Dear Farm Bill Conferee,

The Center for Science in the Public Interest (CSPI) requests that the Senate and House conferees to the 2013 Farm Bill stand up for consumers and strike two provisions that threaten public health and safety. These provisions are found at Sec. 12312 and Sec. 12321 in H.R. 2642, the Federal Agriculture Reform and Risk Management Act of 2013. CSPI is a nonprofit health advocacy and education organization focused on food safety and nutrition issues. We are supported principally by the 900,000 subscribers to Nutrition Action HealthLetter and by foundation grants. We accept no government or industry funding.

Sec. 12312 would undermine a State’s ability to protect its citizens from foodborne illness. The amendment preempts any State law imposing a standard on agricultural products that is stricter than Federal law or a standard applicable in the State where the product was produced or manufactured. While targeted at an animal health standard, the amendment is written in such broad language that it also takes in State laws protective of human health. This means the State with the weakest record for ensuring food is produced safely will set standards for the citizens of the 49 other States. For example, it would prevent California from enforcing its requirement that raw oysters must be processed to eliminate the deadly bacteria *Vibrio vulnificus*. Louisiana, an oyster producing state, does not have a similar requirement and, therefore, would supersede California’s public health law under Sec. 12312.

We are concerned, too, that the provision will conflict with the Food Safety Modernization Act (FSMA) which exempts certain small producers and small farms from Federal food safety standards even if they sell product across State lines. A strength of our Federal system lies in the ability of States and localities to serve as laboratories for novel social and economic experiments. For example, Chicago was the first locality to require milk pasteurization in 1908. The Chicago experiment proved effective and widespread adoption of pasteurization has reduced illnesses associated with milk from 25 percent of all outbreaks to about 1 percent. Sec. 12312 threatens the ability of States to identify and implement new solutions to public health risks. For these reasons we ask the conference to strike Sec. 12312 from the conference report on the Farm Bill.

Sec. 12321 would prevent FDA from enforcing "any" regulations under FSMA until the agency submits a scientific and economic analysis of FSMA’s impact on small farms and processors to Congress. Such an action would have severe consequences for consumers. Because it prohibits enforcement of “any” regulations promulgated under FSMA, it would bar FDA from enforcing rules on import safety, laboratory testing standards, and better traceability for high risk foods. Most seriously, it back-peddles over rules already in place such as administrative detention, enhanced records access during outbreaks, and improved
prior notice about risky imported food. These rules are protecting consumers now from filthy and contaminated food such as –

- Aug. 18, 2011. FDA detained spices, tamarinds and chili products at Bonaterra Products, CA, storage warehouse, after an inspection found evidence of rodent and insect infestation.
  [www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm253983.htm](http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm253983.htm)

- Sept. 2, 2011. FDA detained food in Dominguez Foods of Zillah, WA, because of evidence of rodent and insect infestations. It obtained a court order and seized food.
  [www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm275204.htm](http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm275204.htm)

- Dec. 2011. FDA investigators ordered the detention of smoked salmon at Mill Stream Corp of Hancock, ME, because of concern over possible *Listeria monocytogenes* contamination. The firm destroyed salmon after investigators found *Listeria* was present.
  [www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm289087.htm](http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm289087.htm)

We understand that small farmers and small processors are concerned that provisions in the proposed rules on processor and produce safety under FSMA will affect their ability to conduct business. Their anxiety, though, does not justify holding the health and safety of the American public hostage. Instead, conferees should allow the notice-and-comment rulemaking process to go forward to allow their concerns to be addressed in the final rule. For these reasons we ask the conference to strike Sec. 12321 from the conference report on the Farm Bill.

Thank you for considering our request and for your leadership and commitment to public health.

Sincerely,

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