

TESTIMONY OF
DOUGLAS M. BEECH
LEGAL COUNSEL AND DIRECTOR OF GOVERNMENT RELATIONS
CASEY'S GENERAL STORES, INC.
ON BEHALF OF
THE NATIONAL ASSOCIATION OF CONVENIENCE STORES
FOR THE
HEARING OF THE HOUSE AGRICULTURE COMMITTEE
MAY 12, 2016
“THE PAST, PRESENT, FUTURE OF SNAP:
RETAILERS ARE CRITICAL PARTNERS IN CARRYING OUT THE PROGRAM”

My name is Douglas M. Beech. I am the Legal Counsel and Director of Government Relations for Casey's General Stores, Inc. ("Casey's") and I appreciate the opportunity to appear before you today to share my views regarding the Supplemental Nutrition Assistance Program ("SNAP" or "the Program").

I am testifying today on behalf of the National Association of Convenience Stores ("NACS"). NACS is an international trade association representing more than 2,200 retail and 1,800 supplier company members in the convenience and petroleum retailing industry. NACS member companies do business in nearly 50 countries worldwide, with the majority of members based in the United States. In 2015, the industry employed more than two and a half million workers and generated \$574.8 billion in total sales, representing approximately 3.2 percent of the United States' GDP – or one of every 30 dollars spent. The majority of the industry's 154,000+ stores consist of small, independent operators. More than 70 percent of the industry is composed of companies that operate ten stores or fewer, and 63 percent of them operate a single store. While many people associate convenience stores with gasoline sales, in-store sales are becoming an increasingly significant portion of our business and account for one third of our industry's gross profit dollars.

Casey's General Stores, Inc. is headquartered in Ankeny, Iowa. What started off as a small family run business has turned into a multi-state chain with a total of 1,931 stores spread throughout Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Tennessee, and Wisconsin employing approximately 34,000 people. Our stores are important fixtures in local communities not only because of the products and services we provide but also because of the employment opportunities we offer. Fifty-seven percent of our stores are in towns of 5,000 people or less and 25 percent of our stores are in towns of 5,000 to 20,000 people. Our stores are famous for selling not only traditional grocery items, but also pizza and other prepared foods. In fact, approximately 40 percent of our total food sales come from prepared food items. Casey's looks forward to continued growth. Over the last five fiscal years we have added 170 newly constructed sites and acquired 214 additional locations. In fiscal year 2016, Casey's hopes to build or acquire approximately 80 stores and complete 100 major store remodels. In February of this year, Casey's marked its continued growth by opening its second distribution center, located in Terre Haute, Indiana.

Due to Casey's presence in rural towns and cities throughout the Midwest, we understand the important role convenience stores and other small format retailers play in providing food to low-income families through the Supplemental Nutrition Assistance Program ("SNAP" or the "Program"). For this reason, Casey's is particularly concerned with the February 17th proposed rule put forth by the U.S. Department of Agriculture's ("USDA") Food and Nutrition Service ("FNS" or "Agency"). This proposed rule will alter the eligibility requirements that retailers must meet to participate in the Program, and would push all of our stores – and tens of thousands of other small format retailers – out of SNAP. Below, I offer more detailed comments about our role in the Program and the potential consequences of the proposed rule.

I. Casey's is a proud and valuable participant in SNAP.

Casey's stores have been participating in SNAP for over 30 years. Of our 1,931 stores, virtually all are authorized and do accept SNAP customers. In fact, Casey's stores process roughly 5.5 million SNAP transactions per year. Most of our licensing goes through the FNS office near the District of Columbia, and we have never had any problems with that process or working with FNS.

Our stores, and convenience stores throughout the country, provide consumers with convenient locations and extended hours in which to shop for food. Approximately half of our stores are open 24 hours per day, 7 days a week – so we are always accessible for customers to come in to purchase food items they may need, whenever they need them. As mentioned above, a majority of Casey's stores are located in communities with a population of 5,000 or less, and many of these communities do not have larger format retailers like grocery stores in their town. While this can also be the case in urban communities, Casey's experience exemplifies the trend in rural communities. Convenience stores like Casey's are frequently the only source of many grocery items in these communities and the only location where SNAP recipients can redeem their benefits.

By participating in the Program, our stores serve as an essential access point for SNAP recipients. We enable recipients to purchase a wide variety of foods that Congress has determined may be purchased with SNAP benefits. Casey's has determined that up to 220 of our stores are the only location in the community where SNAP recipients can redeem their benefits and in many other communities we are the only location to use SNAP benefits after a late work shift ends or before one begins. Accordingly, having Casey's in the Program saves many SNAP recipients' time and resources by not having to travel outside their home community to pick up such items as bread and milk.

In addition, Casey's works hard to ensure the integrity of the Program. As a sophisticated SNAP participant, Casey's utilizes a modern point of sale system, which differentiates between almost 2,900 SNAP-eligible products we sell and our SNAP-ineligible products at the checkout, to ensure that only permissible products are purchased with SNAP benefits. Every day, Casey's stores and employees strive to make the shopping experience of all its customers, including a significant number of SNAP beneficiaries, efficient and pleasant. Although Casey's hopes that one day no Americans will be food insecure and SNAP will become obsolete, until that day comes, we hope to remain an active participant in SNAP in order to provide important food access to thousands of citizens who need it.

II. FNS' retailer eligibility proposed rule will push almost all of our stores out of SNAP.

On February 17, 2016, USDA's FNS issued a proposed rule that would significantly modify retailer eligibility requirements in SNAP. The proposal is intended to implement updated

“Depth of Stock” requirements contained in the Agriculture Act of 2014, commonly known as the 2014 Farm Bill.

As this Committee is well-aware, during negotiations over the 2014 Farm Bill, Congress recognized the important role that small format retailers play in SNAP, particularly their role as access points for SNAP beneficiaries. After extensive negotiations between lawmakers and stakeholders, Congress adopted changes to the so-called “depth of stock” requirements – the requirements that address the amount and variety of food a retailer must have in stock to participate in SNAP as a retail food store. By enacting these provisions, Congress sought to increase choices for SNAP beneficiaries while ensuring that those enhanced depth of stock requirements were not unduly burdensome for retailers. Congress recognized that unduly burdensome eligibility requirements would hurt small businesses and result in restricted access for SNAP beneficiaries. NACS – and Casey’s – supported this compromise and supported the final 2014 Farm Bill.

The proposed rule would codify the updated depth of stock requirements as contained in the 2014 Farm Bill. These provisions, which were based on the existing definitions of staple foods, require retailers to offer at least seven different varieties of food items in each of the four staple food categories, including one perishable item in three of those categories. This was the compromise reached by Congress and broadly supported as a way to increase nutritional choices for SNAP recipients without overburdening small retailers. However, FNS went far beyond congressional intent in its proposed rule and included several additional provisions that will push Casey’s stores and tens of thousands of other small format retailers out of the Program.

Under the proposal, the definition of a retail food store is modified to exclude any retail outlet with more than 15% of its total food sales in items that are “cooked or heated on site before or after purchase.” This measure applies to all food sales – not just SNAP food sales. And, this exclusion applies even to separate companies doing business under the same roof, such as a Subway or other fast food franchise that has a point of sale in the same building as a convenience store. If two food businesses operate under the same roof, FNS will consider their total food sales jointly to determine whether that 15 percent threshold is met. Unlike other convenience stores where they may have a separate food franchise doing business under the same roof, Casey’s prepared foods are sold in our store along with our traditional grocery items. **Nevertheless, this provision alone would disqualify virtually all of Casey’s stores from participating in SNAP.** Even though SNAP recipients cannot redeem their benefits on hot foods, this provision would penalize us for meeting our non-SNAP customers’ desire for prepared foods.

Frankly, what foods we sell to non-SNAP customers should not be FNS’ concern. They don’t regulate those sales and those customers would be offended to know that FNS wants to penalize them (and us) for buying prepared food in our stores. And make no mistake; this would penalize all our customers, not just SNAP customers. If you take away our SNAP customers,

that reduces our business and changes our economic model. That can mean fewer stores and jobs in many small towns. To make those negative changes based on sales that the federal government has nothing to do with makes no sense.

In addition to this 15 percent prepared foods threshold, the proposed rule makes several significant changes to the stocking requirements that would make it very difficult for Casey's stores or any other small stores to continue to participate in SNAP. For example, the proposed rule would alter the definition of "staple foods" to exclude multiple ingredient items – such as soups, stews, and frozen dinners – from being counted towards depth of stock requirements. While these foods would remain acceptable items for participants to purchase with their SNAP benefits, they have long been treated as staple foods. For many families, of course, these are staple foods. Have you ever prepared a frozen meal for yourself or your family? Have you made them a can of soup? FNS is now trying to tell you that isn't good enough. We all know these are foods we eat and families around the country eat them. There is absolutely nothing wrong with that.

And, there is nothing inherently healthier about single ingredient foods – like a bag of flour – than multiple ingredient foods. Yogurt with fruit, packaged salads, mixed vegetables, fruit salads, and many more are multiple ingredient items. The fact that more than one thing is in there does not make those items less healthy, but it can make it easier for someone to turn them into a meal. Perhaps FNS would like a world in which SNAP beneficiaries could spend all day preparing meals from scratch for their families. But that is not the world in which Americans live today – whether they participate in SNAP or not. American families want convenient foods that are easy to prepare. Casey's and other convenience stores provide those foods.

A large percentage of the traditional grocery items that Casey's stores stock are multiple ingredient items. A change in the definition of "staple foods" to exclude these items from the depth of stock requirements only serves to make it more difficult for Casey's and other small format retailers to participate in the Program.

If this were not enough, FNS also proposes to require retailers to publically display at least six stocking units for each of the seven single-ingredient food varieties in all four staple food categories, a total of 168 items, to qualify for the program. In reality, a retailer must stock far more than these 168 items since the retailer would need to replace any item that is purchased in order to remain in compliance with the regulations. As a practical matter, Casey's – and most convenience stores – will have difficulty complying with this requirement. In fact, many larger stores such as groceries have times when they run low on particular foods before they get their next delivery. Should those difficulties, including at times when there is unusually high demand for particular foods, disqualify stores from SNAP?

On average, Casey's stores are between 2,500 and 4,000 square feet, and there is limited storage space outside of the store floor. With this in mind, it is our practice to store

approximately 2 units of a particular item on a shelf at any given time. Frankly, we don't have room to put 6 of every SNAP required item on a shelf. We don't tend to do that even for some of our fastest-selling items. There just isn't enough space. And, we're among the largest stores in our industry. I believe it would be extremely difficult for any convenience store, and even small grocers, to ensure that it stocks 168 of exactly the right combination of staple items at all times.

Even though we are a vertically integrated company and self-supply and distribute, our distribution practices conform to industry averages—and our stores only get deliveries one time per week. We use store-driven data to determine how many units of a particular item to deliver to each store each week in order to maximize sales and minimize spoilage. We will not be able to deliver and stock extra items solely for the purpose of meeting the SNAP stocking requirements, particularly in light of the proposed definition of “variety,” which does not reflect economic reality or American eating habits. And, because many of these products will need to be perishable, we would need to stock so many items to make up for the ones we sold before the next delivery that we would end up spoiling and wasting a lot of food.

In addition, FNS has proposed to change the meaning of the term “variety” in a way that will make it even more difficult for small format retailers to meet the depth of stock requirements. FNS' rule says that two different varieties of a food will no longer count as two different varieties of staple foods. For example, two meats from the same animal – sliced ham and bacon or roast beef and ground beef – would no longer count as different “varieties” for retailer eligibility requirements. This is absurd and fundamentally changes the way the Program has always worked. In order to meet the requirements for variety in the “meat, poultry, or fish” category, for example, FNS has listed duck, catfish, shrimp, lamb, and tofu as acceptable variety options. Without listing those types of items, it's hard to see how a retailer could stock seven different varieties in the meat group with FNS' odd, new definition. Casey's – and many of the supermarkets in the state we operate – doesn't stock lamb, duck or tofu today, because such items do not sell. If we have to stock those items, we will be forced to cede shelf space to those items at the expense of better selling items. This applies to all of the staple food categories. Having two varieties of hard cheeses, for example, no longer will count as two varieties of staple foods. Having two varieties of bread from the same type of flour – such as sliced white bread and hamburger rolls – will no longer count as two varieties of staple foods. The list of absurdities grows with every example.

If FNS has to count tofu as a staple meat in our stores in Iowa to try to make its new rules sound plausible, that is a good indication that something is seriously wrong. Trying to comply with this odd change of definitions will mean huge losses of sales of more popular items and significant spoilage costs as FNS' favored foods go bad on our shelves.

To summarize, under FNS' ill-advised proposed rule, Casey's will be required to stock at least *six* stocking units of *seven* single-ingredient varieties of staple foods in each of the *four* staple food categories, including one perishable item in at least three of the categories—an

unwieldy task. In proposing these requirements, FNS went far beyond the compromise reached by Congress, and the end result will be the elimination of tens of thousands of convenience stores from the Program. **This includes the elimination of all Casey's stores as SNAP retailers.** If a larger sophisticated chain like Casey's will not be able to comply with this proposal, I find it hard to believe that any single-store operators or small chains could.

While the loss of Casey's participation in SNAP would be unfortunate for our company, more importantly, it would be detrimental to SNAP recipients who rely on our stores to redeem their benefits. It will be these recipients who face increased travel and convenience burdens, and possibly the complete loss of access to the food they need. Our company located stores in smaller communities for a reason – because we knew those communities needed a retail food store. Since then, we have gotten to know our customers and truly become a fixture in those communities. It is disheartening to consider the potential effects of FNS' proposed rule on those communities and the low-income Americans who are seeking to provide food for their families.

In the 2014 Farm Bill, Congress properly balanced the need to increase food choices for SNAP recipients while ensuring small format retailers could participate as SNAP retailers. FNS has gone far beyond the compromise made by Congress and is endangering the Program and the people who rely on it for their food.