



CENTER FOR FOOD SAFETY

October 31, 2013

The Honorable Debbie Stabenow
Chairwoman
Senate Agriculture Committee
Washington D.C. 20515

The Honorable Thad Cochran
Ranking Member
Senate Agriculture Committee
Washington D.C. 20515

The Honorable Frank Lucas
Chairman
House Agriculture Committee
Washington D.C. 20510

The Honorable Collin Peterson
Ranking Member
House Agriculture Committee
Washington D.C. 20510

Dear Chairwoman Stabenow, Chairman Lucas and Ranking Members Cochran and Peterson:

Center for Food Safety (CFS) welcomed the first public meeting of the farm bill conference committee yesterday. CFS is a non-profit public interest organization that works to protect human health and the environment by curbing the proliferation of harmful food production technologies and supporting a model of agriculture that is local, appropriately scaled, socially just, humane and biodiverse. Founded in 1997, CFS represents over 350,000 members across the country that care deeply about a number of issues being debated in the negotiations over a full 5-year farm bill.

As you and your conference committee members now begin to reconcile the differences between the House and Senate versions of the farm bill, we urge you to consider the following CFS priorities:

Support House Provision to Protect Honey Bees and other Pollinators (Sec. 11315)

As you may know, in the United States, pollination services contribute \$20-30 billion in agricultural production annually. In North America, honey bees pollinate nearly 100 kinds of fruits, including many specialty crops like almonds, cranberries, oranges and apples. Yet, over the past decade, there has been an alarming decline in honey bee populations around the world, with many colonies collapsing mysteriously. This phenomenon includes the syndrome known as “Colony Collapse Disorder” (CCD) and has been linked to a variety of factors, including: pesticides, pathogens, parasites, poor nutrition and habitat loss.

Some beekeepers have documented bee kills between 50-70 percent this year, and some lost 100 percent of their operations. A recent government-sponsored survey indicated that, on average, U.S. beekeepers lost 45.1 percent of the colonies in their operation during the winter of 2012/2013. These extreme losses—the worst documented since the advent of CCD—are a clear indication that deliberate action must be taken to protect honey bees and beekeeping operations across the country.

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Honey bees are not the only pollinator at risk: the health of native pollinators is also jeopardized by the same stressors adversely impacting honey bees. There are thousands of pollinating species, such as bumble bees, butterflies, beneficial flies and beetles, and several important bird and bat species at risk.

Some of these species are declining even faster than honey bees and are equally critical to agricultural production. The loss of native pollinators is therefore a significant threat to agriculture, yet there is no thorough monitoring of these losses by Federal agencies.

Sec. 11315 in the House-passed H.R.2642 was originally offered as an amendment to the farm bill by Representatives Alcee Hastings and Marcy Kaptur and passed by an overwhelming margin of 273-149. The amendment was nearly identical to an amendment offered by Senator Barbara Boxer to the Senate farm bill that did not receive a vote.

This provision would be a significant step towards ensuring the long-term viability of honey bees, wild bees, and other beneficial pollinators through several initiatives, including:

- Establishing better inter-agency coordination on pollinator health;
- Creating a USDA task force on bee health and commercial beekeeping;
- Directing Federal agencies to provide guidance on issues related to pollinator health;
- Monitoring and reporting on health and population status of managed and native pollinators, including bees, birds, bats and other species; and
- Assessing the feasibility for new public bee research labs, among other things.

Maintaining healthy populations of honey bees and other pollinators is essential for the long-term success of American agriculture. If passed into law, this provision would greatly improve Federal coordination in addressing the dramatic decline of managed and native pollinators as well as direct the government to regularly monitor and report on their health.

Oppose House Provision Seeking to Negate State and Local Protection Laws (Sec. 11312)

CFS strongly opposes a House provision that seeks to negate state and local laws regarding the production or manufacture of agriculture products. The provision, (Sec. 11312 of H.R. 2642) originally offered by Representative Steve King and adopted during the House Agriculture Committee's markup of H.R. 1947, is an intensely controversial provision that takes aim at state laws overwhelmingly approved by voters through ballot initiatives or by state legislatures.

The provision is so broad that it would likely block or preempt a wide swath of state laws covering everything from child labor to dangerous pesticides to food safety to alcohol and tobacco products. The provision could trigger expensive court cases about any state law related to agricultural products, from the use of certain pesticides and agricultural products to restrictions on firewood transported into a state in order to protect against invasive pests and damage to local forests.

This amendment would also force states to allow commerce in products they have banned. As the Supreme Court has made clear, the Commerce Clause allows Congress to regulate commerce; it doesn't give Congress the authority to mandate its creation, nor to require anyone to participate in commerce they find objectionable.

It is standard practice for states to impose conditions relating to the production or manufacture of agriculture products in order to safeguard their citizens. Some examples include state laws regarding the use of dangerous pesticides on crops; arsenic in poultry feed; labeling of farm-raised fish; state pollution standards, such as bans on spraying sewage on crops directly before they are fed to people, and requirements for lagoon siting, wastewater discharge, and use of licensed sludge applicators; and animal welfare laws restricting practices such as intensive confinement of animals on large farms.

Incursion into states' rights is antithetical to the central tenets of the Republican Party, while blocking or preempting regulatory safeguards is a non-starter for Democrats. Adopting this provision or anything like it would not only be bad policy, it would likely be a poison pill that could derail conference committee negotiations.

Oppose House Provision to Delay Lifesaving Food Safety Reforms (Sec. 11321)

CFS strongly opposes a provision (Sec. 11321 in H.R. 2642) which would unnecessarily delay implementation of lifesaving food safety regulations recently passed by Congress.

Foodborne illness is an ongoing, preventable epidemic that the Centers for Disease Control and Prevention estimates affects 48 million people – 1 in every 6 Americans – annually. Over 128,000 are hospitalized every year and 3,000 tragically die. Those that recover often suffer severe long-term effects, such as kidney failure, chronic arthritis, and brain and nerve damage. The annual costs to the U.S. economy in medical bills and productivity losses alone are over \$77 billion.

The provision –offered as an amendment by Representative Dan Benishek (R-MI) and agreed to by voice vote during previous proceedings on H.R.1947– seeks to further delay implementation of the Food Safety Modernization Act (FSMA) by requiring the U.S. Food and Drug Administration (FDA) to conduct a “scientific and economic analysis” of FSMA regulations before they can move forward. Not only is this provision unnecessary and duplicative, but it runs counter to the deadlines that Congress wrote into the law and were upheld by a Federal court.

Passed by Congress in 2011, FSMA was the first major U.S. food safety legislation since 1938 and its passage was heralded by public interest and farming groups alike. It also marked a much needed sea-change in how FDA should approach food safety, shifting from merely responding to outbreaks to preventing them.

Recognizing the need to balance prevention while not overly impacting the safest segment of the food sector, small farms and businesses, the Senate responsibly passed an amendment offered by Senators Jon Tester (D-MT) and Kay Hagan (D-NC) that alleviated these concerns by exempting small producers from FSMA. The Tester-Hagan provision, as well as the law's requirement that FDA establish science-based standards for safe food production, makes the current Benishek provision wholly unnecessary.

Since the passage of the Benishek amendment in the House farm bill, FDA announced in August that it will conduct a full Environmental Impact Statement (EIS) to assess the environmental and economic impacts its produce rule –one of seven specific regulations called for in FSMA– would have, particularly on small producers and farmers. FDA's decision to assess these impacts prior to finalizing the rule will help ensure the preventative food safety rules do not negatively impact small

farms and businesses. This was welcomed news for food safety and farm groups, and makes the Benishek amendment duplicative and unnecessary.

Regrettably, FDA has dragged its feet in implementing the lifesaving food safety provisions of FSMA and is severely behind the deadlines set by Congress. In a lawsuit brought by the Center for Food Safety, a Federal court ruled that FDA had violated the law by missing Congressional deadlines and ordered FDA to produce the regulations by deadlines set by court injunction. Per the Court's injunction, FDA must issue each draft rule by November 30, 2013, and each final rule, by June 30, 2015. The Court's injunction allows for robust period of public participation and agency revision.

Given that FSMA already includes protections for small producers written into the law, that FDA has taken it upon itself to analyze many of the impacts called for in the Benishek amendment, and that Congress previously and now a federal court have both set deadlines underscoring the urgent need for the regulations as soon as practicable, there is no reason that implementation of FSMA's lifesaving food safety regulations should be further delayed. Furthermore, the Benishek amendment did not receive a roll call vote. Therefore it is not clear that the provision is even widely supported by the House. As such, we oppose Sec. 11321 and call for it to be excluded from consideration in the final conference report.

Oppose House Provision to Remove Oversight of Hazardous Pesticides (Sec. 9014)

CFS opposes a House provision (Section 9014 of H.R. 2642) that could make it impossible for the Environmental Protection Agency (EPA) to stop hazardous imports of treated seeds before they get into commerce. Such a provision could have major repercussions for how EPA regulates seeds treated with pesticides or that are genetically engineered.

A similar amendment (SA 984) offered by Senator Fischer (R-NE) would repeal a section of the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) that authorizes EPA to evaluate and restrict seeds that are treated with pesticides or genetically engineered. This amendment, which did not receive a vote, could eliminate EPA's authority to protect farmers, consumers, and our vital pollinators from pesticides that are coated on seeds.

Congress should not consider such amendments to FIFRA, especially absent Congressional hearings with input from experts and the committees of jurisdiction. Therefore, CFS strongly opposes consideration of this or any similar language that could limit the ability of the EPA to stop hazardous imports of treated or genetically engineered seeds before they get into commerce.

Support Critical Investments in Domestic Organic Agriculture to Meet Growing Demand

As one of its core campaigns, CFS works to maintain and enhance strong organic standards that live up to the quality and integrity that consumers expect from organic products. In addition to its own work, CFS is a founding member of the National Organic Coalition (NOC), a national alliance of organizations involved in organic agriculture. CFS fully endorses NOC's recommendations to the 2013 farm bill conference committee summarized below.

As you may know, organic is one of the fastest growing sectors in U.S. agriculture today, with over 17,500 operations across America. The sector grew by over 10 percent last year and reached \$35 billion in sales. Currently, domestic demand for organic food and beverages far exceeds domestic

production. Companies producing organic products or retailers selling organic foods have had to look to foreign suppliers to meet the strong demand for organic foods by US consumers.

Unfortunately, the short-term farm bill extension enacted on January 1st of this year failed to fund any of these important organic programs. No other sector of agriculture was as hard-hit by this funding hiatus as the organic sector, which makes renewed funding for these programs as part of the 2013 farm bill or any extension of current law even more critical.

CFS strongly urges you to support the following provisions in any final farm bill legislation:

- **Senate Organic Certification Cost Share Program Provision (Sec.11034)**

CFS strongly supports the National Organic Certification Cost Share Program (NOCCSP), enacted in the 2002 farm bill and reauthorized through the 2008 farm bill, which has historically provided organic certification cost share for organic farmers in states not covered by the Agricultural Management Assistance (AMA), enacted as part of the Federal Crop Insurance Act.

Organic certification cost share is vital to growing the domestic supply of organically produced foods. It is particularly helpful to small and medium sized organic operations, for which the certification costs can be prohibitive. Without this assistance, many small and medium scale operations may stop getting certified all together.

The one-year farm bill extension legislation passed by Congress on January 1, 2013 did not provide any funding for the NOCCSP, so the program is now dormant. Even more concerning, the House farm bill repeals the National Organic Certification Cost Share Program, and continues to provide 10 percent of AMA program funding (\$1 million annually) for organic farmers (not handlers), but only for farmers in 16 designated AMA states.

The Senate farm bill includes a provision, Sec. 11034, to merge the two programs together under the AMA program umbrella, using the permanent funding baseline of that program in a manner that provides \$11.5 million annually for organic certification cost share. CFS strongly supports the Senate provision.

- **Senate Organic Production Market and Data Initiatives (ODI) Provision (Sec. 10005)**

ODI is USDA's multi-agency organic data collection initiative that collects information vital to maintaining stable markets, creating risk management tools, tracking production trends, and increasing exports. Like conventional agriculture, the organic industry cannot continue to thrive and maintain stable markets without good data collection.

Although funding for ODI was provided in the House Agriculture Committee's 2012 Farm Bill, it was not included in the 2013 House bill. CFS supports a Senate provision, Sec. 10005, which authorizes annual appropriations for the ODI, and also provides \$5 million in one-time mandatory funding for the program.

- **Modernization & Technology Upgrade for National Organic Program (Sec. 10005)**

The National Organic Program (NOP) performs regulatory oversight and maintains the integrity of the USDA organic label. It is essential to maintain this program to hold producers

accountable to the high standards of the organic label and to ensure consumers can have confidence in the organic products they purchase.

Sec. 10005 in the Senate farm bill authorizes annual appropriations for the NOP, and also provides \$5 million in one-time mandatory funding for technology and database upgrades for NOP so that the program can keep pace with growth in the organic sector and provide improved domestic and international oversight. Although this funding was provided in the House Agriculture Committee's 2012 Farm Bill, it was not included in the 2013 House bill. CFS supports the Senate provision.

CFS strongly encourages the conference committee to work together to produce final legislation that supports organic farmers, our vital pollinators and our ability to safeguard public health and the environment. In addition to the above priorities, CFS supports a nation-wide "Sodsaver" provision and the coupling of crop insurance subsidies with conservation compliance. We oppose any efforts undermine Country-of-Origin Labeling (COOL) and object to the inclusion of any provisions or policy riders that would negatively impact family farms, food safety, consumer rights or the environment.

As you begin your process for reconciling the agriculture titles of the 2013 farm bill passed by the House and Senate, we strongly encourage you to include these recommendations as part of a final conference report. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Colin O'Neil", written in a cursive style.

Colin O'Neil
Director of Government Affairs

Cc: Members of the 2013 Farm Bill Conference Committee