agency with new tools to address the problem of three million middle and high school students using e-cigarettes and 1.4 million using cigars.

However, Section 749 of the House bill would block FDA from using funds to "implement, administer, or enforce" this final rule unless the rule excludes "large and premium cigars" from FDA oversight. FDA specifically examined whether premium cigars should be excluded from FDA oversight and concluded that there was no appropriate public health justification for doing so. FDA's scientific review found that all cigars pose serious negative health risks, including about 9,000 premature deaths a year, and that all cigars are potentially addictive. We are also concerned that the rider defines "large and premium cigars" so broadly that it could also exempt some cheap, machine-made, flavored cigars that are widely used by children. This exemption creates a loophole that invites tobacco companies to modify their products to qualify for this exemption – a loophole that tobacco companies will surely exploit to keep targeting children.

Section 761 of the House bill would change the so-called "grandfather date" in order to exempt e-cigarettes, cigars, and other tobacco products now on the market that FDA is beginning to oversee from an important product review requirement. Under current law, manufacturers are required to provide information to the FDA so that the agency can assess the risks to public health of new tobacco products, which are defined as products introduced to the market after February 15, 2007. Changing this date would exempt e-cigarettes, cigars and other products now on the market from this FDA review and would significantly weaken FDA's ability to take prompt action to protect children from thousands of fruit- and candy-flavored e-cigarettes and cigars, including products in flavors such as cotton candy, gummy bear and fruit punch that clearly appeal to kids.

Supporters of the "grandfather date" rider have portrayed it as a compromise that modernizes the Tobacco Control Act, but it is no such thing. This rider allows a new generation of tobacco products to be grandfathered in and relieves manufacturers of the responsibility to demonstrate that these products are not detrimental to public health.

Assessing the risks to public health of different types of tobacco products and determining how they are regulated is best determined using a science-based approach by FDA. Tobacco use remains the leading preventable cause of death in the United States and is responsible for an estimated $170 billion in health care costs each year. We are pleased the Senate Appropriations Committee has continued its tradition of keeping its Agriculture appropriations bill clean of riders that limit FDA's ability to oversee tobacco products, and we urge the full Senate to reject any amendments that would make it more difficult for FDA to address the public health problems that these products cause.

Sincerely,