**The Safe Food Coalition (Center for Foodborne Illness Research & Prevention, Consumer Federation of America, Food and Water Watch, Government Accountability Project, National Consumers League, Safe Tables Our Priority, United Food and Commercial Workers International Union) and the American Federation of Government Employees**

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July 26, 2007

Dear Representative:

The undersigned members of the Safe Food Coalition and the American Federation of Government Employees strongly oppose the state-inspected meat and poultry provisions in the "Farm Bill," H.R. 2419.[1] These provisions would lower food safety standards and increase the risk of food poisoning in the U.S. They would encourage the least responsible and competent meat and poultry federally inspected processors to escape the rigorous safety enforcement of federal inspectors and search for more "understanding" and "flexible" enforcement by state inspectors.

**The provisions amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit meat and poultry products inspected by state inspectors to be sold in interstate commerce.** The goal, according to supporters, is to "create new markets for state-inspected meat" which they say would encourage the start-up of new, small meat and poultry processing companies that would compete with giant international slaughter and processing companies and offer farmers better prices. We agree that both farmers and consumers might benefit from increased competition in meat and poultry processing, but we reject the assumption that new companies and competition must be encouraged by dismantling the federal inspection system, reducing food safety standards, and raising the risk of foodborne illness.

**These provisions do not permit states to establish higher food safety standards. Federal meat and poultry laws pre-empt the states from raising standards.** USDA's Inspector General reports that the Department has not closed state programs that fail to provide safety protection "equal to" federal standards.

**The provisions affect federal, as well as state, inspected meat and poultry plants. They would make 80% of all federally inspected meat and poultry processing plants—4,532 of 5,603 plants-- eligible to switch from federal inspection to the more "business-friendly" state inspection.** With that change, if a federal inspector pressures a meat packer to improve sanitation, the packer could instead try to negotiate a more understanding regulatory response from his state inspection program. It is not surprising that both the American Meat Institute and the National Meat Association, whose

1 Title XI, Subsection B, Section 11103

members are federally inspected plants, have signed off on this language despite the authors' claims that it creates new competition for them.

A major exodus from federal to state inspection programs would not only threaten food safety but would also adversely affect thousands of federal inspection employees, contributing to a loss of federal inspection positions. Their loss would hurt American consumers who have benefited from the work of well-trained federal inspectors, all sworn to protect the public's health, who have, for over 40 years, been an important part of the nation's public health protection structure.

The provisions would also unleash lobbying campaigns to set up state inspection programs in the 22 states that currently do not have them so plants in those states can also seek "more understanding" enforcement of food safety laws under state programs.

**Thousands of very small plants thrive under federal inspection. Fifty-one percent of all federally inspected plants (2,878 of 5,603) have 10 or fewer employees and 80% have 50 or fewer employees.** These federally inspected small operations comply with federal inspection and make a profit. We do not support providing an unfair advantage to small companies who don't or can't make the commitments necessary to comply with federal food safety requirements.

**The USDA Office of Inspector General reports that plants subject to state inspection may not be as clean and sanitary as federally inspected plants.** In 1994 the IG said, "state programs are weak in policing plant sanitation and the federal government is weak in following up to make sure deficiencies in the state inspection system are fixed."[2]

**In October 2006, the OIG released an audit of state inspection that included stomach turning examples of state inspection programs failing to meet basic sanitation requirements and of FSIS failing to hold states responsible for protecting public health.**[3]

The OIG reported that FSIS visited 11 meat plants in Mississippi in October 2003. None of the plants met all HACCP requirements. FSIS reported that cutting boards in one plant were heavily contaminated with meat residues from the previous day's work and noted that some plants failed to monitor cooking temperatures, potentially exposing consumers to bacteria that cause foodborne illness.

The Mississippi meat inspection program allowed the plants to continue operating. FSIS allowed the Mississippi program to keep operating though it was not meeting the "equal to" federal inspection legal requirements.

**FSIS allowed meat plants in four states --Missouri, Wisconsin, Delaware and Minnesota to continue to operate, selling meat to unsuspecting consumers, even**

2 January 1994, Office of Inspector General Audit Report, "Food Safety and Inspection Service's Oversight of State-Administered Meat and Poultry Inspection Programs "

3 USDA OIG, report No. 24005-1-AT. September 2006

**after finding that the state programs were not meeting legal standards for "equal to."** Under current law, the risk from lax state meat and poultry inspection programs is limited because the products cannot leave the state in which they were produced. If Congress approves these provisions the problems would become nationwide as the products travel across the country.

**The USDA does not certify that each state inspected plant meets federal standards before coming into the program, nor does it go back to check to determine that the plants continue to meet federal standards.** FSIS officials determine "equal to" status primarily by looking at paper, not plants. They examine state plans. They almost never actually go into a state inspected plant to see what is really happening.

**The U.S. Court of Appeals for the Sixth Circuit explains why Congress is justified in limiting the shipment of state-inspected meat to the state in which it is produced:**

> "*…though the U.S. Department of Agriculture keeps an eye on state inspection programs, it keeps yet a closer eye on its own plants and on meat and poultry entering the country, and it is possible that a state program could deteriorate without the USDA's knowledge. This possibility provides a rational basis for Congress to restrict the interstate transport of state-inspected meat.*[4]"

**There is no effective way for state governments to assure recall of state inspected adulterated meat or poultry that has been shipped away from the state where it was produced. These provisions, therefore, will increase the risk of serious foodborne illness.** Neither USDA nor state governments has mandatory recall authority. Recalls are negotiated between the regulatory agency and the company. The USDA, however, has the staff and capacity both to negotiate with a company about the size and timing of a recall and to go to all the places where the product may have been distributed to be sure the recalled products are being removed. No individual state agriculture department has the authority or the capacity to institute and manage the recall of adulterated meat or poultry from another state.

**The provisions were approved by the House Agriculture Committee without the benefit of public hearings to explore the crucial issues or give opponents an opportunity to be heard.** The provisions were drafted by the National Association of State Departments of Agriculture whose members want to expand their programs. Meat packing trade associations, whose members may welcome the leverage of threatening to switch to state inspection, signed off on the provisions. Consumer and public health experts, as well as the unions who represent federal inspectors and workers in meatpacking plants, had no opportunity to address the issues.

**The provisions assure that the details of implementation would also avoid transparency and exclude public participation.** The provisions direct the Secretary of

4 Fred L. Dailey, Director Ohio Department of Agriculture, Plaintiff; Ohio Department of Agriculture, Plaintiff vs Ann M Veneman, Secretary, U.S. Department of Agriculture, defendant, Case No. 01-3146 2002 U.S. App. Lexis 24623, December 3, 2002.)

Agriculture to promulgate rules for the major new program within 180 days after the bill becomes law, effectively foreclosing any meaningful opportunity for notice and comment rulemaking, open meetings and public discussion. One of the provisions creates an advisory committee limited to officials of state inspection programs, excluding public health experts and representatives of consumers who might challenge whether public health is being given first consideration.

Neither the House of Representatives nor the American people are well served by the substance of these provisions or the process that produced them. We believe that approval of the Farm Bill language allowing state inspected meat and poultry products to be sold in interstate commerce would mark the beginning of the end of the nation's strong, uniform federal meat and poultry inspection system and would seriously undermine the public health protection federal inspection has built over the past 40 years.

Sincerely,

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