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Testimony for Field Hearing on Regulatory Challenges and Benefits for Small Businesses

The Honorable Ben Cardin, Chairman, the Honorable Joni Ernst, Ranking member, Members of the Committee, and Distinguished Guests,

Thank you for the opportunity to testify today on the critical topic of regulatory challenges and benefits for small businesses. As a representative of Latham Hi-Tech Seeds, I am honored to provide insights into the difficulties faced by small businesses when complying with regulatory requirements identical to those of their larger competitors.

Latham Hi-Tech Seeds is a third-generation, family-owned seed company. My husband, John, his brother, Chris, and I are proud that our business headquarters remain on the Latham family's Century Farm in North Central Iowa. We offer a full lineup of corn, soybeans and alfalfa seed products. Latham® brand seed products are sold across the Upper Midwest primarily through a farmer-dealer network.

Latham Seeds was founded in 1947 in Alexander, Iowa, by my husband's grandparents Willard and Evelyn Latham. Three of their sons joined the business in the 1960s-70s, and the second generation of Lathams added a dealer sales component to the company's production efforts. Our generation started Latham Hi-Tech Hybrids in April 2004. After boot-strapping the business and not paying ourselves for five years, we brought the two companies together in 2009, evolving the business into Latham Hi-Tech Seeds.

Today build our business on the foundation Willard provided with a commitment to personal service, tailored solutions and the same spirit of families helping families. We are proud to share our story of what hard work and persistence can achieve, but our success did not come without obstacles and hurdles to overcome along the way. Some of those obstacles encompass three areas of regulation:

1. Gene Editing (Plant Incorporated Protectants)
2. Anti-Trust Enforcement
3. Trucking

Gene Editing

The seed industry is founded on innovation, and innovation is a part of everything we do – from plant breeding and seed treatments to soil health and habitat restoration.

Seed companies make significant investments in research, collaboration and data over long periods of time to understand and meet the unique and changing needs of their customers. Because of the inherent risk involved in this process, it's vital that government policies around seed and conservation programs are clear and workable, for the seed industry and for farmers at all levels.

Sustainable agriculture and food production require a diverse range of innovative solutions, including the latest precision plant breeding tools like gene editing. These tools allow plant breeders to develop better crops, in less time with more accuracy than older methods. For example, plant breeders are using innovative tools to develop crops that are drought tolerant and climate resilient, berries with added nutritional benefits, and produce that addresses food waste by staying fresher, longer.¹

Plant Incorporated Protectants (PIPs)

Because our seed company has a corn breeding program, we are concerned with the EPA's recent final rule on Plant Incorporated Protectants (PIPs). This rule will handcuff U.S. agricultural innovation, especially from small companies and public sector plant breeding programs.

EPA's precautionary and process-based policy imposes non-risk based regulatory hurdles for certain plant characteristics created using the latest precision breeding tools, even though the agency itself has stated that they are "virtually indistinguishable from those created through conventional breeding."¹

For example, the new EPA rule allows a plant breeder to generate a disease-resistant soybean through conventional breeding without any requirements to market that product. A soybean breeder who uses gene editing to generate the exact same disease-resistant characteristic, however, must make a submission to EPA. This soybean breeder must provide data, justifying the variety is eligible under EPA's exemption for "PIPs created through genetic engineering from a sexually compatible plant." Then this plant breeder must wait for the EPA to confirm the justification. If the EPA allows this soybean to go to market, the breeder must maintain records for five years.

This regulation could impact seed businesses, new technology entrants, and Iowa farmers. Farmers need innovative seed products to combat seed diseases and pests that could destroy a whole crop and have an impact on our national agricultural supply.

¹ <https://www.agri-pulse.com/articles/19670-opinion-once-a-world-leader-in-innovation-the-us-is-now-falling-behind>

Anti-Trust Enforcement

One additional thing that small businesses in agriculture could use is anti-trust enforcement. Consolidation in agriculture – livestock, fertilizer, chemicals and seed – is reducing competition and increasing costs to small businesses and consumers. Consolidation limits competition¹. The U.S. Department of Agriculture in March 2023 issued a competition report, which includes a recommendation “to be a voice for farmers and plant breeders.” Another recommendation is “interagency coordination to promote fair competition.”

Trucking

The trucking industry has a shortage of more than 78,000 truck drivers coupled with a need to hire 1.2 million new drivers over the next decade to meet increasing freight demands. Unfortunately, new regulations make it increasingly more difficult to attract drivers.

Earlier this summer, I met with a constituent about the increased time and money required to secure a Commercial Drivers License (CDL). Implementation of the U.S. Department of Transportation’s Federal Motor Carrier Safety Administration (FMCSA) Entry Level Driver Training (ELDT) final rule went into effect February 7, 2022. The additional course work required obviously adds time to the process, but it costs an additional \$1,000 to \$4,000, depending on the course and the provider. This is a large investment for a small business! Iowa Governor Kim Reynolds recently allocated federal funds in the form of grants to help offer this ELDT course, so hopefully this will increase the pool of CDL drivers.

Another way to increase the labor pool would be to allow 18- to 21-year olds with a CDL to drive across state lines. A new federal pilot program will allow 3,000 selected 18- to 21-year-olds to drive across state lines in a semi as a sort of apprenticeship program with more than 400 hours of training required. This pilot program could provide the data needed to support this change across the nation. I can see this being particularly helpful for farmers and other industries.

A third policy change to help address trucking shortages would be to lift interstate weight limits and making them uniform nationwide. The current interstate weight limit in Iowa is 80,000 pounds but our neighbor to the west, Nebraska, has a higher interstate weight limit that was grandfathered in during the establishment of the interstate system. Increasing interstate weight limits would create added efficiencies to transporting goods.

During the 2023 session, the [Iowa Legislature passed a resolution](#) encouraging Congress to increase weight limits on interstates in Iowa to 96,000 pounds. Iowa allows higher weight limits on our state highways. At the busiest times for agriculture, trucks hauling agriculture products and inputs can operate up to 90,000 pounds with an exemption proclamation from the governor. A new all-systems overweight permit established in 2021 and operated by the Iowa Department of Transportation allows permit holders to operate at that weight all year round in certain areas.

Because drivers can operate at heavier loads on roads under state jurisdiction, often they will not use the most direct route between their starting and ending points to avoid interstates. If the interstate system allowed heavier loads, truck drivers could take the most direct route. This would save driving time and reduce fuel usage.

The last trucking regulation I will address is electronic logging devices, or ELDs. This is another time-consuming, expensive regulation for small businesses like Latham Seeds. It's especially challenging for businesses, like ours, which service rural America.

Electronics are prone to error, especially because there are areas in our trade territory where we lose phone service and cannot get satellite signals. As a result, truck drivers sometimes keep a paper set of logs for backup.

Speaking of paper logbooks, it only costs \$7 to buy a 30-day supply of paper logs. However, it costs about 50 times more each month to comply with ELDs. We paid \$600 per truck for the hardware and were required to sign a three-year contract when ELDs first went into effect. In addition, we had to pay \$66 per truck per month for the software. That company went out of business, so we lost our money and had to contract with another provider. We believe this unfortunate circumstance cost us about \$5,000.

Another downfall of ELDs is that log starts clocking your time as soon as the truck moves. This is problematic for a company like ours that sometimes moves trucks around the lot to load and unload trailers. We had a driver forget to log out when he pulled into the dock. Then another worker jumped into that semi tractor, pulled away from the dock and parked it for hours. The full-time driver returned to make the delivery only to find that his ELD made it look like he was out of hours. While this may be remedied, it takes time and effort to do so.

One solution to overburdensome ELD regulations is to exempt those with five trucks or fewer trucks, which would cover most small businesses and farmers. Another solution is to simply exempt anyone who carries 100% of their own products.

This solution offered for ELDs is a prime example of how one-size regulations do not fit all businesses. Small businesses frequently encounter challenges stemming from regulations that were designed with larger enterprises in mind. Examples include burdensome paperwork, expensive compliance measures, and intricate reporting requirements. These issues impede growth, discourage innovation, and often lead to disproportionate costs that hinder small business success.

Many small, family-owned businesses like Latham Hi-Tech Seeds must comply with regulations from multiple agencies including the USDA, EPA and IRS. We rely on our membership to organizations like the American Seed Trade Association and the Independent Seed Professionals Association to help us stay informed and in compliance.

The challenges small businesses encounter when complying with regulations designed for larger competitors are significant. By fostering regulatory sensitivity and implementing targeted

reforms, we can empower small businesses to thrive, thereby promoting economic growth and innovation.

As we move forward, I encourage this committee to consider the recommendations presented here. I also am including some additional comments that I gathered from other small business owners. As a member of the Iowa House of Representatives, I visit regularly with business owners across our state.

Together we can ensure that federal regulations become a catalyst for small business success rather than a hindrance. Thank you for your attention, and I am happy to address any questions you may have.

Comments Compiled from Other Iowa Business Owners

1. **Regulatory Disparity: Leveling the Playing Field.** Many government contracts have provisions mandating a certain percentage of involvement by small businesses. While these goals are commendable, the enforcement mechanisms to ensure compliance are often lacking. This lack of accountability creates an uneven playing field, where large entities or government contractors may circumvent their obligations, reducing opportunities for smaller enterprises.
2. **Increasing Small Business Benefits from Federal Regulations.** To enhance the number of small businesses benefiting from regulations sensitive to their concerns, we recommend the following measures:
 - a. **Tailored Education and Assistance:** Regulatory agencies should offer comprehensive guidance and resources specifically designed for small businesses, aiding them in navigating complex compliance requirements.
 - b. **Robust Accountability Mechanisms:** Stricter enforcement and penalties for non-compliance with small business participation goals in government contracts can ensure accountability and a level playing field.
 - c. **Feedback Loops:** Establishing additional channels for regular feedback from small business owners can provide agencies with valuable insights into the practical impact of regulations and inform necessary adjustments.
3. **The Impact of FinCEN and the Federal Transparency Act.** The Financial Crimes Enforcement Network (FinCEN) and the Federal Transparency Act exemplify regulatory efforts aimed at increasing accountability and reducing financial misconduct. While these initiatives are commendable, they can inadvertently burden small businesses, which might lack the resources to implement sophisticated compliance programs. Balancing the goals of regulatory oversight with the practical realities faced by small businesses is crucial to prevent undue strain on their operations.

ⁱ <https://www.ams.usda.gov/about-ams/fair-competitive-seed>