

**EXAMINING THE CONSEQUENCES OF EPA'S  
ACTIONS ON AMERICAN AGRICULTURE**

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**HEARING**

BEFORE THE

**COMMITTEE ON AGRICULTURE  
HOUSE OF REPRESENTATIVES**

ONE HUNDRED EIGHTEENTH CONGRESS

SECOND SESSION

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JULY 10, 2024  
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# EXAMINING THE CONSEQUENCES OF EPA'S ACTIONS ON AMERICAN AGRICULTURE

WEDNESDAY JULY 10, 2024

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON AGRICULTURE,  
*Washington, D.C. House of Representatives, Committee on  
Agriculture Washington, DC.*

The Committee met, pursuant to call, at 2:00 p.m., in Room 1300 of the Longworth House Office Building, Hon. Glenn Thompson [Chairman of the Committee] presiding.

Members present: Representatives Thompson, Lucas, Austin Scott of Georgia, Crawford, DesJarlais, LaMalfa, Rouzer, Kelly, Bacon, Bost, Johnson, Baird, Mann, Feenstra, Miller of Illinois, Moore, Cammack, Finstad, Rose, Jackson of Texas, Molinaro, De La Cruz, Langworthy, Duarte, Nunn, Alford, Van Orden, Chavez-DeRemer, Miller of Ohio, David Scott of Georgia, Costa, McGovern, Adams, Spanberger, Hayes, Brown, Davids of Kansas, Slotkin, Caraveo, Salinas, Perez, Davis of North Carolina, Budzinski, Sorensen, Crockett, Jackson of Illinois, Casar, Carbajal, Craig, and Soto.

Staff present: Wick Dudley, Halee Fisher, Tim Fitzgerald, Ricki Schroeder, Patricia Straughn, Daniel Feingold, Ari Perlmutter, Ashley Smith, Michael Stein, John Konya, and Dana Sandman.

## OPENING STATEMENT OF HON. GLENN THOMPSON, A REPRESENTATIVE IN CONGRESS FROM PENNSYLVANIA

The CHAIRMAN. The Committee will come to order. Good afternoon, everyone. Thank you for joining today's hearing entitled, *Examining the Consequences of EPA's Actions on American Agriculture*. After brief opening remarks, Members will receive testimony from our witnesses today, and then the hearing will be open to questions.

So, once again, good afternoon, and welcome to today's hearing.

American farmers and ranchers are the original conservationists. No one cares more for the environment than those whose livelihoods depend on it. They work tirelessly to ensure consumers have the safest, most abundant, and most affordable food and fiber supply in the world.

Agriculture is unlike any other industry, where producers are at the mercy of many uncontrollable factors including extreme weather, natural disasters, pests and diseases, input costs, and geopolitical unrest. What producers should not have to worry about is the Federal Government working against them.

Unfortunately, the Biden Administration has compounded this uncertainty with an unworkable regulatory regime that creates even greater costs and ambiguity for our farmers and ranchers. Because of the concerns this Committee has heard from agricultural communities across the country, I was pleased to host a hearing last April with Administrator Regan to talk about the impact the Administration's actions have on American agriculture. That hearing marked the first time an EPA Administrator appeared before the Committee since 2016.

At that hearing, Administrator Regan repeatedly indicated his willingness to work with farmers and ranchers as his agency promulgated rules and regulations impacting their livelihoods. While those statements appeared encouraging, since that hearing, the agency has announced an onslaught of rules and regulations that contradict these collaborative statements.

Not only is the agency targeting specific crop protection tools that are important to production, it is also fundamentally changing the pesticide registration and registration review process.

Last summer, the EPA published the draft Vulnerable Species Pilot Program and the draft Herbicide Strategy that will directly impact the ability of producers to utilize these critical tools and will cost billions to comply with. Even this Administration's own U.S. Department of Agriculture expressed significant concerns with these actions.

The Biden Administration's attacks on American agriculture do not stop at crop protection tools. Earlier this year, the EPA published a proposed rule that significantly changes the effluent limitation guidelines for meat and poultry processing.

While Biden's USDA spends millions to supposedly expand meat and poultry processing capacity, his EPA is simultaneously proposing rules that would shutter processing plants and impose significant compliance costs across industries vital to food affordability.

These two examples of where USDA is directly at odds with the EPA during this Administration are further proof that the left hand does not know what the far-left hand is doing and illustrates President Biden's continued failed leadership.

Further, the EPA has exacerbated the uncertainty surrounding what constitutes *waters of the United States* and is also considering a rule to require reporting of livestock air emissions under the Emergency Planning and Community Right to Know Act (Pub. L. 99-499).

Unfortunately, the EPA's war on agriculture does not end here. Numerous other actions related to the Clean Air Act, the Clean Water Act, and other statutes within EPA's jurisdiction undermine the ability of producers to effectively manage their operations.

I appreciate the Administrator's intent to work with the agricultural community; however, something is clearly broken with the current process. There's a disconnect between the rhetoric of this Administration and the impact of their regulatory actions on the ground. This is why I extended an invitation last December for Administrator Regan to reappear before the Committee.

Despite multiple requests since December, the Biden Administration refuses to make Administrator Regan available for requests by

the Committee. Staff from the agency have even said that: “for Administrator Regan to appear a second time in 14 months would be unprecedented.”

I would argue the EPA’s approach to punishing American farmers and ranchers through regulation under this Administration is also unprecedented.

Wrongheaded and often heavy-handed regulations are exactly why producers do not trust the EPA and why I frequently hear it referred to as the Excessive Punishment Agency. Simply put, the EPA under the Biden Administration does not understand American agriculture or rural America, nor do they understand the consequences of their actions.

I am disappointed in too many of Administrator Regan’s misguided actions during his tenure and am even more disappointed by his failure to timely comply with Congressional requests for testimony. We look forward, at the Administrator’s convenience of course, to making his trip down Pennsylvania Avenue to appear before the Committee.

With that said, the testimony of rural America through our esteemed witnesses, some traveling from across the country, cannot wait. And we thank all of you for your time and your engagement.

[The prepared statement of Mr. Thompson follows:]

PREPARED STATEMENT OF HON. GLENN THOMPSON, A REPRESENTATIVE IN CONGRESS  
FROM PENNSYLVANIA

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The Biden Administration’s attacks on American agriculture do not stop at crop protection tools.

Earlier this year, the EPA published a proposed rule that significantly changes the effluent limitation guidelines for meat and poultry processing.

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With that said, the testimony of rural America through our esteemed witnesses, some traveling from across the country, cannot wait. And we thank all of you for your time and engagement.

I now yield to the distinguished Ranking Member, Mr. Scott.

The CHAIRMAN. With that, I would now like to welcome the distinguished Ranking Member, the gentleman from Georgia, Mr. Scott, for any opening remarks that he would like to make.

#### **OPENING STATEMENT OF HON. DAVID SCOTT, A REPRESENTATIVE IN CONGRESS FROM GEORGIA**

Mr. DAVID SCOTT of Georgia. Thank you, Mr. Chairman, and good afternoon, ladies and gentlemen. I would like to thank our witnesses for coming today, and providing their valuable testimony on the EPA.

But before I get to today's hearing, I must express my deep concerns about Chairman Thompson's willingness to forego the farm bill. His stubborn refusal to engage on a bipartisan farm bill is irresponsible for the American people, especially our farmers who feed, fuel, clothe, and house our nation. Since our very divisive markup almost 2 months ago, there has been absolutely no progress on Chairman Thompson's bipartisan bill. This delay hurts the American people, especially in rural communities where our farms are, and it injects uncertainty into our nation's economies, both rural and urban.



This willingness to delay the bill to play election year politics is selfish. It is disrespectful to our farmers who depend on us for their livelihoods to pass a bipartisan farm bill. And this is not just a farm bill. This is also a national security bill. Let us not be cute about this, ladies and gentlemen. Food security is most definitely now a national security, and Chairman Thompson knows this. He put it in the title of the farm bill's hearing. It is the Farm, Food, and National Security Act (H.R. 8467).

And you know, I thought about this. I had a word with Speaker Johnson. My feeling is Speaker Johnson will not bring this bill to the floor for a vote because it was not written as a serious bill. It was written to be used as a campaign slogan, nothing more.

Chairman Thompson can prove me wrong. All he has to do is bring to the floor and put it up to a vote.

Now, in 2007, just 1 week after Democratic then-Chairman Collin Peterson marked up his farm bill, I was there in 2007, and Speaker Pelosi brought it to the House floor. She brought it up in 2 weeks in July, which is the height now of appropriations season. Because she brought it up, because it was important, it was vital, we had urgency then. And since 2002, I have served on this Committee. After being elected in 2002, I have gone through the farm bills. I have been to witness there, and I remember and I know what happened. And even when our Republican Speaker, Speaker Boehner, who was a good friend of mine, and Ryan, each brought up Chairmen Lucas's bill and Conaway's respective farm bills only a month after their markups. I was there then. We passed the most comprehensive, bipartisan piece of legislation, and biracial, in the 1890s scholarship during that momentous bill.

And here we are, 2 months past our markup, with the calendar running out.

Ladies and gentlemen, August recess is right around the corner. We will all be gone. We come back here in September, and a week is gone there, and then the new appropriations year starts 3 weeks later, October 1. Where are my Republican friends? I will tell you where. They are scheduling votes on refrigerators and dishwashers now. I don't have anything against household appliances, but we are talking about people's lives. We are talking about food security and national security.

I do not want any more excuses. I appreciate you all taking the time to hear my plea. It is time to fish or cut bait. America deserves this farm bill, this national security bill. Since the markup, Speaker Johnson has not indicated any intention of moving Chairman Thompson's bill. That is why I am talking to you. We are urgent here. We have to move. Treat this bill as the title says. It is the farm bill. But most importantly, it is a national security bill.

And I want to thank you all for hearing this plea. Our farmers want action this year, not next. Our business community wants action now, this year. Our families want action, and therefore, I encourage my Republican colleagues: let's stop playing politics, and just face reality, and let us move ahead as we should.

And now, I would like to continue now with my remarks briefly for our excellent panelists here with the EPA. I want to thank you for coming, and I want you to know we are looking forward to having your explicit testimony.

Thank you, Mr. Chairman, and I yield back.

The CHAIRMAN. The gentleman yields back. There is a lot I could say, but I am not going to say anything. We are going to move ahead with this hearing and stay grounded in reality.

The chair would request that other Members submit their opening statements for the record so our witnesses may begin their testimony and to ensure that there is ample time for questions.

Our first witness today is Mr. Jeff Kippley, Vice President of the National Farmers Union. To introduce our second witness today, I am pleased to yield to the gentleman from Missouri, Mr. Alford.

Mr. ALFORD. Thank you, Mr. Chairman, and I do appreciate your leadership in passing a bipartisan farm bill out of this Committee some 2 months ago in this very room, unless I was dreaming.

Mr. Chairman, it is a distinct honor to introduce Director Chris Chinn as Missouri's Director of Agriculture. Director Chinn is a fifth-generation farmer from Clarence, Missouri, where she and her family raise hogs, cattle, corn, soybeans, and hay. She has served as Missouri's Director of Agriculture since 2017 and chairs NASDA's Plant Agriculture and Pesticide Committee, and the Midwest Association of State Departments of Agriculture.

I am also proud to know Director Chinn on a personal level, and to have worked with her throughout my time here in Congress.

Director Chinn, of course, spent the day with us, Mr. Chairman, a fun day at the Missouri State Fair just last year. This is the same state fair where I have mentioned before that Jonathan Jackson milked a cow. We have photographic proof of that, and Representative Monica De La Cruz was there as well.

Director Chinn was a big part of the farm bill listening session that we had there, along with the Governor and Lieutenant Governor, and I glad that we could hear about the concerns of our producers together and incorporate and fold those into this bipartisan farm bill.

She is a champion for farmers and ranchers across the United States of America and her knowledge and experience will be a vital part of today's discussion. I look forward to hearing your testimony.

Thank you, and I yield back.

The CHAIRMAN. I thank the gentleman.

Our third witness today is Mr. Gary Cooper, Chief Operating Officer of Cooper Farms, and our fourth and final witness today is Dr. Rebecca Larson, who is the Vice President, Chief Scientist, and Governmental Affairs for the Western Sugar Cooperative.

To all of our witnesses, thank you so much for joining us today. You each have 5 minutes for your oral testimony. The timer in front of you will count down to zero, at which point your time is expired.

Mr. Kippley, please begin when you are ready.

**STATEMENT OF JEFF KIPPLEY, VICE PRESIDENT, NATIONAL FARMERS UNION, WASHINGTON, D.C.**

Mr. KIPPLEY. Chairman Thompson, Ranking Member Scott, and the Members of this Committee, thank you for the invitation to testify about EPA's impact on American agriculture.

I am a farmer from Aberdeen, South Dakota, and I raise cattle, corn, and soybeans along with my wife, Rachel, and my father,

John, Rachel and I have four children who participate in our farm operation. In addition to farming, our family operates a tax service business in Aberdeen, in which we help family farmers complete their taxes.

I also serve as Vice President of the National Farmers Union. NFU is a grassroots organization with more than 230,000 members nationwide, and we advocate on behalf of family farmers and ranchers and our communities.

To build a successful business over the long-term, I need my operation to be profitable. Sometimes, I worry that the wrong Federal regulations could harm my business, but I also know that it is important to have practical rules of the road by which everyone must abide. Properly designed and enforced regulations help protect us all from bad actors.

I believe sustainability isn't only about profitability, but also about being a good steward of the land, air, and water. Reasonable environmental regulations can leave everyone better off if they are science-based, size- and risk-appropriate, clear, and easy to follow.

EPA plays an essential role in protecting our environment, but the Agency should do more to limit the impacts of its regulations on family farmers and ranchers. One of the best ways to do this is through regular engagement and partnership with farmers and communities. We commend the Agency for creating the new Office of Agriculture and Rural Affairs. Farmers Union looks forward to working with the EPA and this Committee to ensure our voices are heard clearly by the agency.

EPA regulations and programs affect farmers in many ways, and I do not have time to touch on all of these issues, but I would like to highlight a few.

One issue that has been especially troubling for farmers is the definition of WOTUS, or *waters of the United States*, under the Clean Water Act. The game of regulatory ping-pong over WOTUS has gone on far too long. Like everyone else, we want simplicity and clarity. EPA says with its latest rulemaking that it has tried to establish a durable *WOTUS* definition, and we hope this issue will be settled soon.

EPA has a very important role relating to crop protection products through FIFRA and PRIA. Most farmers don't have the scientific expertise to evaluate crop protection products for safety, but we know these products are essential for our operations. EPA's rules, oversight, and labeling guidelines help keep us safe.

I want to thank my South Dakota Congressman Dusty Johnson for introducing the Agriculture Labeling Uniformity Act (H.R. 4288) to reinforce EPA's existing Federal authority to regulate pesticides through FIFRA.

If done right, legislative and regulatory actions can create economic development opportunities for rural communities and family farmers. That is certainly true of the Renewable Fuel Standard. The RFS has been the most successful clean fuel policy in the United States by making renewable fuel more affordable, creating jobs, and reviving rural economies in reducing oil imports and air pollution. Future action by the EPA should support the program's growth and success, including through the upcoming RFS SET 2

rulemaking. We support EPA's move to year-round sales of E15 and there is still further growth to E30.

We also appreciate the Administration's focus on sustainable aviation fuel and hope the Committee will support the adoption of agriculture feedstocks to the SAF production.

EPA is an important ally in supporting farmers' right to repair. It is incredibly important that farmers have the option to fix their own equipment, or go to an independent mechanic of our choosing, just like everyone can with their cars and trucks. But some farm equipment manufacturers believe farmers cannot be trusted to repair their own equipment and use software to lock down certain repairs. This can cost us our crops when dealer-authorized repairs are difficult to access, unavailable, or just too costly. Some farm equipment manufacturers and dealers have invoked the EPA's clean air regulation on tractor emission control systems as a reason to restrict farmers' access to independent repair. This claim is false and misleading, so NFU wrote EPA Administrator Regan last year asking him to clarify this issue. In his reply, Administrator Regan affirmed the EPA's regulations support independent repair and that independent repair doesn't facilitate emission tampering. We urge Congress to ensure the right to repair.

I appreciate the Committee's diligent oversight of the EPA. Thank you for holding this hearing and for the opportunity to testify. I look forward to answering any questions.

[The prepared statement of Mr. Kippley follows:]

PREPARED STATEMENT OF JEFF KIPPLEY, VICE PRESIDENT, NATIONAL FARMERS UNION, WASHINGTON, D.C.

Good afternoon, Chairman Thompson, Ranking Member Scott, and Members of the House Committee on Agriculture. Thank you for the invitation to testify and to be part of this hearing to shed light on how the Environmental Protection Agency (EPA) affects family farmers and ranchers. My name is Jeff Kippley and I am a farmer from Aberdeen, South Dakota, where my wife, Rachel, and father, John, and I raise cattle, corn, and soybeans. Rachel and I have four children, Noah, Titus, Aaron, and Moriah, and they all participate in the farming operation as well. We also operate a tax preparation service, The Kippley Group, which serves family farmers in our local community.

I serve as Vice President of National Farmers Union (NFU). Founded in 1902, NFU is a grassroots organization with more than 230,000 members nationwide advocating on behalf of family farmers, ranchers, and our communities. In my role as NFU Vice President, I work closely with Farmers Union leaders and members across the country to bolster our organization's efforts to ensure a sustainable and equitable future for family farmers and ranchers through education, cooperation, and legislation.

**Achieving Greater Regulatory Certainty, Clarity, and Fairness**

As a farmer, to build a successful business over the long-term, I need my operation to be profitable. Sometimes I worry that the wrong rules could put me out of business, but I also know that having reasonable regulations—practical rules of the road that everyone must abide by—is very important. Properly designed and enforced regulations help protect family farmers like me from bad actors who use harmful and exploitative practices.

For me, sustainability is not only about profitability on our farm but also being a good steward of our land, air, and water. Many farmers are excellent stewards of our nation's natural resources. Reasonable environmental regulations can leave everyone better off if they are science-based, size- and risk-appropriate, clear, and reasonably easy to follow. Unfortunately, sometimes regulators make compliance too challenging. I know this all too well because I am an accountant, so it my job to help my customers comply with our complicated Tax Code.

As EPA works to protect the environment, it should also seek to limit the impact of its regulations on family farmers and ranchers by making sure those regulations

are not overly burdensome. EPA should be commended for its efforts to improve engagement with agricultural communities, but there is much more EPA could do to improve that partnership. I know Farmers Union looks forward to working with EPA and this Committee to ensure the voices of family farmers and ranchers are heard clearly by the Agency.

### **WOTUS**

Clean, safe water is an essential resource that family farmers, ranchers, and their communities depend on. Farmers and ranchers strive to be good stewards of our nation's natural resources, including by protecting water quality through sound land management practices. Unfortunately, ambiguous or confusing regulations regarding the definition of *Waters of the United States* (WOTUS) under the Clean Water Act (CWA) have made compliance difficult and costly.

The regulatory uncertainty created by frequently changing definitions of WOTUS has troubled farmers for many years. NFU repeatedly provided input to the EPA and the Army Corps of Engineers on its rulemakings, and we asked the agencies to promulgate rules that will provide a clear definition of WOTUS.<sup>1</sup> NFU also urged the agencies to consult farmers and ranchers regularly, extensively, and equitably and consider the legitimate concerns of family farmers and ranchers and others who are regulated by the CWA.<sup>2</sup>

NFU appreciates the agencies' stated efforts to establish durable rules that define the scope of waters protected under the CWA. But the regulatory game of ping pong continues. Last year EPA finalized a new WOTUS rule, only to have the Supreme Court strike down important aspects of the rule, which further contributes to ongoing uncertainty with the WOTUS statutory and regulatory regime.<sup>3, 4</sup> Ultimately, Farmers Union members wish for the courts and agencies to balance the important goal of protecting water quality with rules that are clear, simple, and not burdensome for farmers and ranchers.

### **FIFRA and PRIA**

For decades, farmers have relied on EPA to make informed crop protection decisions regarding pesticide use. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as enforced by EPA, has long been a trusted Federal resource, having originally been administered by USDA and then transferred over to EPA during its formation in 1970. Rules surrounding FIFRA are intended to protect farmers by requiring accurate labeling of pesticide contents. As the Federal statute that governs registration, distribution, sale, and use of pesticides, FIFRA provides farmers and consumers certainty and stability.

The primary objective of FIFRA is to ensure that, when applied as instructed, pesticides will not cause unreasonable risk to human health or the environment. Backed by science, the use of registered products gives farmers the assurance that they are doing their part to ensure the safety of their farm, their neighbors, and the environment. Any additional requirements outside of FIFRA, whether it be permitting, training, education or any other new requirements not posted by FIFRA makes it difficult and confusing for farmers to keep track of and potentially raises human safety and environmental concerns.

The *Agricultural Labeling Uniformity Act* (H.R. 4288), introduced in the House by Representative Dusty Johnson (R-SD), reinforces EPA's existing Federal authority to regulate pesticides through FIFRA.<sup>5</sup> This would also ensure uniformity of labeling standards for various crop protection products, which helps farmers stay informed and compliant.

Funding for EPA's Office of Pesticide Programs and the continued authorization of the Pesticide Registration Improvement Act (PRIA) is also important for the future of pesticide use, pest management, and overall crop protection. First passed in 2004, PRIA is a fee-for-service program that funds part of the EPA's pesticide registration program. Fees collected from pesticide manufacturers provide EPA with the necessary resources to register new pesticide products. In turn, the rules sup-

<sup>1</sup>National Farmers Union, "NFU WOTUS Comments Urge Inclusive Rulemaking Process," Feb. 8, 2022. <https://nfu.org/2022/02/08/nfu-wotus-comments-urge-inclusive-rulemaking-process/>.

<sup>2</sup>*Ibid.*

<sup>3</sup>Revised Definition of "Waters of the United States," 33 CFR § 328, 40 CFR § 120 (2023). <https://www.federalregister.gov/documents/2023/01/18/2022-28595/revised-definition-of-waters-of-the-united-states>.

<sup>4</sup>*Sackett v. EPA*, 598 U.S. \_\_\_\_ (2023). [https://www.supremecourt.gov/opinions/22pdf/21-454\\_4g15.pdf](https://www.supremecourt.gov/opinions/22pdf/21-454_4g15.pdf).

<sup>5</sup>Agricultural Labeling Uniformity Act, H.R.4288, 118th Cong. (2023). <https://www.congress.gov/bills/118th-congress/house-bill/4288>.

port business predictability within the pesticide registration process, giving companies established timelines for bringing new products and uses to the marketplace. PRIA was last reauthorized by Congress in 2022 and is set to expire on September 30, 2027.<sup>6</sup>

### Dicamba

Farmers need to know what rules will be in place when planning for future seasons, but judicial decisions and regulatory actions can sometimes present challenges. Recent activity on Dicamba is a prime example of this. On February 14, 2024, EPA issued an Existing Stocks Order to allow for the sale and distribution of Dicamba products that were previously registered for over-the-top (OTT) use on Dicamba-tolerant cotton and soybeans.<sup>7</sup> The order allowed for limited sale and distribution of these products for the 2024 growing season but did not offer any clarity for 2025 or beyond. This decision was based on a District of Arizona court order that determined Dicamba products were no longer registered or lawful under FIFRA.<sup>8</sup>

NFU joined a group letter asking EPA Administrator Michael Regan to intervene with the recent court ruling to vacate the registrations for over-the-top Dicamba.<sup>9</sup> These products are vital to current production systems, and the court decision threatens to create chaos in distribution chains, especially during harvest season. As EPA continues to work with USDA, Congress also needs to prioritize EPA's Office of Pesticide Programs' budget. In an annual report to Congress on the agency's user-fee system, EPA reported that the \$132 million appropriated for pesticide programs is about \$34 million short of an annual target set out in FIFRA, and is \$6 million below what was appropriated in Fiscal Year 2023.<sup>10</sup> Prioritizing EPA's budget will allow the agency to continue to move forward with Dicamba-related decisions.

### The Clean Air Act and Right to Repair

EPA's role in enforcing laws also means that it ought to clarify how regulations apply—or do not apply—to major issues within the agency's purview. One example is EPA's recent actions ensuring there is greater Fairness for Farmers in the farm equipment marketplace through Clean Air Act (CAA) regulations that support farmers' Right to Repair.

Farmers Union believes that farmers should have the Right to Repair their own equipment or to bring that equipment to the mechanic of their choosing. However, it seems some farm equipment manufacturers believe that farmers cannot be trusted to repair their own equipment. Equipment manufacturers and dealers use software locks to keep farmers and independent mechanics from completing repairs. This can cost farmers their crop when dealer-authorized repair is difficult to access or unavailable, and the monopolization of repair costs farmers billions of dollars each year.

Some farm equipment manufacturers and dealers have invoked CAA regulations—specifically, the need to lock down emissions control systems—as a reason they must restrict farmers' repair access. When NFU researched this claim, it seemed to be false and misleading, so we wrote EPA Administrator Regan last year asking him to clarify the CAA with respect to the Right to Repair.<sup>11</sup> In August 2023, Administrator Regan responded to NFU's letter, clarifying that EPA supports farm-

<sup>6</sup>“The Pesticide Registration Improvement Act of 2022 (PRIA 5; Division HH, Title VI of P.L. 117–328): Authority to Collect Fees.” Congressional Research Service. 2024. <https://crsreports.congress.gov/product/pdf/IF/IF10424>.

<sup>7</sup>U.S. Environmental Protection Agency (EPA), *Revision to February 14, 2024 Existing Stocks Order for Dicamba Products Previously Registered for Over-the-Top Use on Dicamba-Tolerant Cotton and Soybean*, Mar. 12, 2024. <https://www.epa.gov/system/files/documents/2024-03/reviced-dicamba-notice-existing-stocks-order.pdf>.

<sup>8</sup>U.S. Environmental Protection Agency (2024, February 6). *Center for Biological Diversity, et al., Plaintiffs, v. United States Environmental Protection Agency, et al., Defendants, and Bayer Cropsience LP, et al.* Nationalaglawcenter.org. [https://nationalaglawcenter.org/wp-content/uploads/2024/02/FILE\\_3676.pdf](https://nationalaglawcenter.org/wp-content/uploads/2024/02/FILE_3676.pdf).

<sup>9</sup>National Farmers Union, *Vacatur of registrations for Over the Top (OTT) applications of Dicamba herbicide Center for Biological Diversity v. EPA*, No. CV–20–00555–TUC–DCB, Feb. 14, 2024. <https://nfu.org/wp-content/uploads/2024/02/02-14-24-Ag-Organizations-Dicamba-Letter-FINAL.pdf>.

<sup>10</sup>EPA, *FY 2023 Pesticide Registration Improvement Act (PRIA) Annual Report*. EPA.gov. <https://www.epa.gov/system/files/documents/2024-05/fy23-pria-annual-report.pdf>.

<sup>11</sup>National Farmers Union, *Request for clarification from the EPA that agricultural equipment manufacturer-imposed restrictions on independent repair are not required by the Clean Air Act*, June 13, 2023. <https://files.constantcontact.com/63400020701/e2cf116e-c8dc-427b-a9bb-474b7f4206af.pdf?rdr=true>.

ers' Right to Repair and disagrees with the assertions being made by some equipment manufacturers and dealers, writing:

*"Your letter . . . discusses the important anti-tampering provisions of the Act, and your concern that certain manufacturers may be mischaracterizing the implications of those provisions for independent repair . . . The Act, implementing regulations, and EPA's policy and practice are aligned in preventing tampering not by limiting access to independent repair, but rather by enforcing the prohibition against tampering against any party that does so . . . Like NFU and its members, EPA believes barriers to the proper repair and maintenance of non-road equipment is harmful to the environment . . . We support efforts by anyone to enact legislation clarifying that independent repair is allowable, provided such efforts continue to clearly prohibit illegal tampering of emissions control systems."*<sup>12</sup>

The message is clear: independent repair does not facilitate emissions tampering. We have greatly appreciated EPA's engagement and responsiveness on this important issue and will continue to work with EPA to ensure all farmers have the Right to Repair.

### **The Renewable Fuel Standard and Biofuels**

Reasonable legislative and regulatory actions can create economic development opportunities for rural communities and family farmers and ranchers. A prime example of this is the Renewable Fuel Standard (RFS) program, authorized in 2005 and expanded in 2007, which is intended to reduce greenhouse gas emissions and expand the biofuels sector. It has been the most successful clean fuels policy in the U.S. and makes renewable fuel more affordable for millions of Americans, helps to generate jobs, revives rural economies and communities, reduces oil imports, and protects the environment by reducing air pollution. Future regulatory actions by the EPA related to the RFS should be in support of the program's continued growth and success. The EPA can continue diversifying low carbon fuels through the upcoming RFS SET 2 rulemaking. NFU looks forward to working with EPA and the Committee to support growth of the RFS and increased usage of renewable fuels in America.

NFU is supportive of the EPA's efforts to move to year-round sales of E15 as a step in the right direction toward usage of higher-level blends of ethanol. We do feel there is room for continued growth of higher blends of ethanol, such as E30. The use of higher levels of ethanol blends could replace a larger share of petroleum gasoline with high-octane, low-carbon, cleaner and lower-cost fuel today. And it is domestically produced, providing an immediate solution that delivers simultaneous economic, environmental, and national and energy security benefits.

Furthermore, NFU is supportive of the Administration's Sustainable Aviation Fuel (SAF) grand challenge. Using farm-based crops for SAF presents tremendous opportunities to diversify the jet fuel industry. We urge the Committee to support the adoption of agricultural feedstocks for SAF production.

### **Voluntary Climate Solutions**

Climate change is one of the greatest challenges facing family farmers, ranchers, our communities, and global food security. Farmers and ranchers have been feeling the effects of climate change for many years through shifting precipitation patterns, historic droughts, and extreme weather events. Farmers Union members have long recognized that the climate is changing and that those changes are affecting all aspects of their operations. If we are given the right tools and adequate resources, we can continue to be a key part of the solution by sequestering carbon in the soil, reducing greenhouse gas emissions, and building a more resilient and sustainable agricultural system.

EPA plays an important role in supporting farmers with voluntary climate solutions. In addition to the biofuels opportunities supported by EPA, the Agency also provides opportunities through its Greenhouse Gas Reduction Fund (GGRF) Na-

<sup>12</sup>National Farmers Union, "EPA Affirms Farmers' Right to Repair," Aug. 8, 2023. <https://nfu.org/2023/08/08/epa-affirms-farmers-right-to-repair/>.

tional Clean Investment Fund (NCIF)<sup>13, 14</sup> and the Climate Pollution Reduction Grants (CPRG) program.<sup>15</sup>

For example, earlier this year through the GGRF NCIF, EPA awarded funding to an alliance of agriculture, environmental, and financial organizations to help finance agricultural climate solutions such as renewable energy technologies and farm energy efficiency upgrades, and to support farming practices that reduce emissions and use fertilizer more efficiently.<sup>16</sup> We are also aware of farm organizations and their partners applying to secure funding under the CPRG program.

Now more than ever, leadership on climate change and agriculture is essential, which is why NFU is a proud founding member and co-chair—along with the American Farm Bureau Federation, the National Council of Farmer Cooperatives, and the Environmental Defense Fund—of the Food and Agriculture Climate Alliance (FACA). FACA members represent farmers, ranchers, forest owners, manufacturers, the food industry, state governments, higher education associations, sportsmen and sportswomen, and environmental organizations. These organizations are dedicated to advancing climate solutions across food and agriculture supply chains—and EPA, along with USDA and other Federal agencies, plays an important role in helping farmers take voluntary approaches to climate change that work for their operations.<sup>17</sup>

### **Improving EPA Engagement with Family Farmers and Ranchers**

Earlier this year, EPA established the Office of Agriculture and Rural Affairs, EPA’s first office focused solely on issues impacting farmers, ranchers, and rural communities.<sup>18</sup> This new office, which will expand the work of EPA’s Agriculture Advisor, provides formal recognition that farmers and ranchers are important partners of EPA, and that they have a seat at the table in discussions about how EPA regulations impact their livelihoods.

The office will also facilitate closer coordination with relevant Federal and state partners, such as USDA, the U.S. Food and Drug Administration, and state departments of agriculture. The office also will house EPA’s existing Farm, Ranch, and Rural Communities Federal Advisory Committee (FRRCC), which includes a Farmers Union representative. Taken together, I am hopeful that this new office will improve cooperation between EPA and farmers and Farmers Union looks forward to working with this new office.

### **Overturning the *Chevron* Doctrine**

On June 28, the U.S. Supreme Court overturned the longstanding *Chevron* decision in *Loper Bright Enterprises v. Raimondo*. The decision overturns 40 years of precedent and has major implications for the independence of Federal Government agencies. While there are certainly situations where regulation is excessive or the interpretation of statute by Federal agencies misses the mark, the Court has significantly altered its role in interpreting statute. We are concerned this decision may make it too difficult for agencies like USDA and EPA to protect family farmers, our communities, and the environment. Federal agencies should be accountable to the public and unreasonable regulation should always be a concern. The overturning of *Chevron*, however, may shift the balance of power too far toward the courts and hamper the ability of Federal agencies to effectively address problems.

### **PFAS and CERCLA**

NFU’s grassroots policy expresses deep concern about the “forever chemicals” known as per- and polyfluoroalkyl substances (PFAS) and perfluorooctanoic acid (PFOA). Our policy supports “requiring companies that historically or currently

<sup>13</sup> EPA, Greenhouse Gas Reduction Fund. <https://www.epa.gov/greenhouse-gas-reduction-fund>.

<sup>14</sup> EPA, “Biden-Harris Administration Announces \$20 Billion in Grants to Mobilize Private Capital and Deliver Clean Energy and Climate Solutions to Communities Across America,” Apr. 4, 2024. <https://www.epa.gov/newsreleases/biden-harris-administration-announces-20-billion-grants-mobilize-private-capital-and>.

<sup>15</sup> EPA, Climate Pollution Reduction Grants. <https://www.epa.gov/inflation-reduction-act/climate-pollution-reduction-grants>.

<sup>16</sup> Environmental Defense Fund, “New Agriculture Finance Sustainability Coalition partners with multi-billion dollar awardee of the EPA’s National Clean Investment Fund,” Apr. 4, 2024. <https://www.edf.org/media/new-agriculture-finance-sustainability-coalition-partners-multi-billion-dollar-awardee-epas>.

<sup>17</sup> Who We Are. Food and Agriculture Climate Alliance (FACA). <https://agclimatealliance.com/members/>.

<sup>18</sup> EPA, “EPA launches new office to strengthen engagement with agricultural and rural communities,” Mar. 1, 2024. <https://www.epa.gov/newsreleases/epa-launches-new-office-strengthen-engagement-agricultural-and-rural-communities>.



produce PFAS to contribute to an indemnity fund to compensate farmers and homeowners impacted by PFAS contamination,” and we support additional “research into the health and environmental impacts of PFAS.” We know EPA is leading the Federal regulatory response to PFAS, and earlier this year designated these substances as “hazardous” under the nation’s Superfund law, the Comprehensive Environment Response, Compensation, and Liability Act (CERCLA).

Farmers need a strong regulatory response to PFAS and related substances. At the same time, it is important that we hold the correct parties accountable for contamination: manufacturers and other industrial actors involved in the production of PFAS, as well as government agencies that approved the use of products containing these substances. We appreciated that EPA released an enforcement discretion policy earlier this year to clarify that it will focus its enforcement actions on the most serious polluters and does not intend to pursue passive receivers of these substances, such as farms where biosolids were applied to the land.<sup>19</sup> PFAS contamination is a unique problem for family farmers and ranchers, so we appreciate that EPA is working closely with USDA, FDA, and state partners to find science-based solutions to address contamination on farms caused by upstream polluters. We also believe Congress needs to take additional action and provide significant resources to address this immense challenge. That is why NFU supports the bipartisan *Relief for Farmers Hit with PFAS Act* (H.R. 1517), which we hope to see in the next farm bill.

#### **Conclusion**

I appreciate the Committee’s diligent oversight of EPA and for the opportunity to testify. Thank you for holding this hearing. I look forward to answering any questions you may have.

The CHAIRMAN. Thank you, Mr. Kippley. I appreciate your testimony.

Mrs. Chinn, please begin when you are ready.

#### **STATEMENT OF CHRIS CHINN, DIRECTOR, MISSOURI DEPARTMENT OF AGRICULTURE; MIDWESTERN REGION PRESIDENT, NATIONAL ASSOCIATION OF STATE DEPARTMENTS OF AGRICULTURE; CHAIR, PLANT AGRICULTURE AND PESTICIDE REGULATION POLICY COMMITTEE, NASDA, JEFFERSON CITY, MO**

Mrs. CHINN. Good afternoon, and thank you, Chairman Thompson and Ranking Member Scott for the opportunity to testify today on such an important and timely topic.

As you heard earlier, my name is Chris Chinn. My husband and I farm in Missouri, a fifth-generation family farm. We have raised corn, soybeans, hogs, cattle, but most importantly, two children on our family farm.

For more than 15 years, I have held leadership positions at the local, state, and national level, and I have been working to move my state’s agriculture industry forward. I also serve on the Board of Directors for the National Association of State Departments of Agriculture. NASDA is a nonpartisan, nonprofit trade association representing the commissioners, secretaries, and directors of the 50 state departments of agriculture, and the four U.S. territories. NASDA grows and enhances American agriculture through policy, partnerships, and public engagement that is beneficial for all regions, people, and environments.

Across the country, America’s farmers and ranchers are facing growing economic and environmental pressures. As agriculturalists prepare for the important task of feeding more than nine billion people by 2050, it is more critical than ever that Federal regula-

<sup>19</sup> <https://www.epa.gov/enforcement/pfas-enforcement-discretion-and-settlement-policy-under-cercla>.

tions protect human health and our natural resources, while also enabling the food and agriculture industry to flourish. State departments of agriculture stand at a unique nexus, because while we advocate for agriculture, we are also responsible for regulating programs within our states. This nexus allows NASDA to share an important perspective on the impact of Federal regulations throughout the entire food supply chain.

Regulations must be based on validated science and science-based risk assessments. To achieve this goal, the Federal Government must embrace states' co-regulatory role, lifting them up as true partners in the regulatory process, not simply stakeholders.

Because of this, NASDA calls on EPA to uphold a renewed commitment to cooperative federalism. As the EPA issues new regulations, states are responsible for translating and educating producers on new obligations, while at the same time, implementing, administrating, and enforcing these new provisions. The issue is compounded when the new regulations are overly burdensome and costly, threatening our nation's food security.

To ensure that rules are feasible, state co-regulators must be involved early and thoroughly throughout the entire regulatory process. Unfortunately, we have seen the EPA fail to include cooperative federalism as it promulgates regulations.

Recently, EPA released frameworks for pesticide regulatory decisions to come into compliance with the Endangered Species Act. The Agency's failure to engage with co-regulators that are closest to producers is a major factor in those frameworks being unworkable for both pesticide applicators and state enforcement agencies.

Another example of EPA's failure to include cooperative federalism is the broken cycle of rulemakings and legal challenges over the longstanding issue of *Waters of the United States*. EPA's 2023 WOTUS rule significantly expanded the jurisdiction of the Federal Government over wetlands and private property. It has been over a year since the Supreme Court's decision in *Sackett v. EPA* and state departments of agriculture, farmers, ranchers, and landowners are still waiting on the agency to implement the decision into their WOTUS rule, and most importantly, recognize the critical role of states in regulating non-navigable waters.

The livestock sector has also seen an increased regulatory burden over the past few years, most recently with EPA's proposed rule amending effluent limitation guidelines in small- and midsize meat and poultry processing facilities. At a time when significant state and Federal resources have been allocated to expand meat processing capacity, EPA has a proposed rule that could have a devastating impact on the sector and increased costs to the tune of hundreds of millions of dollars.

Despite these challenges, NASDA applauds the Agency for the steps that it has taken to improve its relationship with agriculture stakeholders, including the recent formation of the Office of Agriculture and Rural Affairs, and for taking action in response to court decisions, such as issuing an existing stocks order for Dicamba, which gave state regulators and growers the assurance they needed for the 2024 growing season.

However, NASDA calls on EPA to fully embrace cooperative federalism throughout its rulemaking process and to prioritize a for-

ward-thinking approach that enables growers to make thoughtful decisions for future growing seasons. When it comes to protecting the environment, agricultural producers and communities of every size rely on decisions from EPA that are based on sound-science, collaboration, and transparency throughout each step of the process. It is time for EPA to invite agriculture generally and state departments of agriculture specifically into discussions early and often to find solutions that can elevate environmental protections and production agriculture.

Agriculture is the backbone of our country, and we look forward to improved cooperation and relationships between EPA and state departments of agriculture, and I thank you for the opportunity to provide testimony today. I look forward to answering your questions.

Thank you.

[The prepared statement of Mrs. Chinn follows:]

PREPARED STATEMENT OF CHRIS CHINN, DIRECTOR, MISSOURI DEPARTMENT OF AGRICULTURE; MIDWESTERN REGION PRESIDENT, NATIONAL ASSOCIATION OF STATE DEPARTMENTS OF AGRICULTURE; CHAIR, PLANT AGRICULTURE AND PESTICIDE REGULATION POLICY COMMITTEE, NASDA, JEFFERSON CITY, MO

Good afternoon and thank you Chairman Thompson and Ranking Member Scott for the opportunity to testify today on such an important and timely topic.

#### **I. Introduction**

My name is Chris Chinn and I have served as the Director of the Missouri Department of Agriculture (MDA) since 2017. I am a fifth-generation farmer, managing my family's farrow-to-finish hog operation, our feed mill, operating a small cow-calf herd, and raising corn, soybean, and hay. For more than 15 years, I have held leadership positions on the local, state, and national level, working to move my state's agriculture industry forward.

In addition to my role as Director of MDA, I also serve on the Board of Directors for the National Association of State Departments of Agriculture (NASDA). NASDA is a nonpartisan, nonprofit association representing the elected and appointed commissioners, secretaries, and directors of the departments of agriculture in all fifty states and four U.S. territories. Speaking on behalf of this unified voice, NASDA grows and enhances American agriculture through policy, partnerships, and public engagement that is beneficial for all regions, people, and environments.

As state regulators and co-regulators alongside Federal agencies, NASDA members work to ensure the safety of an abundant food supply; protect animal and plant health; implement a variety of conservation programs; and promote the vitality of both rural and urban communities who rely on our nation's feed, fuel, and fiber supply.

#### *Missouri Agriculture*

I take great pride in representing Missouri agriculture and the critical role our producers play in the strength of our nation's agriculture industry. Agriculture runs deep within our state's history; the top of our state capitol building features a statue of Ceres, the goddess of grain, watching over our land. Today, farms cover nearly  $\frac{2}{3}$  of this land. We are home to the second largest number of farms in the nation, with over 87,000 farms—90% of which are family owned. Missouri farmers and ranchers produce a wide range of high-quality crops and livestock products—from soybeans, corn, poultry, cattle, and hog products, reaching the tables of local families, our schools, and numerous markets overseas. From our lush forests in the Ozarks to the fertile soil producing cotton and rice in the Bootheel region, "Missouri Grown" truly means strength derived from the diversity of our farms. Through the dedication and resilience of our farm and ranch families, Missouri's number one industry remains strong, contributing 94 billion dollars to our state's economy and supporting the jobs of 460,000 Missourians. In a dynamic and changing food system, Missouri agriculture looks to the future by preserving and protecting our agricultural community of the present. Through new initiatives, such as our "MORE" strategic initiative to protect Missouri agriculture for both farmers and consumers, we hope to ensure that our farm families thrive for generations to come.

Across the country, America's farmers and ranchers are facing growing economic and environmental pressures, including threats from pests, military conflicts, rising input costs, land loss, and global supply chain inefficiencies. As agriculturalists prepare for the important task of feeding more than nine billion people by 2050, it is more critical than ever that the Federal regulatory environment protects human health and our natural resources, while enabling the food and agriculture industry to flourish.

## II. Co-Regulatory Challenges

State departments of agriculture stand at a unique nexus because while they advocate for agriculture, they are also responsible for regulating programs within their states. This nexus allows NASDA as the unified voice of the state departments of agriculture to share an important perspective on the impact of Federal regulations throughout the entire food supply chain.

Regulations must be based on the best available, sound, validated, and peer-reviewed science and rely on science-based risk assessment. Moreover, regulatory agencies must ensure that in situations where the science is not fully formed or understood, that policymakers not misuse or inappropriately apply science that is not validated or related. To achieve this goal, the Federal Government must embrace states' co-regulatory role—lifting them up as true partners in the regulatory process, not simply stakeholders. Often states have a wealth of data, experience, and expertise that would help Federal agencies better implement regulatory programs. As such, NASDA calls on EPA to uphold a renewed commitment to Cooperative Federalism.

As the EPA issues new regulations, states are responsible for translating and educating producers on new obligations, while at the same time implementing, administering, and enforcing these new regulations. The issue is compounded when the new regulations are overly burdensome and costly and threaten our nations' food security. Consistent with the objectives of cooperative federalism, and to ensure that rules are feasible, state co-regulators must be involved early and thoroughly throughout the regulatory process.

NASDA wants to see the EPA reprioritize their co-regulatory partners and acknowledge that it is only through meaningful cooperation that we can come together to secure positive outcomes for agriculture, public health, and the environment.

## III. Pesticides

### *a. Endangered Species Act*

One of NASDA's top policy priorities for 2024 is pesticide regulation. In 43 states and Puerto Rico, the state department of agriculture is a co-regulatory partner with EPA. States are tasked with the administration, implementation, and enforcement of rules governing the production, labeling, distribution, sale, use, and disposal of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

It is because of this co-regulatory relationship, and the importance of pesticide products for agricultural, residential, commercial, and public health uses that our membership has prioritized this critical topic.

A recent study by the University of Arkansas found that without the use of pesticides, the yields of corn, cotton, and soybeans show declines of up to 70%; the cultivation of these commodities without pesticides would also result in three times more land, water, energy use, and greenhouse gas emissions. This study shows that the availability and responsible use of crop protection inputs can play a major role in positive environmental outcomes.

The importance of these products necessitates a scientifically sound development, review, registration, and re-registration process that allows for transparent, meaningful collaboration amongst co-regulators and impacted communities. Unfortunately, in part due to substantial legal challenges, NASDA members are concerned that the EPA Office of Pesticide Programs has produced regulations and frameworks that will have substantial negative impacts on our nation's farmers and ranchers.

Beginning in 2021, prompted by the escalating legal challenges of fulfilling their obligations under the Endangered Species Act for pesticide decisions, the EPA began developing a comprehensive, long-term plan to ensure compliance. This plan was further outlined in the November 2022 ESA Workplan Update, through which the Agency attempted to take a holistic approach to protecting species and regulating pesticides. To date, the Agency has released two strategies under this workplan—the Vulnerable Species Pilot Project (VSPP) and the Herbicide Strategy.

Throughout this workplan, the programmatic frameworks that have been released, and the updates that the Agency has provided since its initial draft, NASDA remains deeply concerned that the proposed strategies are overly burdensome and unworkable for both pesticide applicators and state enforcement agencies. Even

more concerning is that both VSPP and the Herbicide Strategy were developed and announced with no consultation or co-regulatory process with the state lead agencies. In response to this concern, the Agency has stated that these draft documents were intended to serve as a starting place for broad stakeholder conversation thereby ignoring the unique role and responsibilities states play as co-regulators.

At a time when general farm input costs are elevated, failure on EPA's part to fully consider costs and benefits of their proposed actions is likely to result in mandates that are likely to drive many farms out of business. NASDA appreciates the EPA taking initial steps to try and address the substantial concerns the Agency received from the agriculture community. However, this work should have been completed far before the strategy was released, and state agencies, agricultural and non-agricultural organizations have been left scrambling to compile data, suggest alternate solutions to achieve species protection, and find a workable path forward before the looming finalization deadline.

*b. Dicamba*

This February, both agriculture and the EPA were faced with a court decision to vacate over-the-top Dicamba registrations. This decision came after producers had already made purchasing decisions for the year, and caused an immediate flurry of uncertainty that could have rocked our nation's supply chain. In a reaction to this court decision, NASDA members immediately called for the EPA to issue an existing stocks order for the 2024 growing season, and to work expeditiously with registrants to secure a registration for the 2025 growing season.

NASDA applauded the EPA for issuing an existing stocks order, which gave state regulators and growers alike needed assurances for their upcoming season. However, our membership is concerned that at their current pace, the Agency will not successfully complete a robust review and registration in time for the 2025 growing season.

In response to stakeholders calling for the Agency to prioritize this registration, the EPA made the point that its ability to meet statutory deadlines for pesticide actions is limited by its budget. Representing state agencies who rely on both Federal and state funding for regulatory activities, NASDA empathizes with the challenges brought by budgetary constraints, and calls for additional funding from Congress to meet the minimum appropriation level specified in PRIA 5. However, just as states are not exempt from meeting their statutory requirements for implementation, enforcement, and inspection activities when funding is tight, the EPA should also be held accountable to continue its work.

**IV. Waters of the United States (WOTUS)**

There is perhaps no better example of co-regulatory challenges than the broken cycle of rulemakings and legal challenges over the longstanding issue of Waters of the United States, or WOTUS. In 2023, the EPA and the Army Corps of Engineers rescinded the Navigable Waters Protection Rule, which narrowed the scope of the definition of WOTUS and provided clear, certain rules to the regulated community—including farmers and ranchers. In its place, the EPA and Army Corps of Engineers promulgated new, overly burdensome regulations which have been subsequently enjoined in more than half the country. The Clean Water Act is built on the concept of cooperative federalism. By acknowledging states' role in providing clean water and using Federal regulations as a framework, the Clean Water Act should be a prime example of cooperative federalism. Through the cooperative efforts of states and our Federal partners, we can continue to secure a healthy environment, including clean air and water, which is necessary for the agriculture industry. Unfortunately, EPA and the Army Corps have continually missed the mark and either disregarded, or in some cases undermined state authority and jurisdiction over these issues.

EPA's 2023 WOTUS rule significantly expanded the jurisdiction of the Federal Government over wetlands and private property—and marked the third time in 8 years that the Federal Government attempted to define WOTUS. Then, last spring, the Supreme Court issued its decision in *Sackett v. EPA*, which confirmed limits on Federal jurisdiction and affirmatively recognized the role of states in regulating non-navigable waters and was seen by most observers as a clear victory for farmers, ranchers, and landowners who have long sought clarity and certainty. Following the *Sackett* decision, EPA and the Army Corps issued a revised rule, making “surgical changes” to their 2023 WOTUS rule, attempting to comply with the Supreme Court's decision. Not only did the agencies not accept public comment or input in this revision process, but the revised WOTUS rule also failed to acknowledge and uphold state authority in regulating waterways.

The regulated community, now 1 year post-*Sackett*, is still waiting for the agencies to fully implement the court's decision into their WOTUS rule. As a result of ongoing litigation, more than half of the states are currently adhering to the pre-2015 WOTUS regulatory regime, while 23 states have implemented the final conforming rule that went into effect last fall. The agencies' inaction and inability to clearly and transparently define WOTUS is deeply troubling for all stakeholders and holds states in limbo with a patchwork of litigation and regulation. This makes it incredibly difficult for state departments of agriculture, their state agency counterparts, and ultimately, farmers to move forward with confidence and ensure they comply with the law.

Earlier this year, EPA and the Army Corps held listening sessions for stakeholders in a multitude of communities. While NASDA appreciated the opportunity to participate in those sessions, the agencies lacked the transparency and clarity normally associated with meaningful stakeholder engagement. The sessions were held virtually, questions were to be submitted in advance, and each speaker was given 3 minutes to pose their questions. No answers were provided during the listening sessions, nor were any of the stakeholder concerns addressed. Agricultural stakeholders were, once again, held in limbo with no meaningful progress or clarity.

NASDA remains concerned that EPA and the Army Corps, despite public assertions by the agencies that they would adequately and fairly address WOTUS, have failed to do so. As state regulators, NASDA members serve as a resource to farmers, ranchers, and landowners who have been facing WOTUS challenges for decades, and yet today, have no greater clarity or certainty that they can adequately comply with the law.

#### **V. Animal Agriculture**

NASDA represents the interests of all sectors of agriculture and is keenly focused on the success of the livestock sector in states—supporting state programs that safeguard animal and human health while implementing a fair balance between production agriculture and environmental health. NASDA members work hand in hand with producers, state natural resource and environmental counterparts, and industry to ensure that all parties are successful in protecting resources and agriculture in a complementary fashion.

Reducing nutrient loss in waterways is a top priority for state departments of agriculture and their livestock producers. One example of a successful partnership in this space is the Hypoxia Task Force, a Federal-state partnership of states. This collaborative relationship, from NASDA's perspective, should be replicated and provide a forum for solution-driven discussion. It is an example of co-regulators working at the state and Federal levels toward a common goal.

In my home State of Missouri, processing capacity is a limiting factor for the success of our livestock sector. Increased processing capacity provides jobs and offers a safe and local food option for our rural communities. There has been increased local and national attention and focus on small- and mid-sized meat and poultry processing capacity to spur competition in the marketplace, including interest from Members of the House and Senate Agriculture Committees. The EPA's proposed rule amending effluent limitation guidelines could have devastating impacts on the success of those efforts, and ultimately, an increased cost to processors, producers, and consumers. NASDA urges EPA to carefully consider the stakeholder input and the demonstrated commitment of both the producer and processor communities to significantly reduce their nutrient loss and protect the natural resources that they too depend on.

NASDA is encouraged by the EPA's formation of the Animal Agriculture and Water Quality Federal Advisory Committee Subcommittee, which includes representation from state departments of agriculture and state resource agencies. We hope the subcommittee can find meaningful solutions to support the efforts of farmers and ranchers to protect water quality and serve as a model for collaboration that EPA relies on in the future. Maintaining a good co-regulatory dialogue is key to meeting our changing needs and opportunities at the intersection of animal agriculture and the environment.

In addition to this specific subcommittee, NASDA commends the EPA for its recent formation of the Office of Agriculture and Rural Affairs (OARA) to expand its ability to meaningfully engage with rural and agricultural stakeholders. This provides the Agency the opportunity to seriously consider the feedback, concerns, and opportunities from agricultural stakeholders who provide a vibrant and productive agricultural system.

## **VI. Conclusion**

Our nation's agricultural producers, environment, and communities of every size rely on regulatory decisions from the Environmental Protection Agency that are based on science, collaboration, and transparency at each step of the process. It is not enough to only consider one piece of the elaborate landscape that makes up a healthy environment and make unilateral decisions from the Federal Government. Instead, it is time to invite agriculture generally, and state departments of agriculture specifically into discussions early and often to find solutions that can lift up both environmental protections and production agriculture.

We look forward to improved cooperative relationships between the EPA and state departments of agriculture.

The CHAIRMAN. Thank you, Ms. Chinn. Your testimony is greatly appreciated.

Mr. Cooper, please begin whenever you are ready.

### **STATEMENT OF GARY A. COOPER, CHIEF OPERATING OFFICER, COOPER FARMS, OAKWOOD, OH; ON BEHALF OF NATIONAL PORK PRODUCERS COUNCIL**

Mr. COOPER. Thank you, Chairman Thompson and the Committee Members. Of course, my name is Gary Cooper.

Together with my brother, Jim, and sister, Dianne, we own and operate Cooper Farms. It is a diversified family livestock and poultry company, and we are in our 86th year of business.

We are from Oakwood, Ohio, and in addition to pork, Cooper Farms also produces turkeys and eggs. I am proud of our long farming heritage, and our commitment to our local community.

I am here testifying today on behalf of the National Pork Producers Council, the trade association for the U.S. pork industry. I am also a past Chairman of the National Turkey Federation, as is my brother, Jim, as well as the past Chairman of the U.S. Poultry and Egg Association, and a former American Feed Industry Association Board Member. Perhaps most fitting, considering the topic of today's hearing, I am also a former member of EPA's Farm, Ranch, and Rural Communities Advisory Committee.

Today is a challenging time in the U.S. pork industry. Last year, hog farmers lost an average of \$30 per head due to lower hog prices and very high production costs. We have had some relief in 2024, though we remain deep in the red, and many farmers continue to struggle financially. This is all happening while farmers nationwide continue with the ever-present threat of all kinds of animal diseases.

As a poultry farmer, I am also aware of the devastation that has been caused by avian influenza, and as a hog farmer, I worry about the massive economic harm that will occur if African swine fever manages to make its way into the U.S.

Our industry continues to face activists and regulatory distractions on environmental performance. While activists are unavoidable, government agencies like EPA shouldn't be putting unnecessary burdens on struggling farmers like us.

At Cooper Farms, like many other pig farming businesses, we take compliance and environmental performance seriously. We always go above and beyond. Every farm in our system, regardless of the size, are required to meet the most stringent requirements set forth by the EPA and the State of Ohio. We are thankful for the strong working relationship that the industry has developed with the EPA over the years.

I want to especially call out the creation of the EPA's new Office of Agriculture and Rural Affairs, which is serving to bring the EPA and the nation's rural communities and farm businesses together. First, we are very concerned about EPA's ELGs for meat and poultry processors. Even if EPA admits this rule will cause many processors to close, it is frustrating that the government would propose regulations putting large numbers of meat processors out of business. This does create real economic hardships for those communities and the farmers who rely on them. Their closure means the loss of marketing opportunities for farmers, undermining both Congress and USDA's efforts to expand the number of small and medium local meat processors.

It is unclear why, in the face of all this, EPA is rushing to complete the rulemaking and refusing to provide adequate opportunities for farmers to understand its impacts on the farms and the communities that provide meaningful comments to us.

Second, EPA continues to face activist pressure to upend the longstanding regulatory rules that have governed both how farmers raise livestock, and how we utilize the valuable manure nutrients on our farms and on our cropland.

In the face of this pressure, we are thankful to the EPA for its commitment to working with farmers to develop commonsense approaches to address water quality challenges. In particular, we have high hopes for the recently formed Animal Ag Water Quality Committee.

Beyond these two issues, we remain very concerned about WOTUS. After the Supreme Court decision limiting EPA's authority over WOTUS, farmers were frustrated. The government seemed to be making jurisdictional determinations using a secret internal guidance that they refused to release to the public.

EPA's continued efforts on trying to develop air emissions estimating tools seems to prove the point of farmers many years ago. There is no easy way to calculate emissions coming from our farms. Every farmer and every farm is different. Fourteen years after receiving data from the main study, EPA still can't tell farmers how to reliably measure emissions. Perhaps it is time for Congress to step in once again and clarify that those reporting requirements are impossible to implement, unnecessary, and very burdensome.

Finally, as the nation continues to face real challenges protecting our herds from all kinds of animal diseases, it makes little sense for the EPA to be working to eliminate two of the essential tools we have in that fight, and that are rodenticides and formaldehyde.

Thank you for the opportunity to speak today, and I welcome all your questions.

[The prepared statement of Mr. Cooper follows:]

PREPARED STATEMENT OF GARY A. COOPER, CHIEF OPERATING OFFICER, COOPER FARMS, OAKWOOD, OH; ON BEHALF OF NATIONAL PORK PRODUCERS COUNCIL

### **Introduction**

I am Gary Cooper, and with my brother Jim and sister Dianne, we are the 4th generation to operate Cooper Farms, a family-owned, diversified livestock and poultry company in its 86th year of business. Headquartered in Oakwood, Ohio, Cooper Farms is the 7th largest turkey producer, 16th largest egg producer, and the 29th largest pork producer in the United States. Over the past 9 decades, and with the help of our 2,500 team members, we've become a leading food supplier, selling a va-



riety of fully cooked and ready-to-cook turkey, ham, and chicken egg products to customers throughout North America. Our company takes compliance and environmental performance seriously, striving to always go above and beyond. On our hog operations, for instance, regardless of size, we require all our farms to meet the most stringent regulatory requirements set forth by the Environmental Protection Agency (EPA) and the state of Ohio.

I am testifying today on behalf of the National Pork Producers Council (NPPC), which represents 42 affiliated state pork associations, working to ensure the U.S. pork industry remains a consistent and responsible supplier of high-quality pork to domestic and international markets. Through public policy outreach, NPPC fights for reasonable legislation and regulations, develops revenue and market opportunities, and protects the livelihoods of America's more than 66,000 pork producers, such as myself, my family, and many neighbors and friends.

The U.S. pork industry is a significant contributor to the economic activity of U.S. agriculture and the broader U.S. economy, marketing nearly 150 million hogs annually. Those animals provided farm-level gross cash receipts of more than \$27 billion in 2023.

To produce those hogs, pork producers used roughly 1.7 billion bushels of corn and soybean meal from 462 million bushels of soybeans in 2023. The industry also purchases more than \$1.6 billion in other feed ingredients.

Economists at the NPPC and Iowa State University estimated that in 2023 the U.S. pork industry was directly responsible for creating more than 36,000 full-time-equivalent jobs on hog farms and generated roughly 112,000 jobs throughout all of agriculture. In addition, the pork sector was responsible for 145,000 jobs in meatpacking and processing and 38,000 jobs in professional services such as financial services, insurance and real estate. In total, the U.S. pork industry supports 573,000 mostly rural jobs in the United States and adds more than \$62 billion to the country's GDP.

Most importantly, U.S. pork producers provided more than 27 billion pounds of safe, wholesome, and nutritious meat protein to consumers worldwide in 2022.

Today is a challenging time in the U.S. pork industry. Last year, hog producers lost an average of \$30 per head on each hog marketed due to lower hog prices and significantly higher production costs that increased more than 50 percent over 3 years. Lower feed costs have brought some relief for producers in 2024, though the roughly \$4 billion in cumulative industry losses incurred in 2023 continue to put a pinch on the pork industry, and this economic reality may force producers to exit the industry and drive consolidation at the farm level. This only adds to the uncertainty that already exists with the credit market and the presence of African swine fever (ASF) in the Western Hemisphere.

Environmental regulations are important. However, when poorly conceived or implemented, that can add significant burdens to the other headwinds that pork producers currently face. NPPC and its members welcome the opportunity to provide this Committee with our views on matters involving pork producers and the U.S. Environmental Protection Agency (EPA). These comments will focus on the EPA's current ongoing work on the following matters:

- The pending rulemaking under the Clean Water Act (CWA) on Effluent Limitation Guidelines (ELGs) applicable to the Meat and Poultry Processing (MPP) sectors, which we believe carries a risk of significantly disrupting packing capacity in the U.S., especially for smaller- and mid-size packers and processors such as ourselves, and carries with it the risk of both forcing further concentration in the industry and causing producers to lose access to local markets to harvest and process their animals;
- The ongoing status of EPA's implementation of its definition of the CWA's *Waters of the U.S.* (WOTUS).
- Implementation of the CWA Concentrated Animal Feeding Operations (CAFO) rulemaking and the associated National Pollution Discharge Elimination System (NPDES) permit requirements, where applicable.
- The continuous legal challenges regarding the Lake Erie Total Maximum Daily Load (TMDL) in Ohio.
- The crafting of air emissions estimation methodologies (EEMs) and emissions factors for swine and other animal species from data collected by the National Air Emissions Monitoring Study (NAEMS) and other sources, and the related steps taken on a new Emergency Planning Community Right to Know Act (EPCRA) reporting requirement.

- EPA’s registration review under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) of the rodenticide products commonly used on swine and poultry operations to control rat and mouse populations.
- EPA’s registration review of formaldehyde under FIFRA is being done at the same time as the agency is also doing an extensive review within its Office of Pollution Prevention and Toxics (OPPT) under the Toxic Substances Control Act (TSCA) risk evaluation process.

#### **General Working Relationship with the EPA**

Before going into these details, it is helpful to discuss our general working relationship we have had with the EPA. NPPC represents pork producers that are regulated by the EPA.

As a producer-led organization, when regulations are necessary, NPPC advocates practical and affordable measures that solve real and important problems. To the extent that the EPA has, in our view, shared that objective in concretely observable ways, our working relationship has been generally quite constructive.

A recent example of this has been the EPA’s formation of the Office of Agricultural and Rural Affairs (OARA). This office, which reports directly to the EPA Administrator, was formed to serve as the *primary* liaison between rural and agricultural stakeholders and the EPA. The OARA maintains close contact with the EPA’s other program offices and regions for the purpose of (in EPA’s wording) “to forge practical, science-based solutions that protect the environment while ensuring a vibrant and productive agricultural system.” OARA’s Director will be the person formerly serving as Senior Agricultural Advisor to the Administrator, but that Director will now have a staff of ten or so people.

We look forward to working with OARA and this commitment by the EPA to science-based solutions that will work for American agriculture and rural America. The initial efforts of OARA’s Director and Deputy Director are promising in this regard.

We also note, with appreciation, the EPA’s Office of Enforcement taking the common-sense step of establishing in 2016 an extensive set of detailed, required procedures and guidelines to minimize the risk of EPA personnel transmitting animal diseases from livestock or poultry farms, ranches, dairies, feedyards, sale yards, slaughterhouses, and other facilities where animals are housed or processed to other such facilities.<sup>1</sup> Unfortunately, endemic outbreaks of swine, poultry, and cattle diseases still occur in the U.S., as evidenced by the ongoing highly pathogenic avian influenza outbreak affecting both the poultry and dairy sectors. For livestock farmers, maintaining rigorous biosecurity protocols to protect the health of their herds and flocks is our highest priority. We greatly appreciate the EPA’s help in finding an effective solution to keeping the biosecurity of our facilities while the agency conducts its import inspection and oversight roles.

#### **EPA’s ELGs Applicable to the MPP Sectors**

Unfortunately, we have significant concerns regarding the EPA’s development of revisions to the ELG applicable to the MPP sectors.

While NPPC’s membership is generally not the meat and poultry processors whose CWA water discharge permits will be shaped by the MPP ELG, this regulatory effort could have direct and enormous consequences for the stability and reliability of the marketplace for the animals NPPC’s producer members raise and market. NPPC’s sole charge is to protect the livelihood of pork producers in the U.S., and its analysis of the MPP ELG leads to the conclusion that this rulemaking will significantly disrupt packing capacity and inflict additional severe financial harm on producers. The industry fears that this MPP ELG, if finalized without the changes that the livestock industry has proposed, will lead to further industry concentration and the loss of independent producers and small- and medium-sized processors.

NPPC fully supports the CWA goal of reducing pollutants in the country’s surface waters to restore and maintain water quality. The ELG program, including any changes to the MPP ELG, is one of the critical elements under the CWA that will drive the Federal and state regulatory agencies and the regulated communities’ efforts to achieve the CWA’s goals. As I’ve noted, NPPC firmly believes that updates and revisions to the MPP ELG can be crafted to further the MPP sector’s achievement of those goals without sacrificing the stability, reliability, and economic soundness of the pork products’ marketplace.

Our concerns began with the unreasonable 60 day period set for public comments on what is a highly complex and technical proposal and the EPA’s denial of industry’s request for an extension to that comment period. This was the case despite the

<sup>1</sup><https://www.epa.gov/sites/default/files/2016-05/documents/biosecuritysop.pdf>.

obvious need for more time for the animal agriculture community to properly review the rule and respond constructively and thoughtfully to the questions the EPA posed and topics requested to be considered. It is also consistent with past EPA precedent for such complex rulemakings, such as the EPA's previous MPP ELG in 2004. It merits noting that animal agriculture and the meat processors were not alone in calling for an extension of the comment period. Indeed, the EPA accomplished something uncommon. At a public hearing on this rulemaking, both environmentalists and livestock farmers agreed with each other—that the EPA needed to provide significantly more opportunity for public review and understanding of what was proposed.

EPA's proposed changes and supporting docket, published in the *Federal Register* in January 2024, was extensive and highly technical. It included the following, in relevant part:

- A 64 page *Federal Register* notice (89 *Fed. Reg.* 4474; January 23, 2024);
- A 174 page Technical Development Document for Proposed Effluent Limitations Guidelines and Standards for the Meat and Poultry Products Point Source Category (TDD);
- A 147 page Environmental Assessment for Revisions to the Effluent Limitations Guidelines and Standards for the Meat and Poultry Products Point Source Category (EA);
- A 142 page Benefit-Cost Analysis for Revisions to the Effluent Limitations Guidelines and Standards for the Meat and Poultry Products Point Source Category (BCA);
- A 107 page Regulatory Impact Analysis for Revisions to the Effluent Limitations Guidelines and Standards for the Meat and Poultry Products Point Source Category (RIA);
- A docket containing 660 documents, including 657 additional support documents that were only added on January 23, 2024; and
- A request for specific comments on at least 43 different major topics, including variations on all of the options that the EPA is proposing; confirmation from industry sources that the EPA's assumptions or analyses are consistent with how the various industries operate; requests for data that the EPA needs to assess various options or considerations; impacts on small businesses and how they should be assessed and considered; and other technical information that may vary by sub-industries within the MPP umbrella.

From our perspective, the future financial health of pork producers and the pork processing sector is at stake here. We remain concerned that no time extension was provided to allow for thoughtful responses to be submitted. We had a mere 60 days to review, understand, and comment on these materials. In denying our request for more time, the EPA's Office of Water indicated that it is now their policy not to grant any extensions of time on rulemakings. This is despite the clear requirements of the Administrative Procedures Act and the relevant executive orders to ensure an adequate time is provided for meaningful comments to be submitted. The EPA also indicated that because this rulemaking resulted from their settlement of a lawsuit filed by environmentalists, the need to expedite the completion of the rulemaking process was of paramount importance. Yet, under that settlement, the rulemaking doesn't need to be completed until August of 2025. By comparison, the last time MPP ELG revisions were proposed, the EPA provided 120 days for comment, followed by an additional "Notice of Data Availability" with its own comment period. The result was a final revised ELG issued 29 months after the initial proposal. While this is admittedly a considerable amount of time, that regulation has been in place for 20 years. It is our view that the size, scope, and economic importance to agriculture, our food system, and the economy of this rulemaking merits providing an adequate amount of time for proper and thorough analysis and understanding of the proposal's implications.

Beyond these obvious procedural deficiencies, on the substance the proposed ELG has significant problems that led us, along with several others in animal agriculture and the MPP sector, to call on the EPA to do the following:

1. Provide additional information and conduct adequate research to confirm the validity of the assumptions made by the EPA and to correct errors that were discovered; and
2. To either:

- a. Focus specifically on direct discharging facilities (dropping all standards for indirect dischargers), and then publish a “Notice of Data Availability” in the *Federal Register* with an additional 90 day comment period; or
- b. Withdraw the proposed rule completely and reissue a new, corrected proposed rule in the future regarding appropriate revisions, if any, to the 2004 MPP ELGs nationally appropriate technology-based standards applicable to direct discharging facilities.

The reasons we called on the EPA to take these steps were because our analysis led us to conclude the following:

- The EPA had seriously underestimated the number of MPP facilities that would likely see closures under proposed Option 1—it would jump from 16 facilities that the EPA estimates to 74 facilities.
- The projected number of near-term job losses associated with these facility closures would increase from 17,000 to nearly 80,000 direct job losses.
- The projected closures and job losses for the more stringent regulatory Options were similarly underestimated (Option 2 would increase to 139, and 340 closures for Option 3).
- The proposed rule harms the unique relationship between MPPs and local publicly owned treatment works (POTWs), whose national association, the National Association of Clean Water Agencies, has argued to the EPA that the rule itself is unnecessary and not an environmental priority for its members.
- The EPA’s analyses of pollutant loadings are inconsistent with its cost analyses.

NPPC has concluded that if the EPA’s proposed rule goes forward, it could once again drive considerable consolidation in the livestock and poultry community. Not only would small meat processors suffer significant harm due to the inability to afford the changes the EPA is calling for, but the farmers that rely on those markets would once again be faced with losing additional markets to sell their products. We believe this rule is wholly inconsistent with the Biden Administration’s commitment through USDA to help finance the launch and expansion of meat and poultry processing facilities in the U.S. and to provide more markets for meat and poultry products.

### **WOTUS**

Implementation of the EPA’s WOTUS changes continues to be a source of confusion and angst for pig and other farmers across the country. NPPC continues to be engaged in a large, diverse coalition focused on the legal, legislative and regulatory aspects of this issue. The biggest concern at this moment is the EPA and U.S. Army Corps of Engineers (Corps) ongoing implementation of the rule and the lack of publicly available information being shared by them during that process.

On March 29, 2024, NPPC joined almost thirty other national trade associations in a Freedom of Information Act (FOIA) letter to the EPA and the Corps, sharing specific concerns and questions regarding the agencies’ implementation of the revised rules regarding the definition of WOTUS. Specifically, the coalition asked several questions regarding the public availability and details of guidance documents being utilized by agency staff. In particular, the coalition sought details on the inter-agency coordination and elevation process of certain draft Approved Jurisdictional Determinations and “Headquarters Field Memos Implementing the 2023 Rule as Amended.” Now it’s the beginning of July—over 3 months after that letter—and we still have received copies of the guidance documents that the Federal Government is using to make jurisdiction determinations, even though we know they exist. Why do these Federal agencies continue to hide public records and keep this information out of the hands of individuals seeking to ensure their compliance with the law and the ability to make decisions on the use of their land across our country?

### **Lake Erie TMDL Legal Challenges**

In my home state of Ohio, we are now seeing the fourth lawsuit filed by Lucas County, Toledo, and Environmental Law and Policy Center seeking to compel the EPA to do more with respect to Lake Erie. This latest lawsuit is claiming that both Ohio EPA and the U.S. EPA have failed to fulfill their responsibilities under the CWA to address nutrient pollution.

The agency’s action in this most recent lawsuit is the EPA’s approval of the Maumee Watershed nutrient Total Maximum Daily Load (TMDL). The EPA issued its approval decision in September 2023. The plaintiffs are asking the Court to invalidate the EPA’s approval of the TMDL plan. In doing all this, the plaintiffs take aim at livestock operations in the watershed.

This lawsuit paints pig farmers and our fellow agricultural operations in an unfavorable and inaccurate light, and it does nothing to respect the years of significant work done by all stakeholders involved. These stakeholders include local officials, the U.S. EPA, Ohio EPA, and the state of Ohio, which has made significant investments, as well as agricultural stakeholders and individual livestock and row crop farmers taking steps to protect water quality. I highlight this issue because it is important for the EPA—through the Department of Justice—to defend its work—independently and with its partners—in this most recent lawsuit.

#### **Implementation of the CAFO Rulemaking**

Last fall, in denying a request from environmentalists to reopen the CAFO rule and fundamentally change how livestock farms are regulated in the country, the EPA pledged to study the impact of livestock production on water quality and included in that process the formation of a new advisory committee focused on Animal Agriculture. This new effort, the Animal Agriculture and Water Quality (AAWQ) Committee is being housed under the EPA's longstanding Farm, Ranch and Rural Communities Advisory Committee (FRRCC), a committee I was once a member of.

As articulated by the EPA, the AAWQ is to provide recommendations to the Administrator that will inform the agency's decisions regarding how to improve the implementation of the CWA's CAFO NPDES permitting program to more effectively reduce nutrients and other types of water pollutants from Animal Feeding Operations, including determining whether any revisions to the regulations are warranted, and whether the EPA can otherwise support the efforts of AFO operators to protect water quality.

Earlier this spring, the EPA announced the appointees to the AAWQ Subcommittee. Nominated agricultural representatives bring a variety of perspectives and experiences and include farmers, engineers, agronomists, former state environmental regulators, and experts on renewable energy. On the other hand, representatives of animal rights and environmental activist groups include—lawyers. Some of these same lawyers have also sued the EPA over the existence of this committee in litigation that is currently underway in California before the 9th Circuit Court of Appeals.

Throughout all this, the EPA has remained steadfast in its commitment and defense of its strong CAFO program and has shown great leadership in doing so. Those of us in animal agriculture remain committed to working constructively with the EPA's staff and anyone else to find effective solutions to protect water quality while creating opportunities for the next generation of our rural communities.

#### **Air Emissions Estimation Methodologies, Air Consent Agreements, and EPCRA Rulemaking**

Since the early 2000s, the EPA has been working to develop scientifically credible Emissions Estimation Methodologies (EEMs) for animal feeding operations. This process included extensive emissions monitoring and research designed by the EPA, paid for by producers, and undertaken by university researchers under the EPA guidance at multiple poultry and livestock farms across a number of states over 2 years.

In 2024, the EPA continues to work on the development of these long delayed EEMs and has noted their imminent release for public comment. That date continues to slip month by month. The EPA's own website on this issue shows that the public comment was expected to occur in "Early 2024" with the finalized EEMs done in "Summer 2024." See <https://www.epa.gov/afos-air/national-air-emissions-monitoring-study>.

While NPPC recognizes the Herculean task before the EPA, the continued delays are causing confusion and angst among the pork industry and preventing individual farms from preparing for next steps. When the EEMs are eventually finalized, compliance will be triggered under the ACA for many farms, and several logistical and substantive questions continue to remain for producers across the country. NPPC has appreciated the EPA's willingness to take our questions and is awaiting answers to the same.

Despite this ongoing work, environmental activists continue to use litigation and sue-and-settle tactics to seek to impact the EPA's implementation of reporting requirements for manure emissions at farms under the Emergency Planning and Community Right-to-Know Act (EPCRA). That lawsuit was filed in response to the EPA's implementation of the strongly bipartisan 2017 FARM Act, which was designed to clarify reporting requirements for livestock farmers.

At the end of 2023, the EPA issued an Advanced Notice of Proposed Rulemaking to solicit comment and information about reinstating the reporting requirement. NPPC believes that the EPA has considered the significant challenges such a re-

quirement would have on livestock producers, first responders, and local communities, as well as Congressional intent, and has so far held off on moving forward with such a proposed rule. We appreciate the EPA's efforts to consider this requirement in the context of the other regulatory burdens on livestock producers and the continued development of the EEMs that will be released and mentioned above.

#### **Rodenticides**

The EPA is currently undertaking a registration review under FIFRA of the rodenticide products commonly used in swine operations to control rat and mouse populations. The agency is also looking at this issue through the lens of the Endangered Species Act (ESA). In a recent public comment period regarding the Biological Evaluation of the products, the EPA received approximately 2,500 public comments. In many of its proposals, the EPA has considered making rodenticide products restricted use pesticides (RUPs) and adding significant mitigation measures that would essentially take the products out of the hands of livestock producers.

Livestock farmers are constantly focused on managing and controlling rodent populations in and around their barns while simultaneously taking all biosecurity measures to protect against food safety risks. Farmers need effective rodenticide products to which they can have affordable and reliable access. NPPC has appreciated the EPA's willingness to continue to meet with the livestock community on this issue and their willingness to accept ideas for alternative approaches that would work to protect non-target species and keep the rodenticide products in the hands of livestock producers.

#### **Formaldehyde**

Finally, EPA is also undertaking a FIFRA registration review of formaldehyde, which is concurrently undergoing extensive review by EPA's Office of Pollution Prevention and Toxics (OPPT) under TSCA's risk evaluation process.

On several occasions, NPPC and other livestock groups have communicated to EPA during its TSCA review process and the U.S. Department of Agriculture's Office of Policy and Pest Management on the important uses of formaldehyde in key agriculture operations. As the agency is aware in its general overview of the industry uses in the April 10, 2024 Draft Risk Assessment and elsewhere, formaldehyde is utilized as an essential tool for the industry in a range of areas including, among others, as:

- Pathogen control in animal feed production;
- Disinfection for live production operations on poultry farms and swine operations; and
- To prevent infections such as coryza, a serious bacterial disease in poultry that affects the respiratory system and is manifested by inflammation of the area below the eye, nasal discharge, and sneezing.

Formaldehyde-based products can be used to inactivate highly contagious viruses, such as African swine fever (ASF). Credible estimates indicate that an ASF event in the U.S. could result in an economic loss of nearly \$50 billion and would be catastrophic to the nation's swine industry. The current EPA proposal includes data deficiencies, concerns regarding risk and exposure, incident reporting, and existing mitigation measures. NPPC encourages EPA to continue working with the livestock community to understand the impact of their parallel decisions on formaldehyde on livestock production across the country.

#### **Conclusion**

NPPC and our members are thankful to this Committee for its leadership and consideration of these important issues and for giving us the opportunity to describe our experience and perspective on our engagement with the Environmental Protection Agency on these important issues for agriculture.

The CHAIRMAN. Mr. Cooper, thank you so much for your testimony.

Dr. Larson, please begin when you are ready.

#### **STATEMENT OF REBECCA L. LARSON, PH.D., VICE PRESIDENT, CHIEF SCIENTIST, AND GOVERNMENT AFFAIRS, WESTERN SUGAR COOPERATIVE, DENVER, CO**

Dr. LARSON. Chairman Thompson, Ranking Member Scott, and Members of the Committee, thank you for inviting me. I am Chief

Scientist for Western Sugar Cooperative, owned by farm families growing sugarbeets in Colorado, Nebraska, Wyoming, and Montana. I have spent 24 years working alongside farmers and have a doctorate in plant science; therefore, I understand pesticides are essential to climate-smart farming and farm resiliency.

Pesticides minimize food waste. Forty percent of food waste is due to crop losses from pests and diseases. Climate change is driving new and worsening epidemics, which will further increase food waste. Pesticides are key for climate-smart farming and maximizing crop productivity. Maximizing productivity prevents native land conversion, which is the most significant driver of biodiversity loss from agriculture.

Plants comprise 80 percent of the food we eat; therefore, protecting plant health and productivity protects human health. These are the reasons why actions of EPA that eliminate or fundamentally change the way pesticides can be used by American farmers causes significant concerns.

I will illustrate my point with specific sugarbeet examples.

Sugarbeets are six times more sensitive to pathogen losses and 40 percent more sensitive to weed pressure than other major crops. To deal with this disproportionate sensitivity, sugarbeet farmers use integrative pest management to prevent crop losses. For example, seed planted by our farmers contains tolerance to seven different pests and diseases. However, that tolerance is often incomplete, such that judicious use of pesticides is required to augment that tolerance and completely protect the crop.

For example, even with a genetic tolerance to beet curly top virus, crop losses average 20 percent annually in Wyoming until the introduction of seed-applied insecticides. Unfortunately, in other regions of the world activist pressure has resulted in bans of these insecticides with devastating outcomes for their sugarbeet farmers. EPA's own data shows how effective and critical these products are for our industry. Therefore, EPA was correct in denying the Center for Food Safety's treated article exemption petition and protecting streamlined access to treated seeds for American farmers.

However, concerningly, EPA left the door open for other restrictions by announcing a treated seed rulemaking. This Committee must insist that EPA not ignore their own data during this process, as done when revoking chlorpyrifos tolerances for sugarbeets. EPA is a science-based organization which must let data dictate the process, especially their own.

The impact of weeds on crop losses are well-documented. With glyphosate, sugarbeet farmers could finally control broadleaf weeds in a broadleaf crop. Better weed control allows our growers to implement climate-smart tillage practices, increasing our soil health and function by six-fold and sugarbeet yield by 35 percent. These sustainability advances were at risk with the emergence of a new pest, Palmer amaranth. This aggressive, prolific weed species exploded exponentially in 2022, causing significant sugarbeet losses in both Colorado and Nebraska. I am grateful the EPA approved an emergency exemption for a highly effective herbicide; however, the process took 18 months and cost Colorado and Nebraska sugarbeet growers over \$8 million in lost revenue.

Climate change is making issues like these more frequent and severe; therefore, EPA must fully utilize all of its clear authority under FIFRA to deliver timely solutions to farmers.

American farmers are in desperate need of new pesticides, yet EPA is imposing new regulations limiting the use of existing pesticides and delaying approval of new products, though most impactful EPA actions relate to strategies set forth for compliance of EPA's Endangered Species Act obligations. Hailed as the most significant imposition of new regulations on the agricultural sector in generations, the EPA's draft Herbicide Strategy was completely unworkable for American farmers, especially small producers. The draft strategy overestimated exposure, species sensitivity, and critical habitat size, while it underestimated benefits of climate-smart practices and failed to include appropriate offset options. Much of this could have been avoided if EPA's Office of Pesticide Programs had better farmer engagement prior to the rollout. EPA's Agriculture Advisor, I know, is always ready to assist with engagement.

Our industry submitted extensive constructive comments to EPA. Subsequently, EPA increased its engagement with USDA and producer groups, including ours. In their recent revised proposals, EPA is addressing some unworkable portions of the strategy, like erosion mitigation, but excessive spray buffer distances remain problematic. Without change, significant productive cropland will be lost to overly conservative spray buffers. For small production fields, including those used to produce sugarbeet seed, spray buffers make this production impossible. This threatens entire industries, including ours. This Committee must ensure the EPA includes reasonable, science-based adjustments to spray buffer requirements in its Herbicide Strategy prior to finalization in August.

Farmers across the U.S. have shown their willingness to engage with EPA, as evidenced by extensive public comments. EPA must seek greater farmer engagement earlier in the process to ensure the U.S. remains a global leader in sustainable agriculture.

Again, thank you for inviting me here today, and I look forward to taking questions.

[The prepared statement of Dr. Larson follows:]

PREPARED STATEMENT OF REBECCA L. LARSON, PH.D., VICE PRESIDENT, CHIEF SCIENTIST, AND GOVERNMENTAL AFFAIRS, WESTERN SUGAR COOPERATIVE, DENVER, CO

Chairman Thompson, Ranking Member Scott, and Members of the Committee, thank you for inviting me. I am the Chief Scientist for Western Sugar Cooperative owned by farm families growing sugarbeets in Colorado, Nebraska, Wyoming, and Montana. I've spent over twenty-four years working alongside farmers and have a doctorate in Plant Science, therefore I understand pesticides are essential to climate-smart farming and farm resiliency.

Pesticides minimize food waste. Forty percent of food waste is due to crop losses from pests and diseases.<sup>1</sup> Climate change is driving new and worsening epidemics,<sup>2</sup>

<sup>1</sup> <https://www.fao.org/plant-health-2020/home/en/>.

<sup>2</sup> Garrett, K.A. *et al.*, (2006) *Climate change effects on plant disease: genomes to ecosystems*. ANNUAL REVIEW OF PHYTOPATHOLOGY. 44: 489-509.



<sup>3, 4, 5, 6, 7</sup> which will further increase food waste. Pesticides are key for climate-smart farming<sup>8</sup> and maximizing crop productivity.<sup>9, 10</sup> Maximizing productivity prevents native land conversion,<sup>11</sup> the most significant driver of biodiversity loss in agriculture.<sup>12</sup> Plants comprise 80% of the food we eat.<sup>13</sup> Therefore, protecting plant health and productivity, protects human health. These are reasons why actions of EPA that eliminate or fundamentally change the way pesticides can be used by American farmers causes significant concern.

I will illustrate my point with specific, sugarbeet examples.

Sugarbeets are six-times more sensitive to pathogen losses<sup>14</sup> and forty percent more sensitive to weed pressure than other major crops.<sup>15</sup> To deal with this disproportionate sensitivity, sugarbeet farmers use integrated pest management to prevent crop losses. For example, seed planted by our farmers contains tolerances to seven different pests and diseases.<sup>16</sup> However, that tolerance is often incomplete such that judicious use of pesticides is required to augment tolerance and completely protect the crop. For example, even with genetic tolerance to Beet Curly Top virus, crop losses averaged twenty percent annually in Wyoming until the introduction of seed-applied insecticides.<sup>17, 18, 19</sup> Unfortunately, in other regions of the world, activist pressure has resulted in bans of these insecticides with devastating outcomes for their sugarbeet farmers.<sup>20</sup> EPA's own data shows how effective and critical these products are for our industry.<sup>21</sup> Therefore, EPA was correct in denying the Center for Food Safety's treated article exemption petition and protecting streamlined access to treated seeds for American farmers.<sup>22</sup> However, concerning, EPA left the door open for other restrictions by announcing a treated seed rule-making.<sup>23</sup> This Committee must insist that EPA not ignore their own data during this process as done when revoking Chlorpyrifos tolerances for sugarbeet.<sup>24, 25</sup> EPA

<sup>3</sup> Kawasaki, K. (2023) *Impact of climate change on crop pests and diseases: ensemble modeling of time-varying weather effects*. JOURNAL OF THE ASSOCIATION OF ENVIRONMENTAL AND RESOURCE ECONOMISTS. 10(6): <https://doi.org/10.1086/725323>.

<sup>4</sup> Ibrahim, H.Z. (2014) *Climate change impacts on pests and pesticide use. A review article*. Alexandria Research Center for Adaptation to Climate Change. 3: 1–31.

<sup>5</sup> Elad, Y., I. Pertot (2014) *Climate change impacts on plant pathogens and plant diseases*. JOURNAL OF CROP IMPROVEMENT. 28(1): 99–139.

<sup>6</sup> Gautam, H.R., M.L. Bhardwaj, R. Kumar. (2013) *Climate change and its impact on plant diseases*. CURRENT SCIENCE. 105(12): 1685.

<sup>7</sup> Charkraborty, S., A.C. Newton. (2011) *Climate change, plant diseases and food security: an overview*. PLANT PATHOLOGY. 60: 2–14.

<sup>8</sup> Cooper, J., H. Dobson. (2007) *The benefits of pesticides to mankind and the environment*. CROP PROTECTION. 26: 1337–1348.

<sup>9</sup> Korav, S. et al., (2018) *A study on crop weed competition in field crops*. JOURNAL OF PHARMACOGNOSY AND PHYTOCHEMISTRY. 7(4): 3235–3240.

<sup>10</sup> Horvath, D.P. et al., (2023) *Weed-induced crop yield loss: a new paradigm and new challenges*. TRENDS IN PLANT SCIENCE. 28(5): 567–582.

<sup>11</sup> The Lancet Commission determined global yield must increase 75% by 2050 to feed the global population without the need for native land conversion. See Willet, W. et al., (2019) *Food in the Anthropocene: the EAT-Lancet Commission on healthy diets from sustainable food systems*. LANCET. 393(10170): 447–492.

<sup>12</sup> Willet, W. et al., (2019) *Food in the Anthropocene: the EAT-Lancet Commission on healthy diets from sustainable food systems*. LANCET. 393(10170): 447–492.

<sup>13</sup> <https://www.fao.org/plant-health-2020/home/en/>.

<sup>14</sup> Rasche, L. (2021) *Estimating pesticide inputs and yield outputs of conventional and organic agricultural systems in Europe under climate change*. AGRONOMY. 11: 1300–1317.

<sup>15</sup> Beiermann, C.W. et al., (2021) *Response of Palmer amaranth (*Amaranthus palmeri* S. Watson) and sugarbeet to desmedipham and phenmedipham*. Weed Technology. 35: 440–448.

<sup>16</sup> Western Sugar Cooperative requires tolerance to Beet Necrotic Yellow Vein Virus, *Cercospora beticola*, *Aphanomyces cochliodes*, *Fusarium oxysporum*, Beet curly top virus, *Rhizoctonia solani*, and Root aphid.

<sup>17</sup> Beet curly top virus is a disease of sugarbeet vectored by an insect (Beet leafhopper). Host tolerance within the sugarbeet does not provide complete control.

<sup>18</sup> <https://www.regulations.gov/comment/EPA-HQ-OPP-2023-0420-0228>.

<sup>19</sup> <https://www.regulations.gov/comment/EPA-HQ-OPP-2021-0575-0334>.

<sup>20</sup> <https://www.ragus.co.uk/ongoing-neonicotinoid-ban-to-drive-future-sugar-beet-yield-down-and-prices-up/>.

<sup>21</sup> <https://www.regulations.gov/document/EPA-HQ-OPP-2023-0420-0010>.

<sup>22</sup> <https://www.regulations.gov/document/EPA-HQ-OPP-2018-0805-0104>.

<sup>23</sup> <https://www.epa.gov/pesticides/epa-issues-advanced-notice-proposed-rulemaking-public-comment-see-additional>.

<sup>24</sup> <https://www.federalregister.gov/documents/2021/08/30/2021-18091/chlorpyrifos-tolerance-revolutions>.

<sup>25</sup> <https://www.federalregister.gov/documents/2024/02/05/2024-02153/chlorpyrifos-reinstatement-of-tolerances>.

is a science-based organization which must let data dictate the process, especially their own.

The impact of weeds on crop loss are well documented.<sup>26, 27</sup> With glyphosate, sugarbeet farmers could finally control broadleaf weeds in a broadleaf crop. Better weed control allows our growers to implement climate-smart tillage practices, increasing soil health and function by six-fold,<sup>28</sup> and sugarbeet yield by thirty-five percent. These sustainability advances were at risk with the emergence of a new pest: Palmer amaranth. This aggressive, prolific weed species,<sup>29</sup> exploded exponentially in 2022, causing significant sugarbeet losses in Colorado and Nebraska. I am grateful EPA approved an emergency exemption for a highly effective herbicide.<sup>30</sup> However, the process took eighteen months and cost Colorado and Nebraska sugarbeet growers over \$8 million in lost revenue. Climate change is making issues like these more frequent and severe. Therefore, EPA must fully utilize all its clear authorities under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) to deliver timely solutions to farmers.

American farmers are in desperate need of new pesticides, yet EPA is imposing new regulations limiting use of existing pesticides and delaying approval of new products. The most impactful EPA actions relate to Strategies set forth for compliance with EPA's Endangered Species Act obligations. Hailed as the "most significant imposition of new regulation on the agricultural sector in generations",<sup>31</sup> the EPA's Draft Herbicide Strategy was completely unworkable for American farmers, especially small producers. The Draft Strategy overestimated exposure, species sensitivity and critical habitat size, while it underestimated the benefit of climate-smart practices and failed to include appropriate offset options. Much of this could have been avoided if EPA's Office of Pesticide Programs had better farmer engagement prior to the rollout. EPA's Agriculture Advisor I know is always ready to assist with such engagement.

Our industry submitted extensive, constructive comments to EPA.<sup>32</sup> Subsequently, EPA increased its engagement with USDA and producer groups, including ours. In their recent, revised proposals, EPA is addressing some unworkable portions of the Strategy, like erosion mitigation, but excessive spray buffer distances remain problematic. Without change, significant productive cropland will be lost to overly conservative spray buffers. For small production fields, including those used to produce sugarbeet seed, spray buffers make production impossible. This threatens entire industries, including ours. This Committee must ensure the EPA includes reasonable, science-based adjustments to spray buffer requirements in its Herbicide Strategy prior to finalization in August.

EPA used the AgDrift model to estimate spray drift by application method in the Draft Herbicide Strategy.<sup>33</sup> EPA states the model is purposefully overly precautionary in its estimates. Although I oppose the hyper-conservatism of the AgDrift model, it is used for all EPA risk assessment,<sup>34</sup> therefore the model itself cannot be readily adjusted to address unworkable spray buffer maximums in the Draft Herbicide Strategy. Fortunately, standardizing how the AgDrift model is applied in the Draft Herbicide Strategy could provide a simple, scientifically defensible fix for unreasonable spray buffer distance maximums. Currently, EPA requires 25-fold higher drift control for more drift resistant application methods than those methods more prone to drift. This Committee should insist EPA standardize the allowable depositional fraction (or amount of allowable drift) for all application methods. If EPA were to standardize to 99.95% drift control,<sup>35</sup> spray buffer distances would be reduced 50–90%. With this approach, the lowest spray buffer distance maximum would be 10', a level that is still conservative, but more workable for farmers. It

<sup>26</sup> Korav, S. et al., (2018) *A study on crop weed competition in field crops*. JOURNAL OF PHARMACOLOGY AND PHYTOCHEMISTRY. 7(4): 3235–3240.

<sup>27</sup> Horvath, D.P. et al., (2023) *Weed-induced crop yield loss: a new paradigm and new challenges*. TRENDS IN PLANT SCIENCE. 28(5): 567–582.

<sup>28</sup> [https://agriculture.house.gov/uploadedfiles/larson\\_testimony\\_package.pdf](https://agriculture.house.gov/uploadedfiles/larson_testimony_package.pdf).

<sup>29</sup> Oliveira, M.C. et al., (2022) *Palmer amaranth (*Amaranthus palmeri*) adaptation to US Midwest agroecosystems*. FRONTIERS IN AGRONOMY. 4: doi.org/10.3389/fagro.2022.887629.

<sup>30</sup> <https://www.regulations.gov/document/EPA-HQ-OPP-2023-0463-0002>.

<sup>31</sup> <https://www.ndda.nd.gov/news/goehring-opposed-epa-draft-herbicide-strategy>.

<sup>32</sup> <https://www.regulations.gov/comment/EPA-HQ-OPP-2023-0365-0177>.

<sup>33</sup> <https://www.regulations.gov/document/EPA-HQ-OPP-2023-0365-0007>.

<sup>34</sup> <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/models-pesticide-risk-assessment>.

<sup>35</sup> This is the current allowable rate for aerial application with fine to medium droplet size in the Draft Herbicide Strategy, therefore acceptable control by EPA standards.

is still protective of critical habitats and listed species. Details of this approach were submitted by our industry during the public comment period last fall.<sup>36</sup>

The issues stemming from EPA actions that I highlight today are further compounded by local and state activity. The lack of uniform labeling of pesticides creates confusion in the marketplace and drives litigation that threatens access to pesticides that are critical to climate-smart farming. None more evident than the litigation around glyphosate and carcinogenicity.<sup>37</sup> I applaud the development of the Agricultural Labeling Uniformity Act. Passage of the bipartisan H.R. 4288 will provide much needed certainty for farmers and consumers alike. Further, in Colorado, there are continued attempts each year to overturn state preemption,<sup>38</sup> which keeps many up at night. Sadly, in Minnesota, farmers, commercial applicators, and other stakeholders are attempting to grapple with a recent partial state preemption rollback for just a handful of cities.<sup>39</sup> Fortunately, though for farmers in New York and California, Governors Hochul<sup>40</sup> and Newsom<sup>41</sup> recently vetoed similar state preemption rollback attempts, as they recognize state-level regulation is necessary for robust public health and environmental protections.

I support this Committee codifying state preemption, which is already the *status quo* in an overwhelming majority of U.S. states.<sup>42</sup> The state officials who currently work collaboratively with EPA have extensive scientific training and are best situated to prevent adverse effects on the environment from pesticide use. Turning over this control to local politicians would create a patchwork of regulations that are not only difficult to understand and implement but are likely to have significant negative and unintended consequences. Notably, under the Committee's proposals for uniform labeling and state preemption, local governments can still regulate pesticide applications on public property.

Farmers across the United States have shown their willingness to engage with EPA, as evidenced by extensive public comments. EPA must seek greater farmer engagement, earlier in the process to ensure the U.S. remains the global leader in sustainable agriculture.

Again, thank you for inviting me to be here today. I look forward to taking questions.

The CHAIRMAN. Dr. Larson, thank you so much for your testimony today. It is greatly appreciated.

At this time, Members will be recognized for questions in order of seniority, alternating between Majority and Minority Members, and in order of arrival for those who joined us after the hearing convened. You will be recognized for 5 minutes each in order to allow us to get to as many questions as possible. I am going to hold a pretty tight gavel on that 5 minutes, just because we have so many Members that are engaged in this hearing. I know we will have a vote series coming up here in the future sometime.

So, I recognize myself for 5 minutes of questioning.

In the 2018 Farm Bill, Congress created the FIFRA Interagency Working Group to improve the consultation process under the Endangered Species Act for pesticide registration and registration review. Now, despite this direction, the Biden Administration failed to utilize the FIFRA IWG in the development of the Endangered Species Act work plan and subsequent strategies.

As a result of this failure, I joined Ranking Member Scott, Chairwoman Stabenow, and Ranking Member Boozman earlier this year in sending a letter to the EPA requesting a special meeting between FIFRA IWG and stakeholders directly impacted by these actions.

<sup>36</sup> <https://www.regulations.gov/comment/EPA-HQ-OPP-2023-0365-0177>.

<sup>37</sup> <https://cdn.ca9.uscourts.gov/datastore/opinions/2023/11/07/20-16758.pdf>.

<sup>38</sup> <https://leg.colorado.gov/bills/hb24-1178>.

<sup>39</sup> <https://www.house.mn.gov/SessionDaily/Story/17787>.

<sup>40</sup> <https://www.nysenate.gov/legislation/bills/2023/S5957>.

<sup>41</sup> <https://www.gov.ca.gov/wp-content/uploads/2022/09/AB-2146-VETO.pdf?emrc=da09cc>.

<sup>42</sup> <https://www.mypnp.net/2024/02/07/push-for-state-level-pesticide-preemption-continues/>.

Without objection, I would like to insert that letter into the record.

[The letter referred to is located on p. 75.]

The CHAIRMAN. I would also like to thank Ranking Member Scott for recognizing the serious concerns surrounding these proposals and joining that effort.

Director Chinn, Dr. Larson, and Mr. Kippley, how can the EPA better utilize this working group moving forward so that the impacts to agriculture are minimized?

Dr. LARSON. Mr. Chairman, if I may, I think one prime example is with the draft Herbicide Strategy. The EPA staff tried in a fairly good attempt to be able to understand whether growers could comply with the new draft Herbicide Strategy by creating what they called a case study, which was looking at what types of conservation practices are standard in an area, over what extent of acreage.

However, if USDA would have been involved in that process earlier on, they have the internal expertise from the direct contact with growers to know which of those practices are duplicative and therefore would never be implemented by the same farmer on the same land, and which ones are truly additive. They also bring to the table the fact that it is not just one crop scenario that growers are looking at to manage their farm, it is the entire rotation, which was completely absent from the EPA strategy.

So, in terms of that IWG, I think it is very critical to get USDA at the table much faster.

The CHAIRMAN. Thank you very much. Mrs. Chinn?

Mrs. CHINN. In my opinion, I feel like the only solution is to bring everybody together in the agriculture community to the table to be involved in the process with EPA every step of the way. Cooperative federalism works. We have seen it in the past, and we think that is a great starting point to make sure that all voices and concerns are heard moving forward.

At the heart of every farmer and rancher, they want to protect that farm and that legacy to pass on to the next generation, but they need to be able to do it in a timely manner that is affordable for their family and their farm and their operation, because no two family farms are alike.

The CHAIRMAN. Very good. Mr. Cooper, any thoughts?

Mr. COOPER. So, I just know from being in the farming business out in western Ohio that any kind of regulations and whatever they come at us, if it is not discussed with us out on the farm, sometimes it is very confusing for us. And so, the collaboration is very important all the way around, for sure.

The CHAIRMAN. Absolutely. Bring everybody to the table. Great.

The Biden Administration is proposing a new rule to expand meat and poultry product effluent limitation guidelines. This flawed proposal would have significant compliance costs, and close multiple processing facilities. Any government regulation that closes a single facility is one too many.

Mr. Cooper, are you are concerned that EPA's new proposal will add more red tape to an already heavily regulated industry, making it difficult for smaller processors to comply. Are you concerned with that?

Mr. COOPER. I have a couple of examples. So, we have two plants in Ohio. One is a turkey harvest plant and one is a cooked meats plant, and they both have separate types of sewage systems. Our turkey harvest plant in St. Henry, Ohio, it is a pretreatment plant that we work very closely with the City of St. Henry. We have been there since May of 1988, and it is an indirect setup that we work with them, and then they take it on through their system. So, for all those years, we have had a true partnership with them. They have invested money. We have invested money, and so, in that situation, having the ELGs come in and tell us to do something different would completely disrupt that system, and then our other plant that we have has a self-contained wastewater treatment plant, and we just got done renovating that with the proper permits, EPA Clean Water Act and everything, and that is totally all in-house. We don't even go through the city.

So, having ELGs come at us at different levels would be very confusing, and not helpful to us.

The CHAIRMAN. So, very quickly, do you believe that this would lead to a concentration within the industry?

Mr. COOPER. Well, sir, so you know, at least in our scope of scale of our company, we have the wherewithal and we have the departments and we have an environmental manager, and we can handle all that. And so that works, but there are many small companies, many small processors that wouldn't have that ability, nor maybe the financial backing to be able to handle this coming at them.

The CHAIRMAN. Very good, thank you so much.

Now, I am pleased to recognize the Ranking Member for 5 minutes of questions.

Mr. DAVID SCOTT of Georgia. Thank you, Mr. Chairman.

Mr. Kippley, you made an important statement in your testimony, and I quote. You said: "Sometimes I worry that the wrong rules could put me out of business, but I also know that having reasonable regulation, practical rules of the road that everyone must abide by, is very important. Properly designed and enforced regulations help protect family farmers like me from bad actors who use harmful and exploitative practices." Very good statement, and I would like for the others to comment on this as well. How do you relate your statement here as it relates to the WOTUS rule where the regulators come in and regulate the so-called navigable waters on farmland?

I am very concerned about that. I grew up on a farm. Farmers must always have water. They have droughts. They got animals to water and keep alive. I grew up on a tobacco farm. You got to have water when you plant the plant. It is the only plant here where you got to put the water in with the plant.

Tell me how this is working. We have had a lot of debate on this, and I want to know from you all what you all think about that rule.

Yes, you first, Mr. Kippley.

Mr. KIPPLEY. Me first?

Mr. DAVID SCOTT of Georgia. Yes, please.

Mr. KIPPLEY. Okay.

Yes, I think it is important that we protect our waters. Obviously, clean water is important to all of us. Our families are drink-

ing the same water that we are—your neighbors are. So, it is important to us that we protect our water.

However, when we overreach and start to hold back water from the livestock, it truly can end your business. If you can't get access to water for your cattle, bad things happen. We just had a neighbor recently had a water tank malfunction in his pasture, and I think he lost nine head.

Mr. DAVID SCOTT of Georgia. Are you supportive of this Federal water program, regulators coming in? Some of them are fining our farmers, costing them money.

Mr. KIPPLEY. Yes. I think that it is a very touchy issue, but no, I don't want them. I am like anybody else. You don't like somebody to come in and tell you that you can't do it this way or that way, but there is a need to protect the water.

Mr. DAVID SCOTT of Georgia. Yes. The others, please, what is your opinion, ma'am? Miss, I will go down the line. Yes, I am sorry.

Mrs. CHINN. Well, we at the State Department of Agriculture, we feel like we need to have a voice in that conversation on a state level. Non-navigable waters, which is what you normally find on farms and ranches across the United States, should be left to the jurisdiction of the states because they are the people who are closest to the farming and ranching community.

Every state has different challenges and obstacles to overcome when it comes to farming and ranching, and we feel like state regulators have the opportunity to cater to the needs of the agriculture industry to make sure that while we are protecting and making sure that we have safe and clean water, we are making sure that agriculture's needs are met at the same time. So, we feel like the states' voice has been left out of this decision, and we encourage more cooperative federalism to make sure that states are involved when it comes to non-navigable waters like you find on our farms and ranches.

Mr. DAVID SCOTT of Georgia. Yes, good to know.

Mr. Cooper?

Mr. COOPER. So, actually, some of our farmer operations, about  $\frac{1}{3}$  of them are in the western Lake Erie water basin area, and we do all kinds of things, filter grass strips, and we don't apply manure on frozen ground. So, we do all kinds of things that part of it is permitting, part of it is just good common sense to protect not only our ground, put the right amount of manure on with a soil test, but also to protect the water.

But also, what we would like is we have an issue that we are short of water in two of our facilities, and we would rather have the government come in and help us with that.

Mr. DAVID SCOTT of Georgia. Yes. Ma'am, your thoughts on this?

Dr. LARSON. Yes. *Waters of the U.S.* is definitely outside my area of expertise, but I would like to take a moment to talk about this bad actors' idea. I just want to clarify for this Committee that farmers use pesticides in a very responsible manner, primarily because they are extremely costly. So, growers are not going to go around and spray products that don't need to be sprayed. Fertilizers as well are incredibly costly, even more so with inflationary effects.

So, growers are taking the responsibility and leading with integrated pest management to try and protect not only the waters on their ground, but also their land.

Mr. DAVID SCOTT of Georgia. Well, thank you very much.

I yield back, Mr. Chairman.

The CHAIRMAN. The gentleman yields back.

I now recognize Mr. Lucas for 5 minutes.

Mr. LUCAS. Thank you, Mr. Chairman.

My constituents have made it abundantly clear to me that compliance with the Endangered Species Act, or ESA, continues to be a nearly impossible task. Oklahoma farmers and ranchers are more than willing to work with regulators to find solutions that make sense for everyone. After all, everyone in this room knows that farmers are the original environmentalists.

However, the EPA's recent Herbicide Strategy creates buffer zone requirements that have caused some unease back home, and the excessive buffer zone distance requirements remain unworkable for many producers and could lead to a significant loss of usable acres.

So, Dr. Larson, in your written testimony, you touched on a possible solution you proposed to the EPA. Could you elaborate on this and share if the EPA seems—and this is a big phrase—*seems receptive to your approach*?

Dr. LARSON. Thank you for that question, Congressman.

I can't gauge how receptive EPA is to the approach that we put forward because we haven't gotten much feedback. At times, I have likened it to screaming into a void trying to expect to get a response, although that engagement has become better when it comes to erosion mitigation.

We haven't gotten any feedback yet, but have a meeting scheduled on the spray buffer modifications. So, right now, the EPA has set a different standard for the amount of what they call a depositional fraction, or how much of a product they are willing to tolerate moves off the farm. Using a model that already overestimates what that drift is going to be, if they were to apply an equal standard across the board, it could reduce spray buffers 50 to 90 percent, and still be incredibly protective.

So, for example, right now there is a 100' requirement for any ground application. If they apply the same standard to ground application as they do to aerial application, that would take that 100' down to 10', which we know is still very protective of critical environments, because farmers across my area routinely split fields between sugarbeets and corn. They will spray things on the corn that should kill the beets and spray things on the beets that should kill the corn. Yet, they can control that drift over 22", which is how far apart those two crops are planted. So, even 10' would be way more than would be necessary to protect critical species and habitats.

Mr. LUCAS. Mr. Cooper, I want to pivot briefly and touch on the EPA effluent guidelines that are affecting your industry and my producers back home.

Many people in Oklahoma and around the U.S. fear that their operations would close if this rule went into effect, and you stated in your written testimony that EPA's estimated number of plant closures is far below the NPPC's estimation. Can you expand on

the discrepancy between the NPPC's findings and the EPA's, and where you believe the EPA is missing the mark, if they are?

Mr. COOPER. I actually have no knowledge about that discrepancy on that. I just do know that I would be in agreement, that it is going to affect a lot of small processors all across America, and just like in the example when I was talking about in my own plant situation, having this direct relationship with our local city that has been going on for 36 years working perfectly. The other situation, we have our own in-house treatment system. So, we can afford and can do that kind of stuff and it has worked out really well, but I just believe that when you think about a lot of small processors and these grants are going to try to get more companies to start up, this is going to cause less facilities for our swine industry to be able to take their hogs to for getting processed.

Mr. LUCAS. Thank you.

Before I yield back, Mr. Chairman, I would like to offer a note, a thought that the farm bill process has been, always will be, a challenging process, and that the patience of the leadership of the Committee, sometimes is required to a degree that is almost biblical in nature. And I appreciate your patience, and I would note for the historic record that many times, the challenges in my 30 years on this Committee have not come within the Committee, but dealing with leadership and the outside groups. If we can't pull together, as we have in the past, then I am very concerned about where we go. But I do have complete faith in your sincerity and your intensity and your focus to accomplish the mission for the common good, and I thank you for that.

I yield back, Mr. Chairman.

The CHAIRMAN. I thank the gentleman. The gentleman yields back.

I now recognize the gentleman from California, Mr. Costa, for 5 minutes.

Mr. COSTA. Thank you very much, Mr. Chairman and the Ranking Member, for holding this important hearing. I think we all pray that we can come together on a farm bill before the end of the year.

Having said that, I was speaking to a group of farm leaders earlier today, and I represent one of the larger agricultural areas not only in California, but therefore in the country. I think that farmers, ranchers, dairymen and -women are critical in so many different ways, but they are also stewards of the environment. I think many of us feel that way.

The challenges of coming together with local, state, and Federal policy to ensure that agriculture remains what it is, which is a national security issue, it is an international security issue, and with four percent of the nation's population directly involved, we don't often think of it in that way, but it is. And so, what I would like to do is ask a few questions related to our witnesses.

Obviously, climate change and other factors are impacting our producers throughout the country. Mr. Kippley, in your earlier—it is Kippley, right?

Mr. KIPPLEY. Yes.

Mr. COSTA. You talked about WOTUS and the challenges of the ping-pong, as you described it. I would call it a political football,



but where do you think we ultimately find the commonsense solution so that we avoid the ping-pong effect that you described?

Mr. KIPPLEY. I think it is going to take scientific, we got to trust the science. We got to work together at all levels. Like my colleague to the left here said, the state needs to be involved in this process. We need farmer input, and we need to come up with a commonsense solution. I think that is where we are going to ultimately land.

Unfortunately, the hardest part about the WOTUS has been the back and forth that we have experienced over the last number of Administrations. We go from one extreme to the other, it seems like, and we don't really land anywhere in the middle. I think that is where it is going to have to be, get all the parties together and come up with a good plan that—

Mr. COSTA. Put them in a room and apply common sense, and don't let them leave until we have gotten there, huh?

Mr. KIPPLEY. Yes.

Mr. COSTA. Dr. Larson, in your testimony you talked about the importance of avoiding the patchwork of regulations. In California, we have had some of the strictest pesticide regulations and herbicide regulations in the country.

We tried in the past to create an effective harmonization between our efforts at the state and Federal level. Could you further explain the critical importance on how we try to avoid that patchwork and try to—I know one size doesn't fit all, clearly, but—and certain states take different directions, but could you comment?

Dr. LARSON. Thank you, Congressman.

I have lived that firsthand in Boulder County, Colorado. The county owns a lot of public open space that is used for agriculture production, so several years ago they took it upon themselves, the county commissioners, to ban the use of GMOs, primarily because of their reliance on glyphosate, and ban the use of neonicotinoids, based off of some activists' promises that there would be a better way to farm.

And so, that really put a shock to the system. They spent millions of dollars in taxpayer dollars trying to find a different method that would make it work, and then all of a sudden pivoted towards focusing on soil health and recognizing that some of these pesticides and technologies from a breeding perspective were important for that.

My city in which I live in has given up using pesticides for controlling weeds and replaced it with 200 goats. That has not been really effective at managing the weeds along the waterways, and what they don't understand is that the weeds don't respect boundaries. So, even though there are ag exemptions where people can use pesticides on their own privately owned ground, all of the river banks along the bike trails are overridden by kochia. That seed drops into the waterways. It goes into the irrigation canals, and it goes into the farms.

Mr. COSTA. My time is ending here, but I think common sense and trying to use or get a concurrence on best science is always a challenge when you are trying to harmonize regulations and maintaining food safety and worker safety clearly are the goals. More to be said, but not enough time.

Mr. Cooper, your description of your rendering operations and process sounds similar to some of the things we are dealing with in California. Do you use a rendering operation?

Mr. COOPER. Yes, we do. We have had a long-term relationship with Wintzer and Sons, which is a local renderer, and it is, I would call it a symbiotic—

Mr. COSTA. What percentage of the wastes would you guess are able to be recycled? I mean, give me a ballpark.

Mr. COOPER. Through our live turkey harvesting plant, I think it is about 15 to 20 percent runs through them, and then they render it and we purchase some of that back from them. And so, it has been a great relationship and we would have a really tough time if we didn't have that renderer right next to us, which is literally about 45 minutes away.

Mr. COSTA. Yes, we have done some similar things. Keep up the good work.

Mr. Chairman, my time has expired, but obviously more work needs to be done.

The CHAIRMAN. I thank the gentleman.

I now recognize Congressman Austin Scott for 5 minutes.

Mr. AUSTIN SCOTT of Georgia. Thank you, Mr. Chairman.

I ask unanimous consent to submit a letter for the record from 21 ag organizations, including the American Soybean Association and Cotton and U.S. Peanut Federation requesting the EPA extend the comment period for the proposed interim decision to cancel all uses of Acephate except for tree injections by 30 days.

The CHAIRMAN. Without objection.

[The letter referred to is located on p. 76.]

Mr. AUSTIN SCOTT of Georgia. Dr. Larson, I am going to come back to you in a second, but I do want to thank you for making the statements that you made. I mean, farmers don't just wake up in the morning and decide that they want to spray a pesticide or an herbicide and spend the money on those chemicals or on the diesel that it takes to spray them, unless it is going to lead to crop yield increases, which are necessary for our food supply in this country. I think that gets lost sometimes in the discussion when you are dealing with activists and environmentalists. They think that the farmer just wakes up in the morning and wants to go spend money on diesel and spend money on chemicals, and it is just false. If it is not going to lead to higher yields for our farmers, then they are not going to go waste the money. They don't have the money to waste. You made a statement similar to that, and I appreciate you stating that. These liberal activists I personally believe are funded by the Chinese Communist Government who has been very smart in the way they have dipped into the seed supply and the chemical supply that it takes to grow the crops that we all depend on for our food supply.

With that said, Director Chinn, many specialty crop growers in my district rely on a variety of crop protection tools to protect their fruits and vegetables from damaging pests and diseases. The use of many of these tools is possible through the work of the IR-4 project, which develops the data needed to add additional uses to labels and establish tolerances.

Can you talk about the importance of registering additional tools for specialty crops and other minor uses?

Mrs. CHINN. Sure. We share your concern. We need to make sure that we have tools in the toolbox that fit every size farmer, whether they are a specialty farmer or a large farmer. We need to make sure that there is the ability to change a label when necessary to meet the needs that, say, a specialty farmer is experiencing at that time. We also need to make sure that the burdensome regulations that are coming down from the government are not so burdensome that they force farmers to stop using practices that are good for the environment and protecting their family operation.

Mr. AUSTIN SCOTT of Georgia. Let me say this, because I know you are at the state level. I have served for 14 years in the state legislature in Georgia, and I served under multiple governors, both Democrat and Republican. I found that whether I had a Democratic or a Republican Administration at the state level, the people that were operating the state agencies were fact-based decision-makers that were solution oriented, and recognized the needs of the citizens. I don't feel that same way about the people in the Federal agencies, and so, I appreciate you and the role that the states play in making sure that we have the balance. I think that the states do a much better job of it than bureaucratic overlords in the Federal agencies.

Dr. Larson, many farmers in my district rely on herbicides like glyphosate. In fact, I probably used some this weekend around my house, even though I am not farming, Dicamba and atrazine, when implementing voluntary, incentive-based conservation practices like cover cropping and reduced or no-till that helps sequester carbon in the soil. Can you elaborate on the importance of using herbicides to implement conservation practices, and how the reduction of these chemicals is going to hurt conservation?

Dr. LARSON. Yes, thank you, Congressman. This is one of my favorite talking points.

For sugarbeets, the introduction of glyphosate tolerance has been a quantum leap change for our growers. They are finally able to control the weeds. It increased yields by 35 percent, cut fuel consumption 50 percent, cut greenhouse gas emissions by 40 percent, and has cut water consumption by 30 percent. I mean, that is true sustainable intensification.

Mr. AUSTIN SCOTT of Georgia. Good for the environment.

Dr. LARSON. If we were to lose that tool, it would be devastating for our growers. It takes decades to sequester carbon in the soil, but it takes minutes to lose it. And so, if we lose those tools and have to go back to intensive tillage to maintain weed control, all of that carbon is lost back to the atmosphere.

Mr. AUSTIN SCOTT of Georgia. You answered my next question, which was, what is the impact on conservation if we lose those chemicals?

But, most of the farmers that I know want to use a system that is good for the environment. They don't just wake up in the morning—none of the farmers I know wake up in the morning—and try to find a way to use more diesel, more chemicals.

I appreciate all of you being here.

The CHAIRMAN. The gentleman yields back.

I now recognize Ms. Adams for 5 minutes.

Ms. ADAMS. Thank you, Mr. Chairman, to the Ranking Member as well for holding the hearing today, and to our witnesses, thank you for your testimony.

It is probably not surprising that I want to talk about the farm bill and the context of today's conversation, not only because we still have not passed one, but because it would, as reported out of the Committee, undermine many of the important protections to human and environmental health that are up for discussion today. I find it a bit funny that we always hear about crop protection so much in our ag meetings, when we ought to be talking about protecting human health.

It is one thing to have a serious conversation about equipping our farmers with the tools they need to grow, but it is another thing to undo regulations that are already on the books, which is what the preemption style language tucked into Title X of the Farm, Food, and National Security Act would do.

As a former state legislator of 20½ years, and the Ranking Member of the Workforce Protection Subcommittee on Education and the Workforce, I have grave concerns about what it would mean for the farm bill to undo state and local level pesticide regulations, especially as those regulations serve to protect all kinds of people, but especially farm workers and other applicators.

If the goal is to, is truly uniformity in pesticide regulations, then setting a higher floor would be one way to do that. The farm bill, as it is written, stacked the deck against food and farm workers, none of whom are represented on the panel today. But I have to say that the term *regulated community* was new to me. I do feel that it is unfortunate that we did not hear from any members of communities, often low-income communities of color, who endure the cumulative impacts of the products and the practices under scrutiny today.

So, while I do appreciate the witnesses' testimony saying that we need to pay greater attention to the regulatory system governing pesticides, I don't agree with the idea that this attention should devolve into further weakening regulations and further exposing residents of my district and state to levels of chemical inputs not tolerated in many other nations.

Agriculture has many unique exemptions to environmental laws and regulations that other industries don't face. For example, we heard how air reporting requirements for animal waste are exempt under CERCLA and EPCRA for certain farms. But I want to ask a few questions that acknowledge such carve-outs. So, if we want the EPA to do a better job, which I think we should all want that, I am more than a little puzzled as to how a 20 percent cut to their funding would allow for that, and that is what we went through yesterday's markup in appropriations.

So, Mr. Kippley, thanks for your testimony. I do want to hone in on the PFAS. One significant issue with PFAS is that they are persistent in the environment, which is an issue in my State of North Carolina, no stranger to that. But how is this impacting farmers, and what can we do to remediate these issues, and how is the NFU engaging in this conversation?

Mr. KIPPLEY. So, personally, in South Dakota, we haven't dealt a lot with PFAS, whether it is just because we haven't done the studies to find that it is there, or it is not there. But NFU, I guess our belief there is that we need to make sure the farmers are held harmless the best we can in this process. This is done to them, done by companies creating the stuff and not by the farmers themselves, so as far as that goes, we just want to make sure the farmers are held harmless and help them out.

Ms. ADAMS. Thank you, sir.

Mrs. Chinn, you raised the EPA's proposed rule on effluent limitation guidelines, and their potential effects on market competition. The Biden Administration has worked to increase competition in the processing sector, including by increasing the number of plants.

So, is NASDA supportive of those pro-competition efforts, and do you feel that it is important to balance the need for safe and affordable drinking water for local communities in the discussion about effluent guidelines?

Mrs. CHINN. Thank you for that question.

We are very supportive in expanding the small- and mid-size meat processing facilities. Our state legislature actually put \$20 million into that effort for a grant program, so we feel that it is very important to give our farming community a choice of where they send their animals to go be processed.

We know that these small, local businesses are doing everything within their means to make sure that they protect the water supply, but we really feel like the local and state governments need to be involved in that decision-making process, because we are the people closest to those processors and we want to do everything that we can to help them, including rendering and things like that that help us recycle those resources.

Ms. ADAMS. Thank you, ma'am.

I have a question for Dr. Larson, but Mr. Chairman, I will yield back and I will just submit that in writing.

Thank you.

The CHAIRMAN. The gentlelady yields back.

I now recognize the gentleman from California, Mr. LaMalfa, for 5 minutes.

Mr. LAMALFA. Thank you, Mr. Chairman. I appreciate it.

I want to direct this to Director Chinn and Dr. Larson on the use of the controlled materials we use in agriculture. I am a farmer in my real life as well, and so, we certainly understand how, as Mr. Scott was mentioning, we don't just use these materials for kicks. They are expensive and you have hold periods. You have things you have to do to accommodate it. We are glad to have the materials, but I don't want to use them any more than necessary either. The organic market is an important one. It is one I support, but it is also limited, too. So, when you find that the vast majority of our crops grown in this country do use some level of weed control or insect control in order to be viable, then we have to acknowledge that, or we are not going to be the breadbasket for the country and the world that we have been. So, it is really not debatable.

So, a piece of info that I have here is that a study out of the University of Arkansas says that the production of corn and other commodities could decline as much as 70 percent without the use of

these materials, without having them available. So, when they are highly regulated, well, I should say not *highly*. Over-regulated. Yes, they are well-regulated and there are reasons for that. We all get that as long as we can still work through the maze. But farmers' yields will suffer if they are regulated to the point that they cannot use these materials or new ones cannot be developed.

So, you would end up using more land to grow the same amount of crop at less profit per acre, I know *profit* is a dirty word in some places around here, but if you are not making a living, if you are not in the black, then you are not going to be there very long no matter who you are. So, you are going to use more land. You are going to have—perhaps use more water in order to grow the same amount of crop, and then so the market has to get more expensive for the crops as well.

So, at the same time we are having to use more land and more water assets, and this goes against what the environmental groups tell us they want. They want to save more water for fish or for environmental purposes. They want more land to be conserved for wildland or heaven knows, covering up with solar panels like in the San Joaquin Valley, which seems to be their idea of solar farms. So, and then the harming the breadbasket that we have in this country.

So, getting to the question, Director Chinn and Dr. Larson, are you just putting the bottom line here. Have you been seeing farmers go out of business because they can't keep up with the costs of these regulations, and the price of the materials themselves, since they have a narrower window of market?

Mrs. CHINN. Absolutely, that is a huge concern, especially for our Missouri farmers. Our smaller farmers, our new, beginning farmers do not have the equity and taking away one of the tools they have in their toolbox is going to have a detrimental impact on their bottom line and their ability to meet their debt service that they need to with their local lending institution. Our fear is that the local lending institution is going to call their notes due, and it is going to put them out of business. We need to make sure that they have many choices when it comes to crop protection tools, and we need to make sure that the rules and regulations in place are things that are workable. That is why we encourage the state departments of ag being able to be a part of these decisions with EPA so we can represent what that small farmer and that the boots on the ground are seeing when they try to implement those regulations as written.

Mr. LAMALFA. Yes. So, they will be gone.

Dr. Larson?

Dr. LARSON. When Palmer amaranth exploded into our markets in Colorado and Nebraska, I had a farmer tell me that his yield went from 32 tons per acre for sugarbeets to 11 tons overnight. That weed grows from a seed to setting seed in under 2 weeks. It grows 2" a day. If we lost access to herbicides, not only that are important to our sugarbeet crop, but for the crops that we grow in rotation, our guys will go out of business. And it took a year too long to get the emergency exemption that we needed for getting that weed back under control.

Mr. LAMALFA. Yes. Well, what we face—I am a rice grower in real life, and we face some materials that have been just outright banned, or other ones that are not approved soon enough like you are talking about where we have certain weed materials that they are working, but the weeds develop a resistance. And so, we have to rotate amongst maybe five or six different materials, these one or two this year, and move them around for the next year use something else, and we are still not getting 100 percent, but we are at least keeping at it.

So, it really is difficult to keep the materials alive when the EPA is trying to stop them. So, with these mandates, I am not sure how we continue to produce the way American farmers and American consumers are expecting to.

So, thank you for that, and I yield back, Mr. Chairman.

The CHAIRMAN. The gentleman yields back.

I am now pleased to recognize the gentlelady from Ohio, Congresswoman Brown, for 5 minutes.

Ms. BROWN. Thank you, Mr. Chairman, and thank you to our expert panel for being here. Your perspectives are very helpful.

Every day, millions of Americans rely on our aviation industry to travel, recreate, and move goods, but historically, flying has ranked as one of the highest producers of carbon emissions. Thankfully, Americans and American farmers are innovators, and the sustainable aviation fuel industry continues to grow and develop. And as my home State of Ohio has long been called the birthplace of aviation, I am thrilled to see it emerging once again as a leader in producing the feedstocks needed for sustainable aviation fuel.

Ohio ranks in the top ten national producers of corn and ethanol, proving that our farmers can deliver what we need to build a strong, clean fuel industry. I am proud to have supported the historic climate innovations in the Inflation Reduction Act (Pub. L. 117–169), including the creation of a \$1.25 per gallon tax credit for producers of qualifying aviation fuels. And I have been glad to see the interagency collaboration to get this right and make sure that farmers, industry, and consumers are all benefitting.

So, Mr. Kippley, you shared your organization's support for the Administration's Sustainable Aviation Fuel Grand Challenge. How is this emerging industry impacting the livelihood of the National Farmers Union membership?

Mr. KIPPLEY. Yes. I think it is going to be the next level of ethanol. If we look back prior to ethanol plants coming on board, we see our small towns dwindling at a very rapid rate. There wasn't a lot of industry moving into rural South Dakota to start new businesses up. And within 50 miles of my hometown, we have four ethanol plants, which all employ probably 20, 30 people a piece, not to mention the increased profits to producers of corn. And then we also have an AGP soybean processing plant there as well, again, employing another 20, 30 people and increased profits. I just see this as continuation for us in this product.

One thing I will always say is if you think something can't be done, tell an American farmer. They will figure out how to get it done, and will do it well. So, we are up for the challenge.

Ms. BROWN. Thank you for that.

In the lead up to our farm bill markup, we heard time and time again in this Committee how important strong conservation incentives and practices are, and Democrats on this Committee fought hard and will continue to fight to protect conservation programming and dollars.

I know many of you on the panel today have engaged with these conservation programs firsthand. So, I would like to ask you all how do you see the role of agriculture in the production of sustainable aviation fuels, and what conservation practices are you implementing on your farm to support this industry while ensuring environmental sustainability?

Mr. KIPPLEY. So, on our farm we have been no-till for years; however, some of the current regulations will not allow us to meet everything that is there. We need to open it up so that farms in the northern part of the U.S. can easily or more easily access these benefits. Cover crops just don't work in our part of the world. I am 26 miles from the North Dakota border, and by the time we get corn out, normally there is snow on the ground. We are always hopeful we have the beans out before the snow hits.

So, we are limited in some aspects of the current rules, but there are a lot of other things that we can do. CSP Program is widely used in our area. We have a lot of no-till in the area due to lack of water in our area. So, we will continue to do environmentally friendly farming.

Ms. BROWN. Thank you.

Mrs. CHINN. Thank you for that question. I think it is important that we remember that our farmers are price-takers and they are not price-makers. And so, they want to do what is right for their farming community and their farms and ranches to pass it onto that next generation, but meeting unfunded mandates that are passed on from the Federal Government make it very challenging for them. They need to be able to implement those practices in a way that is feasible for their family and their operation, and I think sometimes that gets forgotten about. I also think it is important that they have every tool available for them.

In the State of Missouri, our agriculture in the very southern Bootheel is very different than the northwest corner. There is over a month to 6 weeks difference in planting seasons because of that, and so as Mr. Kippley said, it might work in the Bootheel area of our state to use cover crops, but when the northwest portion of our state is late harvesting, they don't have that opportunity to sow that cover crop, and they should not be punished for that because many times, they have implemented terraces and other practices that are conservation-minded to make sure they protect their farm.

Ms. BROWN. Thank you.

All right. Well, it looks like my time has expired, and I just want to close with this if I may, Mr. Chairman.

I am committed to working with my colleagues and alongside the Biden-Harris Administration to take real steps to lead in the clean energy transition, support American farmers, and to combat the threats of climate change.

And with that, I yield back. Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentlelady.

I now recognize Mr. Bost for 5 minutes.



Mr. BOST. Thank you, Mr. Chairman, and thank you all for being here and coming before the Committee to discuss all the EPA's issues that are out there right now, and how it impacts American agriculture. It is really disappointing that Administrator Regan wouldn't give Congress the same respect.

So, going into my first question, many of you have talked about the EPA's handling of the *Waters of the United States*, and if we say it has been sloppy at best is the way we can describe it. There have been so many back-and-forth ways that all of a sudden, they are implementing WOTUS this way, then they are implementing this way. Then they create a lot of confusion. And to tell you the truth, my constituents from deep southern Illinois, they are pretty well fed up.

Farmers in southern Illinois have tried to get the Federal Government to give an answer, which they don't give, or when they do give, it is one side and then they flip back. So, I don't know what this Administration is trying to do now that they have a court ruling, why they don't go ahead and move forward and realize that they are not for their green agenda. They are for the law, the way the law is supposed to be handled.

So, that being said, now a year after the Supreme Court ruling, nothing has really changed thanks in large part nobody but the EPA. American farmers and many others are still in a state of limbo and confused as they continue to wait for what new WOTUS rules will be fully implemented.

So, Director Chinn, let me ask, from a state perspective, and I was a state legislator for 20 years in the State of Illinois, on the Agriculture Committee for 20 years, how are farmers expected to know how to comply with the law when the definition is still so unclear, and what resources are available to assist them in that process?

Mrs. CHINN. Thank you for that question. That is one of the biggest challenges our farming community faces is how do they comply with WOTUS? They reach out to us and the Missouri Department of Natural Resources, and we don't have good answers for them because we as state regulators can't find the answers either. We have reached out to EPA. They, too, do not know how to help us in advising the agriculture community to move forward.

In Missouri, we are still going under the pre-2015 WOTUS definition because we don't have that clarity, and that is what our farming community needs. They need clarity and they need something that is easy to understand and easy to implement. And we cannot forget the state's role in making sure we protect the non-navigable waters. The farming community would much rather deal with someone from the state than they would from the Federal Government.

Mr. BOST. Thank you.

It is really no secret that the EPA pesticide review process is broken, and it has gotten worse in recent years. Currently, EPA meets next to none of the statutory PRIA regulation deadlines. In turn, this delays new, innovative products from reaching the farm when they need it the most.

Now, to make the solution worse, EPA has recently insisted on doing their draft Endangered Species Act assessment. This has

only added to these delays, and consumes limited staff resources, adding months or years to the regulation process.

For any of the witnesses at the table, can you speak to the importance of streamlining EPA's pesticide review process, focusing staff and resources on the issuing area and actually getting the rules out?

Dr. LARSON. Congressman, if I may, I can address that question.

Mr. BOST. Please.

Dr. LARSON. So, when we had Palmer amaranth come onto the scene in Colorado and Nebraska, we needed an urgent solution, and the EPA has an emergency exemption option under the Section 18 where they had full statutory authority to approve an unregulated product for our growers to use. Yet, it took them 18 months to get that approval, and I can tell you that climate change is worsening the disease and pest epidemics. This situation is going to get much more urgent for farmers. They need to get tools in a timely fashion in order to address these worsening diseases and pest problems if we have any chance of maintaining the supply that we need of food.

Mr. COOPER. Congressman, I would like to add to that. We totally agree with everything you said there. Along with that, back in March 28, trade organizations sent a letter to the EPA on this whole WOTUS question, asking questions and everything, and in the past 3 months, there has been absolutely no response to that. Like how hard is that? So many organizations in the letter, you got a few questions. It would probably take, what, an hour for somebody to answer them and they don't even do that. So, it just goes along with what all the witnesses are saying.

Mr. BOST. Well, my time has expired. Mr. Chairman, I do want to close with one statement here.

I do wish that the EPA themselves were here, and the reason being is because there is, like all government agencies, they are supposed to be here to help, not to hinder. And unfortunately, this is an agency that has continued to grow, like all bureaucratic agencies do, and unfortunately, to be an agency that punishes people and doesn't really help them.

So, thank you, and I yield back.

The CHAIRMAN. I thank the gentleman, and I assure him that we will extend another invitation to Administrator Regan. This one may be a little firmer to have him before the Committee.

I am pleased to recognize Ms. Caraveo for 5 minutes.

Ms. CARAVEO. Thank you, Chairman Thompson and Ranking Member Scott. Thank you for hosting this hearing this morning, and to our witnesses, thank you for being here to provide your testimony. Dr. Larson, I especially appreciate you joining us from Colorado. I represent leading producers of sugarbeets in Colorado, and last year, I expressed concern to Administrator Regan about the lack of effective U.S.-approved crop protection tools to address the aggressive invasive weed, Palmer amaranth, which was causing serious economic losses to our sugarbeet growers, as you have said, Dr. Larson, and I was glad to hear when the EPA did eventually grant Colorado counties approval for a tool for the 2024 growing season.

You have touched on the issue of Palmer amaranth and what the process has been like with the EPA a couple of times. Is there anything else that you want the Committee to know or that needs to be expanded upon?

Dr. LARSON. Thank you, Congresswoman.

I would be remiss if I didn't take the time to recognize you in this moment for all the support that you give to your constituents. It does not go unnoticed back home that you have stood up for us when we have needed a Section 18. You have stood up for us when we need improved safety nets. That makes a difference for the survivability of our industry that runs deep within these family farms.

For me, it is very challenging for our growers. Once you work with farmers, they integrate themselves within your soul. I had farmers calling me with life-and-death situations in terms of trying to get this weed under control. Farmers operate on net revenues about two percent or under two percent, so they are one natural disaster away from bankruptcy, and it is not the same when you lose your job *versus* lose your farm. Because these farmers have looked back over the generations and seen their fathers, their grandfathers, their great-grandfathers struggle and make it through. If they lose that farm, that is a very heavy burden on these individuals.

We have seen the impacts of getting that Section 18. Our acreage grew 3,000 acres this year. Because without access to an herbicide that would allow them to control this weed, 60 percent of our growers rent land from other people. They don't get granted access to that land if they don't have tools to control the weeds during that rotation into sugarbeets. Sugarbeet cooperatives have both a right and a responsibility to have to grow those sugarbeets year in and year out. So, it forced growers to shorten rotations on the ground that they own, and that just creates other epidemic issues for them when they have diseases and pests that they can't manage through longer rotation. So, it has been very impactful to have this product available to us this year.

Ms. CARAVEO. Well, I certainly appreciate the work that you do on behalf of our sugarbeet growers, and look forward to continuing to work together to make sure that we continue to expand their crop yields, and make sure that they can keep their farms.

Something else that Colorado has led on is around the agricultural right to repair. I believe we passed either the first or second law of its kind in the country right after I left the state legislature or actually while I was in the state legislature, and I know, Mr. Kippley, that you have expressed concerns, particularly around whether it is compatible with Clean Air Act provisions.

How would you respond to the concern that right to repair would undermine emissions compliance?

Mr. KIPPLEY. Yes, absolutely. It does not, number one. Nowhere does it say that if you have the right to repair that you have the right to take your emissions off your tractor, so it is no different than the current rules.

What it does allow is it allows you to work on your equipment on weekends and evenings when you can't get a mechanic. It does allow you to call an independent guy if you feel like the dealer is a little bit high. We have all used independent dealers on our cars

because of that reason. And so, to take that tool away from a farmer, not allowing you to work on your own equipment just because they are trying to hide behind a rule that didn't exist was really frustrating. And so, we are glad to see the EPA came out boldly and said not only do we not agree with John Deere's assessment, but we also are in favor of right to repair. So, thank you for the question.

Ms. CARAVEO. Of course. Thank you for your testimony, and I look forward to continuing to work with you all to make sure that when we are looking how to preserve the environmental cause around agriculture that we recognize that farmers are our first environmentalists, as has been said, and that we need to be reasonable around the pressures that we sometimes place on them.

Thank you, and with that, I yield back.

The CHAIRMAN. The gentlelady yields back.

I now recognize Mr. Baird for 5 minutes.

Mr. BAIRD. Sorry, Mr. Chairman. I was sitting here listening to the testimony and I should have been paying attention.

The CHAIRMAN. That is not a bad thing.

Mr. BAIRD. Thank you for having this hearing, and I really appreciate the witnesses being here.

My question deals—and I want to bring this up not because of me, but to kind of set the stage a little. I am concerned about this weaponizing the pesticide registration and registration review process, and that has a problem because it takes away from being able to have some of these important tools, which many of us have made comments about.

But in 2022, I introduced the Farmers Deserve Notification Act (H.R. 9035, 117th Congress), and that required 270 day advanced notice in the *Federal Register*, should they think about, or the EPA think about canceling, suspending, or enacting any new restrictions on pesticides.

So, my question is for any of the witnesses. Do you care to elaborate on that, or since you have all come such a long way, because this is a topic of real interest to me because it is such a concern to farmers and producers. I am using that just as a way to set the stage, so if you have anything that you haven't mentioned already, then feel free to do that.

I am going to start in reverse order. Dr. Larson, start with you. Does that work out?

Dr. LARSON. Absolutely. Thank you, Congressman.

I am very concerned about how slow the regulation already is for pesticides, but you overlay on top of that the new restrictions with the draft Herbicide Strategy and all of the Strategies that would be coming to get EPA into compliance with its Endangered Species Act obligations, it is just going to slow that process down even further, and probably limit the way that those tools can be used without the data and the science to back it up.

Mr. COOPER. Congressman, I am really happy you asked that question because in our toolbox in the livestock and poultry side, we have two very key tools that we use, which are formaldehyde and rodenticides. Of course, formaldehyde is not under the pesticide situation, but in both cases, they are extremely important to us. I remember all the way back to my younger days with my dad,

and he used formaldehyde in the hatchery and the breeder farms, killed off viruses and bacteria, and we, my brother and I, have used it throughout our operation. Of course, we use MSDS safety sheets, and we do everything that needs to be done. We got high-path AI last fall in one of our turkey farms, and after we did all the ODA, USDA cleaned out and composted the turkeys and everything, dirt floors in these barns. About the only thing that is going to really kill that high-path AI virus really well is formaldehyde, and if we didn't have that, I am not sure that we would have been cleared to put turkeys back in that as soon as we did, which was about 72 days, which was really good.

On the rodenticide thing, again, kind of a quick story, but when I was a kid, we had cats in the barns and that was the mousers, right? Probably some of you had cats around your house for the same reason. Well, now we have to have rodenticides. We can't have cats in our barns these days. So, anyway, rodenticides are very important. In our own particular company, we use a rotating three different ones that we buy wholesale. They are all commercially approved and everything, and then our 425 family farmers each 3 or 4 months, we will tell them which one that they can come pick up, and they put them in pet-proof boxes, put them all around the barns, and rodents as we all know are big carriers of diseases, and all that kind of stuff. So, if we didn't have the rodenticides to stop that, high-path AI, PERS, PED through the swine industry, we would have an absolute mess. So, those two are critical to us.

Mr. BAIRD. It is interesting you mentioned the cats, because that is an all-natural process. Anyway, sorry.

Mrs. CHINN. Yes. For us, we want to make sure that any decisions that EPA makes moving forward are based on sound-science. That is what the agriculture community needs, and really is yearning for.

In the State of Missouri, our motto is: "Education over Regulation", and we would encourage EPA to do that as well. Unannounced surprise visits to family farms, that is not only their place of business, that is their home. That is where they are raising their family. Nothing that they have done that is in violation can be fixed within 48 hours. So, just having that common courtesy and reaching out to that state and local agency to go with them, because they have a working relationship with the state, it is going to end up having that overall goal achieved in protecting the environment while protecting agriculture at the same time.

So, education over regulation, and decisions based on sound-science.

Mr. BAIRD. We have about 16 seconds, so can you answer that in 16 seconds?

Mr. KIPPLEY. I will do my best.

I would agree a lot with what you just said there. Sound-science is very important, and the tools need to be in the toolbox. So, when you pull them away from us without the proper timing, it is a real issue, not only for sugarbeets, but it is the same for corn and soybeans.

Mr. BAIRD. And I suppose, Mr. Chairman, I don't have time to go into Dicamba? Do I have those questions?

The CHAIRMAN. I suppose you are correct.

Mr. BAIRD. Okay.

The CHAIRMAN. Thank you, Mr. Baird.

I now recognize Mrs. Hayes for 5 minutes.

Mrs. HAYES. Thank you.

Mr. Kippley, were you done with your answer? Mr. Baird is my friend. Thank you.

Thank you, and thank you to our witnesses for your testimony today.

The EPA plays an important role in ensuring every American has clean water to drink, clean air to breathe, and preserving the health of our environment for future generations. EPA oversight of water quality is crucial to farming, in particular as it relates to PFAS or forever chemicals, which can enter the environment through pesticides or contaminated biosolids, and persist in the water and soil indefinitely.

In April, I visited the Litchfield Water Pollution Control Authority in my district to tour their treatment facility and learn how they will use Federal funds to reduce phosphorus contamination. These facilities perform critical, but often unrecognized, work to keep our communities healthy.

Mr. Kippley, in your testimony you pointed out the need to hold those who violate the law accountable for PFAS contamination. I have heard similar concerns from water utilities.

Earlier this year, EPA finalized a rule on PFAS communication. I am sorry, on PFAS contamination, and clarified that the intent of the Agency was not to pursue certain parties, such as water utilities, fire departments, and farmers.

My question is, how does this final rule help farmers in dealing with PFAS contamination, and what role can farmers play in keeping drinking water clean?

Mr. KIPPLEY. I am going to have to get back to you on that. In South Dakota, we haven't dealt with a lot of PFAS issues.

The Farmers Union, we are definitely in support of continued research into this problem, so we will get back to you with some specifics.

Mrs. HAYES. Thank you. I appreciate it, and in all honesty, I haven't had a lot of background information on PFAS until we had a huge contamination in one of our most precious rivers. So, in my district and in my state, we are hyper-aware of the damages of PFAS. So, I am really interested, so I will follow up on that.

Starting on October 1, 2024, Connecticut will prohibit the sale and use of PFAS containing biosolids or wastewater sludge as part of a larger phase-out into law last month. Biosolids have a number of uses in agriculture, including as low-cost fertilizer. Unfortunately, they contain PFAS and lead, and lead to wider contamination of soil, water, and crops. Limited resources can be a barrier for small farms and rural utilities in conducting proper testing to prevent contamination. Though the use of biosolids as fertilizer by farmers in Connecticut is not extensive, there must be efforts to spread awareness about this change as we look towards a cleaner, safer future.

Mrs. Chinn, from your perspective, how can state departments of agriculture help eliminate things like PFAS contamination, and additionally, what can Congress do to foster greater outreach to small

family farms that are not typically able to engage with Federal regulators and stakeholders? And I can tell you, I absolutely loved your answer to the last question about education over regulation, and I am sure that is probably going to bleed into this answer as well.

Mrs. CHINN. Absolutely. It is our motto, but NASDA supports funding Federal research for mitigation strategies on the risk of PFAS contaminations in the food supply, clean-up efforts, and avoiding unintended consequences. I think we work together as a partnership with the states and the Federal Government and the agriculture community to try and make sure that we can mitigate, do the research that is necessary, and make sure that the farmer is not the one who is left to blame. Because many times, they did not create the PFAS; they were the recipient of it on their land. So, I think it is going to be very important that we do the education over regulation, and that we make sure that the farmers are held harmless.

Mrs. HAYES. Thank you.

Mr. COOPER. Could I offer a little bit there on?

Mrs. HAYES. Yes, absolutely.

Mr. COOPER. So, we don't have any in our area in Ohio that I am aware of about the PFAS, but you talked about fertilizer.

So, if you think about it, sometimes the EPA and manure, you talk about toxic chemicals and all this, and what more natural way to fertilize your crops than with manure, right? It is all-natural.

Just to give you an example, when we started promoting this to our local farmers some 30 years ago, we were paying them to take the manure from our barns. Now, they pay us \$25 a ton for our dry turkey manure and \$65 an acre for our liquid swine manure, and they all tell us that their worm population in their soil increases like three and four times because the worms love the all-natural product. So, it is kind of a different way to go at it, but you could reduce it by using more manure and less commercial fertilizer.

Mrs. HAYES. Sir, since joining this Committee 5 years ago, I have learned more about manure than any one person. With that, I yield back.

Mr. LUCAS [presiding.] The gentlelady is very lucky, and the gentlelady yields back.

The chair now recognizes the gentleman from the Dakotas for 5 minutes, Mr. Johnson.

Mr. JOHNSON. I would start by noting Mrs. Hayes is right, the PFAS is just nasty, nasty, evil stuff, and we want to keep the water as clean as we can in the most reasonable way possible.

But I want to turn my attention to Dr. Larson and Mr. Kippley, who is just a great South Dakotan, and he and his wife, Rachel, are fantastic, fantastic members of the broader agricultural community for sure.

But the Constitution talks about interstate commerce in a particular way with a strong Federal role there because they didn't want a lot of barriers to a national marketplace, a robust marketplace. I was grateful that both of you called out the Agricultural Labeling Uniformity Act that I did with my friend, Mr. Costa from California, on the other side of the aisle. I just wanted to give you

an opportunity to talk a little bit about why you think that is the right approach, and maybe starting by the weaknesses of having a more fractured, balkanized approach to our labeling.

Dr. Larson?

Dr. LARSON. Yes, thank you, Congressman. It is very difficult to understand the impacts on human health and the environment from various pesticides. You need formal training and education to understand how to evaluate that. So, thinking that we can push it down to the local level and have county commissioners or state legislators try and decide what the risk of a pesticide is, is very complicated. It should reside within the EPA with the Ph.D. level scientists that are doing those critical and well thought out experiments.

Mr. JOHNSON. Because at some point, we want rigorous and robust evidence to be driving these science-based decisions.

Dr. LARSON. One hundred percent, and that can be backed up with the trained and educated scientists that work for the state as well. But beyond that, it should not be fractured down to the more local level.

Mr. JOHNSON. Mr. Kippley?

Mr. KIPPLEY. So, as you know, Mr. Johnson, we live in the northeast part of South Dakota, and our local co-op expands over two other states. If you allow states to make their own rules, you are going to have issues with the co-op sending out a sprayer and not knowing which side of the border he is spraying that day, and possibly spraying on the field by accident across the border. Because we do have a lot of farmers that cross across state lines right in our area, and I just think that is an issue that we want to avoid.

So, getting uniform across the U.S. is the only way that we should be proceeding.

Mr. JOHNSON. So, shifting.

Mrs. Chinn, I loved you talking about cooperative federalism, because of course, that is the way it should be. There is a role, I would think, for states in this space. Talk to us about the appropriate role for states when it comes to labeling, or the management of pesticides, herbicides, fungicides, others.

Mrs. CHINN. So, we are operating with EPA under a cooperative agreement to be their co-regulator, and when it comes to pesticide uniformity, we really think it is important to trust the EPA's science on the human health aspect of it. We want to make sure that science decisions—sound-science decisions are being made.

We also know how important it is when EPA is making a decision that they include the state in those decisions, because we are the ones going out, doing those investigations and those inspections on the farms, and when they passed, for example, the Endangered Species Act and they were trying to make those decisions last year, they made some decisions that had they reached out to us at the state, we could have helped them and prevented a lot of extra work for them. An example of that is the Enlist. Last January, they came out saying that there were going to be some counties in the State of Missouri that were not going to be able to use that because of an endangered species, the American burying beetle. But had they reached out to us at the state, we would have told them about a study the Missouri Department of Conservation had done in con-



junction with U.S. Fish and Wildlife Services that showed that agriculture practices actually enhanced the habitat for the American burying beetle.

So, as a result, we spent 3 months arguing back and forth with them, trying to make sure that they understood we were not harming, but we needed to allow these producers to use the products they had already purchased and were sitting in their shed.

Mr. JOHNSON. Yes, I think that is well said, and I would just observe, Mr. Chairman, that although we had some hyper-partisan comments at the front end of today's hearing, which I think were sort of out of character for the Ranking Member, it made this committee room seem more partisan than we are accustomed to being. So, I just want to get us back to the culture of the Agriculture Committee, which is to observe that here we have Majority and Minority witnesses alike coming together to note the strengths of the approach that Mr. Costa and I had, again, on a bipartisan basis, trying to embrace this strong, science-based role for the EPA, honoring interstate commerce, and making sure our producers have an opportunity both to earn a living and keep the environment safe.

With that, I would yield back.

Mr. LUCAS. The gentleman's time has expired. The gentleman yields back.

The chair now recognizes the gentlelady from Illinois for 5 minutes.

Ms. BUDZINSKI. Thank you so much, Mr. Chairman. I appreciate it, and thank you to the panelists for being here today. I appreciate that as well.

My home State of Illinois is the number one producer of soybeans in the nation, and it is the number two producer of corn. I am extremely grateful for the hard worker—hard work our farmers of all commodities do to ensure that we are fed, fueled, and clothed, but I have heard from so many of my constituents that this task comes with unique challenges, from rising input costs to uncertainty with weather, to learning to navigate the regulatory landscape on the farm.

My first question is for Mr. Cooper. In your statement, you touched on the positive aspects of your working relationship with the EPA, including the establishment of EPA's Office of Agriculture and Rural Affairs. Can you describe this relationship further, as well as touch on what else can be done to improve EPA's understanding of the agricultural sector?

Mr. COOPER. Thank you, Congresswoman.

So, yes, in our particular situation in the State of Ohio, starting with the State ODA, the Ohio EPA, we have a really, really good relationship with them. It is a partnering situation where there are no unannounced visits. They are calling us up, "Hey, we are going to come out and do the annual audit and all that kind of stuff." And, there is nothing we can change in our system in 24 hours or whatever, 36 hours is going to make any difference. So, we just appreciate that they collaborate with us. And we have a biosecurity problem in the livestock and poultry industry area, right, so it is also very key that when we are working with the state or Federal groups that they respect the fact that we have extreme biosecurity needs from that situation.

So, I mostly can just say along with what everybody else has talked about, collaboration and all that, that that is so key. Just come and talk to us. The old line about, "Hey, I am the tax agent. I am here to help you." That is not what we are after here, so, thanks.

Ms. BUDZINSKI. Okay, thank you.

My next question actually now is for Mr. Kippley. You mentioned the importance of the RFS for growers as well as your support for year-round E15. One thing that growers in my district have expressed concern about is the fact that renewable volume obligations are not keeping up with the increasing rates of production, disincentivizing new and continued production of biofuels.

Can you speak on what EPA can do to improve this disparity, and how EPA can improve the landscape of biofuels?

Mr. KIPPLEY. Yes. I think there is an opportunity for E30 in this country. A local ethanol plant up in Watertown, South Dakota did a study on it and put in, I can't remember the number of cars, but put the chips into a lot of cars that drove hundreds of thousands of miles on these vehicles, found no issues with the regular engines, as long as it is a 2006 and newer vehicle.

And so, they sell E30 at a lot of places up in our part of the world, and we have a lot of people using it on all kinds of engines and having no problems. So, I think that is the number one way we can really loosen this up is E30. It is a cleaner fuel. The gas mileage doesn't change. It is not like E85 where you lose your mileage, and you do get a little better horsepower out of your vehicle.

Ms. BUDZINSKI. Yes. Anything more specific that you think that EPA can do, though, to get us to E30?

Mr. KIPPLEY. Well, they can change the rules.

Ms. BUDZINSKI. Yes, just—

Mr. KIPPLEY. Yes.

Ms. BUDZINSKI. Okay.

My next question is also for you. On the topic of biofuels, one thing that is heavy on our minds across the Midwest and Plains is the 40B tax credit for sustainable aviation fuel, especially in states where bundling is not only economically difficult, but also agronomically untenable.

What, in your opinion, can EPA do to advocate for a better outcome for the upcoming 45Z tax credit for biofuels?

Mr. KIPPLEY. Yes, I think they need to include more ways that all farmers can participate in this program. Feedstocks are going to be a very important part of this, and they need to make sure that it is available for, it is an incentive program. It is a choice program. You are not telling anybody they have to change their operations, but it should be things that are feasible for the farmers to do.

Like I said earlier, I live 26 miles from the North Dakota border. A lot of times, we have snow on the ground before the corn comes out, and sometimes we even have snow on the ground before the beans are harvested. There is not a lot of time to try to plant a cover crop in that situation, so we just need to look at other options that we can do to qualify.

Ms. BUDZINSKI. Okay, thank you.

Thank you very much. I will yield back.

Mr. LUCAS. The gentlelady yields back.

The chair now recognizes the gentleman from Kansas, Mr. Mann, for 5 minutes.

Mr. MANN. Good seeing you back in the chair. Thank you, Mr. Chairman.

Mr. LUCAS. It should scare the heck out of some of you.

Mr. MANN. Understood. I appreciate Chairman Thompson doing this today. I share his disappointment in Administrator Regan not being here in person with us today.

I represent the big 1st District of Kansas, which is the western  $\frac{2}{3}$  of Kansas, except for the Wichita area. Farm country has made it loud and clear that they cannot survive when the government burdens them with nonsensical regulations and red tape. My view is that the Federal Government should support producers or get out of their way.

As Chairman of this Committee's Subcommittee on Livestock, Dairy, and Poultry, I am especially concerned with the nonsensical and costly regulations on livestock producers in my district and across the country, including EPA's proposed rule that would impact the effluent limitation guidelines for meat and poultry processing facilities. By EPA's own estimates, this rule could permanently close between 16 and 53 meat, poultry, and rendering facilities. Understand the same Administration has provided grants and funds to increase our number of processing facilities, and meanwhile this regulation would close between 16 and 53 of them. It makes no sense.

Question for you, Mr. Cooper. What impact would the revised effluent limitation guidelines and standards have on your operation and on the animal protein industry as a whole?

Mr. COOPER. Thank you, Congressman.

So, yes, it would have a large impact on us. I was actually talking about this a little bit earlier. We have two main food processing plants, and both of them are different and many of our peers in our industry and through the National Pork Producers Council, many of the packers, they all have different relationships with the local cities and towns, or they might have their own wastewater treatment plant. And that is what we have in our St. Henry turkey harvest plant. We have been working with the local town for 36 years, and we have a pretreatment plant, and they take it from there and then go directly discharge from that. We worked out between us investments. They have done investments. We have done investments. In our other plant, we have our own self-sustaining plant, a sewage plant that we have had for many decades, and we just enhanced and upgraded it.

So, those two are completely different animals, if you will, and the ELG would only just confuse it between us and the city or between our own system there. So, it could cause even us a lot of problems, and many of our peers. And then you move down to these smaller processors. It would have a big impact on them because they don't have the wherewithal to handle all the regulations that would come with the ELG.

Mr. MANN. Disaster. In my mind, you would say hammer looking for a nail, and it makes no sense. Thank you.

I not only represent a district with meat processing facilities, but I also recognize these facilities' essential role within our communities and the larger food supply chain. I have urged and will continue to urge the EPA to withdraw this very shortsighted rule.

Quick question for you, Dr. Larson. It is good to see you again.

Protecting state pesticide preemption has been a longtime priority for me. I know it has been discussed a little bit already. It is a huge priority for Kansas farmers and ranchers who appreciate the certainty of having one state regulatory agency for pesticides *versus* several.

Describe your experience on this issue. What is at stake if pesticide preemption is rolled back, and do you think Congress should codify protections to state pesticide preemption under EPA's FIFRA as the farm bill proposes?

Dr. LARSON. Thank you, Congressman.

Yes, I do believe that preemption should be codified through this Committee. They have experienced it in Colorado for the last several years. They have been trying to overturn statewide preemption. They promise us don't worry, because there is going to be an ag exemption, but as I mentioned, weeds don't understand county borders, ag borders. The seed travels, so when municipalities decide that they are going to regulate chemistries in a different way, they can lead to a blow up of weed seed that travels and impacts, honestly, the smallest farmers the worst within our communities, because it is irrigated ground, which is most likely flood irrigated. So, that seed travels right onto their farm and creates a bigger issue for them, where they, in turn, may need to use more pesticides to try and control those weeds.

Mr. MANN. And the notion of having one agency the state is regulating—

Dr. LARSON. Yes, the states have to be the co-regulators here. They have the expertise, just like the EPA does. The local governments simply don't have that level of expertise.

Mr. MANN. I completely agree.

My time is quickly expiring. On year-round E15, I was going to ask a question. I don't really have time. I would just say it is way past time that we lock in year-round E15. We now have both chambers, you have Republicans and Democrats, Republican and Democratic Administrations that have all said they are okay with year-round E15. It is way past time to get that done. I know it would be huge for our ag producers in Missouri, South Dakota, Kansas, and all over the Midwest.

So, thank you. With that, Mr. Chairman, I yield back.

Mr. LUCAS. The time has expired.

The chair now recognizes the gentleman, Mr. Feenstra, for 5 minutes.

Mr. FEENSTRA. Thank you, Chairman Lucas and Ranking Member. I want to thank each of you witnesses for coming today. There are a lot of things we can talk about.

I am from Iowa. I have the second largest ag district in the country. I have the largest biofuels district in the country. I think if you put all the biofuels together, it would still not be as big as what I have in Iowa.

But that is not what I want to talk about. I want to talk about the EPA and the targeted attacks on our farmers. I hear about this every time I do my 36 county tour. When I talk to the ag community of EPA just absolutely going after our farming community. And it really starts with *Waters of the U.S.* I mean, when they tried to regulate every creek, every pond, every stream, actually every puddle against the farmer. And this is so wrong. It was great to see the U.S. Supreme Court last year threw the rule out. But that didn't stop the EPA. The EPA created another rule just as bad as the first rule that was thrown out by the Supreme Court. So, now we have the decision of the Supreme Court overturning *Chevron*, which I am hoping will curb this Executive overreach, but I highly doubt that unless we have a new Administration.

So, Mr. Cooper, I just want you to talk about the uncertainty that occurs when we have this flip-flopping of EPA regulations. I mean, we had Trump that relaxed it, then we had Biden and his Administration come and dramatically change it. We had the Supreme Court try to change it, and we still have the rule, in essence, that existed a year ago. What are your thoughts on this?

Mr. COOPER. Yes. So, as you can imagine, it is tough enough to be in the farming business anyways, and we have a lot to worry about out on the farm, diseases, biosecurity, commodity prices. The list goes on and on as you well know, the weather and everything. Then when you have this confusion coming from one of the government agencies, for example, I could say the EPA, it even just complicates it even more. So, and sometimes I kind of liken it to, if you are a basketball player and you didn't have a scoreboard to tell if you were winning or losing, and you didn't have any rules, I am not sure that game would be very fair to play.

So, in this case, with WOTUS and so on, we have sent in—organizations have sent in letters with a bunch of questions—and in 3 months they can't even answer those questions for us.

Mr. FEENSTRA. Well, I have tried to talk to the EPA. Obviously, it is too bad that Michael Regan is not here, because I would love to have that answer from him also.

What people don't understand and these agencies don't understand is the immense amount of paperwork that has to be done to follow these criteria, follow these rules. And then they get penalized if for some reason somehow—just like in Iowa this past several weeks, we had immense floods, and all of a sudden we have overstepped allegedly because we have had 20" of rain creating a massive EPA opportunity for fines. So, I extremely struggle with that. Thanks for your comments.

By the way, Mrs. Chinn, would you like to comment on that at all? All right, thank you very much.

All right. I do want to ask you a question, though. So, last week, Senator Crapo and I led a letter from 150 of our colleagues talking about, again, EPA's overreach on the force of 40 percent heavy duty mandate, which includes semis, tractors, and trucks by 2032, meaning 40 percent of all lightweight vehicles by 2032 have to be electric. I mean, this is just bizarre, and no one—everybody understands that this can never happen, and it just won't. Especially right now when less than one percent, less than one percent of our sales are electric vehicles. It is also noted that it is going to cost

over \$1 trillion just to electrify and create the infrastructure for these vehicles.

My question to you, Director Chinn, can you talk about how the EV mandates will impact Americans, especially those in rural America?

Mrs. CHINN. One of the biggest challenges that we have in rural communities in Missouri is that we don't have great infrastructure. We can't even get cell phone signal in many areas. So, you might drive 25 to 45 miles to find a gas station as well. So, not to mention we don't have electrical charging stations either. So, I feel like anything that happens should be a voluntary approach, and not a mandate. I think we should allow the marketplace to work out itself, and if the markets wants to have the electric vehicles, I think that will happen.

Mr. FEENSTRA. That sounds like capitalism, doesn't it? Let the consumer decide, right, and yet, the Administration has their thumb on the scale for electric vehicles like this in the mandate. It is ridiculous.

We do have an alternative. Again, my district being the largest biofuels district in the country, we have liquid fuels that can do this, and we can have clean fuels. But it just baffles me why the EPA would just want to go down this path.

Anyway, thank you for your comments, and I yield back.

Mr. LUCAS. The gentleman yields back.

The chair now recognizes the gentleman from Florida, Mr. Soto, and apologizes for not catching him in the corner of his eye coming in earlier. You are recognized for 5 minutes.

Mr. SOTO. Oh, that is quite all right, Mr. Chairman. Thank you for the recognition.

I just wanted to briefly mention, we have heard from our local citrus producers in Florida and citrus greening is a terrible scourge on citrus in Florida and Louisiana and California, Texas, and other areas. They have actually had a pretty good relationship, and of course, in dealings with the EPA over the last couple years on several amendments. They are going to be looking for their current labeling for several pesticides that have shown promise with citrus greening. I am happy to report that the state, the State of Florida, that is, is submitting the request for the registrant this week, and the EPA is expected to approve it. So, I know different states have different interactions with the EPA, but in this really critical crop for Florida with citrus greening, they have been a valued partner and have been helpful to work with. So, I wish you all the best of luck as you are working on your various different applications, too.

I yield back.

Mr. LUCAS. The gentleman yields back.

The chair now recognizes the gentleman from Alabama, Mr. Moore, for 5 minutes.

Mr. MOORE. Thank you, Mr. Chairman. I certainly appreciate all the witnesses being here today.

Ronald Reagan said that the government's idea on economy is when it is moving, you tax it. If it keeps moving, you regulate it. When it fails, you subsidize it. I have often thought that that could be applicable to agriculture, because between taxes and regulations, a lot of times we wouldn't have to subsidize if we would just

get the government out of the way. But I am actually going to go to my prepared remarks now, but I thought that was pretty apropos.

While the EPA plays a critical role in setting environmental standards, it is essential that these regulators are based on concrete science, and grounded in the realities faced by our agricultural producers so that it continues to hold a pivotal position in our regulatory framework. We must strike a balance between effective management, which we are lacking now, and our agriculture productivity. Many farmers, ranchers, and foresters across Alabama's 2nd Congressional District and in the country understand that their biggest competitor right now is an agency that is supposed to be protecting them and their land.

This is a harsh reality we shouldn't really have to be dealing with or accept, but day after day in this Administration we come face to face with these facts. Farming, feeding, and providing for our nation and this world is a vital livelihood that is still needed today, and a pillar of our national security. I appreciate you all being here today, and look forward to hearing more of your experiences.

Ms. Chinn, reading through your testimony I felt the same issues in my district related to the recent Dicamba decision that left many producers scrambling after the purchases for the year had been made. Can you provide insight on how this last-minute nature of this decision affected your producers?

Mrs. CHINN. Yes. We were really stressed out in the State of Missouri, as were other producers in other states, because we weren't—we didn't have the certainty. We had the products sitting in the shed, but we weren't sure if we were going to be able to use it. We were very satisfied that EPA made a quick decision with the existing stocks order, and they helped us for the 2024 growing season. But we still have uncertainty for 2025, and—

Mr. MOORE. So, you don't know what to expect going forward? They could change their mind again, right?

Mrs. CHINN. Right, and the biggest challenge is the seed supply. Right now this year, the seed for 2025 is being grown and so, if that Dicamba product is not going to be available, we are going to have seed technology out there, but we are not going to be able to have the crop protection technology to help with that.

Mr. MOORE. Can you couple others together, or is it like if you got the seed, you got to couple this technology with it?

Mrs. CHINN. You can use a couple other products with it; however, the rotation helps prevent the weed resistance and it is very important to have that opportunity to have that rotation in play. We are very concerned about taking those tools away, because farmers need to have choices, and if we lose the Dicamba technology, the amount of choices that farmers have are going to be narrower than what they are today.

Mr. MOORE. And weed resistance is a good thing. I pulled a lot of weeds in peanut fields growing up. I would like for us to maintain some sort of resistance.

Mr. Cooper, could you elaborate on increased compliance costs and administrative burdens due to the recent EPA mandates that you have experienced?

Mr. COOPER. So, it is kind of generally it is just all the paperwork and everything that comes with it. Again, I have said this before, I know, today but in our organization, we actually have an environmental manager that we have had to put a person on with everything we have going on to just handle it properly.

Mr. MOORE. Wow.

Mr. COOPER. And throughout all this, and we have talked about climate change and a lot of different things, like sustainability, without the EPA making a company like us do it—and there are many others in our farming world that are doing this throughout the NPPC and so on, we decided 10 years ago, for example, to go landfill free. At the time, we were doing about 50 percent was going to landfills of all our discharges throughout all of our company, and 50 percent was being recycled, repurposed. And here now 10 years later, we are at 98 percent landfill free. Nobody made us do it, and I am bragging here a little bit, obviously.

Mr. MOORE. Sounds like it. That is okay.

Mr. COOPER. But last year in 2023, 4,000 semi-truck loads of let's just say garbage and trash and different things from our company did not go to the landfill. It went to repurposing and recycling. I think that if companies, or groups like the EPA could work more on incentives and more things to encourage farmers like us to do that would literally not only help our own company, but it would help the community and help the government themselves. I think that would be better than all the regulations and all the paperwork.

Mr. MOORE. And I am concerned, just young producers, young farmers trying to get a start, they can't hire an environmentalist. I mean, they don't have those options, right, and so, as much as we need young producers, people that will actually take the risk and go into agriculture, we are making it almost impossible. My cousin came back to our farm 4 years ago, got out of the Marine Corps. He is trying to get started, and it seems like one thing after another that our government does to prevent him from actually being successful, and that is a shame.

But anyway, with that, Mr. Chairman, I will yield back.

Mr. LUCAS. The gentleman's time—yields back his time.

The chair now recognizes the gentleman from Tennessee, Mr. Rose, for 5 minutes of questions.

Mr. ROSE. Thank you, Chairman Lucas, and I want to thank Chairman Thompson and the Ranking Member for holding this important hearing, and thank you to each of our witnesses. I know it has been a long afternoon.

As a former Commissioner of Agriculture, I understand the importance of healthy Federal and state relationships. While I am appreciative of our witnesses and their expertise on threatening Environmental Protection Agency initiatives, I can't help but be disappointed, as many of my colleagues have expressed, that the Agency, the EPA that is, has refused to engage with this Committee and join us to discuss the issues impacting this most important industry.

Farmers, landowners, and agricultural manufacturers are among the individuals or the entities most affected by overreaching regulatory changes at the EPA. Our farmers deserve an Administration



that works with them, not against them. However, the Biden Administration has weaponized the EPA to carry out its radical, progressive Democratic agenda.

Food security is national security, and several have said that today, so it is imperative we do not hinder the production of the U.S. agricultural industry through bureaucratic red tape.

Director Chinn, in my view, under this Administration the EPA has adopted the mindset of dictating rather than working collaboratively with stakeholders. Can you further elaborate on your idea of cooperative federalism, if you will, and how proper coordination with the state departments of agriculture will better the lives of farmers and landowners, while also achieving the statutory purpose of the EPA?

Mrs. CHINN. Absolutely. Thank you for that question.

I think a good example of that was the recent court decision that took Dicamba out of the toolbox of the farming community. We in the agriculture community and the state departments of agriculture worked with EPA to share our concerns about that, and as a result, we had a workable solution moving forward.

We need to continue examples like that. We need to be working together as one team to protect not only the environment, but the agriculture community. Too often, EPA gets stuck in their little box and they do their work, but they forget to reach out to the agriculture community and their co-regulators at the state departments of agriculture. If we could have more open communication and dialogue, I think we could prevent a lot of the heartburn that the agriculture community has been experiencing in the past with some of their decisions, one of those being the Herbicide Strategy. We were not brought to the table in a timely manner, and as a result, it has been a really burdensome framework for us to try to implement and to regulate.

Mr. ROSE. Thank you. I agree with everything you said.

Director Chinn also, how do you think the EPA should reprioritize its agenda and resources to meet the needs of pesticide developers who are awaiting registration approval and farmers needing those important supplies?

Mrs. CHINN. Choice in the marketplace is very important for the agriculture community. Right now, it takes 12.3 years to bring a new product to market, and it costs over \$300 million. The farming community needs the EPA to be able to make quick and swift actions on that. They have actually increased the fees for pesticide registration to help cover the expense of the registration process for these new products, and so, we would encourage EPA to continue to prioritize and focus on that, because we are going to continue to need new products out there to help with the weed resistance, and to make sure that farmers have a lot of choices when it comes to protecting their growing crops.

Also, I just encourage them to continue to do education over regulation. I think that is always a positive, and it will help with the agriculture community in implementing those new technologies.

Mr. ROSE. Dr. Larson, EPA's Office of Pesticide Programs is considering proposals to improve their pesticide registration and review obligations under the Endangered Species Act. One of these proposals would require applicators to utilize the online dashboard

Bulletins Live!Two to access extended pesticide labels. Do you believe EPA is missing the mark and disregarding the critical rural broadband improvements needed for many farmers to access these types of online platforms?

Dr. LARSON. Yes. We heard Director Chinn say just a few minutes ago that there are a lot of rural communities that don't have any access to cell phone connectivity. That holds true for my production region as well. I do think that Bulletins Live!Two is a very clunky platform, and the timeline that farmers need to go and consult that platform to make any kind of crop protection application decisions is unworkable. Our growers are thinking about a 5 year plan for how they are going to be implementing farming on their particular piece of ground. To have to go in 6 months in advance and try to make some decisions, that is far too difficult of a timeline.

Mr. ROSE. Thank you. I see my time has expired. I yield back, Mr. Chairman.

Mr. LUCAS. The gentleman's time is expired.

The chair now recognizes the gentleman from California for 5 minutes.

Mr. CARBAJAL. Thank you very much, Mr. Chairman. Thank you to all the witnesses here today.

Mr. Kippley, you mentioned in your testimony the deep concern for forever chemicals known as PFAS. Can you elaborate on the significant impact it can have on our farmers and producers across the country?

Mr. KIPPLEY. Well, I think if it is handled not properly it could have a very costly situation there, and I think we need to make sure that our farmers are not held accountable for that, and that they are helped if they do have it on their land.

Mr. CARBAJAL. Do you recognize that it is really a chemical that is posing a lot of impact and challenges, no matter how you use it?

Mr. KIPPLEY. Oh, absolutely.

Mr. CARBAJAL. Thank you.

I know the EPA has been working to provide a better understanding for the public of what PFAS is, and the impacts it can have on air, water, soil, fish, and wildlife. In your opinion, what can Congress do to help address PFAS contamination in the farm bill?

Mr. KIPPLEY. I think we need to do some more research on it. I know we just invested a lot of money into that and I think we need to continue to look into it and figure out the problem, and get it solved.

Mr. CARBAJAL. Great, thank you.

Mr. Chairman, I yield back.

Mr. LUCAS. The gentleman yields back.

The chair now recognizes the gentleman, Mr. Langworthy, for 5 minutes.

Mr. LANGWORTHY. Thank you very much, Mr. Chairman.

Mr. Cooper, as you mentioned in your testimony, EPA published an advanced notice of proposed rulemaking titled, *Potential Future Regulation for Emergency Release Notification Requirements for Animal Waste Air Emissions under the Emergency Planning and Community Right to Know Act (EPCRA)*. This notice was very con-

cerning, since it could be the first step to reverse the 2019 rule that exempts reporting of animal waste air emissions. An exemption that received wide support throughout the agricultural industry and first responders.

When EPA put out this advanced notice of proposed rulemaking, I led a bipartisan letter with more than 40 of my colleagues, many on this Committee, urging the agency to refrain from considering this rule to require air emission reporting of certain substances from the natural breakdown of animal manure, which would add significant red tape for farmers and ranchers in an industry that is already very heavily regulated.

Mr. Chairman, I would also like to submit this letter for the record.

Mr. LUCAS. Without objection, so ordered.

[The letter referred to is located on p. 77.]

Mr. LANGWORTHY. And with that, Mr. Cooper, if EPA were to overturn the farm manure exemption, could you explain how farmers would comply with this rule? Specifically, how would a farmer or rancher calculate their average emissions that they were producing?

Mr. COOPER. The answer to that question is I have no idea how we would. I mean, it is barely, they are not able to do it themselves, and every farm is different. Every barn is different. We have turkeys, we have chickens, we have hogs. They are all different and quite honestly, I don't see that our barns—we have an air emission problem, and if you flip that over to the nutrients coming out of all these barns, I know some people use the word *waste* in place of *manure*, but for us, it is a complete nutrient that we use in all the cropland around us. We have a waiting list and I know many of our fellow swine producers in the NPPC also have a big waiting list. So, that kind of a regulation would just cause a big mess and more paperwork for us, and I am not even sure how we would handle that.

Mr. LANGWORTHY. Very good, thank you.

I think we can all agree for extremely hazardous substances, EPCRA is an important tool for local communities and first responders. EPCRA provides necessary information on hazardous chemicals stored locally, how those chemicals are transported, and the consequences in case of potential release of those chemicals into the environment. However, I am having a very hard time figuring out why a first responder needs to know how many emissions a small family farm is producing. Burdening emergency responders like this is the equivalent of pulling a fire alarm when there is no real emergency.

Mr. Cooper, do you believe it is dangerous for us to be overwhelming local first responders with unnecessary reporting requirements when there are actual real emergencies that need to be addressed?

Mr. COOPER. Well, the obvious commonsense answer to that is yes, that would not be good. In our type of an area, and probably many of the people in this room with me, is that we are a very rural area so these first responders, these fire departments, most of them are volunteers and they are doing a full-time job otherwise. This is just something they are doing to help out. So, to tack on

some additional paperwork, some additional regulations when they should really just be focusing on emergencies and everything that is going on locally, and again, back to the whole manure thing. What is kind of interesting is it is all-natural. So, here you got a situation where we are talking about pesticides and herbicides and chemicals, and when it gets down to why would they want to call manure a toxic chemical when most people take that manure and put it on their vegetable garden in the fall, and then the next spring they plant their vegetable there and they eat those vegetables in the summer and fall after they put the manure on. So, I don't think it is very toxic.

Mr. LANGWORTHY. Well, thank you very much for sharing that.

The bottom line is rural America should not have to roll with the punches every time that the EPA constructs all sorts of new and expensive rules and regulations. There are far too many bureaucrats dreaming up solutions to problems that don't exist, and we are going to end up running our farmers right out of business and jeopardize food security for American families.

Our nation's agriculture producers should be able to focus on doing what they do best, producing food for the American people; the food that sustains us all without unnecessary distractions.

I am very interested in finding a permanent solution here so that our farmers and our local emergency planning commissions can operate without constant uncertainty from Washington bureaucrats looking to make their jobs more difficult.

Thank you, Mr. Chairman, and I yield back.

Mr. LUCAS. The gentleman yields back.

The chair now recognizes the gentlelady from Illinois for 5 minutes.

Mrs. MILLER of Illinois. Thank you.

Director Chinn, can you talk about how the uncertainty about the availability of over-the-top Dicamba could affect the 2025 growing season if the EPA doesn't work to approve a new label for Dicamba?

Mrs. CHINN. Thank you for that question.

We are very concerned about the uncertainty moving forward. Our farming community all across the Midwest makes their planning decisions at the end of August, beginning of September. They are already looking to that next crop year. Right now, we have seed being grown for the 2025 season with Dicamba. There is not going to be enough seed technology to replace the Dicamba seed. We need to make sure that the tools in the toolbox are going to be available to the farmers when it comes to crop protection tools.

We need to make sure also that moving forward past 2025, we have certainty for that product as well. Having choice in the marketplace is always good. The competition drives down the prices and so, we want to make sure that the agriculture community has that choice in the marketplace.

Mrs. MILLER of Illinois. Thank you.

Director Chinn, could you also speak about the importance of biofuels as a market for agricultural crops and how regulatory certainty surrounding biofuels impacts a grower's planting decisions?

Mrs. CHINN. Absolutely.

Again, I think it goes back to having that choice of where you want to market your crop. Having many opportunities, whether it is raising your crop for a biofuel or for animal feed, whatever it might be, having that competition in the marketplace is a good thing. And so, we want to make sure that the farming community has many choices when it comes to marketing their products, and making sure we know what the rules are. When you plant that crop, you need to know what the rules are going to be for that entire growing season moving forward, and in the past with EPA, their decisions have been last minute and have really caused a lot of undue stress on the farming community.

Mrs. MILLER of Illinois. Thank you.

Mr. Cooper, your testimony highlights how the EPA's pending rule on effluent limitation guidelines would risk hurting smaller packers and processors in the industry. I know you have already talked about this, but can you talk more about how this rule will affect markets for farms, and how it could lead to more consolidation in the industry?

Mr. COOPER. They are adding on a lot of these small processors from around the United States from some of the grants and stuff like that, and for a small hog producer, that works really well for them to be able to haul their hogs into a local packing plant and not have to go 4, 5, 6 hours to a big major one. And so, you start adding in all these different regulations and this whole ELG thing that is going to probably like kick a bunch of them out of the whole processing and packing system, that is going to reduce that number of packing options. And then when it gets right down to it, some of the local hog producers are going to probably go out of business maybe because of that. And so, then that does cause consolidation towards the larger companies, yes.

Mrs. MILLER of Illinois. Yes, we all know that when we have extreme consolidation in industry, that we are not really free people.

So, farmers in my district are concerned about the EPA's overreach and how it impacts their ability to farm. It is evident that the EPA's expansive and heavy-handed approach is creating significant challenges for our agricultural community.

I appreciate your testimonies today on these issues and thank you for being here. I yield back.

Mr. ALFORD [presiding.] The gentlewoman yields back.

The chair now recognizes himself for 5 minutes.

I want to thank you all for being here today on your own time and your own dime. I know it can be a hardship coming here, but the information that you are providing us today will help us make wise decisions in the future. I thank the Chairman and the Ranking Member for doing this today, because it is important in a bipartisan manner that we do come together and gain as much information as we can.

I am a little disappointed that Administrator Regan was not here today. I thought we had a good hearing with him last year. He did admit at that time that his mother loves cooking on gas stoves, so I thought that was a big plus. But we have seen time and time again how the EPA's actions have placed undue burdens hindering American farmers and ranchers from doing their jobs of feeding, fueling, and clothing the world. We need guardrails, but we don't

need roadblocks. And right now, we have a lot of roadblocks that are hindering America's farmers, ranchers, and producers from doing the best job they can for the American people. With the overturn of the *Chevron* deference, I hope we can stop Federal agencies like the EPA from placing unnecessary governmental regulations on hardworking Americans.

Director Chinn, thank you for being here today. In your opening statement, you used two terms that I found interesting, *cooperative federalism* and *sound-science*. What would the world look like today if the EPA followed those concepts in the way they do business?

Mrs. CHINN. That has been the base of the decisions that we make at the State of Missouri. We work very closely with the Missouri Department of Natural Resources as one team to make sure that we are not hindering the agriculture community; that we are allowing them to have economic development for our rural communities. That is the only economic development in most of our rural communities. I feel like if EPA would work more closely with their sister agencies, USDA and state departments of agriculture, we would start to see a lot of the similar successes that we have seen in Missouri on that Federal level.

We want to be here to help, and the agriculture community doesn't want to harm the environment. We want to protect it, and so, if we could all work together in one direction, I think it would really pay off in dividends for the future generations who want to come back home to our family farms and be successful as well.

Mr. ALFORD. In January of 2022, the EPA announced the registration of the herbicides Enlist One and Enlist Duo; however, the announcement also included restrictions of use of these tools in more than 200 counties. This action came right before the start of the 2022 growing season, but the agency ultimately corrected course and lifted the restrictions in many of these counties. Several of the counties that were previously restricted from use were in Missouri, due to the presence of the American burying beetle.

Director Chinn, what uncertainty did this cause in our growers and producers with the EPA as a state co-regulator in this process?

Mrs. CHINN. There was a lot of concern in the agriculture community. Our department received several phone calls within 2 hours of that release going out saying, "I have spent thousands of dollars to purchase the seed and the crop protection technology, now I can't use it. I can't even find new seed to plant. What am I going to do?" So, it was very stressful for the farming community. We reached out to EPA. We made them aware of a study that the Missouri Department of Conservation had done in conjunction with the U.S. Fish and Wildlife Services, and it actually showed that agriculture practices increased and supported those habitats. We did not harm those. Had we been able to have those discussions with EPA prior, we would have saved them a lot of time and paperwork, because we had to make sure and then process this that our farming community in Missouri was going to be able to use that product. So, we started the application process for the 2024 seed that would give us a special local needs label to be able to use those products in Missouri. The day we shipped our packet off to EPA was the day that they changed their decision and allowed us to use those products in Missouri, so we were very appreciative of that.

But we were a little bit upset about the undue stress that it caused to the agriculture community at a time when they really couldn't handle much more.

Mr. ALFORD. After the 8th Circuit reinstated chlorpyrifos for growers, the lack of clarity and guidance from the EPA caused a lot of confusion amongst growers who heavily rely on this critical chemistry, as well as for the state departments.

How could the EPA have handled that better?

Mrs. CHINN. Sound-science is the answer, I believe. I think we need to be looking at what that sound-science is, not political science. We need to make sure that we are making decisions based off the facts and that we are doing what is best for the agriculture community. People need to remember that agriculture is about food security and national security.

Mr. ALFORD. Director Chinn, thank you and thank you to our witnesses once again.

The chair now recognized the Member from Ohio, Mr. Miller, for 5 minutes.

Mr. MILLER of Ohio. Thank you, Mr. Chairman.

Federal regulations have a direct impact on Ohio farmers and livestock producers, as well as those throughout the country. With a commitment to preservation of natural resources for future generations, many overreach actions by the United States Environmental Protection Agency have caused instability to farms in my Congressional district, impacting our ability to viably produce food for our nation.

I am heartened by efforts of the agriculture producers and stewardship of our natural resources, as reflected in recognition in my region by the Wayne County Ohio Soil and Water Conservation District in its farm conservation award, as well as the H2Ohio Comprehensive Water Quality Partnership.

Of significant importance to the United States agriculture, EPA is working alongside other agencies to finalize the guidance for tax credits that could unleash new opportunities for biofuels to provide new markets for rural America. However, if not modeled correctly or delayed, American agriculture could be locked out of these crucial opportunities all together. I am also looking forward to moving the farm bill ahead to ensure access to sound conservation practices, as well as working more broadly in Congress to address regulatory challenges in agriculture in rural communities.

My first question is to Mr. Cooper. O-H—come on.

Mr. COOPER. I-O.

Mr. MILLER of Ohio. There it is. All right.

Mr. Cooper, welcome, and congratulations on 85 years serving not only our home State of Ohio, but as a significant food supplier to our nation. Thank you.

Please comment on the reference you made in your testimony to the continuous legal challenges regarding the Lake Erie total maximum daily load in Ohio, particularly given the EPA's approval decision on this matter in 2023. Also, you mentioned stakeholders, including local officials, the U.S. EPA, Ohio EPA, and the State of Ohio as well as the agriculture sector's significant investments made to protect water quality.

Mr. COOPER. Thanks, Congressman. I appreciate that question.

That hits really home because like I was saying earlier, we have about  $\frac{1}{3}$  of our total farms are located in the western Lake Erie water basin, and that H2Ohio program that you mentioned has been super popular. I think I heard that through the state, about 46 percent, or through our area, anyways, 46 percent of the local farmers are using that, and from the manure standpoint, we always had a lot of demand for it, but the phone just started ringing as soon as that H2Ohio program came out, and we have this long waiting list of local crop farmers that want to use that.

On top of that, that is a really good program, but then individually many of us farmers, whether they are CAFO farmers or they are just our local farmers, we already do a lot of sustainability type of things, because we live in those communities. We raise our own kids and our grandkids and so on and so forth. So, we do grass filter strips and we do soil tests, manure tests, and when somebody buys our manure, they have to have their soil tested. We get that analysis. We get our manure analysis. We take it to a local commercial fertilizer company, and we have them tell that farmer how much manure goes on per acre. So, there are all kinds of inner controls that we are doing, and I am sure that is all across the nation. But in the Lake Erie watershed, I think there is a misunderstanding—or I know there is, because the OSU and some other research groups did some DNA testing at the mouth of the Maumee River going into Lake Erie where the algae blooms are, and they come up with something under 20 percent of it had to do with animal manure. So, there is another 80 percent, and so we are doing as much as we can and more. We are always looking for ideas as livestock farmers. But there is 80 percent that has to do with humans, has to do with commercial fertilizer, has to do with septic tanks on old farmhouses that need to be fixed and so on. Even hate to pick on the City of Toledo, but they dumped 25 million gallons of raw sewage in a major rainstorm into the river. We have never dumped even a gallon in, and if we did there would be all kinds of problems.

So, we don't quite understand how they are blaming us farmers for these algae blooms when somebody like the Toledo municipality is able to do that and nobody says a thing. So, thank you for asking that question.

Mr. MILLER of Ohio. Thank you for your response.

If we could get regulatory agencies to be a little bit more pragmatic in their assessment and not stifle the growth of individuals who are producing vital needs for our country to sustain ourselves throughout the long-term, as we currently are meeting our metrics, I believe we all would be a lot better off moving forward.

Mr. Chairman, I do have one more question. I see that I am out of time. Mr. Kippley, you are off the hook. I am just kidding. But I will submit it for the record.

Thank you very much, and I yield back.

The CHAIRMAN. The gentleman yields back.

I am now pleased to recognize the gentleman from Minnesota, Mr. Finstad, for 5 minutes.

Mr. FINSTAD. Thank you, Mr. Chairman, and thank you for having this important hearing today, and thank you to the witnesses for your testimony.



I am a proud fourth generation farmer from southern Minnesota, honored to be raising the fifth. I tell people that I raise corn, soybeans, and kids. Proud father of seven kids. I am a John Deere tractor driving, corn planting, soybean planting farmer from southern Minnesota. And so, it is great to have so many real farmers here testifying today. Welcome, and thank you for what you do and your commitment to feeding and fueling our country.

Director Chinn, in your testimony today you emphasized the importance of EPA's cooperation with farmers and its regulatory partners. In April of 2023, several organizations with a track record of anti-ag environmental activism submitted a petition to the EPA requesting a moratorium on the building of livestock facilities in Minnesota, in southeast Minnesota specifically, citing elevated nitrate levels. Within 6 months of that petition, EPA inspectors arrived unannounced on the land of family farmers in my district, interrogating them and inspecting their farms over the course of several hours, causing additional uncertainty in the midst of peak harvest season. Hostile, unannounced inspections like this only intensify mistrust of the EPA by farmers and producers.

So, my question to you is how can the EPA better communicate with producers to improve transparency and rebuild trust within farmers of this country?

Mrs. CHINN. Well, we had the same problem in Missouri when I became Director of Agriculture, and we worked very closely with our Department of Natural Resources to help them understand that any problem that a farmer has was probably not intentional, and that they want to do what is right, and that nothing that has been done is going to be fixed in a 48 hour notification period. So, we worked very closely with our Department of Natural Resources to provide that 48 hour notification process so that the farmer could prepare. Not only are you going to their business, you are going to their home. It is where their children are. It is where their parents are. We need to be respectful of that as regulators. I think education over regulation is always the best answer. The farmers want to do what is right because they want to pass that on to the next generation, and I think if we take a more relaxed approach while we are trying to protect the environment and protect agriculture, we are going to see better results moving forward.

Mr. FINSTAD. Thank you for that.

I think I read this right in your bio; you are a fifth-generation farmer? Awesome. So, as a fifth-generation farmer, I could only then imagine your goal is to absolutely ruin your farm and leave it in a horrible position so the sixth generation never has a chance to farm that?

Mrs. CHINN. No, that is not.

Mr. FINSTAD. Okay.

Mrs. CHINN. We are actually bringing our son back home, who is the sixth generation, and it has been a struggle for him because it is really hard on the beginning farming community to find their place and be able to add value. And the amount of regulation that is out there is very burdensome, and it is scary for them.

Mr. FINSTAD. So, on that note, I say this quite often, as a fourth-generation farmer myself, I will tell anybody that farmers are the best environmentalists that this country has, and if I want this

farm that is in my family for four generations to make it to the fifth, I will do everything in my being to make sure that I am leaving it better than I found it. So, that means taking care of my fertility. That means taking care of my erosion. That means taking care of the way I plant and the way I harvest and the way I use compaction or not compaction.

And so, could you give me a little bit of a flavor of what you have maybe done on your farm or what you see happen in your state in regards to what farmers are doing to improve their farms without the Federal Government coming in and telling them how to do it? I don't think we tell that story enough, so if you could share something with us, that would be great.

Mrs. CHINN. Absolutely.

In the State of Missouri, we have an 8¢ sales tax that goes to parks, soil, and water, and so, that is the first step that we take in the State of Missouri to protect our environment and our family farms. We are also implementing conservation practices voluntarily to make sure that we are protecting our land for that next generation. On our farm, we want to make sure our son understands how important it is to protect that environment, but also how important it is to protect our livestock. So, we are doing things above and beyond. We have concentrated nutrient management plans so that we are making sure we don't over or under fertilize our soil with the natural resources from our livestock. These are just a few of the conservation practices that our farmers implement voluntarily, and we look to do more as the markets continue to provide us more income to be able to make those improvements to the farm, because we don't want my son to be burdened when he receives that farm. We want him to receive a gift.

Mr. FINSTAD. I appreciate that.

I am running out of time here, so I just want to close with just again thanking all of you, the real farmers on this panel, those that are giving blood, sweat, and tears to our community, but also committed to your family and the generational opportunities that you are creating for your kids. I see Gary Worchester also who is a Minnesota farmer, and he drives a different colored tractor than me, but we get along pretty good nonetheless.

But thank you all. Thank you, Mr. Chairman. I yield back.

The CHAIRMAN [presiding.] The gentleman yields back.

I now recognize the gentlelady from Texas, Congresswoman De La Cruz, for 5 minutes.

Ms. DE LA CRUZ. Thank you, Mr. Chairman, for hosting this important hearing, and thank you to the witnesses for being here. The day is almost over.

For the Texas fruit and vegetable industry, the EPA's inability to expedite the approval process has been a big, big issue. This is an approval process for new products and for chemical mixes, and it continues to be a huge problem for our farmers and ranchers. For most crops, the EPA takes over 6 years and millions and millions of dollars for the review process before approving a new product for use. When it comes to using the product on fruits and vegetables, that timeline could be longer, sometimes up to 11 years, and millions of dollars more.

As a result, many companies simply avoid creating or working on products for American fruits and vegetables. This is a competitive disadvantage for American farmers who are attempting to compete in the global market. So, not only does it limit the tools that farmers in our country have to use on their crops, but it also means that what few tools farmers do have to use in America, that they are much more expensive because of the limited range of options.

So, we need EPA to reduce these reviews to take place in both fewer years, and cost less money. Both of these things would bring products to the market faster and cheaper, which we all need right now with inflation the way that it is.

My question is really to all of the witnesses. As I just outlined, the EPA has a review process for new products which will be used in crop production which spans many years and many millions of dollars. In your opinion, how is this harming American farmers and producers? And we will start over here.

Mr. KIPPLEY. Any time that there are new products available and you have to wait to get them, it is costing you money if it is going to make your life better. And so, I think that if we can speed that process up and get the tools in the toolbox, that is what we are after.

Mrs. CHINN. I think this puts the American farmer at a competitive disadvantage because there is no incentive for these companies to stay in the United States and to do business here. They can go to another country that will be more friendly to their technologies and move that process along faster. But I think the real loser here is the American consumer, because the cost of food continues to increase and for our lower-income families, that is a huge portion of their disposable income.

So, I think at the end of the day we need to remember what agriculture's goal is, and it is food security and national security.

Mr. COOPER. And I think my reply would be the next level up, that when you think about just the entire government situation and how slow everything is. I don't know if anybody went through the whole passport process, but there was a time where I think it took, I don't know, was it 6 months to get your passport? Like how can that be, right? So, it just seems like there is so much bureaucracy and so many regulations, and I am not sure what is all going on, but this whole thing is just dragging us all down at the farm level. We got to make decisions, like we have all talked, like yesterday. We can't wait until tomorrow, and so it is very frustrating all the way around, as you well know.

Dr. LARSON. We know that cost of delay all too well. It caused our growers in Colorado and Nebraska \$8 million because of the delay of getting a new herbicide to market, and that was in just 1 year. Prior to that, the year before our farmers lost ten percent of their crop across the board to the weed pressure that we had.

I find it curious that EPA is very slow to approve new products, but very swift in imposing new regulations.

Ms. DE LA CRUZ. [audio malfunction] real-world application scenarios, or they are overly restrictive for the crop or product scenario in question.

I only have a couple of seconds left, but can you give us an example of what that might look like as far as an impact on our farm-

ers? I am afraid I just have a couple of seconds, but you are welcome to write me back for answering this question.

Thank you, and I yield back.

The CHAIRMAN. The gentlelady yields back.

I am now pleased to recognize the gentleman from Iowa, Congressman Nunn, for 5 minutes.

Mr. NUNN. Well, thank you very much, Chairman Thompson, and to the guests who are with us today.

I wish that Administrator Regan from the EPA could have joined us. Unfortunately, he was otherwise unable to attend this one, although he did attend other testimony earlier today for other committees.

With that, it is a shame that we have to have this conversation about what his agency's policies have impacted, everything from rulings on ethanol and biofuel production, WOTUS, *Waters of the United States*, vehicle emissions, and so much more. Dr. Larson, I think you said it best. The EPA has been very quick to regulate farmers, but very slow to actually help farmers answer the questions that they are trying to do to not only help family farms, but to be able to both feed and fuel our country.

So, with that, I would like to begin with the work that this Committee has done on biofuels for our country. From day one, I have fought as the guy from Iowa for year-round sale of E15. I think it is very important. My colleagues and I have sent countless letters to the Administration urging them to approve permanent, year-round sale of E15 fuel blends. Additionally, the last time he actually showed up I questioned Administrator Regan on hearings just before the biofuel producers would have been forced to halt their production of year-round ethanol. Fortunately, at the last minute, he approved the sale with only 2 days to spare. In the summer of 2024, we were able to get the ethanol we needed.

Look, this Administration has overlooked the positive impact that biofuels provide on reducing greenhouse gas emissions, in reaching the nation's climate goals that they espoused they are so proud of. Further, it ignores the countless wins that we collectively have secured for our country and biofuels when it comes to the sale of year-round E15, the continuation of critical biofuels production tax credits, the introduction of more than a dozen bills to advance the production of biofuels, the reauthorization of the Enhancement of Biofuels Development Program, the 2024 Farm Bill that our Chairman is leading, and doubling the fund for Market Access Program and Foreign Market Development Program. The list goes on and on.

Look, this is part of America's arsenal for being able to drive both America's ag and energy independence.

So, Mr. Kippely, I am going to turn to you here. Do you believe the EPA's failure to extend the waiver yet again this year, and its impacts are going to have uncertainty on family farms like yours and mine, and on corn and soybean growers across this country?

Mr. KIPPLEY. Absolutely. We are always waiting for the numbers to come out. It is not just a recent issue. It seems like the EPA is always slow to get those renewable numbers out, and as far as E15, absolutely. We want E15 year-round, and we would like to see it go up to E30.

Mr. NUNN. Do you think the ability for biofuels in this country is a net advantage for America's energy independence?

Mr. KIPPLEY. Absolutely.

Mr. NUNN. I agree with you without question here. The Administration has said as much as well, but they refuse to make the basic level commitment. Is there a difference between 2024 year-round sales and 2025 year-round sales?

Mr. KIPPLEY. To me, I don't see a difference. No.

Mr. NUNN. I don't see it at all, either. In fact, the Secretary of Agriculture has said as much, and yet, still this Administration refuses to implement it.

Ms. Chinn, I would like to talk with you briefly here on WOTUS. You have been working on this in your state and mine together. We have achieved some success. Unfortunately, it has had to be in the court situation because the EPA has failed to do its job.

Let me ask you, you have expressed similar sentiments in your testimony today. Could you share with us on this Committee the devastating effects that the WOTUS rule has already had on farmers in the Midwest?

Mrs. CHINN. It's about having uncertainty of what they can do with their ground moving forward. It is a challenge. They are all trying to figure out how to bring that next generation home, but they are afraid to make changes because while it might be okay today, they don't know what the rule is going to be in 2 or 3 years with an Administration change or a court ruling.

And so, it has held agriculture back from making improvements and from expanding. That is not good for your small, local, rural economies. We are losing businesses all the time in rural America, but agriculture is the one constant. And so, we need clarity on WOTUS to make sure that we can protect our family farms and our rural communities, and make sure that the states remain involved in that conversation.

Mr. NUNN. I could not agree more, and I hope the EPA hears all of us on this.

Last, I want to turn back to you, Mr. Kippley. Look, the EPA has come out—I think every farmer in America is driving a truck at this point, and God bless them for doing so. But the reality is, the EPA has said that the rigid tail pipeline emission regulation for light- and medium-duty vehicles is just going to cripple us.

Last month, the National Farmers Union even filed a petition in review of this. Has the Administration's push for electric vehicle mandates impacted farmers you represent?

Mr. KIPPLEY. We do have some impact there, yes.

Mr. NUNN. With that, I know my time has expired. I will do a follow up with you offline.

Chairman Thompson, thank you so much for the time today.

The CHAIRMAN. I thank the gentleman, and seeing no other Members here to testify, I yield to the Ranking Member if he wants to share any closing comments he might have.

Mr. DAVID SCOTT of Georgia. Well, thank you, Mr. Chairman, for putting this together. It has been very informative. Mr. Kippley, thank you. Mrs. Chinn, thank you. Mr. Cooper, thank you, and Dr. Larson, thank you.

There is no profession that is more relied on and dependent on the environment than farming. This has been a monumental hearing. You have helped us go forward and understand better, and I agree with some of the comments that we would have loved to have had the head of the EPA in here. But we will get him in, and some of your comments have helped this Committee to pierce with some adequate questions to the Commissioner that you all have mentioned here certainly about the WOTUS situation, and several other things that you were able to inform us on.

So, don't think your witnesses and your information have gone to waste. We will get the Administrator in here, and we will get some answers.

Thank you.

The CHAIRMAN. I thank the gentleman, and I also want to add my thanks to, quite frankly, each of our witnesses for making the trip here, and bringing your life experiences and your expertise to the table on this issue. The regulatory impact on those hard-working families who provide us food and fiber, building materials, energy resources, I mean, it is a tax. There is just no doubt about it, and there is a lot that the Environmental Protection Agency, or as I have from time to time called them, the Excessive Punishment Agency has shouldered on their backs. And many times, I believe, in a shortsighted way. I mean, we heard testimony that today the unintended consequences that come from these regulations, imposing really climate requirements things that are good for the climate, quite frankly, like cover crops. But cover crops, we know, in certain areas there is snow on the ground until it is time to put those in, and other areas, it is so dry that if you put a cover crop in, it will suck every bit of moisture out of the soil to where your cash crop will never grow. And so, I think we got a lot of good information today, and we are going to use that basically to prepare to have the Administrator of the Environmental Protection Agency before us. We will be sending another invitation. I think we are going to make it a little more firm this time, because it is time for Administrator Regan to appear before the Agriculture Committee.

With that said, I also want to say thank you to the staff. All the Members that are participating, quite frankly, the staff that work so hard and so professionally. We are blessed with the staff that we have to work with, and they really help us to be able to do our jobs.

Under the Rules of the Committee, the record of today's hearing will remain open for 10 calendar days to receive additional material and supplementary written responses from the witnesses to any questions posed by a Member.

This hearing of the Committee on Agriculture is adjourned.

[Whereupon, at 4:51 p.m., the Committee was adjourned.]

[Material submitted for inclusion in the record follows:]

SUBMITTED LETTER BY HON. GLENN THOMPSON, A REPRESENTATIVE IN CONGRESS  
FROM PENNSYLVANIA

February 6, 2024

Hon. MICHAEL S. REGAN,  
*Administrator*,  
U.S. Environmental Protection Agency,  
Washington, D.C.

Dear Administrator Regan:

We are writing with regard to the U.S. Environmental Protection Agency (EPA) Office of Pesticide Programs (OPP) in its ongoing efforts to carry out the agency's responsibilities under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) in compliance with the Endangered Species Act (ESA). We urge the agency to further develop these regulatory improvements in a manner that is protective of species and legally defensible without unnecessarily constraining the safe and effective use of pesticides. To support that goal, we ask that EPA expeditiously convene a special meeting of the FIFRA Interagency Working Group (IWG), the venue Congress created for coordination between agencies and direct engagement with stakeholders.

Since the release of EPA's ESA Workplan in April 2022, EPA has received over 30,000 comments on its proposed Draft Herbicide Strategy and Draft Vulnerable Species Pilot Project. In the coming year, EPA has also committed to both finalizing the proposed drafts and releasing additional strategies on rodenticides, insecticides, and fungicides. Collectively, we'll refer to all these documents as the "ESA Strategies."

EPA has already taken positive steps towards engaging stakeholders and addressing stakeholder concerns with released drafts of the ESA Strategies. Some of the interagency and stakeholder engagement include:

- Coordinating with leadership at U.S. Department of Agriculture (USDA), Department of Interior, U.S. Fish and Wildlife Service (USFWS), and Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS).
- Seeking input from grower groups, professional crop consultants, and pesticide registrants to align the mitigation methods that will be the basis for these ESA strategies with currently recognized conservation practice standards developed by USDA for the existing voluntary conservation programs.
- Releasing an update to the Vulnerable Species Pilot to respond to the primary substantive feedback the agency received on the draft from stakeholders following the November 2023 meeting of the Pesticide Policy Dialogue Committee.
- Informally hosting multiple stakeholder meetings with grower groups and environmental advocates to solicit feedback.

An important opportunity to make this process more efficient is to engage agricultural stakeholders earlier to provide input prior to the release of the upcoming draft ESA strategies. The early input of agricultural stakeholders is critical to ensuring that the outcome of EPA's important work is a regulatory system that protects endangered species and is feasible, enforceable, and results in legally defensible product registrations.

This formal process must convene as soon as possible since EPA is required to begin finalizing and implementing its ESA strategies as soon as this spring. The agency solidified the timeline for releasing new drafts and finalizing those already released through the announced settlement agreement of the "ESA Megasuit" (*Center for Biological Diversity, et al. v. U.S. Environmental Protection Agency, et al.*, Case Number 3:11-cv-00293, N.D. Cal.). The next meeting of the Pesticide Policy Dialogue Committee—a natural forum for this type of stakeholder engagement—is not scheduled until May. By the time of that meeting, two of the ESA strategies, the Herbicide Strategy and Vulnerable Species Pilot, may already be finalized and the Draft Insecticide Strategy will be close to release. Engaging stakeholders before these timelines pass is critical.

In the Agriculture Improvement Act of 2018, Congress established the IWG as the venue where multiple agencies that shape EPA's ESA compliance strategies—including USDA, USFWS, and NMFS—can convene. USDA provides insight into production practices on the ground, both through the Office of Pest Management Policy and the Natural Resources Conservation Service. USFWS and NMFS approve mitigation methods and potential offsets proposed by EPA and manage approved endangered species range maps. The current level of coordination among EPA and these

agencies is unprecedented and will continue to be critical to developing these strategies.

When establishing the IWG, Congress also recognized that stakeholder consultation is a necessary element for the participating agencies to appropriately navigate the actual and potential differences in interests and impacts of ESA consultation among industry and nongovernmental stakeholders. Under Section 3(c)(11)(E) of FIFRA, Congress requires the IWG to consult with industry stakeholders and nongovernmental organizations in the course of its mission. To continue EPA's important work to fully comply with its ESA obligations in a manner that is feasible, enforceable, and results in legally defensible pesticide registrations, we ask that a special meeting of the FIFRA IWG be held as a closed-door roundtable with key industry and environmental stakeholders particularly those that are party to the EPA Megasuit settlement agreement to discuss necessary improvements to the ESA strategies.

Possible topics for this stakeholder roundtable conversation include providing ample and affordable mitigation methods suitable for all farming operations, reviewing the risk assessment process, refining endangered species range maps, aligning mitigation methods with existing conservation practices familiar to farmers, addressing the practical realities of different production systems before releasing draft strategies, and planning continued engagement with stakeholders on these issues in the coming months.

Thank you for your prompt response. We request that you respond to this letter confirming the IWG will convene as early as possible, but no later than March 1.

Sincerely,



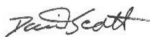
Hon. DEBBIE STABENOW,  
*Chairwoman*  
Senate Committee on Agriculture, Nutrition, and Forestry



Hon. JOHN BOOZMAN,  
*Ranking Minority Member*,  
Senate Committee on Agriculture, Nutrition, and Forestry



Hon. GLENN THOMPSON,  
*Chairman*,  
House Committee on Agriculture



Hon. DAVID SCOTT,  
*Ranking Minority Member*,  
House Committee on Agriculture

CC:

The Honorable THOMAS J. VILSACK, *Secretary*  
United States Department of Agriculture

The Honorable MARTHA WILLIAMS, *Director*  
U.S. Fish and Wildlife Services

The Honorable RICHARD W. SPINRAD, PH.D., *Administrator*  
National Oceanic Atmospheric Administration

BRENDA MALLORY, *Chair*  
Council on Environmental Quality

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SUBMITTED LETTER BY HON. AUSTIN SCOTT, A REPRESENTATIVE IN CONGRESS FROM  
GEORGIA

July 8, 2024

ANNE OVERSTREET,  
*Director*,  
Pesticide Re-Evaluation Division,  
Office of Pesticide Programs,  
Environmental Protection Agency,  
Washington, D.C.

*Submitted electronically via Federal eRulemaking Portal*

**RE: Pesticide Registration Review: Proposed Decisions for Several Pesticides (Acephate) (EPA-HQ-OPP-2008-0915-0058)**

Dear Director Overstreet,



We write to first thank EPA for granting the 30 day comment period extension for the proposed interim decision (PID) for the registration review of Acephate (EPA-HQ-OPP-2008-0915-0058). The additional time will be immensely helpful as stakeholders collect and prepare information for EPA as it continues to consider the registration review. While we appreciate this extension, we believe the Agency's data needs are such that an additional comment period extension is warranted, which would benefit both EPA and stakeholders. We respectfully request that EPA grant an additional 30 day extension for the comment period for the PID for Acephate.

While we are deeply troubled with the approach EPA has taken in the PID by proposing to cancel all uses of Acephate except for tree injections, we are taking the Agency's concerns seriously. The additional time offered by EPA through the comment period extension will allow us to solicit feedback from our members and develop information that we believe will be helpful to the Agency as it continues its registration review process. We also understand the Acephate registrants have been developing new data and considering potential measures to address EPA's concerns raised in the revised risk assessments and the PID. We believe it is imperative that the Agency work closely with the registrants and the Acephate Task Force to ensure they understand EPA's needs and what data and registration reforms may be necessary to ensure there are no remaining risks of concern when a final interim decision is reached.

The 30 day extension to the comment period will be helpful in allowing this additional data development and registrant engagement with EPA. However, we believe more time is needed. If stakeholders are going to have sufficient time to engage in meaningful back-and-forth with EPA to address the Agency's concerns—especially if that dialogue requires the development of additional data—that will require an extension beyond the current July 31, 2024 deadline. To that end, we respectfully request that EPA extend the comment period by an additional 30 days to allow for meaningful engagement with the Agency and development of data necessary to preserve uses.

Thank you for the comment period extension offered to date and the consideration of our request for an additional 30 day extension. We look forward to continuing to work with EPA to address concerns raised within the registration review of Acephate.

Sincerely,

Acephate Task Force  
Agricultural Retailers Association  
AmericanHort  
American Farm Bureau Federation  
American Pulse Association  
American Soybean Association  
Burley and Dark Tobacco Producers Association  
California Citrus Mutual  
California Citrus Quality Council  
California Fresh Fruit Association  
California Specialty Crops Council

Council of Producers and Distributors of Agrotechnology  
CropLife America  
Golf Course Superintendents Association of America  
International Fresh Produce Association  
National Agricultural Aviation Association  
RISE (Responsible Industry for a Sound Environment)  
Society of American Florists  
U.S. Peanut Federation  
USA Dry Pea & Lentil Council  
Western Growers

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SUBMITTED LETTER BY HON. NICHOLAS A. LANGWORTHY, A REPRESENTATIVE IN  
CONGRESS FROM NEW YORK

February 14, 2024

Hon. MICHAEL S. REGAN,  
*Administrator*,  
U.S. Environmental Protection Agency,  
Washington, D.C.

Dear Administrator Regan:

We write to you today regarding the Environmental Protection Agency's (EPA) proposed rulemaking published in the *Federal Register* on November 17, 2023, entitled "Potential Future Regulation for Emergency Release Notification Requirements for Animal Waste Air Emissions Under the Emergency Planning and Community Right-to-Know Act (EPCRA)."

We appreciate that EPA is not currently proposing a rule to require air emission reporting of certain substances from the natural breakdown of animal manure under EPCRA, and we strongly encourage EPA to refrain from considering any such rule in the future. Farmers and ranchers across our nation are good stewards of the land and have worked tirelessly to develop new practices on their farms to address environmental concerns.

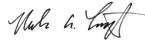
We know that some believe that the EPCRA reporting rule is a wise use of EPA's time and resources; we disagree. Mandating producers report air emissions from manure hinders EPA's ability to address genuine emergency releases. This imposition results in extensive paperwork backlogs, diverting resources away from addressing actual emergencies. Furthermore, local and state emergency response authorities have also expressed that receiving manure air emission reports is of no particular value.

On a related note, farmers also play a leading role in helping to reduce greenhouse gas emissions (GHG) and have been engaged on many renewable energy projects. Notably, the U.S. agriculture sector is the nation's lowest emitting economic sector,<sup>1</sup> showcasing a remarkable decrease in per-unit livestock emissions over the past 70 years—21% in pork, 26% in milk, and 11% in beef.<sup>2</sup> While we understand the need to reduce GHG emissions, requiring the reporting of air emissions from family farms in the future would put an unnecessary and unjustifiable burden on our nation's agricultural producers. Instead, it is the role of the government to continue providing producers with the tools we know work: voluntary, incentive-based, and locally-led conservation programs.

The simple fact remains that if reporting were required, farmers and ranchers would utilize publicly available average emissions factors generated by the Land Grant University or other public entity to estimate their emissions. To that end, farmer and rancher data would be no more valuable than the data that can be generated by anyone in the community.

We strongly urge EPA to continue to uphold the farm manure exemption from EPCRA reporting requirements to avoid imposing an unnecessary regulatory burden on our farmers and ranchers. Thank you for your consideration of our comments.

Sincerely,



Hon. NICHOLAS A. LANGWORTHY,  
*Member of Congress*



Hon. JIM COSTA,  
*Member of Congress*



Hon. GLENN THOMPSON,  
*Member of Congress*



Hon. H. MORGAN GRIFFITH,  
*Member of Congress*



Hon. HENRY CUELLAR,  
*Member of Congress*



Hon. PETE SESSIONS,  
*Member of Congress*



Hon. SANFORD D. BISHOP, JR.,  
*Member of Congress*



Hon. MICHAEL K. SIMPSON,  
*Member of Congress*



Hon. ELISE M. STEFANIK,  
*Member of Congress*



Hon. GLENN GROTHMAN,  
*Member of Congress*

<sup>1</sup>Economic Research Service U.S. Department of Agriculture, July 2022 (<https://www.ers.usda.gov/data-products/chart-gallery/gallery/chart-detail/?chartId=104206>).

<sup>2</sup>America's Farmers are Reducing Greenhouse Gas Emissions, April 2022 (<https://www.fb.org/news-release/americas-farmers-are-reducing-greenhouse-gas-emissions>).



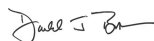
Hon. JOHN JOYCE,  
Member of Congress



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Member of Congress



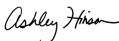
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Member of Congress



Hon. DONALD G. DAVIS,  
Member of Congress



Hon. BEN CLINE,  
Member of Congress



Hon. ERIC A. "RICK" CRAWFORD,  
Member of Congress



Hon. BARRY MOORE,  
Member of Congress

SUBMITTED QUESTION

**Response from Rebecca L. Larson, Ph.D., Vice President, Chief Scientist, and Governmental Affairs, Western Sugar Cooperative**

Question Submitted by Hon. Mark Alford, a Representative in Congress from Missouri

Question. At the hearing on July 10th, there was much discussion about how the Environmental Protection Agency (EPA)'s decisions should be based in sound, up to date science. Can you touch on the importance of the quality of data EPA's Office of Pesticide Programs chooses to use in its decision making processes, and where

should outside peer review come into play? Are there any upcoming actions where EPA should consider incorporating outside peer review?

*Answer.* Best management practices dictate scientific studies be subject to in-depth review by an outside group of experts with familiarity with the subject matter (a.k.a., peer review). This process ensures appropriate conclusions have been drawn by researchers of all scientific disciplines. During peer review, errors in methods, experimental controls, and analytical interpretations are often uncovered. The principal investigators must respond to and fully address all concerns before acceptance of their work. This is the point of peer review; to ensure best quality output of robust science.

EPA acknowledges the importance of the peer review process as there are well-established policies governing EPA actions.<sup>1</sup>\* For many EPA decisions, the Agency is relying on registrant data generated following standard, robust and clearly defined guidelines.<sup>2</sup> In these instances, there is less risk for erroneous decision-making by EPA. However, in other instances, inadequate registrant-based data may exist for a particular parameter. This forces EPA to rely on open-source data for decision making.

In instances where open-source data is relied upon, EPA scientists engage in a subjective process combing through public literature to select data to include in assessments. Unfortunately, not all open-source data is created equal. It takes great skill to assess the individual quality of each study selected.<sup>3</sup> Scientists must also be able to differentiate between credible publication sources and nefarious pay-to-play journals that quickly publish junk science for a fee.<sup>4</sup> Therefore, data from open sources is not guaranteed to have the same rigor as data from registrants generated following strict EPA guidelines. That is why peer-review of any EPA actions relying on open-source data is of paramount importance.

Reliance on open-source data sans independent peer-review has directly led to improper risk assessment and mitigation requirements by EPA. One recent example is related to EPA's decision on atrazine.<sup>5</sup> EPA included data from several flawed open-source studies in its atrazine risk assessment. That action led EPA to falsely conclude non-target species were nearly three-times more sensitive to atrazine than was accurate. Incorrectly calculating risk is not without consequence for U.S. farmers. According to EPA's own admission, the improper atrazine risk assessment required farmers across millions of acres<sup>6</sup> to implement unnecessary on-farm mitigation measures; something farmers bear sole responsibility for implementing in both cost and time.

The situation with atrazine highlights the importance of peer-review. Years after implementing the flawed standard,<sup>7</sup> the risk assessment was finally subject to Scientific Advisory Panel expert review (e.g., peer review).<sup>8</sup> Fortunately, EPA accepted the peer review findings and excluded several studies that were improperly structured from the risk assessment models. The result was a more reflective level of concern nearly three-times higher than EPA's original findings. Had EPA elicited peer-review years prior, these erroneous restrictions could have been avoided saving U.S. farmers time and expense.

The unprecedented and impactful nature of the Endangered Species Act (ESA) Strategies necessitate EPA solicitation of Scientific Advisory Panel review to avoid the issues encountered with atrazine and more. The ESA Strategies are complex and being hastily implemented in response to activist-led litigation.

In the Draft ESA Insecticide Strategy,<sup>9</sup> EPA notes more reliance on open-source data for risk assessment, just as it did for atrazine. For all the reasons outlined above, this should be cause for concern. The ESA Strategies will be required to follow the Office of Pesticide Program's open literature guidelines when using open-

<sup>1</sup> <https://www.epa.gov/scientific-leadership/peer-review>. †

\* **Editor's note:** references annotated with † are retained in Committee file.

<sup>2</sup> <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-158/subpart-G>. †

<sup>3</sup> <https://www.sciencedirect.com/science/article/abs/pii/S0268401216309021>.

<sup>4</sup> <http://jceps.com/wp-content/uploads/PDFs/10-2-02.pdf>. †

<sup>5</sup> <https://www.epa.gov/pesticides/epa-announces-update-atrazine>. †

<sup>6</sup> In its July, 2024 update on atrazine levels of concern, EPA noted excluding flawed data from risk assessments “. . . resulted in the removal of millions of acres of land from the 2022 map of watersheds that were expected to exceed the level of concern and added a much smaller number of acres in other areas of the country.”

<sup>7</sup> In 2016, EPA established the level of concern for aquatic species at 3.4 micrograms per liter. The Scientific Advisory Panel was not convened until August of 2023. It was not until July of 2024 that EPA established a new, more scientifically robust standard of 9.7 micrograms per liter when implementing the Scientific Advisory Panel peer review results.

<sup>8</sup> <https://www.regulations.gov/document/EPA-HQ-OPP-2023-0154-0046>. †

<sup>9</sup> <https://www.epa.gov/newsreleases/epa-releases-draft-strategy-better-protect-endangered-species-insecticides> see Section 3.1.2. †

source data to calculate toxicity thresholds.<sup>10</sup> However, this is not to be considered equivalent to formal Scientific Advisory Panel review; it not nearly as robust.

As part of a larger industry effort, Western Sugar Cooperative raised concerns over the lack of peer-review for many aspects of the EPA's ESA Strategies.<sup>11</sup> Therefore, our concerns reach beyond just the use of open-source data in risk assessment. We also have concerns around the methodology used by EPA to calculate risk and exposure. For one, we challenged why EPA omitted certain species from population-based risk calculations. EPA highlighted our concern in their response to public comment. However, they failed to justify why species lacking pesticide sensitivity and those with a non-definitive toxicity endpoint were excluded from analyses.<sup>12</sup> This data omission has serious consequences for U.S. farmers. It over-inflates the risk of pesticides to a population thereby requiring more EPA-mandated mitigation measures be implemented on the farm at the grower's expense.

In sugarbeet industry-wide Draft Herbicide Strategy comments, we challenged EPA being overly reliant on *practical* significance, not *statistical* significance.<sup>13</sup> This is especially problematic with EPA's approach to mitigate exposure from spray drift. EPA's method of setting maximum spray drift buffer distances is punitive.<sup>14</sup> According to EPA's own data, growers using more spray drift resistant application methods would have to limit exposure ten-times<sup>15</sup> that of more drift prone technology.<sup>16, 17</sup> This approach is not equitable, nor scientifically defensible, yet remains part of the Final Herbicide Strategy and Draft Insecticide Strategy. There are some slight differences in methodology when compared to the Draft Herbicide Strategy<sup>18</sup> but the inequity for farmers remains the same since there is no standardization for mitigation expectations across application methods.<sup>19, 20</sup> The lack of scientific justification for this methodology makes the mitigation requirement appear arbitrary.

The methodology applied by EPA to determine spray drift buffer requirements should also be subject to peer-review. In the Draft Herbicide Strategy EPA identified risk to listed species and critical habitats is eliminated when chemical "deposition [results] in exposure . . . below a toxicity threshold . . . with a potential for population level impacts . . ." <sup>21</sup> In the Draft Herbicide Strategy, this was the exposure mitigation level set for the *high-risk* products. In the Draft Insecticide Strategy, this level is now applied to *medium-risk* chemicals. This change appears overly precautionous considering EPA states in the ESA Strategies that the two factors used to calculate the potential for population impacts already have conservative biases.<sup>22, 23</sup>

Implementation of overly precautionous spray drift buffer poses a real and present threat to our industry as outlined in our comments to the Draft Herbicide Strategy.<sup>24, 25</sup> EPA has released the Final Herbicide Strategy that still contains unwork-

<sup>10</sup> <https://www.regulations.gov/document/EPA-HQ-OPP-2023-0365-1137> see page 25 footnote 21.†

<sup>11</sup> <https://www.regulations.gov/comment/EPA-HQ-OPP-2023-0365-0177> see page 5.†

<sup>12</sup> <https://www.regulations.gov/document/EPA-HQ-OPP-2023-0365-1138> see page 6.†

<sup>13</sup> <https://www.regulations.gov/comment/EPA-HQ-OPP-2023-0365-0177> see pages 12–13.†

<sup>14</sup> In the Draft Herbicide Strategy, maximum spray drift buffers were determined for each application method by looking for a point at which negligible change in deposition concentration is found over a 100' distance (EPA defined this as less than 1% change in slope over 100').

<sup>15</sup> In the Draft Herbicide Strategy, the difference was 25-fold. The Final Herbicide Strategy and Draft Insecticide Strategy are now ten-fold, which is still significant.

<sup>16</sup> Ground application with a low boom height and coarser droplet size has significantly less drift than aerial application with finer droplet sizes according to EPA AgDrift model data included in the Strategies.

<sup>17</sup> <https://www.regulations.gov/comment/EPA-HQ-OPP-2023-0365-0177> see pages 15–16.†

<sup>18</sup> EPA applied the Tier III model in AgDrift for aerial application and moved from 100' increments of curve to the minimum possible within AgDrift (e.g., 6.6' increments); see Table 4–2 on page 19 of the Ecological Mitigation Support Document.

<sup>19</sup> Although our own in-field observations across the industry demonstrates ground applications are more drift resistant than aerial application, the reference to "more drift resistant technology" in this context comes from reviewing EPA's own data for various application methods developed from AgDrift.

<sup>20</sup> Figure 4–2 of the Ecological Mitigation Support document (page 20) demonstrates ground application with a low boom height and medium fine to coarse droplet size must reduce drift ten-fold over what an aerial applicator with a fine droplet size must achieve (0.005 *versus* 0.05 for depositional fraction).

<sup>21</sup> <https://www.regulations.gov/document/EPA-HQ-OPP-2023-0365-0009> see Section 6.1 on page 38.†

<sup>22</sup> <https://www.regulations.gov/document/EPA-HQ-OPP-2024-0299-0005> see Sections 3.1.2.2/3.† (EPA states species sensitivity determinations purposefully overestimate sensitivity, or risk).

<sup>23</sup> <https://www.regulations.gov/document/EPA-HQ-OPP-2024-0299-0005>† see Section 3.1.1 (EPA states models used to derive estimated environmental concentrations have a conservative bias. Therefore, exposure is also over-estimated).

<sup>24</sup> <https://www.regulations.gov/comment/EPA-HQ-OPP-2023-0365-0177> see Appendix A.†

able requirements for farmers.<sup>26</sup> EPA states it will not take any comments on its Ecological Mitigation Support Document, a governing document supporting all ESA Strategies. As noted, EPA made substantive changes to its approach to spray buffer maximums between the Draft Herbicide Strategy and release of the Draft Insecticide Strategy. The extent and impact of these changes were not addressed during any EPA update<sup>27</sup> or workshop<sup>28</sup> between release of the Draft and Final Herbicide Strategy, which prevented constructive stakeholder engagement and feedback. EPA's self-imposed timing of the Draft Insecticide Strategy (released July 25, 2024) and the release of the Final Herbicide Strategy (August 19, 2024) are unfortunately misaligned, such that constructive comments offered as part of the Draft Insecticide Strategy (due September 23, 2024) will be unable to be incorporated into the Final Herbicide Strategy.

***Based on the significance of EPA's change in approach for spray buffer maximums, we insist EPA take advantage of its stated commitment that "the Agency . . . expects to provide updated versions of the Ecological Mitigation Support Document in the future".<sup>29</sup> Addressing public comments around spray drift buffer modifications must be the number one priority for update. Following updates, the process must be subject to external peer-review before implementation of the approach in product registration and registration review processes.***

In conclusion, peer-review results in more robust, science-based outcomes. The unprecedented nature and rapid development/roll-out of the EPA ESA Strategies makes the need for peer-review extremely critical. ***Therefore, this Committee must insist EPA engage with the Scientific Advisory Panel to peer-review risk and exposure calculations as well as guidelines that serve as the basis for mitigation required by U.S. farmers before implementation of any ESA Strategy.***

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<sup>25</sup> <https://www.regulations.gov/comment/EPA-HQ-OPP-2023-0365-0177> see Appendix B.† Small fields with irregular shapes simply cannot accommodate spray buffers making domestic seed production impossible, thereby threatening the survival of the entire beet sugar industry.

<sup>26</sup> <https://www.epa.gov/newsreleases/epa-finalizes-first-its-kind-strategy-protect-900-endangered-species-herbicides>.†

<sup>27</sup> <https://www.regulations.gov/document/EPA-HQ-OPP-2023-0365-1131> †

<sup>28</sup> <https://aapco.org/wp-content/uploads/2024/05/06032024-Full-SFIREG-USDA-ESA.pdf>.†

<sup>29</sup> <https://www.regulations.gov/document/EPA-HQ-OPP-2024-0299-0005> see Section 2.3 page 13.†