

Congress of the United States
Washington, DC 20510

April 16, 2014

The Honorable Margaret A. Hamburg
Commissioner
U.S. Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, Maryland 20993

Dear Commissioner Hamburg:

In recent months, we have heard from Kentucky distilling and livestock producers on a regulatory matter proposed by the Food and Drug Administration (FDA) that would have the effect of impeding the long-standing, symbiotic relationship between the Commonwealth's distilleries and its farmers. The proposed rule in question, Docket No. FDA-2011-N-0922, would tentatively place new regulations on what distilleries do with spent grains—the natural byproduct of the distillation process.

As you may know, the distillation process requires a combination of corn, rye or barley. The leftover liquid byproducts—the spent grains—are then typically provided to farmers for use as animal feed. Changing the regulations for these spent grains could result in distilleries disposing of the byproducts rather than their allowing farmers continued access to them. This is problematic for Kentucky because the disposal of spent grains would be costly, as rural municipal wastewater facilities are generally ill-equipped to handle the volume of spent grains produced by distilleries. One distiller in our state has indicated their company would have to dispose of 400,000 gallons of spent grains per day, which would swamp their local wastewater treatment plant. As a result of this lack of existing infrastructure, under this proposed rule, distillers would be required to form treatment plans for excess distillers' grain. This daunting task would cost distillers millions of dollars that could otherwise be spent creating long-term jobs.

Additionally, spent grains have a long history of being fed to livestock. This is due to its high protein content and affordability as distillers typically charge a nominal fee or offer spent grains to farmers free of charge. Any action by the FDA inhibiting our distillers' abilities to offer farmers spent grains would cost farmers an inexpensive and invaluable source of nutritious animal feed, driving up their costs as well.

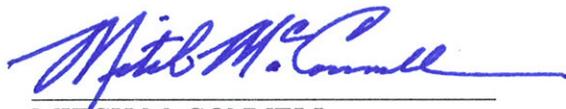
The distilling industry provides Kentucky with over 9,000 well-paying jobs, \$415 million in annual payroll and \$126 million in annual state and local tax revenue. Moreover, Kentucky's livestock industry—despite severe weather conditions in recent years—continues to place the Commonwealth as the leading beef cattle state east of the Mississippi River. With the Commonwealth's unemployment rate well above the national average, now is not the time to

Page 2
April 16, 2014

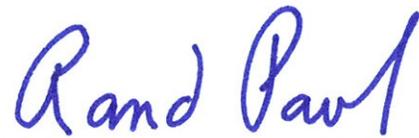
create needless regulatory burdens and increased costs for both of these growing industries. This Administration's excessive regulatory agenda has already caused enough harm for Kentucky.

It is our understanding the FDA intends to revisit this issue within the context of the proposed rule this summer. In doing so, we would strongly urge your agency to exclude spent grains entirely from inclusion within any final rulemaking. Should you or your staff have any questions or concerns, please do not hesitate to contact Tate Bennett in Senator McConnell's office at 202-224-8945 or at tate_bennett@mcconnell.senate.gov.

Sincerely,



MITCH McCONNELL
UNITED STATES SENATOR



RAND PAUL
UNITED STATE SENATOR



HAL ROGERS
MEMBER OF CONGRESS



ED WHITFIELD
MEMBER OF CONGRESS



BRETT GUTHRIE
MEMBER OF CONGRESS



THOMAS MASSIE
MEMBER OF CONGRESS



ANDY BARR
MEMBER OF CONGRESS