you that the annual gross receipts are not a reliable indicator of an operation's size, nor is it a good indicator of profitability in light of cost of inputs and labor, which in fruit and vegetable production are particularly significant.

In addition to being an unrealistic representation of many agriculture operations, the current SBA standard puts agriculture small business operators at a disadvantage in their ability to avail themselves of assistance they could utilize to grow and adapt their operations. Again, the current $750,000 size standard applied to agriculture operations limits small agriculture producers' access to SBA's assistance programs and federal contracting preferences for small prime and subcontractors. Key SBA programs that may prove useful to produce operations include loans to start, acquire, or expand a small business or loans that provide long-term, fixed-rate financing for assets such as land or buildings, among others.

More importantly, when you look at the wide variety of programs available at the Department of Agriculture to help the fresh produce operations, including farm loan programs, market promotion and export assistance, technical assistance for conservation and compliance, nutrition programs, rural and infrastructure development, new and beginning farmer programs, we believe it is important to ensure that there is a level of consistency between USDA and other federal agencies when it comes to a small business definition.

Finally, among the most significant challenges that agriculture operations face, like any business, is compliance with government regulations. Some agencies use SBA size standards to assess the impact of their proposed regulations in accordance with the Regulatory Flexibility Act. However, the current standard for agriculture operations to qualify as a small business of annual receipts of no more than $750,000 was set by Congress in 20000, as was mentioned earlier. As discussed, given the enormous changes in agriculture since that time, a review of the small business standard, which would provide agriculture producers with justifiable regulatory relief, is long overdue.

To this end, we would suggest that Congress and the administration consider alternatives that would eliminate the current standard and allow SBA to review industries currently considered to be small agriculture businesses. Following that review, SBA could then propose new size standards through the normal regulatory process, which would allow agriculture operators to comment and provide recommendations for a new standard. In addition, this would allow SBA to routinely review and update the standard and to keep pace with variations in the agriculture community such as change in commodity prices. As a result, the correct and appropriate size standard will be in place, better allowing producers to have access to SBA programs and ensure that agriculture producers' needs are better reflected in a variety of regulatory initiatives. In addition, we suggest that it would be very helpful if there was a stronger harmonization of standards used by SBA and the U.S. Department of Agriculture.

Again, thank you Chairman Tipton and Ranking Member Murphy for holding this hearing and for allowing me to share United's position with you. We look forward to working with you, and I will be happy to answer any questions.

Chairman TIPTON. Thank you, sir.

I will now begin the questioning, and I would like to begin with Mr. Luetkemeyer.

Mr. LUETKEMEYER. Thank you, Mr. Chairman. And welcome to all the panelists today. It is good to see somebody from Missouri as well.

Mr. Shoraka, I am kind of curious. I think at one time SBA had the authority and the flexibility to do this themselves. Why was it taken away? Let us have a little history here.

Mr. SHORAKA. Sure. I cannot speak to the intent back in the 1980s when this was taken away. As was mentioned today, at the time I understand the size standard was $100,000 annual receipts, and it was felt that that was below what was appropriate. But I cannot speak to the congressional intent as to why that authority was taken away from the SBA. But since that time we have not had the authority to establish that size standard.

Mr. LUETKEMEYER. I was curious if there was a standard that caused the flexibility to be taken away. Congress, you know, they always like to take more power themselves or they like to do things, you know, not necessarily well, but they like to do more things. I am just kind of curious about it.

I know in your testimony you talked about the different things that you look for, the characteristics, and I did not see in there the number of employees. One of the things that we do with SBA, a lot of the other definitions are by the number of employees. Why was that not included?

Mr. SHORAKA. There actually is difficult classifications for size standards. Some size standards are based on revenues. Others, like manufacturing, are based on number of employees. So there are different methodologies. What I would say is that as was mentioned earlier, the rulemaking process is such that we follow the Administrative Procedures Act. So we would do an analysis, but then we would have the opportunity not only to share it with our sister agencies to get their feedback, but it would also go to the community. And that is where we could really gather the feedback from industry. And oftentimes, it is that industry feedback and data from the industry that helps us really establish a size standard that represents industry.

Mr. LUETKEMEYER. Agriculture is a unique industry in that the fluctuation within it, because of the markets, because of the weather—I always tell people if you think going to Las Vegas is a real gamble, you need to be a farmer for a while and just roll the dice every day when you walk out your front door.

But it is amazing. Farming, I always tell people, it is one of the few occupations where you really do not have control over your inputs. You do not have any control over the weather. You do not have any control over the outputs. And yet you want to be a farmer. Congratulations, guys. It is amazing.

One other comment I want to make with Mr. Shoraka before we move on, one of the things I do not see in here, although you say federal market conditions in each industry, one of the—I think Mr. Keesaman mentioned something about market fluctuations, the yearly fluctuations. I mean, that is not listed here. Is that something that is also in your federal market conditions? Is that where you take care of the fluctuations in the market?

Mr. SHORAKA. We try to look at three-year averages to address the fluctuations.

Mr. LUETKEMEYER. Okay, so easy question. Where do you think it needs to be? Or what do you——

Mr. SHORAKA. I think we would have to the analysis. We have not done it for decades. I think we really would have to do the analysis and really go through the process, as I said, to work with USDA and other agencies in establishing the size standards. But it is very important to get industry——

Mr. LUETKEMEYER. Do you do it on an annual basis then or would you do it every five years because of the uniqueness of agriculture? Or what do you want to do?

Mr. SHORAKA. Based on the Small Business Jobs Act, we were required—we actually had not looked at size standards comprehensively for decades, but the Small Business Jobs Act of 2010, which we were thankful to receive, as an agency required us to look at a third of the size standards every 18 months. And we are on schedule to review all the size standards. And we go back every five years. But it is adjusted for inflation.

Mr. LUETKEMEYER. Very good.

Mr. Oestman and Mr. Keesaman, what size do you think would be appropriate? I am sure your associations have got some thoughts on it.

Mr. KEESAMAN. Well, Congressman, our farm bumps this limit. I love to do business with small family farms or small family businesses. Our meat sticks are made by a farm family business. Our beef is processed USDA inspected that we sell in our winery by a small family, and I like to do that. I know a lot of small farms that are way over the limit very easily. You know, one, two, three, four million. It depends on whether I am buying his corn at $8.60 or I am buying it at $3.00. Or it makes a difference whether he is buying my beef at $1.00 a pound or $2.50 a pound on hanging weight.

Mr. LUETKEMEYER. Farming is a very capital-intensive business. I mean, your restaurant business and your winery are going to be completely different business models than what agriculture is.

Mr. KEESAMAN. They are, and it is just a way, as you can see from my testimony, we want to bring sons back into the operation.

Mr. LUETKEMEYER. Right.

Mr. KEESAMAN. My great granddad was there. My grandfather was there. My father, that is all he knew, was farm. That is all I know. I have got one son that farms with me full-time that followed me around when he was a little kid. And so that is what our roots are in. We have had to change, and small business needs to change because of the limits, you know, and our Congress needs to change it. But yes, agriculture is a different breed of cat.

Mr. LUETKEMEYER. I appreciate your testimony today. I know that by rule here we are supposed to do this every five years and all the other entities, and yet we have not done this since 2000. So obviously it is time for a change.

Mr. Chairman, I yield back.

Chairman TIPTON. Thank you, Mr. Luetkemeyer.

And now I yield to Mr. Murphy for his questions.

Mr. MURPHY. Thank you, Mr. Chairman. Thank you all again.

It seems that there is sort of a fine line here. And over the past several years and decades we have seen a continual consolidation of smaller farms into the larger farms. By modernizing these standards and size-setting standards, how do we protect the integrity of the small businesses and prevent the corporations and the large businesses from seizing all these opportunities? How do we make that distinction? This is for the whole panel.

Chairman TIPTON. You can go ahead, Mr. Shoraka, if you want to start.

Mr. SHORAKA. Sure. I think, obviously, the question becomes as we set size standards for other industries because as has been mentioned today, there are certain benefits that flow to the small businesses that we set standards for. So making sure that the benefits flow to the intended recipients. And one thing that you mentioned, potentially affiliation. Right? When you see affiliation amongst businesses, that has to be considered. What we consider as an individual small entity is an independently owned entity. So that takes a lot of that sort of affiliation concern away. But you are absolutely right. As we establish size standards, there are benefits that flow to those small businesses, and we need to make sure that the benefits flow to the intended recipients.

Mr. MURPHY. Thank you.

Mr. Oestman?

Mr. OESTMAN. Great question. I kind of agree with what he said. You know, individually owned, our farm has turned into an LLC, but that is just for liability reasons. I mean, we have talked about these numbers and how great they are, and that does not mean we are an evil corporation but we just realized that we do not want to jeopardize all our family's assets. So, I mean, like he said, there is a continuing consolidation. So there are great big farmers out there, you know, but I am not sure exactly how to set that standard. But most of them are smaller, family-owned.

Mr. MURPHY. Thank you.

Mr. KEESAMAN. As I commented a minute ago, there is a lot of large farmers. A good friend of mine farms right across the road from me and they have got 9,000 acres of corn and probably 12,000 acres of beans. And he is a small farm family. He and his two sons. And so that is what we have done to bring sons in, is form—we have three different LLCs for each of the sons. So each of them share in that, but each one of them is sole proprietor of those LLCs. And it is a position now where that needs to be changed. Just thinking here a minute ago, two of my sons were still in diapers when this was changed. So times do need to change. Thank you.

Mr. GUENTHER. Yeah. I would agree with everybody on the panel here in terms of independently owned. Looking at a combination of things, of size, and number of employees, but also kind of what the makeup of that small business looks like in terms of its needs and kind of what potentially they are asking for quite frankly through SBA, too. I think that is an important thing as well to consider.

Mr. MURPHY. Mr. Guenther, it sounds like what I am hearing today and what I have read, that most people are in agreement the size standard does need to increase. Do you believe that is true? And if so, to what level? And do you have a range that that should be?

Mr. GUENTHER. That is a hard question to answer. I think something we would certain, you know, have to reach out to our members and our industry because it is an interesting dynamic that you place. When you look at a corn farm operation, a beef cattle operation, or a produce operation, those are totally different agriculture business models and a lot of them are very family owned, family, you know, multiple generations. So I think that would be a tough task for SBA to kind of look at agriculture and kind of look at the different diversity within these companies and how they are developed in these small businesses. So kind of giving you a range, certainly $750,000 is out of date. Certainly, it needs to be adjusted to reflect more of the last 15-plus years or 14-plus years since it has been done and look at the characteristics of what a small business farm or agriculture operation really looks like. We would certainly want to talk to our members about that and kind of get a sense of that as well. But certainly, $750,000 is a very low threshold.

I can tell you from my parents, you know, to kind of add on to what you guys have said about, you know, my parents, they have one person working for them, and my son works for them a little bit, and they would not meet that threshold. I mean, they would be over that threshold. It is just them, and it has been that way for many years.

Mr. MURPHY. And Mr. Guenther, as you know, SBA has many programs that could help many farmers grow their businesses. What percentage do you think, or how many folks that you work with know about the opportunities available through SBA?

Mr. GUENTHER. I think a fair amount do. They probably lean more towards the programs at UDSA in looking at those types of programs through, you know, development of farm bills and those programs. But certainly, I do think when you go up the distribution chain, even from agriculture to the wholesale distributors, the processors, you know, folks that are in that part of the produce industry, they are more attune to looking at SBA as a partner in developing startups or new acquisitions and things like that.

Mr. MURPHY. Do you think you have many members that would qualify but simply do not know about it?

Mr. GUENTHER. I think based on the current threshold, at least at the agriculture operations at $750,000, it would be very difficult. When you go up into the wholesale distributor where I think it is 500 employees or less, you would have a lot more in that world who were creating—like food hubs, for instance, and the wholesale distributor in the wholesale markets around the country. They potentially would have a lot easier time to meet that employee threshold because there are very few that are over 500,000 that I am aware of in that world of the produce industry.

Mr. MURPHY. Okay. Thank you, Mr. Guenther. And thank you all.

Chairman TIPTON. Thank you, Mr. Murphy.

Mr. Shoraka, just for clarity really probably more for the record than anything, in the view of the SBA, does the current statutory size accurately reflect the current economic realities of the agricultural industry? How are these measured by the SBA?

Mr. SHORAKA. Since we really have not set the size standard when the statute was established in the '80s, I think it would require an analysis really to determine if $750,000 is appropriate. We really just have not analyzed the industry, and I could not really speak to what the appropriate number would be. And what has been mentioned here a number of times I think is important is we have by statute clumped a lot of different things together, and we really need to look at the industries under that overall umbrella and determine what the appropriate size standards are for each.

Chairman TIPTON. I appreciate that.

If the authority for setting the size standards in these industries is going to be returned to the SBA, with agricultural enterprise size standards, would those automatically default at least to that number or would the SBA look at even lower numbers potentially?

Mr. SHORAKA. That is a great question. Thank you.

I think, you know, again, I think it is the analysis that is going to produce the results. And that is why I think it is really important to have the public comment period and to get input from industry. Certainly, the analysis may show certain industries going up, certain going down, but again, it is dependent through the Administrative Procedures Act for us to not only engage our sister agencies like USDA and others, but to get input from industry and make sure that it is accurate or that our size standards are accurate. And then on a five-year basis review it and adjust it appropriately.

Chairman TIPTON. Would each of the 46 subcategories I believe it is, would they get their own size standards?

Mr. SHORAKA. I believe so. I would have to double-check that, but I believe so.

Chairman TIPTON. When we are talking about gathering the information, you know, listening to Mr. Oestman and Mr. Keesaman, it is going to take a little while to be able to do that. Do you have a vague idea of how long it would take you to actually get——

Mr. SHORAKA. That is a great question. Obviously, I think based on the Small Business Jobs Act of 2010, we have been on schedule at looking at one-third of the size standards every 18 months. So we would have to, you know, if authority was given to us, we would have to see to work that into our schedule. It is obviously something that we have a methodology to do. We have staff to do. When we look at our resources and map out what we are doing in 2015 and 2016, obviously this is not one of the ones that has been on our radar screen but we would have to work it into our schedule accordingly.

Chairman TIPTON. Well, that is good news I am hearing, and that is that it should not any further appropriations.

Mr. SHORAKA. Well, I cannot speak to our appropriations. I would leave that up to our administrator.

Chairman TIPTON. And I guess maybe for our producers that are here, you know, it is fascinating. I grew up in rural Colorado. Our family did a little bit of ranching, a little bit of farming, going out, and agricultural practices have changed a lot.

Mr. Oestman, you were talking about developing new seeds. Probably worked with CSU. And could you maybe talk to us a little bit about, Mr. Keesaman, you have got a family farm going back to the 1800s, how things have changed maybe since your grandparents had the family farm, family ranch?

Mr. OESTMAN. Yeah, thanks. Great question, Congressman.

I think part of what I talked about in testimony is just technology today. I mean, everything, you know, we have implemented a lot of precision technologies on our farm. When we harvest a field, we map the yields and we break it down into a data zone, and we treat each zone differently. We apply fertilizer different to that zone than to a different zone. And that allows us to put the inputs where we need them. We used to blanket apply a field, whether it could be wasteful in a spot or it might not be enough in another one. And just those advancements in technology and, you know, bigger equipment, being able to do things more efficiently and effectively. I just believe we are better managers and stewards of our natural resources now. And not that they were not then but we just have a lot more technologies available now to do that.

Chairman TIPTON. Mr. Keesaman?

Mr. KEESAMAN. We are fifth and sixth generations work on our farm now, and we can see that use of genetics, the same as in seed corn, we use it in the Red Angus breed today. We have bulls that are negative birth weight which make calving ease great. They will go from 76 pounds, a new herd bull, to 705, 725 in weaning weight. That is in 205 days. And then they will go on at 365 days and weigh 1,300 pounds.

So you can see in my testimony, wherein only 7 percent of the world supply of cattle are in the United States, but we are raising 20 percent. So they are growing faster on less feed, they are more efficient. So that is where we keep working on through the universities, through the National Cattlemen's Beef Association, and Missouri Cattlemen's Association. It is a good life but you have got to keep doing more to continue, and the Ag is not much different in northwest Missouri as it is in northwest Colorado.

Chairman TIPTON. Mr. Guenther, do you have any comments on that?

Mr. GUENTHER. I mean, I would agree with technology. Diversification is fascinating. When you look at Mr. Keesaman and the diversification in his family's operations and others. You know, I look at it in our world, in the produce world, and the different varieties that are available now that were never available several generations ago. And the continuing need to keep updated with new varieties and new scientific developments that help maintain profitability in our industries with the challenges, as you know, on food safety and other issues in our world. You know, it is important to make sure that you are up to speed on those types of new technologies and opportunities available to you.

Chairman TIPTON. That is just kind of a personal thing I think to our agricultural producers, you know, across the board, it has always been my opinion that the best environmentalists actually that we have, you know, Mr. Oestman when you are talking about going out and broad-based fertilizing and now spot fertilizing. You know, the analysis. This has become literally a high-tech world from the planning end of it to the analysis of the soils, to water consumption and product growth and development, I think that is absolutely remarkable in terms of the yield that we are getting out of our cattle industry and what we are able to do. And that is incredibly admirable.

Mr. KEESAMAN. If I could say, you now, we are good stewards of the land or we cannot pass it on generations and raise the yields that this man is raising, and our beef is fast. You know, we take care of our product and our commodities and our animals, and if we did not take care of them, you know, there are organizations (HSUS, PETA) that are looking down at us, you know, and they do not want, you know, we are not doing things right. But we are. We are taking care of our—we are stewards of the land, and we have to fight Mother Nature, as Congressman Luetkemeyer commented a while ago, we have to fight Mother Nature. We have to fight the government and commodity prices, everything else, but then we have got all these weight of the far-out here organizations that are really cracking down on us, you know, and sometimes they do not know the true story.

Chairman TIPTON. And I think there is at least general appreciation from a lot of the folks I visit with. The American farmer, American rancher feeds this country and a good part of the world, and that does not come without a lot of risk that you cannot control when we are talking about the weather, to some of the unintended consequences of some government regulations.

Talking about that, in your view, do government agencies in your estimation, do they accurately measure and consider some of the potential impacts of proposed rules, regulations on our agricultural producers?

Mr. KEESAMAN. Well, yes and no. I think, you know, some regulation I think is really good. On others, I do not know. And we were talking coming over here today, the regulations on the wine and the liquor industry, you know, we have had to jump through more hurdles and some of it is just bureaucracy and red tape, and it is the same way in the meat business. And again, some of this is good and some of it is bad, and that is where we get back to the regulations. You know, sometimes it hurts us. Sometimes it helps. And just like some of what they are calling right now large farms, you know, we are not. We are small family farms that are up there in over the $750,000 gross.

Chairman TIPTON. Do you have anything, Mr. Oestman?

Mr. OESTMAN. Thanks, Congressman.

Yeah, I think some regulations, you know, are a great thing and help curve some people and abuses in other places, but I sometimes see that some government regulations and agencies may overstep or overreach a lot of times in things that may or may not need to be regulated in my opinion. So, I mean, I have seen some of them come down to the farm level and make sure what they are doing is good, and that is good. I encourage any of them to do that. I think that is a great way. Thank you.

Chairman TIPTON. Yes, sir?

Mr. KEESAMAN. If I could, the regulations on the water is going to be terrible on all of us. We are kind of from the high country of Missouri, northwest Missouri, I guess, and our farms, luckily, not much water drains on us, but it does run off. And what EPA is trying to do on all these water rights is going to really hurt us with the regulations.

Chairman TIPTON. Do you find it a little disturbing—I find it infuriating—when we have the EPA—I consider this the greatest water grab in American history that is coming out of the EPA now in terms of regulatory authority. We have a rancher, Wyoming, potentially facing a $74,000 fine because he put in a stock pond. Just forget that he got all of the permits and abided by the law of the State of Wyoming. And now they want to be able to step in and garnish wages. Come in to your farm, to your wine business, to your cattle industry, to be able to garnish wages on a fine. And we have seen a 160 percent increase in terms of fines coming out of the EPA right now. That has got to be of incredible concern to you because without water, be it in Missouri, be it in Florida, certainly in Colorado, that is the life blood.

Mr. KEESAMAN. Well, it is. And I think they are picking on the people that are really doing a good job and trying to protect. Because if you run cattle in a lot of these streams or ponds, you know what happens. The life expectancy of them is not very long. And we have got several ponds that have been built by the NRCS on a cross-share program, and we fence them and keep them out, and we have been doing this for a long time. So, but they still could come down on us on about anything, and it is very disturbing.

Chairman TIPTON. We might well have to have you come back. I would love to be able to have a hearing and to be able to have the EPA administrator come in and try and justify the savaging of the American agricultural community through some of their rules and regulations that are going on because we have very common ground. We all like clean air. We all like clean water. But we do take umbrage of overreach that is going on, and I think what I am hearing from you, and certain from the administrator as well, that dialogue is important. We need some rules. We need some regulations. But we also need to be able to insert some common sense into the process, make sure that that dialogue is continuing, and if something is not working, let us stop doing it. If we cannot fix it, let us just take it off the books. If we can fix it, let us make those adjustments.

I would like to thank you all for taking the time to be able to be here. I know that this is certainly a big effort. Thank you all for your busy schedules, making time to be able to come in and testify here. You have provided us all with, I believe, some important insights on how federal policy and decisions in Washington will impact our small businesses and the economies. And most importantly, your families and the ability to be able to provide for them.

I would like to ask for unanimous consent that members and the public have five legislative days to be able to insert statements and supporting materials for the hearing record.

With no objection, so ordered.

This hearing is now adjourned. Thank you again.

[Whereupon, at 10:52 a.m., the Subcommittee was adjourned.]

APPENDIX

U.S. Small Business Administration
Washington, D.C. 20416

TESTIMONY of

JOHN SHORAKA
Associate Administrator, Government Contracting and Business Development
U.S. Small Business Administration

U.S. House Committee on Small Business
Subcommittee on Agriculture, Energy, and Trade

Wednesday, July 23, 2014

Chairman Tipton, Ranking Member Murphy, and members of the Subcommittee, I am honored to be here today to discuss SBA's size standard methodology as it pertains to agricultural enterprises.

As you know, with the exception of certain agricultural enterprises, the Small Business Act (P.L. 85–536, as amended) provides the U.S. Small Business Administration (SBA) with statutory authority to establish small business size definitions, referred to as "Size Standards", for federal government programs. The size standards for agricultural enterprises are unique in that they are directly established by the statute. The size standard for agricultural enterprises was first set by statute in 1985 (P.L. 99–272). Currently, the size standard for 46 industries in North American Industry Classification System (NAICS) Sector 11 (Agriculture, Forestry, Fishing and Hunting) is set by statute at $750,000 in average annual receipts (P.L. 106–554).

SBA is capable of conducting the analysis to establish small business size standard for agricultural enterprises, as SBA would use the same process that it currently uses to establish size standards for business concerns in other industries. When establishing size standards, SBA examines economic characteristics, such as average firm size, industry concentration, start-up costs and entry barriers, and federal market conditions in each industry. At SBA, we believe in a transparent process. A detailed explanation of how SBA establishes size standards is provided in our "Size Standards Methodology" White Paper, which is available on the Agency's website at www.sba.gov/size.

Establishing size standards based on characteristics of individual industries is consistent with Section 3(a)(3) of the Small Business Act which requires the Administrator to ensure that size standards vary—to the extent necessary—to reflect the differing characteristics of industries. SBA believes its methodology for establishing size standards meets this requirement by incorporating economic characteristics and federal market conditions into its analysis on an industry-by-industry basis.

The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to review all size standards and make necessary adjustments to reflect market conditions every five years. The Small Business Act does not require SBA to review size standards for most agricultural industries, so the Agency did not review agricultural size standards under the current review. In addition, SBA reviews all monetary based size standards every five years for inflation and makes necessary adjustments. Currently, SBA does not adjust the statutory agricultural size standards for inflation. As a result, the agricultural size standard has remained at the $750,000 receipts level since 2000, while SBA has reviewed and adjusted monetary based size standards for inflation four times in that time period.

If SBA were mandated to review agricultural size standards, adjustments for inflation and other economic conditions could be made.

Thank you for your continued leadership and support. I look forward to your questions.

coloradoCorn

127 22nd Street | Greeley, CO 80631 | 970.351.8201

July 24, 2014

Chairman Tipton, Ranking Member Murphy, my name is Mark Oestman and I'm a fourth generation farmer and rancher from near Eckley in northeast Colorado. I farm 2,500 acres of irrigated ground raising corn, wheat, and soybeans in a family partnership with my dad. Together we also run about 400 steers in a grower/stocker operation. My wife Dessany and I are raising our children to hopefully be the 5th generation to operate our farming operation. In addition to farming, I currently serve as the President for the Colorado Corn Administrative Committee, which is the state corn "check-off" organization.

When someone asks me to sum up production agriculture, I like to say that farmers are just like everyone else except that the cost of running our business adds a few extra zeroes to the income and expense columns at the end of the month. From the combines that we use to harvest our crops, which cost as much if not more than many homes, to the enormous increases in the input costs associated with producing that crop, such as fertilizer, seed, and energy costs, the challenges of staying in the farming business can be difficult to manage.

I believe part of the reason for increased costs can be attributed to an unprecedented period of growth in the agricultural industry. Many things have contributed to this period, such as an ever-increasing population demand for more protein and more grain, along with improved markets for ethanol. These factors and others have led to record demand for most production agriculture commodities and, in turn, to higher prices for these commodities as well.

With these higher prices, both for the commodities we grow and the inputs we must purchase, there has been a trend of consolidation in modern agriculture resulting in larger farms. These additional acres help us to spread our machinery costs and land payments over more acres and use our equipment more efficiently. With the average age of the American farmer continuing to rise, we will continue to see more and more farms sold or rented out.

Increased yields are another trend we are seeing in agriculture today. Thanks to advanced technologies, I am able to select hybrid seeds. I can effectively plant a field and know that because of seed selection, I've reduced the amount of inputs needed to combat weeds and insect attacks. Precision technology has helped me to maximize yields, minimize inputs all while protecting the environment.

Any single one of these variables I have talked about could support a need to increase the $750,000 level for production agriculture to meet the small business criteria. When you consider all of them together, it becomes abundantly clear that this level needs to be increased and by a substantial amount.

If you take my farm for an example, we usually raise roughly 1,500 acres of corn, 500 acres of soybeans, and 500 acres of wheat. In a typical year, we would hope to raise 300,000 bushels of corn, 25,000 bushels of soybeans, and 50,000 bushels of wheat. I did some research. From 1985 to 2006 an average price for corn was approximately $2.27 per bushel. So, our farm receipts from just our corn during that period would have been $681,000. Compare that to today's average price. From 2007-2013 it's around $4.94 per bushel. The same 300,000 bushels would bring in around $1,482,000.

So in summary, I believe that the Small Business committee should seriously consider substantially raising the arbitrary $750, 000 in receipts that currently exists for agriculture producers. The dynamics of todays' farms and farmers, especially those who farm as their sole source of income, have changed dramatically and I believe the limit should as well. Due to factors largely out of a farmer's control, my total receipts can change dramatically from year to year, and I believe that SBA standards should take many of those factors into consideration and increase the standard.

Testimony

on behalf of the

National Cattlemen's Beef Association

with regards to

Modernizing Agriculture Producer Size Standards

Submitted to the

House Committee on Small Business
Subcommittee on Agriculture, Energy and Trade

Scott Tipton, Chairman

submitted by

Ken Keesaman
Owner, KK Red Angus Farms

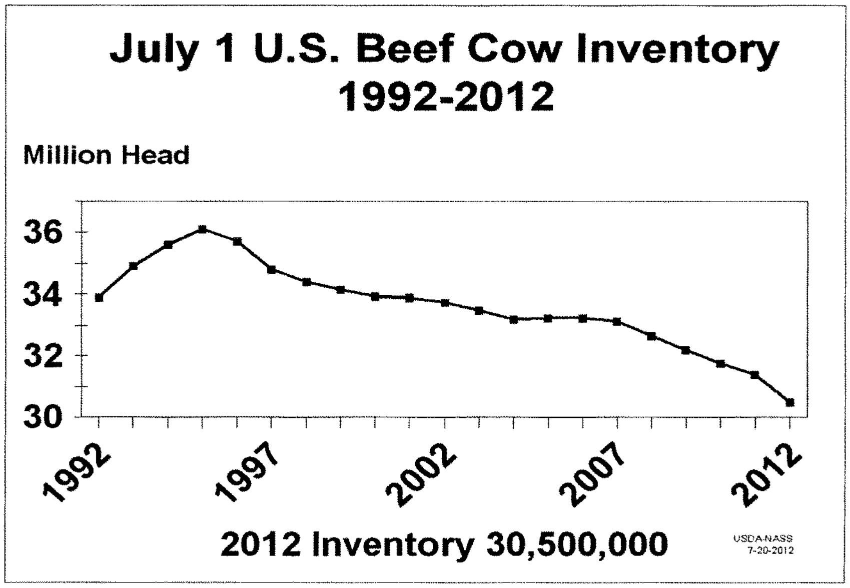
July 24, 2014
Washington, DC

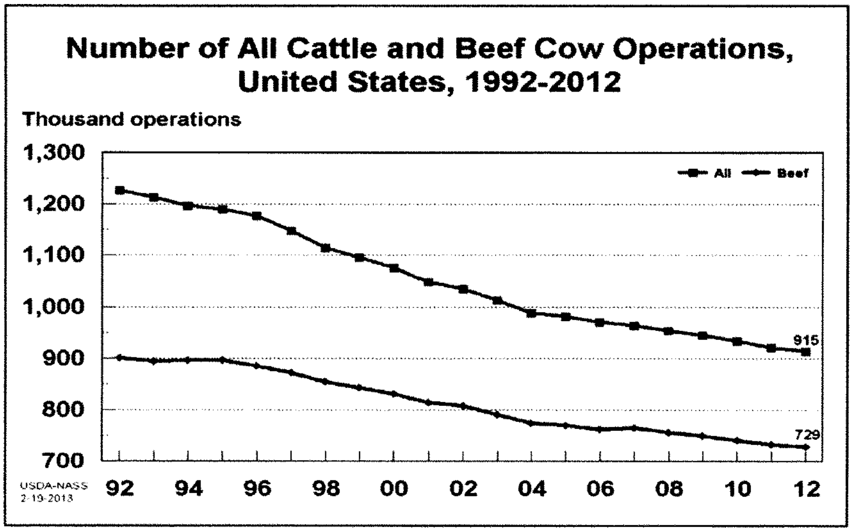
BEEF USA **National Cattlemen's Beef Association**

Good morning, Chairman Tipton, Ranking Member Murphy and members of the Committee. I am Ken Keesaman a cattle farmer from Osborn, Missouri. My family and I are members of the National Cattlemen's Beef Association and the Missouri Cattlemen's Association. It is a pleasure to testify before your Committee today on how the livestock industry and in particular our family operation, KK Farms Red Angus, has evolved over the years. My wife and I own KK Farms along with our three sons Kody, Kasey and Kraig. KK Farms is a purebred livestock farm that sells breeding cattle from 300 head of registered Red Angus cattle. Our farm is also diversified as we raise corn, soybeans, hay, a few hogs and over the years have added a vineyard and winery featuring Angus Red wine and a microbrewery. Currently, we are in the process of planning a restaurant and event center to add to our agri-tourism venture.

Our family started in the cattle business in the 1870's and I began farming full-time in 1969 when I returned from active duty with the Missouri Air National Guard. KK Farms consists of 1500 acres of which 900 acres are owned by our family and the remaining acres are leased. Of the 900 acres, 240 have been in the family since the establishment of our farm earning KK Farms the "Missouri Century Farm" award. Maintaining the original farm acreage continues to be a priority for our family and we have expanded our business model throughout the years to maintain our livelihood. Raising cattle is the foundation of our farm and we have been in the Registered Red Angus business since 1972.

The face of the livestock industry is much different today than it was in 1969 when I returned to the farm. In 1969, there were approximately 845,000 beef cattle farms with more than 34 million head of beef cattle. Other than the expansion of farms and herd size in 1974 and 1995 there has been a steady decline of the number of farms and the total head of beef cattle in the United States. Today, we have approximately 29 million head of beef cattle and according to the 2012 Ag Census, there are 729,000 beef cattle farms. Even though we have the smallest beef herd since 1951 our industry has been able to utilize the latest science and management practices to produce approximately 25 billion pounds of beef.


July 1 U.S. Beef Cow Inventory
1992-2012
Million Head
36
34
32
30
1992
1997
2002
2007
2012
2012 Inventory 30,500,000
USDA-NASS
7-20-2012


Number of All Cattle and Beef Cow Operations, United States, 1992-2012
Thousand operations
1,300
1,200
1,100
1,000
900
800
700
All
Beef
915
729
92
94
96
98
00
02
04
06
08
10
12
USDA-NASS
2-19-2013

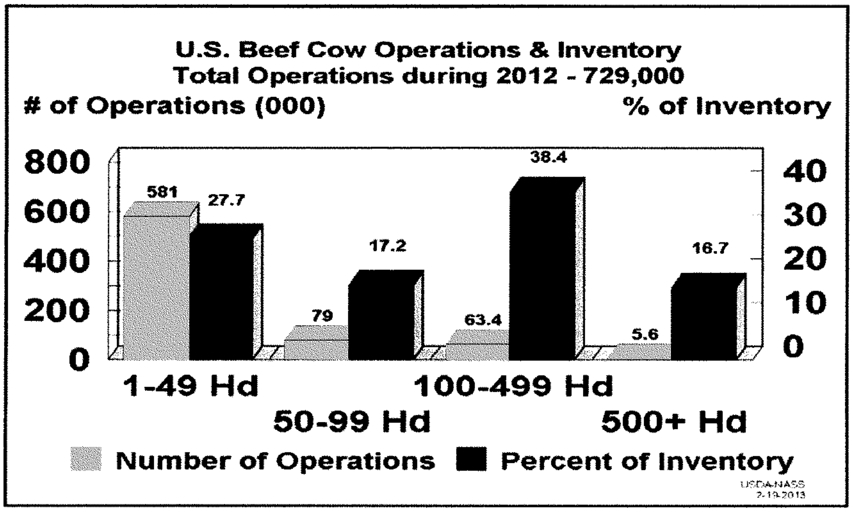
When you evaluate the success of America's cattle farmers and ranchers, we have developed a successful business model not only domestically but also globally. In terms of production, the United States has only seven percent of the world's cattle supply but we are able to produce 20 percent of the world's beef. We have found ways to utilize more of our natural resources and the latest science to be more efficient than our international competition.

Our farm has changed like many other small family farms since 1985. During the late 1980s, due to changing trends in agriculture, we downsized our hog operation and increased our Red Angus herd. Our production costs have increased making it difficult for family farms to compete today's agricultural environment.

The cattle industry in Missouri is comprised of a lot of smaller family farms who make a big impact. We have a lot of small player who make a big impact nationwide. The average herd size in Missouri is 36 head but overall, we are the second largest beef cattle state behind Texas. We have to do everything we can to send signals to these families that the climate in right to expand.

We use risk management by utilizing research and technology afforded to us through land grant universities like the University of Missouri Extension. Examples include planting cover crops over our corn and soybeans, which can be grazed by livestock. This helps us manage our feed costs during the recent droughts of 2012 and 2013. Also, in regards to risk management, we've added new ventures to spread our risk. In 2009, my son Kraig and his wife added Windy Wine Company and planted nearly 8 acres of Missouri grapes. We've also ventured into All-Natural Meat production/sales of our Fed Angus Beef and another son started a microbrewery called Blackbelt Brewery. Future plans to spread risk include a farm-to-table restaurant, even center and bed and breakfast. All of this adds value to our farm helps to spread risk. It also ensures every member of my family have a place on this family farm.

The evolution of today's livestock industry has shifted and in order for family businesses to survive we have expanded and diversified our operations. In terms of agriculture, today's small business has changed and it is appropriate for the size standards applied by the Small Business Administration to more accurately represent today's small operations. It is my understanding that agriculture is the only industry where the statute establishes our size standard. With that being the case, Congress must change the statute and consider alternatives to the current size standards so they more accurately reflect today's small businesses. Smaller operations play a significant role in the beef cattle industry. The chart below from USDA's National Agricultural Statistics Service shows the number of operations that have fewer than 500 head of cattle and the percentage of our industry inventory they raise. You'll quickly notice that smaller operations account for the majority of beef cattle operations in the U.S.


U.S. Beef Cow Operations & Inventory
Total Operations during 2012 - 729,000
# of Operations (000)
% of Inventory
800
600
400
200
0
40
30
20
10
0
581
27.7
79
17.2
63.4
38.4
5.6
16.7
1-49 Hd
50-99 Hd
100-499 Hd
500+ Hd
Number of Operations
Percent of Inventory
USDA-NASS

In closing, I appreciate the work this Committee does to ensure there are opportunities for individuals to pursue the American Dream. Small businesses are the life-blood of America and our rural communities. As industries evolve it is important for the government to modify the governing statutes and regulations to better reflect the changes in the business climate. Another area where I appreciate the work of the Committee is on the regulatory front. Burdensome regulations stifle innovation and cripple America's small businesses. The good work this Committee does to bring the small business perspective into the regulatory climate is appreciated by smaller operations like KK Farms. Thank you for the opportunity today, to share our family's history and commitment to agriculture—it's more than a business, it's our way of life.

United Fresh
PRODUCE ASSOCIATION

Prepared Statement

Robert Guenther

Senior Vice President, Public Policy

United Fresh Produce Association

Washington, DC

Before the

U.S. House of Representatives

Committee on Small Business

Subcommittee on Agriculture, Energy and Trade

July 24, 2014

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Thank you Chairman Tipton and Ranking Member Murphy, my name is Robert Guenther and I am the Senior Vice President of Public Policy for United Fresh Produce Association. As you know, United Fresh is the national trade association representing the entire distribution chain of fresh fruit and vegetable production including, growers, shippers, wholesale distributors, processors and retailers. Since 1904, United Fresh has worked with Congress and the Administration to help shape legislative and regulatory policies to provide a strong business climate for our members that encourages growth and development. We thank you for the opportunity to address an issue that impacts the ability of many of our United Fresh members to utilize key programs designed to assist small businesses as they seek to develop and diversify their operations. And on a personal note, I, like my two other colleagues at the table today, also grew up on a small family farm which is located in North Central Florida and has focused on citrus and nursery production for over 100 years. So this issue does take on a personal appeal for me.

For a variety of reasons such as changes in the economy or fluctuations in commodity prices, the number of agriculture producer operations classified as small businesses has been on a continual decline, even though many of these operations made no significant changes that would otherwise justify a reclassification. Taking into account current agriculture business models, a standard many times higher than the current $750,000 in annual receipts would be the norm in today's agriculture community. More importantly, fruit and vegetable producers, like producer of other commodities, will tell you that annual gross receipts are not a reliable indicator of an operation's size. Nor is it a good indicator of profitability—in light of the cost of inputs and labor, which in fruit and vegetable production, is particularly significant.

In addition to being an unrealistic representation of many agriculture operations, the current SBA standard puts agriculture small business operators at a disadvantage in their ability to avail themselves of assistance they could utilize to grow and adapt their operations. The current $750,000 size standard applied to agriculture operations limits small agriculture producer's access to SBA's assistance programs and federal contracting preferences for small prime and subcontractors. Key SBA programs that may prove useful to produce operations include loans to start, acquire or expand a small business or loans that provide long-term, fixed-rate financing for assets such as land or buildings, among others.

More importantly when you look at wide variety of programs available at the U.S. Department of Agriculture to help fresh produce operations including farm loan programs, market promotion and export assistance, technical assistance for conservation compliance, nutrition programs, rural and infrastructure development, new and beginning farmers, or organic programs, we believe it is important to ensure that there is a level of consistency between USDA and other federal agencies when it comes to a small business definitions.

Finally, among the most significant challenges that agriculture operations face, like any business, is compliance with government regulations. Some agencies use SBA size standards to assess the impact of their proposed regulations in accordance with the Regulatory Flexibility Act. However, the current standard for agriculture operations to qualify as a small business of annual receipts of no more than $750,000 was set by Congress in 2000. As discussed earlier, given the enormous changes in agriculture since that time, a review of the small business standard, which would provide agriculture producers with justifiable regulatory relief, is long overdue.

To this end, we would suggest that Congress and the Administration consider alternatives that would eliminate the current standard and allow SBA to review industries currently considered to be small agriculture businesses. Following that review, SBA could then propose new size standards through the normal regulatory process, which would allow agriculture operators to comment and provide recommendations for a new standard. In addition this would allow SBA to routinely review and update the standard and keep pace with variations in the agriculture community such changes in the commodities markets. As a result, the correct and appropriate size standard will be in place, better allowing producers to have access to SBA programs and ensure that agriculture producers' needs are better reflected in a variety of regulatory initiatives. In addition, we suggest that it would be very helpful if there was stronger harmonization of the standards used by SBA and the Department of Agriculture (USDA). For example, USDA uses acreage as a determining factor in how an operation is categorized. We believe that is a more accurate indicator of whether a business can be considered small and should be incorporated in any determination of what category an agriculture operation should be included.

Again, thank you Chairman Tipton and Ranking Member Murphy for holding this hearing for allowing me to share United's position with you. We look forward to working with you and I will be happy to take questions.

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