The Food and Drug Administration announced just before Christmas that, in response to public input, it is reconsidering its controversial proposed food safety rule. The proposed regulation, published in January of last year, was driven by good intentions: to reduce food poisoning by implementing certain safety standards for farms where certain produce is grown. But as we noted in our earlier analysis, FDA provided little evidence that its regulation would have had the desired effects. FDA is wise to reconsider its approach, to evaluate public comment, and to gather better information to ensure future regulation achieves safer fruits and vegetables without unintended consequences on small farmers or consumer health.

FDA struggled in developing the regulation, in part because it did not know how much foodborne illness is due to the farming practices its regulation would have affected versus food handling or storage. In contrast to the dubious benefits, the costs would have been very real, and fallen most heavily on small farms, which would have had a difficult time implementing the expensive provisions in the rule and, according to FDA’s own analysis, would be more likely to go out of business as a result. Interestingly, FDA’s analysis also showed that exempting small farms from the proposed food safety standards would increase the rule’s net benefits by $75 million annually.

Not only would the proposed rule have threatened small farms, it may have had the perverse effect of harming consumers by making fresh fruits and vegetables more expensive for lower income Americans. Families with smaller budgets would be more vulnerable to increased prices for fresh produce, especially with global food prices already on the rise. With fresh fruits and vegetables out of reach, lower-income Americans may have turned to other, less-nutritious foods to satisfy their hunger. This increase in food prices had the potential to hurt consumers’ wallets and waistlines.

Given these problems, FDA is wise to reconsider its proposal, and gather better data to support regulation that would be more effective at addressing the real concern of food poisoning.

Before FDA moves forward with a regulation, it should gather better evidence that its proposed standards will have the intended effect of reducing foodborne illness. To reduce the burden on small farms, FDA should give smallest farmers some wiggle room in complying with standards, which by FDA’s analysis would actually increase the net benefits of the rule. It should also identify how it will measure whether compliance with the requirements is working, and then measure the effectiveness of the rule’s requirements at reducing foodborne illness every two
years after the rule’s implementation. If these measures fail to show the expected improvements, FDA should change the standards to reflect the lessons learned, and make sure that consumers and farmers aren’t unnecessarily burdened by another ineffective good intention gone awry. It’s not fair for FDA to require consumers and small farms to shell out big bucks without offering to verify that its rule actually did what the Agency promised.

Better evidence before issuing the rule coupled with retrospective review could help FDA ensure that its ultimate regulation successfully reduces foodborne illnesses at the lowest cost to farmers and consumers.