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To establish the Food Safety Administration to protect the public health by preventing foodborne illness, ensuring the safety of food, improving research on contaminants leading to foodborne illness, and improving security of food from intentional contamination, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 28, 2015

Mr. DURBIN (for himself, Mrs. FEINSTEIN, Mrs. GILLIBRAND, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To establish the Food Safety Administration to protect the public health by preventing foodborne illness, ensuring the safety of food, improving research on contaminants leading to foodborne illness, and improving security of food from intentional contamination, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Safe Food Act of 2015”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings; purposes.
- Sec. 3. Definitions.

TITLE I—ESTABLISHMENT OF FOOD SAFETY ADMINISTRATION

- Sec. 101. Establishment of food safety administration.
- Sec. 102. Consolidation of separate food safety and inspection services and agencies.
- Sec. 103. Additional duties of the administration.

TITLE II—ADMINISTRATION OF FOOD SAFETY PROGRAM

- Sec. 201. Administration of national program.
- Sec. 202. Registration of food facilities.
- Sec. 203. Preventive process controls to reduce adulteration of food.
- Sec. 204. Performance standards for contaminants in food.
- Sec. 205. Inspections of food facilities.
- Sec. 206. Food production establishments.
- Sec. 207. Federal and State cooperation.
- Sec. 208. Foreign supplier verification program.
- Sec. 209. Imports.
- Sec. 210. Traceback.
- Sec. 211. Food safety technology.

TITLE III—RESEARCH AND EDUCATION

- Sec. 301. Public health assessment system.
- Sec. 302. Public education and advisory system.
- Sec. 303. Research.

TITLE IV—ENFORCEMENT

- Sec. 401. Prohibited acts.
- Sec. 402. Mandatory recall authority.
- Sec. 403. Injunction proceedings.
- Sec. 404. Civil and criminal penalties.
- Sec. 405. Presumption.
- Sec. 406. Whistleblower protection.
- Sec. 407. Administration and enforcement.
- Sec. 408. Citizen civil actions.

TITLE V—IMPLEMENTATION

- Sec. 501. Definition.
- Sec. 502. Reorganization plan.
- Sec. 503. Transitional authorities.
- Sec. 504. Savings provisions.
- Sec. 505. Conforming amendments.
- Sec. 506. Additional technical and conforming amendments.
- Sec. 507. Regulations.
- Sec. 508. Authorization of appropriations.

Sec. 509. Limitation on authorization of appropriations.

Sec. 510. Effective date.

1 **SEC. 2. FINDINGS; PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) the safety of the food supply of the United
4 States is vital to the public health, to public con-
5 fidence in the food supply, and to the success of the
6 food sector of the Nation’s economy;

7 (2) lapses in the protection of the food supply
8 and loss of public confidence in food safety are dam-
9 aging to consumers and the food industry, and place
10 a burden on interstate commerce;

11 (3) the safety and security of the food supply
12 requires an integrated, systemwide approach to pre-
13 venting foodborne illness, a thorough and broad-
14 based approach to basic and applied research, and
15 intensive, effective, and efficient management of the
16 Nation’s food safety program;

17 (4) the task of preserving the safety of the food
18 supply of the United States faces tremendous pres-
19 sures with regard to—

20 (A) emerging pathogens and other con-
21 taminants and the ability to detect all forms of
22 contamination;

23 (B) an aging and immune-compromised
24 population, with a growing number of people at

1 high risk for foodborne illnesses, including in-
2 fants and children;

3 (C) a concern regarding food fraud for eco-
4 nomic gain, especially with mislabeling and in-
5 tentiously misleading claims;

6 (D) an increasing volume of imported food,
7 without adequate monitoring and inspection;
8 and

9 (E) maintenance of rigorous inspection of
10 the domestic food processing and food service
11 industries;

12 (5) Federal food safety standard setting, in-
13 spection, enforcement, and research efforts should be
14 based on the best available science and public health
15 considerations and food safety resources should be
16 systematically deployed in ways that most effectively
17 prevent foodborne illness;

18 (6) the Federal food safety system is frag-
19 mented, with at least 15 Federal agencies sharing
20 responsibility for food safety, and operates under
21 laws that do not reflect current conditions in the
22 food system or current scientific knowledge about
23 the cause and prevention of foodborne illness;

24 (7) the fragmented Federal food safety system
25 and outdated laws preclude an integrated, system-

1 wide approach to preventing foodborne illness, to the
2 effective and efficient operation of the Nation’s food
3 safety program, and to the most beneficial deploy-
4 ment of food safety resources;

5 (8) the National Academy of Sciences rec-
6 ommended in the report “Ensuring Safe Food from
7 Production to Consumption” that Congress establish
8 by statute a unified and central framework for man-
9 aging Federal food safety programs, and rec-
10 ommended modifying Federal statutes so that in-
11 spection, enforcement, and research efforts are
12 based on scientifically supportable assessments of
13 risks to public health; and

14 (9) the lack of a single focal point for food safe-
15 ty leadership in the United States undercuts the
16 ability of the United States to exert food safety lead-
17 ership internationally, which is detrimental to the
18 public health and the international trade interests of
19 the United States.

20 (b) PURPOSES.—The purposes of this Act are—

21 (1) to establish a single agency to be known as
22 the “Food Safety Administration” to—

23 (A) regulate food safety and related label-
24 ing to strengthen the protection of the public
25 health;

1 (B) ensure that food facilities fulfill their
2 responsibility to produce food in a manner that
3 protects the public health of all people in the
4 United States;

5 (C) lead an integrated, systemwide ap-
6 proach to food safety and to make more effec-
7 tive and efficient use of resources to prevent
8 foodborne illness;

9 (D) provide a single focal point for food
10 safety leadership, both nationally and inter-
11 nationally; and

12 (E) provide an integrated food safety re-
13 search capability, utilizing internally generated,
14 scientifically and statistically valid studies, in
15 cooperation with academic institutions and
16 other scientific entities of the Federal and State
17 governments, to achieve the continuous im-
18 provement of research on foodborne illness and
19 contaminants;

20 (2) to transfer to the Food Safety Administra-
21 tion the food safety, labeling, inspection, and en-
22 forcement functions that, as of the day before the ef-
23 fective date of this Act, are performed by other Fed-
24 eral agencies; and

1 (3) to modernize and strengthen the Federal
2 food safety laws to achieve more effective application
3 and efficient management of the laws for the protec-
4 tion and improvement of public health.

5 **SEC. 3. DEFINITIONS.**

6 In this Act:

7 (1) ADMINISTRATION.—The term “Administra-
8 tion” means the Food Safety Administration estab-
9 lished under section 101(a)(1).

10 (2) ADMINISTRATOR.—The term “Adminis-
11 trator” means the Administrator of Food Safety ap-
12 pointed under section 101(a)(3).

13 (3) ADULTERATED.—

14 (A) IN GENERAL.—The term “adulter-
15 ated” has the meaning given such term in—

16 (i) section 402 of the Federal Food,
17 Drug, and Cosmetic Act (21 U.S.C. 342)
18 for food regulated under such Act;

19 (ii) section 1(m) of the Federal Meat
20 Inspection Act (21 U.S.C. 601(m)) for
21 food regulated under such Act;

22 (iii) section 4(g) of the Poultry Prod-
23 ucts Inspection Act (21 U.S.C. 453(g)) for
24 food regulated under such Act; and

1 (iv) section 4(a) of the Egg Products
2 Inspection Act (21 U.S.C. 1033(a)) for
3 food regulated under such Act.

4 (B) INCLUSION.—In applying the defini-
5 tions cited in subparagraph (A), poisonous or
6 deleterious substances in food shall be treated
7 as an added substance if the poisonous or dele-
8 terious substances are known to cause serious
9 illness or death in persons, including in sen-
10 sitive populations.

11 (4) AGENCY.—The term “agency” has the
12 meaning given that term in section 551 of title 5,
13 United States Code.

14 (5) CATEGORY 1 FOOD FACILITY.—The term
15 “category 1 food facility” means a facility that
16 slaughters animals for food.

17 (6) CATEGORY 2 FOOD FACILITY.—The term
18 “category 2 food facility” means a facility that proc-
19 esses—

20 (A) raw meat, poultry, or seafood in a
21 manner that may reduce but is not validated to
22 destroy contaminants; or

23 (B) other products that the Administrator
24 determines by regulation to be at high risk of
25 contamination.

1 (7) CATEGORY 3 FOOD FACILITY.—The term
2 “category 3 food facility” means a facility—

3 (A) that processes meat, poultry, or sea-
4 food, or other products that the Administrator
5 determines by regulation to be at high risk of
6 contamination; and

7 (B) whose processes include one or more
8 steps validated to destroy contaminants.

9 (8) CATEGORY 4 FOOD FACILITY.—The term
10 “category 4 food facility” means a facility that proc-
11 esses food but is not a category 1, 2, or 3 food facil-
12 ity.

13 (9) CATEGORY 5 FOOD FACILITY.—The term
14 “category 5 food facility” means a facility that
15 stores, holds, or transports food prior to delivery for
16 retail sale.

17 (10) CONTAMINANT.—The term “contaminant”
18 includes biological, chemical, physical, or radiological
19 hazards, natural toxins, pesticides, drug residues,
20 decomposition, parasites, allergens, and unapproved
21 food or color additives.

22 (11) CONTAMINATION.—The term “contamina-
23 tion” refers to a presence of a contaminant in food,
24 which may occur naturally or be introduced into a
25 food.

1 (12) FEED FACILITY.—The term “feed facility”
2 means a domestic or foreign feed manufacturer,
3 processor, packer, warehouse, or other facility that—

4 (A) if operating in the United States, man-
5 ufactures, slaughters, processes, or holds animal
6 feed or feed ingredients; or

7 (B) if operating elsewhere, manufactures,
8 slaughters, processes, or holds animal feed or
9 feed ingredients intended for consumption in
10 the United States.

11 (13) FOOD.—

12 (A) IN GENERAL.—The term “food”
13 means a product intended to be used for food
14 or drink for a human or an animal.

15 (B) INCLUSIONS.—The term “food” in-
16 cludes any product (including a meat food prod-
17 uct, as defined in section 1(j) of the Federal
18 Meat Inspection Act (21 U.S.C. 601(j))), capa-
19 ble for use as human and animal food that is
20 made in whole or in part from any animal, in-
21 cluding cattle, sheep, swine, goat, or poultry (as
22 defined in section 4 of the Poultry Products In-
23 spection Act (21 U.S.C. 453)), and animal feed.

24 (14) FOOD FACILITY.—

1 (A) IN GENERAL.—The term “food facil-
2 ity” means a domestic or foreign food manufac-
3 turer, slaughterhouse, processor, packer, ware-
4 house, or other facility that—

5 (i) if operating in the United States,
6 manufactures, slaughters, processes, or
7 holds food or food ingredients; or

8 (ii) if operating outside the United
9 States, manufactures, slaughters, proc-
10 esses, or holds food intended for consump-
11 tion in the United States.

12 (B) EXCLUSIONS.—For the purposes of
13 registration, the term “food facility” does not
14 include—

15 (i) a farm, restaurant, other retail
16 food establishment, nonprofit food estab-
17 lishment in which food is prepared for or
18 served directly to the consumer; or

19 (ii) a fishing vessel (other than a fish-
20 ing vessel engaged in processing, as that
21 term is defined in section 123.3(k) of title
22 21, Code of Federal Regulations).

23 (15) FOOD PRODUCTION ESTABLISHMENT.—
24 The term “food production establishment” means

1 any farm, ranch, orchard, vineyard, aquaculture fa-
2 cility, or confined animal-feeding operation.

3 (16) FOOD SAFETY LAW.—The term “food safe-
4 ty law” means—

5 (A) the provisions of the Federal Food,
6 Drug, and Cosmetic Act (21 U.S.C. 301 et
7 seq.) related to and requiring the safety, label-
8 ing, and inspection of food, infant formulas,
9 food additives, pesticide residues, and other
10 substances present in food under that Act;

11 (B) the provisions of the Federal Food,
12 Drug, and Cosmetic Act (21 U.S.C. 301 et
13 seq.) and of any other Act that are adminis-
14 tered by the Center for Veterinary Medicine of
15 the Food and Drug Administration;

16 (C) the Poultry Products Inspection Act
17 (21 U.S.C. 451 et seq.);

18 (D) the Federal Meat Inspection Act (21
19 U.S.C. 601 et seq.);

20 (E) the FDA Food Safety Modernization
21 Act (Public Law 111–353);

22 (F) the Egg Products Inspection Act (21
23 U.S.C. 1031 et seq.);

24 (G) the Sanitary Food Transportation Act
25 of 1990 (49 U.S.C. App. 2801 et seq.);

1 (H) chapter 57 of title 49, United States
2 Code;

3 (I) Public Law 85–765 (commonly known
4 as the “Humane Methods of Slaughter Act of
5 1958”) (7 U.S.C. 1901 et seq.);

6 (J) the provisions of this Act; and

7 (K) such other provisions of law related to
8 and requiring food safety, labeling, inspection,
9 and enforcement as the President designates by
10 Executive order as appropriate to include within
11 the jurisdiction of the Administration.

12 (17) INTERSTATE COMMERCE.—The term
13 “interstate commerce” has the meaning given that
14 term in section 201(b) of the Federal Food, Drug,
15 and Cosmetic Act (21 U.S.C. 321(b)).

16 (18) MISBRANDED.—The term “misbranded”
17 has the meaning given to it in—

18 (A) section 403 of the Federal Food,
19 Drug, and Cosmetic Act (21 U.S.C. 343) for
20 food regulated under such Act;

21 (B) section 1(n) of the Federal Meat In-
22 spection Act (21 U.S.C. 601(n)) for food regu-
23 lated under such Act;

1 (C) section 4(h) of the Poultry Products
2 Inspection Act (21 U.S.C. 453(h)) for food reg-
3 ulated under such Act; and

4 (D) section 4(l) of the Egg Products In-
5 spection Act (21 U.S.C. 1033(l)) for food regu-
6 lated under such Act.

7 (19) PROCESS.—The term “process” or “proc-
8 essing” means the commercial slaughter, packing,
9 preparation, or manufacture of food.

10 (20) SAFE.—The term “safe” refers to human
11 and animal health.

12 (21) STATE.—The term “State” means—

13 (A) a State;

14 (B) the District of Columbia;

15 (C) the Commonwealth of Puerto Rico;

16 and

17 (D) any other territory or possession of the
18 United States.

19 (22) VALIDATION.—The term “validation”
20 means the act of obtaining evidence that the process
21 control measure or measures selected to control a
22 contaminant in food is capable of effectively and
23 consistently controlling the contaminant.

24 (23) STATISTICALLY VALID.—The term “statis-
25 tically valid” means evaluated and conducted under

1 standards set by the National Institute of Standards
2 and Technology.

3 **TITLE I—ESTABLISHMENT OF**
4 **FOOD SAFETY ADMINISTRATION**

5 **SEC. 101. ESTABLISHMENT OF FOOD SAFETY ADMINISTRA-**
6 **TION.**

7 (a) ESTABLISHMENT.—

8 (1) IN GENERAL.—There is established in the
9 executive branch an agency to be known as the
10 “Food Safety Administration”.

11 (2) STATUS.—The Administration shall be an
12 independent establishment (as defined in section 104
13 of title 5, United States Code).

14 (3) HEAD OF ADMINISTRATION.—The Adminis-
15 tration shall be headed by the Administrator of Food
16 Safety, who shall be appointed by the President, by
17 and with the advice and consent of the Senate.

18 (b) DUTIES OF ADMINISTRATOR.—The Adminis-
19 trator shall—

20 (1) administer and enforce the food safety law;

21 (2) serve as a representative to international
22 food safety bodies and discussions;

23 (3) promulgate regulations to ensure the secu-
24 rity of the food supply from all forms of contamina-
25 tion, including intentional contamination; and

1 (4) oversee—

2 (A) implementation of Federal food safety
3 inspection, labeling, enforcement, and research
4 efforts to protect the public health;

5 (B) development of consistent and science-
6 based standards for safe food;

7 (C) coordination and prioritization of food
8 safety research and education programs with
9 other Federal agencies;

10 (D) prioritization of Federal food safety ef-
11 forts and deployment of Federal food safety re-
12 sources to achieve the greatest benefit in reduc-
13 ing foodborne illness;

14 (E) coordination of the Federal response to
15 foodborne illness outbreaks with other Federal
16 and State agencies; and

17 (F) integration of Federal food safety ac-
18 tivities with State and local agencies.

19 **SEC. 102. CONSOLIDATION OF SEPARATE FOOD SAFETY**
20 **AND INSPECTION SERVICES AND AGENCIES.**

21 (a) **TRANSFER OF FUNCTIONS.**—For each Federal
22 agency specified in subsection (b), there are transferred
23 to the Administration all functions that the head of the
24 Federal agency exercised on the day before the effective
25 date of this Act (including all related functions of any offi-

1 cer or employee of the Federal agency) that relate to ad-
2 ministration or enforcement of the food safety law, as de-
3 termined by the President.

4 (b) TRANSFERRED AGENCIES.—The Federal agen-
5 cies referred to in subsection (a) are—

6 (1) the Food Safety and Inspection Service of
7 the Department of Agriculture;

8 (2) the Center for Food Safety and Applied Nu-
9 trition of the Food and Drug Administration;

10 (3) the part of the Agriculture Marketing Serv-
11 ice that administers shell egg surveillance services
12 established under the Egg Products Inspection Act
13 (21 U.S.C. 1031 et seq.);

14 (4) the resources and facilities of the Office of
15 Regulatory Affairs of the Food and Drug Adminis-
16 tration that administer and conduct inspections of
17 food and feed facilities and imports;

18 (5) the Center for Veterinary Medicine of the
19 Food and Drug Administration;

20 (6) the resources and facilities of the Office of
21 the Commissioner of the Food and Drug Adminis-
22 tration, known as the Office of Food and Veterinary
23 Medicine, that support—

24 (A) the Center for Food Safety and Ap-
25 plied Nutrition;

1 (B) the Center for Veterinary Medicine;
2 and

3 (C) the Office of Regulatory Affairs facili-
4 ties and resources described in paragraph (4);

5 (7) the part of the Research, Education, and
6 Economics mission area of the Department of Agri-
7 culture related to food and feed safety;

8 (8) the part of the National Marine Fisheries
9 Service of the National Oceanic and Atmospheric
10 Administration of the Department of Commerce that
11 administers the seafood inspection program;

12 (9) the part of the Animal and Plant Inspection
13 Health Service of the Department of Agriculture re-
14 lated to the management of animals going into the
15 food supply; and

16 (10) such other offices, services, or agencies as
17 the President designates by Executive order to carry
18 out this Act.

19 **SEC. 103. ADDITIONAL DUTIES OF THE ADMINISTRATION.**

20 (a) OFFICERS AND EMPLOYEES.—The Administrator
21 may—

22 (1) appoint officers and employees for the Ad-
23 ministration in accordance with the provisions of
24 title 5, United States Code, relating to appointment
25 in the competitive service; and

1 (2) fix the compensation of those officers and
2 employees in accordance with chapter 51 and with
3 subchapter III of chapter 53 of that title, relating to
4 classification and General Schedule pay rates.

5 (b) EXPERTS AND CONSULTANTS.—The Adminis-
6 trator may—

7 (1) procure the services of temporary or inter-
8 mittent experts and consultants as authorized by
9 section 3109 of title 5, United States Code; and

10 (2) pay in connection with those services the
11 travel expenses of the experts and consultants, in-
12 cluding transportation and per diem in lieu of sub-
13 sistence while away from the homes or regular
14 places of business of the individuals, as authorized
15 by section 5703 of that title.

16 (c) BUREAUS, OFFICES, AND DIVISIONS.—The Ad-
17 ministrator may establish within the Administration such
18 bureaus, offices, and divisions as the Administrator deter-
19 mines are necessary to perform the duties of the Adminis-
20 trator.

21 (d) ADVISORY COMMITTEES.—

22 (1) IN GENERAL.—The Administrator shall es-
23 tablish advisory committees that consist of rep-
24 resentatives of scientific expert bodies, academics,
25 industry specialists, and consumers.

1 (2) DUTIES.—The duties of an advisory com-
2 mittee established under paragraph (1) may include
3 developing recommendations with respect to the de-
4 velopment of regulatory science and processes, re-
5 search, communications, performance standards, and
6 inspection.

7 **TITLE II—ADMINISTRATION OF** 8 **FOOD SAFETY PROGRAM**

9 **SEC. 201. ADMINISTRATION OF NATIONAL PROGRAM.**

10 (a) IN GENERAL.—The Administrator shall—

11 (1) administer a national food safety program
12 (referred to in this section as the “program”) to
13 protect public health; and

14 (2) ensure that persons who produce or process
15 food meet their responsibility to prevent or minimize
16 food safety hazards related to their products.

17 (b) COMPREHENSIVE ANALYSIS.—The program shall
18 be based on a comprehensive analysis of the hazards asso-
19 ciated with different food and with the processing of dif-
20 ferent food, including the identification and evaluation
21 of—

22 (1) the severity of the health risks;

23 (2) the sources and specific points of potential
24 contamination extending from the farm or ranch to
25 the consumer that may render food unsafe;

1 (3) the potential for persistence, multiplication,
2 or concentration of naturally occurring or added
3 contaminants in food;

4 (4) opportunities across the food production,
5 processing, distribution, and retail system to manage
6 and reduce potential health risks; and

7 (5) opportunities for intentional contamination.

8 (c) PROGRAM ELEMENTS.—In carrying out the pro-
9 gram, the Administrator shall—

10 (1) adopt and implement a national system for
11 the registration of food facilities and regular unan-
12 nounced inspection of food facilities;

13 (2) verify and enforce the adoption of preven-
14 tive process controls in food facilities, based on the
15 best available scientific and public health consider-
16 ations and best available technologies;

17 (3) establish and enforce science-based stand-
18 ards for—

19 (A) substances that may contaminate food;
20 and

21 (B) safety and sanitation in the processing
22 and handling of food;

23 (4) implement a statistically valid sampling pro-
24 gram to ensure that industry programs and proce-
25 dures that prevent food contamination are effective

1 on an ongoing basis and that food meets the per-
2 formance standards established under this Act;

3 (5) implement procedures and requirements to
4 ensure the safety and security of imported food;

5 (6) coordinate with other agencies and State or
6 local governments in carrying out inspection, en-
7 forcement, research, and monitoring;

8 (7) access the surveillance data of the Centers
9 for Disease Control and Prevention, and other Fed-
10 eral Government agencies, in order to develop and
11 implement a national surveillance system to assess
12 the health risks associated with the human consump-
13 tion of food or to create surveillance data and stud-
14 ies;

15 (8) partner with relevant agencies to identify
16 and prevent terrorist threats to food;

17 (9) establish a process for providing a single
18 point of contact to assist impacted consumers in
19 navigating Federal, State, and local agencies in-
20 volved in responding to or monitoring a foodborne
21 outbreak;

22 (10) develop public education risk communica-
23 tion and advisory programs;

24 (11) implement a basic and applied research
25 program to further the purposes of this Act; and

1 (12) coordinate and prioritize food safety re-
2 search and educational programs with other agen-
3 cies, including State or local agencies.

4 **SEC. 202. REGISTRATION OF FOOD FACILITIES.**

5 (a) IN GENERAL.—The Administrator shall require
6 that all food and feed facilities register before the facility
7 can operate in the United States or import food, feed, or
8 ingredients into the United States.

9 (b) REGISTRATION REQUIREMENTS.—

10 (1) IN GENERAL.—To be registered under sub-
11 section (a)—

12 (A) all food facilities covered under this
13 Act shall comply with registration requirements
14 in section 415 of the Federal Food, Drug, and
15 Cosmetic Act (21 U.S.C. 350d);

16 (B) for food facilities that have not reg-
17 istered under such section 415 prior to the date
18 of enactment of this Act, the requirement in
19 subparagraph (A) applies beginning on the day
20 that is 180 days after the date of enactment of
21 this Act; and

22 (C) for food facilities that have registered
23 under such section 415 prior to the date of en-
24 actment of this Act, such facilities shall file an
25 amended registration within 180 days of such

1 date of enactment to deliver the information re-
2 quired by paragraph (2).

3 (2) CATEGORIES.—In addition to the informa-
4 tion required under section 415 of the Federal Food,
5 Drug, and Cosmetic Act (21 U.S.C. 350d) to be in-
6 cluded in registration, a food facility shall—

7 (A) list the facility’s primary purpose and
8 business activity, including the dates of oper-
9 ation if the food facility is operating seasonally;
10 and

11 (B) list the types of food handled at the
12 facility and identify the activities conducted in
13 the facility, that are relevant to determining
14 whether the facility is a category 1, 2, 3, 4, or
15 5 facility.

16 (3) PROCEDURE.—Upon receipt of a completed
17 or amended registration described in paragraph (1),
18 the Administrator shall notify the registrant of the
19 receipt of the registration, review the activities iden-
20 tified in the registration, designate the facility as a
21 category 1, 2, 3, 4, or 5 food facility for the pur-
22 poses of inspection, and assign a registration num-
23 ber to each food facility.

24 (4) LIST.—The Administrator—

1 (A) shall compile and maintain an up-to-
2 date list of food facilities that are registered
3 under this section, in accordance with section
4 415(a)(5) of the Federal Food, Drug, and Cos-
5 metic Act (21 U.S.C. 350d(a)(5)); and

6 (B) may establish regulations on how the
7 list may be shared with other governmental au-
8 thorities.

9 **SEC. 203. PREVENTIVE PROCESS CONTROLS TO REDUCE**
10 **ADULTERATION OF FOOD.**

11 (a) IN GENERAL.—The Administrator shall review
12 existing regulations on hazard analysis and process con-
13 trols and amend existing regulations as appropriate, upon
14 the basis of best available public health, scientific, and
15 technological information, to ensure that those regulations
16 are working effectively to—

17 (1) ensure food facilities operate in a sanitary
18 manner so that food is not adulterated;

19 (2) limit the presence of contaminants in food;

20 (3) meet the performance standards established
21 under section 204;

22 (4) ensure fully processed or ready-to-eat foods
23 are processed using reasonably available techniques
24 and technologies to eliminate contaminants;

1 (5) label food intended for final processing out-
2 side commercial food facilities with instructions for
3 handling and preparation for consumption that will
4 destroy contaminants;

5 (6) require sampling and testing at a frequency
6 and in a manner sufficient to ensure that process
7 controls are effective on an ongoing basis and that
8 performance standards are being met; and

9 (7) provide for agency access to records kept by
10 food facilities and submission of copies of the
11 records to the Administrator, as the Administrator
12 determines appropriate.

13 (b) PROCESSING CONTROLS.—The Administrator
14 may require any person with responsibility for or control
15 over food or food ingredients to adopt process controls,
16 if the process controls are needed to ensure the protection
17 of the public health.

18 **SEC. 204. PERFORMANCE STANDARDS FOR CONTAMINANTS**

19 **IN FOOD.**

20 (a) PERFORMANCE STANDARDS.—Whenever the Ad-
21 ministrator determines that a foodborne contaminant pre-
22 sents the risk of serious adverse health consequences or
23 death to consumers, causes food to be adulterated, or
24 could promote the spread of communicable disease de-
25 scribed in section 361 of the Public Health Service Act

1 (42 U.S.C. 264), the Administrator shall issue a perform-
2 ance standard (in the form of guidance, action levels, or
3 regulations) to prevent or control the contaminant.

4 (b) ENFORCEMENT.—

5 (1) IN GENERAL.—Not later than 1 year after
6 the promulgation of a performance standard under
7 this section, the Administrator shall implement a
8 statistically significant sampling program to deter-
9 mine whether food facilities are complying with the
10 standards promulgated under this section.

11 (2) ACTIONS.—If the Administrator determines
12 that a food facility fails to meet a standard promul-
13 gated under this section, and such facility fails to
14 take appropriate corrective action as determined by
15 the Administrator, the Administrator shall, as ap-
16 propriate—

17 (A) detain, seize, or condemn food from
18 the food facility under section 209(i);

19 (B) order a recall of food from the food fa-
20 cility under section 402;

21 (C) increase the inspection frequency for
22 the food facility;

23 (D) withdraw the mark of inspection from
24 the food facility, if in use; or

1 (E) take other appropriate enforcement ac-
2 tion concerning the food facility, including sus-
3 pension of registration.

4 (c) NEWLY IDENTIFIED CONTAMINANTS.—Notwith-
5 standing any other provision of this section, the Adminis-
6 trator shall promulgate interim performance standards for
7 newly identified contaminants as necessary to protect the
8 public health.

9 (d) REVOCATION BY ADMINISTRATOR.—All perform-
10 ance standards, tolerances, action levels, or other similar
11 standards with respect to food in effect on the date of en-
12 actment of this Act shall remain in effect until revised or
13 revoked by the Administrator.

14 **SEC. 205. INSPECTIONS OF FOOD FACILITIES.**

15 (a) IN GENERAL.—The Administrator shall establish
16 an inspection program, which shall include sampling and
17 testing of food and food facilities, to determine if each food
18 facility—

19 (1) is operating in a sanitary manner;

20 (2) has continuous systems, interventions, and
21 processes in place to minimize or eliminate contami-
22 nants in food;

23 (3) uses validated process controls and ongoing
24 verification;

1 (4) is in compliance with applicable perform-
2 ance standards established under section 204, proc-
3 ess control regulations, and other requirements;

4 (5) is processing food that is safe and not adul-
5 terated or misbranded;

6 (6) maintains records of process control plans
7 under section 203, and other records related to the
8 processing, sampling, and handling of food; and

9 (7) is in compliance with the requirements of
10 the applicable food safety law.

11 (b) FACILITY CATEGORIES AND INSPECTION FRE-
12 QUENCIES.—Inspections of food facilities under this Act
13 shall be based on the following categories and inspection
14 frequencies, subject to subsections (c), (d), and (e):

15 (1) CATEGORY 1 FOOD FACILITIES.—A category
16 1 food facility shall be subject to antemortem, post-
17 mortem, and continuous inspection of each slaughter
18 line during all operating hours, and other inspection
19 on a daily basis, sufficient to verify that—

20 (A) diseased animals are not offered for
21 slaughter;

22 (B) the food facility has successfully iden-
23 tified and removed from the slaughter line visi-
24 bly defective or contaminated carcasses, has
25 avoided cross-contamination, and destroyed or

1 reprocessed contaminated carcasses in a man-
2 ner acceptable to the Administrator; and

3 (C) that applicable performance standards
4 and other provisions of the food safety law, in-
5 cluding those intended to eliminate or reduce
6 pathogens, have been satisfied.

7 (2) CATEGORY 2 FOOD FACILITIES.—A category
8 2 food facility shall be randomly inspected at least
9 daily.

10 (3) CATEGORY 3 FOOD FACILITIES.—A category
11 3 food facility shall—

12 (A) provide documentation to the Adminis-
13 trator on request that ongoing verification
14 shows that its processes are controlled; and

15 (B) be randomly inspected at least month-
16 ly.

17 (4) CATEGORY 4 FOOD FACILITIES.—A category
18 4 food facility shall be randomly inspected at least
19 quarterly.

20 (5) CATEGORY 5 FOOD FACILITIES.—A category
21 5 food facility shall be randomly inspected at least
22 annually.

23 (c) ESTABLISHMENT OF INSPECTION PROCE-
24 DURES.—The Administrator shall establish procedures
25 under which inspectors or safety officers inspect food fa-

1 cilities, which shall allow the taking of random samples,
2 photographs, and copies of records in food facilities.

3 (d) ALTERNATIVE INSPECTION FREQUENCIES.—

4 With respect to a category 2, 3, 4, or 5 food facility, the
5 Administrator may establish alternative increased or de-
6 creased inspection frequencies for subcategories of food fa-
7 cilities or for individual facilities, to foster risk-based allo-
8 cation of resources, subject to the following criteria and
9 procedures:

10 (1) Subcategories of food facilities and their al-
11 ternative inspection frequencies shall be defined by
12 regulation, subject to paragraphs (2) and (3).

13 (2) Alternative inspection frequencies for sub-
14 categories of food facilities under paragraph (1) and
15 for a specific food facility under paragraph (4) shall
16 provide that—

17 (A) category 2 food facilities shall be in-
18 spected at least monthly; and

19 (B) category 3 and 4 food facilities shall
20 be inspected at least annually.

21 (3) In defining subcategories of food facilities
22 and their alternative inspection frequencies under
23 paragraphs (1) and (2), the Administrator shall con-
24 sider—

1 (A) the nature of the foods being proc-
2 essed, stored, or transported;

3 (B) the manner in which foods are proc-
4 essed, stored, or transported;

5 (C) the inherent likelihood that the foods
6 will contribute to the risk of foodborne illness;

7 (D) the best available evidence concerning
8 reported illnesses associated with the foods pro-
9 duced in the proposed subcategory of facilities;
10 and

11 (E) the overall record of compliance with
12 the food safety law among facilities in the pro-
13 posed subcategory, including compliance with
14 applicable performance standards and the fre-
15 quency of recalls.

16 (4) The Administrator may adopt alternative
17 inspection frequencies for increased or decreased in-
18 spection for a specific facility, subject to paragraphs
19 (2) and (5), and shall annually publish a list of fa-
20 cilities subject to alternative inspections.

21 (5) In adopting alternative inspection fre-
22 quencies for a specific facility, the Administrator
23 shall consider—

24 (A) the supporting evidence that an indi-
25 vidual food facility shall submit related to

1 whether an alternative inspection frequency
2 should be established for such facility by the
3 Administrator;

4 (B) whether products from the specific fa-
5 cility have been associated with a case or an
6 outbreak of foodborne illness;

7 (C) the record of the facility of compliance
8 with the food safety law, including compliance
9 with applicable performance standards and the
10 frequency of recalls; and

11 (D) the criteria in paragraph (3).

12 (6) Before establishing decreased alternative in-
13 spection frequencies for subcategories of facilities or
14 individual facilities, the Administrator shall—

15 (A) describe the alternative uses of re-
16 sources in general terms when issuing the regu-
17 lation or order that establishes the alternative
18 inspection frequency; and

19 (B) determine, based on the best available
20 evidence, that the alternative uses of the re-
21 sources required to carry out the inspection ac-
22 tivity would make a greater contribution to pro-
23 tecting the public health and reducing the risk
24 of foodborne illness.

1 (e) INSPECTION TRANSITION.—The Administrator
2 shall manage the transition to the inspection system de-
3 scribed in this Act as follows:

4 (1) REGULATIONS.—The Administrator shall
5 promulgate regulations to implement this section no
6 later than 24 months after the date of enactment of
7 this Act.

8 (2) LIMIT ON REDUCTION IN INSPECTION FRE-
9 QUENCY.—For any food facility, the Administrator
10 shall not reduce the inspection frequency from the
11 frequency required pursuant to the Federal Meat In-
12 spection Act (21 U.S.C. 601 et seq.), the Poultry
13 Products Inspection Act (21 U.S.C. 451 et seq.),
14 and the Federal Food, Drug, and Cosmetic Act (21
15 U.S.C. 301 et seq.) until the food facility has dem-
16 onstrated that sufficient changes in facilities, proce-
17 dures, personnel, or other aspects of the process con-
18 trol system have been made such that the Adminis-
19 trator determines that compliance with the food
20 safety law is achieved.

21 (f) OFFICIAL MARK.—

22 (1) IN GENERAL.—

23 (A) ESTABLISHMENT.—Before the comple-
24 tion of the transition process under subsection
25 (e), the Administrator shall by regulation estab-

1 lish an official mark that can be affixed to a
2 food produced in a category 1, 2, or 3 food fa-
3 cility if—

4 (i) the facility is in compliance with
5 the food safety law; and

6 (ii) has been inspected in accordance
7 with the inspection frequencies under this
8 section.

9 (B) REMOVAL OF OFFICIAL MARK.—The
10 Administrator shall promulgate regulations that
11 provide for the removal of the official mark
12 under this subsection if—

13 (i) the Administrator makes a finding
14 that the facility is not in compliance with
15 the food safety law; or

16 (ii) the Administrator suspends the
17 registration of the facility.

18 (2) CATEGORY 1, 2, OR 3 FOOD FACILITIES.—
19 In the case of products manufactured, slaughtered,
20 processed, or held in a category 1, 2, or 3 food facil-
21 ity—

22 (A) products subject to Federal Meat In-
23 spection Act (21 U.S.C. 601 et seq.), the Poul-
24 try Products Inspection Act (21 U.S.C. 451 et
25 seq.), the Egg Products Inspection Act (21

1 U.S.C. 1031 et seq.), and the Federal Food,
2 Drug, and Cosmetic Act (21 U.S.C. 301 et
3 seq.) as of the date of enactment of this Act,
4 shall remain subject to the requirement under
5 those Acts that they bear the mark of inspec-
6 tion pending completion of the transition proc-
7 ess under subsection (e);

8 (B) the Administrator shall publicly certify
9 on a monthly basis that the inspection fre-
10 quencies required under this section have been
11 achieved; and

12 (C) a product from a facility that has not
13 been inspected in accordance with the required
14 frequencies under this section shall not bear the
15 official mark and shall not be shipped in inter-
16 state commerce.

17 (3) CATEGORY 4 AND 5 FOOD FACILITIES.—In
18 the case of a product manufactured, slaughtered,
19 processed, or held in a category 4 or 5 food facility,
20 the Administrator shall provide by regulation for the
21 voluntary use of the official mark established under
22 paragraph (1), subject to—

23 (A) such minimum inspection frequencies
24 as determined appropriate by the Adminis-
25 trator;

1 (B) compliance with applicable perform-
2 ance standards and other provisions of the food
3 safety law; and

4 (C) such other requirements as the Admin-
5 istrator considers appropriate.

6 (g) MAINTENANCE AND INSPECTION OF RECORDS.—

7 (1) IN GENERAL.—

8 (A) RECORDS.—A food facility shall—

9 (i) maintain such records as the Ad-
10 ministrator requires by regulation, includ-
11 ing all records relating to the processing,
12 distributing, receipt, or importation of any
13 food; and

14 (ii) permit the Administrator, in addi-
15 tion to any authority of the food safety
16 agencies in effect on the day before the
17 date of enactment of this Act, upon pres-
18 entation of appropriate credentials and at
19 reasonable times and in a reasonable man-
20 ner, to have access to and copy all records
21 maintained by or on behalf of such food fa-
22 cility representative in any format (includ-
23 ing paper or electronic) and at any loca-
24 tion, that are necessary to assist the Ad-
25 ministrator to determine whether the food

1 is contaminated or not in compliance with
2 the food safety law.

3 (B) REQUIRED DISCLOSURE.—A food facil-
4 ity shall have an affirmative obligation to dis-
5 close to the Administrator the results of testing
6 or sampling of food, equipment, or material in
7 contact with food, that is positive for any con-
8 taminant.

9 (2) MAINTENANCE OF RECORDS.—The records
10 required by paragraph (1) shall be maintained for a
11 reasonable period of time, as determined by the Ad-
12 ministrator.

13 (3) REQUIREMENTS.—The records required by
14 paragraph (1) shall include records describing—

15 (A) the origin, receipt, delivery, sale, move-
16 ment, holding, and disposition of food or ingre-
17 dients;

18 (B) the identity and quantity of ingredi-
19 ents used in the food;

20 (C) the processing of the food;

21 (D) the results of laboratory, sanitation, or
22 other tests performed on the food or in the food
23 facility;

24 (E) consumer complaints concerning the
25 food or packaging of the food;

1 (F) the production codes, open date codes,
2 and locations of food production; and

3 (G) other matters reasonably related to
4 whether food is unsafe, is adulterated or mis-
5 branded, or otherwise fails to meet the require-
6 ments of this Act.

7 (h) PROTECTION OF SENSITIVE INFORMATION.—

8 (1) IN GENERAL.—The Administrator shall de-
9 velop and maintain procedures to prevent the unau-
10 thorized disclosure of any trade secret or confiden-
11 tial information obtained by the Administrator.

12 (2) LIMITATION.—The requirement under this
13 subsection does not—

14 (A) limit the authority of the Adminis-
15 trator to inspect or copy records or to require
16 the facility or maintenance of records under
17 this Act;

18 (B) have any legal effect on section 1905
19 of title 18, United States Code;

20 (C) extend to any food recipe, financial
21 data, pricing data, personnel data, or sales data
22 (other than shipment dates relating to sales);

23 (D) limit the public disclosure of distribu-
24 tion records or other records related to food

1 subject to a voluntary or mandatory recall
2 under section 402; or

3 (E) limit the authority of the Adminis-
4 trator to promulgate regulations to permit the
5 sharing of data with other governmental au-
6 thorities.

7 (i) BRIBERY OF OR GIFTS TO INSPECTOR OR OTHER
8 OFFICERS AND ACCEPTANCE OF GIFTS.—Section 22 of
9 the Federal Meat Inspection Act (21 U.S.C. 622) shall
10 apply under this Act.

11 **SEC. 206. FOOD PRODUCTION ESTABLISHMENTS.**

12 In carrying out the duties of the Administrator and
13 the purposes of this Act, the Administrator shall have the
14 authority, with respect to food production establishments,
15 to—

16 (1) visit and inspect food production establish-
17 ments in the United States and in foreign countries
18 for food safety purposes;

19 (2) review food safety records as needed to
20 carry out traceback and for other food safety pur-
21 poses;

22 (3) set good practice standards to protect the
23 public and promote food safety;

1 (4) partner with appropriate agencies to mon-
2 itor animals, plants, products, or the environment,
3 as appropriate; and

4 (5) collect and maintain information relevant to
5 public health and farm practices.

6 **SEC. 207. FEDERAL AND STATE COOPERATION.**

7 (a) IN GENERAL.—The Administrator shall work
8 with the States to carry out activities and programs that
9 create a national food safety program so that Federal and
10 State programs function in a coordinated and cost-effec-
11 tive manner.

12 (b) STATE ACTION.—The Administrator shall work
13 with States to—

14 (1) continue, strengthen, or establish State food
15 safety programs, especially with respect to the regu-
16 lation of retail commercial food establishments,
17 transportation, harvesting, and fresh markets;

18 (2) continue, strengthen, or establish inspection
19 programs and requirements to ensure that food
20 under the jurisdiction of the State is safe; and

21 (3) support recall authorities at the State and
22 local levels.

23 (c) ASSISTANCE.—To assist in planning, developing,
24 and implementing a food safety program, the Adminis-
25 trator may provide to a State—

1 (1) advisory assistance;

2 (2) technical and laboratory assistance and
3 training (including necessary materials and equip-
4 ment); and

5 (3) financial assistance, in kind, and other aid.

6 (d) SERVICE AGREEMENTS.—

7 (1) IN GENERAL.—The Administrator may,
8 under agreements entered into with Federal, State,
9 or local agencies, use on a reimbursable basis or oth-
10 erwise, the personnel and services of those agencies
11 in carrying out this Act.

12 (2) TRAINING.—Agreements with a State under
13 this subsection may provide for training of State em-
14 ployees.

15 (3) MAINTENANCE OF AGREEMENTS.—The Ad-
16 ministrator shall maintain any agreement that is in
17 effect on the day before the date of enactment of
18 this Act until the Administrator evaluates such
19 agreement and determines whether to maintain or
20 substitute such agreement.

21 (e) AUDITS.—

22 (1) IN GENERAL.—The Administrator shall an-
23 nually conduct a comprehensive review of each State
24 program that provides services to the Administrator

1 in carrying out the responsibilities under this Act,
2 including mandated inspections under section 205.

3 (2) REQUIREMENTS.—The review shall—

4 (A) include a determination of the effec-
5 tiveness of the State program; and

6 (B) identify any changes necessary to en-
7 sure enforcement of Federal requirements
8 under this Act.

9 (f) NO FEDERAL PREEMPTION.—Nothing in this Act
10 shall be construed to preempt the enforcement of State
11 food safety laws and standards that are at least as strin-
12 gent as those under this Act.

13 **SEC. 208. FOREIGN SUPPLIER VERIFICATION PROGRAM.**

14 (a) IN GENERAL.—The Administrator shall require
15 that each importer of products from a feed facility, food
16 facility, or food producer establishment be in compliance
17 with the foreign supplier verification program require-
18 ments under section 805 of the Federal Food, Drug, and
19 Cosmetic Act (21 U.S.C. 384a).

20 (b) RULE OF CONSTRUCTION.—In applying sub-
21 section (a) with respect to products subject to the Federal
22 Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry
23 Products Inspection Act (21 U.S.C. 451 et seq.), or the
24 Egg Products Inspection Act (21 U.S.C. 1031 et seq.),
25 references in section 805 of the Federal Food, Drug, and

1 Cosmetic Act (21 U.S.C. 384a) to sections 402, 403(w),
2 418, and 419 of such Act (21 U.S.C. 342, 343(w), 350g,
3 and 350h) shall be construed to be references to the cor-
4 responding provisions of the food safety law, if any, that
5 apply to such products, as determined by the Adminis-
6 trator.

7 (c) REPEAL OF EXEMPTIONS.—Subsection (e) of sec-
8 tion 805 of the Federal Food, Drug, and Cosmetic Act
9 (21 U.S.C. 384a) is hereby repealed.

10 **SEC. 209. IMPORTS.**

11 (a) IN GENERAL.—Not later than 2 years after the
12 effective date of this Act, the Administrator shall establish
13 a system under which a foreign government seeking to cer-
14 tify food for importation into the United States shall sub-
15 mit a request for accreditation to the Administrator.

16 (b) ACCREDITATION STANDARD.—A foreign govern-
17 ment requesting to be accredited to certify food for impor-
18 tation into the United States shall demonstrate, in a man-
19 ner determined appropriate by the Administrator, that the
20 foreign government (or an agency thereof) is capable of
21 adequately ensuring that eligible entities or foods certified
22 by such government (or agency) meet the requirements of
23 the food safety law.

24 (c) REQUEST BY FOREIGN GOVERNMENT.—Prior to
25 granting accreditation to a foreign government under this

1 section, the Administrator shall review and audit the food
2 safety program of the requesting foreign government and
3 certify that such program (including all statutes, regula-
4 tions, and inspection authority) meets the standard speci-
5 fied in subsection (b).

6 (d) LIMITATIONS.—Any accreditation of a foreign
7 government under this section shall—

8 (1) specify the foods covered by the accredita-
9 tion; and

10 (2) be limited to a period not to exceed 5 years.

11 (e) WITHDRAWAL OF ACCREDITATION.—The Admin-
12 istrator may withdraw accreditation fully or partially from
13 a foreign government if the Administrator finds that—

14 (1) food covered by the accreditation is linked
15 to an outbreak of human illness;

16 (2) the programs or procedures of the foreign
17 government no longer meet the standards of the food
18 safety programs and procedures of the United
19 States; or

20 (3) the foreign government refuses to allow
21 United States officials to conduct such audits and
22 investigations as may be necessary to fulfill the re-
23 quirements under this section.

24 (f) RENEWAL OF ACCREDITATION.—The Adminis-
25 trator shall audit foreign governments accredited under

1 this section at least every 5 years to ensure the continued
2 compliance by such governments with the standard set
3 forth in subsection (b).

4 (g) REQUIRED ROUTINE INSPECTION.—The Admin-
5 istrator shall routinely inspect food or food animals by
6 physical examination before the food or food animals enter
7 the United States to ensure that the food or food ani-
8 mals—

9 (1) are safe;

10 (2) are labeled as required for food produced in
11 the United States; and

12 (3) otherwise meet the requirements of the food
13 safety law.

14 (h) ENFORCEMENT.—The Administrator may—

15 (1) deny importation of food from any country
16 if the country's government does not permit United
17 States officials to enter the country to conduct such
18 audits and inspections as may be necessary to fulfill
19 the requirements under this section;

20 (2) deny importation of food from any country
21 or foreign facility that does not consent to an inves-
22 tigation by the Administrator when food from that
23 country or foreign facility is linked to a foodborne
24 illness outbreak or is otherwise found to be adulter-
25 ated or mislabeled; and

1 (3) promulgate regulations to carry out the pur-
2 poses of this section, including setting terms and
3 conditions for the destruction of products that fail to
4 meet the standards of the food safety law.

5 (i) **DETENTION AND SEIZURE.**—Any food imported
6 for consumption in the United States that fails to meet
7 the standards of the food safety law may be detained,
8 seized, or condemned.

9 **SEC. 210. TRACEBACK.**

10 (a) **IN GENERAL.**—The Administrator, in order to
11 protect the public health, shall establish requirements for
12 a national system for tracing food, animals, or ingredients
13 from point of origin to retail sale, subject to subsection
14 (b).

15 (b) **APPLICABILITY.**—Traceability requirements
16 shall—

17 (1) be established in accordance with regula-
18 tions and guidelines issued by the Administrator;
19 and

20 (2) apply to food production establishments and
21 food facilities.

22 **SEC. 211. FOOD SAFETY TECHNOLOGY.**

23 (a) **IN GENERAL.**—The Administrator shall establish
24 and implement a program, to be known as the Food Safety
25 Technology Program, to foster innovation in food tech-

1 nologies and foods that have the potential to improve food
2 safety at the point of production, processing, transport,
3 storage, or final preparation.

4 (b) PROGRAM DESCRIBED.—The program under this
5 section shall consist of technical guidance to and consulta-
6 tion with technology developers to assist them in meeting
7 requirements for approval of technologies and products de-
8 scribed in subsection (a).

9 **TITLE III—RESEARCH AND** 10 **EDUCATION**

11 **SEC. 301. PUBLIC HEALTH ASSESSMENT SYSTEM.**

12 (a) IN GENERAL.—The Administrator, acting in co-
13 ordination with the Director of the Centers for Disease
14 Control and Prevention and with the Research Education
15 and Economics mission area of the Department of Agri-
16 culture, shall—

17 (1) have access to the applicable data systems
18 of the Centers for Disease Control and Prevention
19 and to the databases made available by a State;

20 (2) partner with relevant agencies to maintain
21 or access an active surveillance system of food and
22 epidemiological evidence submitted by States to the
23 Centers for Disease Control and Prevention based
24 on a representative proportion of the population of
25 the United States;

1 (3) assess the frequency and sources of human
2 illness in the United States associated with the con-
3 sumption of food;

4 (4) partner with relevant agencies to maintain
5 or access a state-of-the-art partial or full genome se-
6 quencing system and epidemiological system dedi-
7 cated to foodborne illness identification, outbreaks,
8 and containment; and

9 (5) have access to the surveillance data created
10 via monitoring and statistical studies conducted as
11 part of its own inspection.

12 (b) PUBLIC HEALTH SAMPLING.—

13 (1) IN GENERAL.—Not later than 1 year after
14 the effective date of this Act, the Administrator shall
15 establish guidelines for a sampling system under
16 which the Administrator shall take and analyze sam-
17 ples of food—

18 (A) to assist the Administrator in carrying
19 out this Act; and

20 (B) to assess the nature, frequency of oc-
21 currence, and quantities of contaminants in
22 food.

23 (2) REQUIREMENTS.—The sampling system de-
24 scribed in paragraph (1) shall provide—

1 (A) statistically valid monitoring, including
2 market-based studies, on the nature, frequency
3 of occurrence, and quantities of contaminants
4 in food available to consumers; and

5 (B) at the request of the Administrator,
6 such other information, including analysis of
7 monitoring and verification samples, as the Ad-
8 ministrator determines may be useful in assess-
9 ing the occurrence of contaminants in food.

10 (c) ASSESSMENT OF HEALTH HAZARDS.—Through
11 the surveillance system referred to in subsection (a), the
12 sampling system described in subsection (b), and other
13 available data, the Administrator shall—

14 (1) rank food categories based on the hazard to
15 human health presented by the food category;

16 (2) identify appropriate industry and regulatory
17 approaches to minimize hazards in the food supply;
18 and

19 (3) assess the public health environment for
20 emerging diseases, including zoonosis, for their risk
21 of appearance in the United States food supply.

22 **SEC. 302. PUBLIC EDUCATION AND ADVISORY SYSTEM.**

23 (a) PUBLIC EDUCATION.—The Administrator shall—

24 (1) in cooperation with private and public orga-
25 nizations, including the cooperative extension serv-

1 ices and building on the efforts of appropriate State
2 and local entities, establish a national public edu-
3 cation program on food safety; and

4 (2) coordinate with other Federal departments
5 and agencies to integrate food safety messaging into
6 all food-related agricultural, nutrition, and health
7 promotion programs.

8 (b) HEALTH ADVISORIES.—The Administrator, in
9 consultation with such other Federal departments and
10 agencies as the Administrator determines necessary, shall
11 work with the States and other appropriate entities—

12 (1) to develop and distribute regional and na-
13 tional advisories concerning food safety;

14 (2) to develop standardized formats for written
15 and broadcast advisories;

16 (3) to incorporate State and local advisories
17 into the national public education program estab-
18 lished under subsection (a); and

19 (4) to present prompt, specific information re-
20 garding foods found to pose a threat to the public
21 health.

22 **SEC. 303. RESEARCH.**

23 (a) IN GENERAL.—The Administrator shall conduct
24 research to carry out this Act, including studies to—

- 1 (1) improve sanitation and food safety practices
2 in the processing of food;
- 3 (2) develop improved techniques to monitor and
4 inspect food;
- 5 (3) develop efficient, rapid, and sensitive meth-
6 ods to detect contaminants in food;
- 7 (4) determine the sources of contamination of
8 contaminated food;
- 9 (5) develop food consumption data;
- 10 (6) identify ways that animal production tech-
11 niques could improve the safety of the food supply;
- 12 (7) draw upon research and educational pro-
13 grams that exist at the State and local level;
- 14 (8) determine the food safety education needs
15 of vulnerable populations, including children less
16 than 10 years of age, pregnant women, adults 65
17 years of age and older, and individuals with com-
18 promised immune systems;
- 19 (9) utilize the partial or full genome sequencing
20 system and other processes to identify and control
21 pathogens;
- 22 (10) address common and emerging zoonotic
23 diseases;

1 (11) develop methods to reduce or destroy
2 harmful pathogens before, during, and after proc-
3 essing;

4 (12) analyze the incidence of antibiotic resist-
5 ance as it pertains to the food supply and develop
6 new methods to reduce infection by antibiotic resist-
7 ant bacteria in humans and animals; and

8 (13) conduct other research that supports the
9 purposes of this Act.

10 (b) CONTRACT AUTHORITY.—The Administrator may
11 enter into contracts and agreements with any State, uni-
12 versity, Federal Government agency, or person to carry
13 out this section.

14 **TITLE IV—ENFORCEMENT**

15 **SEC. 401. PROHIBITED ACTS.**

16 It is prohibited—

17 (1) to manufacture, introduce, deliver for intro-
18 duction, or receive into interstate commerce any food
19 that is adulterated, misbranded, or otherwise unsafe;

20 (2) to adulterate or misbrand any food in inter-
21 state commerce;

22 (3) for a food facility or foreign food facility to
23 fail to register under section 202, or to operate with-
24 out a valid registration;

1 (4) to refuse to permit access to a food facility
2 for the inspection and copying of a record as re-
3 quired under section 205(g);

4 (5) to fail to establish or maintain any record
5 or to make any report as required under section
6 205(g);

7 (6) to refuse to permit entry to or inspection of
8 a food facility as required under section 205;

9 (7) to fail to provide to the Administrator the
10 results of a testing or sampling of a food, equip-
11 ment, or material in contact with contaminated food
12 under section 205(g)(1)(B);

13 (8) to fail to comply with an applicable provi-
14 sion of, or a regulation or order of the Administrator
15 under, section 202, 204, or 208;

16 (9) to slaughter an animal that is capable for
17 use in whole or in part as human food at a food fa-
18 cility processing any such food for commerce, except
19 in compliance with the food safety law;

20 (10) to fail to comply with a recall or other
21 order under section 402; or

22 (11) to otherwise violate the food safety law.

23 **SEC. 402. MANDATORY RECALL AUTHORITY.**

24 (a) VOLUNTARY PROCEDURES.—If the Administrator
25 determines that there is a reasonable probability that an

1 article of food (other than infant formula) is adulterated
2 or misbranded and the use of or exposure to such article
3 will cause serious adverse health consequences or death
4 to humans or animals, the Administrator shall provide the
5 owner, operator, or agent in charge of the facility that cre-
6 ated, caused, or was otherwise responsible for such food
7 with an opportunity to cease distribution and recall such
8 article.

9 (b) PREHEARING ORDER TO CEASE DISTRIBUTION
10 AND GIVE NOTICE.—

11 (1) IN GENERAL.—If the owner, operator, or
12 agent in charge of the facility refuses to or does not
13 voluntarily cease distribution or recall such article
14 within the time and in the manner prescribed by the
15 Administrator (if so prescribed), the Administrator
16 may by order require, as the Administrator deems
17 necessary, such person to—

18 (A) immediately cease distribution of such
19 article;

20 (B) as applicable, immediately notify all
21 persons manufacturing, processing, packing,
22 transporting, distributing, receiving, holding, or
23 importing and selling such article; and

1 (C) to which such article has been distrib-
2 uted, transported, or sold, immediately cease
3 distribution of such article.

4 (2) REQUIRED ADDITIONAL INFORMATION.—

5 (A) IN GENERAL.—If an article of food
6 covered by a recall order issued under para-
7 graph (1)(B) has been distributed to a ware-
8 house-based, third-party logistics provider with-
9 out providing such provider sufficient informa-
10 tion to know or reasonably determine the pre-
11 cise identity of the article of food covered by a
12 recall order that is in its possession, the notice
13 provided by the responsible party subject to the
14 order issued under paragraph (1)(B) shall in-
15 clude such information as is necessary for the
16 warehouse-based, third-party logistics provider
17 to identify the food.

18 (B) RULES OF CONSTRUCTION.—Nothing
19 in this paragraph shall be construed—

20 (i) to exempt a warehouse-based,
21 third-party logistics provider from the re-
22 quirements of food safety law; or

23 (ii) to exempt a warehouse-based,
24 third-party logistics provider from being
25 the subject of a mandatory recall order.

1 (3) DETERMINATION TO LIMIT AREAS AF-
2 FECTED.—If the Administrator requires an owner,
3 operator, or agent in charge of the facility to cease
4 distribution under paragraph (1)(A) of an article of
5 food identified in subsection (a), the Administrator
6 may limit the size of the geographic area and the
7 markets affected by such cessation if such limitation
8 would not compromise the public health.

9 (c) HEARING ON ORDER.—The Administrator shall
10 provide the owner, operator, or agent in charge of the fa-
11 cility subject to an order under subsection (b) with an op-
12 portunity for an informal hearing, to be held as soon as
13 possible, but not later than 2 days after the issuance of
14 the order, on the actions required by the order and on
15 why the article that is the subject of the order should not
16 be recalled.

17 (d) POST-HEARING RECALL ORDER AND MODIFICA-
18 TION OF ORDER.—

19 (1) AMENDMENT OF ORDER.—If, after pro-
20 viding opportunity for an informal hearing under
21 subsection (c), the Administrator determines that re-
22 moval of the article from commerce is necessary, the
23 Administrator shall, as appropriate—

24 (A) amend the order to require recall of
25 such article or other appropriate action;

1 (B) specify a timetable in which the recall
2 shall occur;

3 (C) require periodic reports to the Admin-
4 istrator describing the progress of the recall;
5 and

6 (D) provide notice to consumers to whom
7 such article was, or may have been, distributed.

8 (2) VACATING OF ORDER.—If, after such hear-
9 ing, the Administrator determines that adequate
10 grounds do not exist to continue the actions required
11 by the order, or that such actions should be modi-
12 fied, the Administrator shall vacate the order or
13 modify the order.

14 (e) RULE REGARDING ALCOHOLIC BEVERAGES.—
15 The Administrator shall not initiate a mandatory recall
16 or take any other action under this section with respect
17 to any alcohol beverage until the Administrator has pro-
18 vided the Alcohol and Tobacco Tax and Trade Bureau
19 with a reasonable opportunity to cease distribution and re-
20 call such article under the Alcohol and Tobacco Tax and
21 Trade Bureau's authority.

22 (f) COOPERATION AND CONSULTATION.—The Ad-
23 ministrator shall work with State and local public health
24 officials in carrying out this section, as appropriate.

1 (g) PUBLIC NOTIFICATION.—In conducting a recall
2 under this section, the Administrator shall—

3 (1) ensure that a press release is published re-
4 garding the recall, as well as alerts and public no-
5 tices, as appropriate, in order to provide notifica-
6 tion—

7 (A) of the recall to consumers and retailers
8 to whom such article was, or may have been,
9 distributed; and

10 (B) that includes, at a minimum—

11 (i) the name of the article of food sub-
12 ject to the recall;

13 (ii) a description of the risk associated
14 with such article; and

15 (iii) to the extent practicable, informa-
16 tion for consumers about similar articles of
17 food that are not affected by the recall;

18 (2) provide to the public a list of retail con-
19 signees receiving products for which there is deter-
20 mined to be a reasonable probability that eating the
21 food will cause serious adverse health consequences
22 or death to humans or animals; and

23 (3) if available, publish on the Internet website
24 of the Administration an image of the article that is

1 the subject of the press release described in para-
2 graph (1).

3 (h) NO DELEGATION.—The authority conferred by
4 this section to order a recall or vacate a recall order shall
5 not be delegated to any officer or employee other than the
6 Administrator.

7 (i) EFFECT.—Nothing in this section shall affect the
8 authority of the Administrator to request or participate
9 in a voluntary recall, or to issue an order to cease distribu-
10 tion or to recall under any other provision of the food safe-
11 ty law or under the Public Health Service Act (42 U.S.C.
12 201 et seq.).

13 (j) COORDINATED COMMUNICATION.—

14 (1) IN GENERAL.—To assist in carrying out the
15 requirements of this subsection, the Administrator
16 shall establish an incident command operation or a
17 similar operation that will operate not later than 24
18 hours after the initiation of a mandatory recall or
19 the recall of an article of food for which the use of,
20 or exposure to, such article will cause serious ad-
21 verse health consequences or death to humans or
22 animals.

23 (2) REQUIREMENTS.—To reduce the potential
24 for miscommunication during recalls or regarding in-
25 vestigations of a foodborne illness outbreak associ-

1 ated with a food that is subject to a recall, each inci-
2 dent command operation or similar operation under
3 paragraph (1) shall use regular staff and resources
4 of the Administration to—

5 (A) ensure timely and coordinated commu-
6 nication within the Administration, including
7 enhanced communication and coordination be-
8 tween different agencies and organizations with-
9 in the Administration;

10 (B) ensure timely and coordinated commu-
11 nication from the Administration, including
12 public statements, throughout the duration of
13 the investigation and related foodborne illness
14 outbreak;

15 (C) identify a single point of contact within
16 the Administration for public inquiries regard-
17 ing any actions by the Administrator related to
18 a recall;

19 (D) coordinate with Federal, State, local,
20 and tribal authorities, as appropriate, that have
21 responsibilities related to the recall of a food or
22 a foodborne illness outbreak associated with a
23 food that is subject to the recall, including noti-
24 fication of the Secretary of Agriculture and the
25 Secretary of Education in the event such re-

1 called food is a commodity intended for use in
2 a child nutrition program (as defined in section
3 25(b) of the Richard B. Russell National School
4 Lunch Act (42 U.S.C. 1769f(b))); and

5 (E) conclude operations at such time as
6 the Administrator determines appropriate.

7 (3) MULTIPLE RECALLS.—The Administrator
8 may establish multiple or concurrent incident com-
9 mand operations or similar operations in the event
10 of multiple recalls or foodborne illness outbreaks.

11 (4) FEES APPLICABLE TO ALL FACILITIES.—
12 Fees described in section 743 of Federal Food,
13 Drug, and Cosmetic Act (21 U.S.C. 379j–31) for
14 not complying with a recall order are applicable to
15 all food facilities under this Act as if—

16 (A) the term “responsible party” means
17 “owner, operator, or agent in charge of the fa-
18 cility”; and

19 (B) references to section 423 of the Fed-
20 eral Food, Drug, and Cosmetic Act (21 U.S.C.
21 350l) are references to section 402 of this Act.

22 **SEC. 403. INJUNCTION PROCEEDINGS.**

23 (a) JURISDICTION.—The district courts of the United
24 States, and the United States courts of the territories and
25 possessions of the United States, shall have jurisdiction,

1 for cause shown, to restrain a violation of section 202,
2 203, 204, 207, or 401 (or a regulation promulgated under
3 that section).

4 (b) TRIAL.—In a case in which violation of an injunc-
5 tion or restraining order issued under this section also
6 constitutes a violation of the food safety law, trial shall
7 be by the court or, upon demand of the accused, by a jury.

8 **SEC. 404. CIVIL AND CRIMINAL PENALTIES.**

9 (a) CIVIL SANCTIONS.—

10 (1) CIVIL PENALTY.—

11 (A) IN GENERAL.—Any person that com-
12 mits an act that violates the food safety law
13 may be assessed a civil penalty by the Adminis-
14 trator of not more than \$10,000 for each such
15 act.

16 (B) SEPARATE OFFENSE.—Each act de-
17 scribed in subparagraph (A) and each day dur-
18 ing which that act continues shall be considered
19 a separate offense.

20 (2) OTHER REQUIREMENTS.—

21 (A) WRITTEN ORDER.—The civil penalty
22 described in paragraph (1) shall be assessed by
23 the Administrator by a written order, which
24 shall specify the amount of the penalty and the

1 basis for the penalty under subparagraph (B)
2 considered by the Administrator.

3 (B) AMOUNT OF PENALTY.—Subject to
4 paragraph (1)(A), the amount of the civil pen-
5 alty shall be determined by the Administrator,
6 after considering—

7 (i) the gravity of the violation;

8 (ii) the degree of culpability of the
9 person;

10 (iii) the size and type of the business
11 of the person; and

12 (iv) any history of prior offenses by
13 the person under the food safety law.

14 (C) REVIEW OF ORDER.—The order may
15 be reviewed only in accordance with subsection
16 (c).

17 (b) CRIMINAL SANCTIONS.—

18 (1) IN GENERAL.—Except as provided in para-
19 graphs (2) and (3), a person that knowingly pro-
20 duces or introduces into commerce food that is un-
21 safe or otherwise adulterated or misbranded shall be
22 imprisoned for not more than 1 year or fined not
23 more than \$10,000, or both.

24 (2) SEVERE VIOLATIONS.—A person that com-
25 mits a violation described in paragraph (1) after a

1 conviction of that person under this section has be-
2 come final, or commits such a violation with the in-
3 tent to defraud or mislead, shall be imprisoned for
4 not more than 3 years or fined not more than
5 \$100,000, or both.

6 (3) EXCEPTION.—No person shall be subject to
7 the penalties of this subsection—

8 (A) for having received, proffered, or deliv-
9 ered in interstate commerce any food, if the re-
10 ceipt, proffer, or delivery was made in good
11 faith, unless that person refuses to furnish (on
12 request of an officer or employee designated by
13 the Administrator)—

14 (i) the name, address, and contact in-
15 formation of the person from whom that
16 person purchased or received the food;

17 (ii) copies of all documents relating to
18 the person from whom that person pur-
19 chased or received the food; and

20 (iii) copies of all documents pertaining
21 to the delivery of the food to that person;

22 or

23 (B) if that person establishes a guaranty
24 signed by, and containing the name and address
25 of, the person from whom that person received

1 in good faith the food, stating that the food is
2 not adulterated or misbranded within the mean-
3 ing of this Act.

4 (c) JUDICIAL REVIEW.—

5 (1) IN GENERAL.—An order assessing a civil
6 penalty under subsection (a) shall be a final order
7 unless the person—

8 (A) not later than 30 days after the effec-
9 tive date of the order, files a petition for judi-
10 cial review of the order in the United States
11 court of appeals for the circuit in which that
12 person resides or has its principal place of busi-
13 ness or the United States Court of Appeals for
14 the District of Columbia; and

15 (B) simultaneously serves a copy of the pe-
16 tition by certified mail to the Administrator.

17 (2) FILING OF RECORD.—Not later than 45
18 days after the service of a copy of the petition under
19 paragraph (1)(B), the Administrator shall file in the
20 court a certified copy of the administrative record
21 upon which the order was issued.

22 (3) STANDARD OF REVIEW.—The findings of
23 the Administrator relating to the order shall be set
24 aside only if found to be unsupported by substantial
25 evidence on the record as a whole.

1 (d) COLLECTION ACTIONS FOR FAILURE TO PAY.—

2 (1) IN GENERAL.—If any person fails to pay a
3 civil penalty assessed under subsection (a) after the
4 order assessing the penalty has become a final order,
5 or after the court of appeals described in subsection
6 (b) has entered final judgment in favor of the Ad-
7 ministrator, the Administrator shall refer the matter
8 to the Attorney General, who shall institute in a
9 United States district court of competent jurisdic-
10 tion a civil action to recover the amount assessed.

11 (2) LIMITATION ON REVIEW.—In a civil action
12 under paragraph (1), the validity and appropriate-
13 ness of the order of the Administrator assessing the
14 civil penalty shall not be subject to judicial review.

15 (e) PENALTIES PAID INTO ACCOUNT.—The Adminis-
16 trator—

17 (1) shall deposit penalties collected under this
18 section in an account in the Treasury; and

19 (2) may use the funds in the account, without
20 further appropriation or fiscal year limitation—

21 (A) to carry out enforcement activities
22 under food safety law; or

23 (B) to provide assistance to States to in-
24 spect retail commercial food establishments or

1 other food or firms under the jurisdiction of
2 State food safety programs.

3 (f) DISCRETION OF THE ADMINISTRATOR TO PROS-
4 ECUTE.—Nothing in this Act requires the Administrator
5 to report for prosecution, or for the commencement of an
6 action, the violation of the food safety law in a case in
7 which the Administrator finds that the public interest will
8 be adequately served by the assessment of a civil penalty
9 under this section.

10 (g) REMEDIES NOT EXCLUSIVE.—The remedies pro-
11 vided in this section may be in addition to, and not exclu-
12 sive of, other remedies that may be available.

13 **SEC. 405. PRESUMPTION.**

14 In any action to enforce the requirements of the food
15 safety law, the connection with interstate commerce re-
16 quired for jurisdiction shall be presumed to exist.

17 **SEC. 406. WHISTLEBLOWER PROTECTION.**

18 Section 1012 of the Federal Food, Drug, and Cos-
19 metic Act (21 U.S.C. 399d) shall apply with respect to
20 any violation of, or any act or omission an employee rea-
21 sonably believes to be a violation of, any provision of this
22 Act to the same extent and in the same manner as such
23 section 1012 applies with respect to a violation of, or any
24 act or omission an employee reasonably believes to be a

1 violation of, any provision of the Federal Food, Drug, and
2 Cosmetic Act (21 U.S.C. 301 et seq.).

3 **SEC. 407. ADMINISTRATION AND ENFORCEMENT.**

4 (a) IN GENERAL.—For the efficient administration
5 and enforcement of the food safety law, the provisions (in-
6 cluding provisions relating to penalties) of sections 6, 8,
7 9, and 10 of the Federal Trade Commission Act (15
8 U.S.C. 46, 48, 49, and 50) (except subsections (c) through
9 (h) of section 6 of that Act (15 U.S.C. 46)), relating to
10 the jurisdiction, powers, and duties of the Federal Trade
11 Commission and the Attorney General to administer and
12 enforce that Act, and to the rights and duties of persons
13 with respect to whom the powers are exercised, shall apply
14 to the jurisdiction, powers, and duties of the Adminis-
15 trator and the Attorney General in administering and en-
16 forcing the provisions of the food safety law and to the
17 rights and duties of persons with respect to whom the
18 powers are exercised, respectively.

19 (b) INQUIRIES AND ACTIONS.—

20 (1) IN GENERAL.—The Administrator, in per-
21 son or by such agents as the Administrator may des-
22 ignate, may prosecute any inquiry necessary to carry
23 out the duties of the Administrator under the food
24 safety law in any part of the United States.

1 (2) **POWERS.**—The powers conferred by sec-
2 tions 9 and 10 of the Federal Trade Commission
3 Act (15 U.S.C. 49, 50) on the United States district
4 courts may be exercised for the purposes of this
5 chapter by any United States district court of com-
6 petent jurisdiction.

7 **SEC. 408. CITIZEN CIVIL ACTIONS.**

8 (a) **CIVIL ACTIONS.**—A person may commence a civil
9 action against—

10 (1) a person that violates a regulation (includ-
11 ing a regulation establishing a performance stand-
12 ard), order, or other action of the Administrator to
13 ensure the safety of food; or

14 (2) the Administrator (in his or her capacity as
15 the Administrator), if the Administrator fails to per-
16 form an act or duty to ensure the safety of food that
17 is not discretionary under the food safety law.

18 (b) **COURT.**—

19 (1) **IN GENERAL.**—The action shall be com-
20 menced in the United States district court for the
21 district in which the defendant resides, is found, or
22 has an agent.

23 (2) **JURISDICTION.**—The court shall have juris-
24 diction, without regard to the amount in controversy
25 or the citizenship of the parties, to enforce a regula-

1 tion (including a regulation establishing a perform-
 2 ance standard), order, or other action of the Admin-
 3 istrator, or to order the Administrator to perform
 4 the act or duty.

5 (3) DAMAGES.—The court may—

6 (A) award damages, in the amount of dam-
 7 ages actually sustained; and

8 (B) if the court determines it to be in the
 9 interest of justice, award the plaintiff the costs
 10 of suit, including reasonable attorney’s fees,
 11 reasonable expert witness fees, and penalties.

12 (c) REMEDIES NOT EXCLUSIVE.—The remedies pro-
 13 vided for in this section shall be in addition to, and not
 14 exclusive of, other remedies that may be available.

15 **TITLE V—IMPLEMENTATION**

16 **SEC. 501. DEFINITION.**

17 For purposes of this title, the term “transition pe-
 18 riod” means the 12-month period beginning on the effec-
 19 tive date of this Act.

20 **SEC. 502. REORGANIZATION PLAN.**

21 (a) SUBMISSION OF PLAN.—Not later than 180 days
 22 after the effective date of this Act, the President shall
 23 transmit to the appropriate congressional committees a re-
 24 organization plan regarding the following:

1 (1) The transfer of agencies, personnel, assets,
2 and obligations to the Administration pursuant to
3 this Act.

4 (2) Any consolidation, reorganization, or
5 streamlining of agencies transferred to the Adminis-
6 tration pursuant to this Act.

7 (b) PLAN ELEMENTS.—The plan transmitted under
8 subsection (a) shall contain, consistent with this Act, such
9 elements as the President determines appropriate, includ-
10 ing the following:

11 (1) Identification of any functions of agencies
12 designated to be transferred to the Administration
13 pursuant to this Act that will not be transferred to
14 the Administration under the plan.

15 (2) Specification of the steps to be taken by the
16 Administrator to organize the Administration, in-
17 cluding the delegation or assignment of functions
18 transferred to the Administration among the officers
19 of the Administration in order to permit the Admin-
20 istration to carry out the functions transferred
21 under the plan.

22 (3) Specification of the funds available to each
23 agency that will be transferred to the Administration
24 as a result of transfers under the plan.

1 (4) Specification of the proposed allocations
2 within the Administration of unexpended funds
3 transferred in connection with transfers under the
4 plan.

5 (5) Specification of any proposed disposition of
6 property, facilities, contracts, records, and other as-
7 sets and obligations of agencies transferred under
8 the plan.

9 (6) Specification of the proposed allocations
10 within the Administration of the functions of the
11 agencies and subdivisions that are not related di-
12 rectly to ensuring the safety of food.

13 (c) MODIFICATION OF PLAN.—The President may,
14 on the basis of consultations with the appropriate congres-
15 sional committees, modify or revise any part of the plan
16 until that part of the plan becomes effective in accordance
17 with subsection (d).

18 (d) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The reorganization plan de-
20 scribed in this section, including any modifications
21 or revisions of the plan under subsection (c), shall
22 become effective for an agency on the earlier of—

23 (A) the date specified in the plan (or the
24 plan as modified pursuant to subsection (c)),
25 except that such date may not be earlier than

1 90 days after the date the President has trans-
2 mitted the reorganization plan to the appro-
3 priate congressional committees pursuant to
4 subsection (a); or

5 (B) the end of the transition period.

6 (2) STATUTORY CONSTRUCTION.—Nothing in
7 this subsection may be construed to require the
8 transfer of functions, personnel, records, balances of
9 appropriations, or other assets of an agency on a
10 single date.

11 (3) SUPERCEDES EXISTING LAW.—Paragraph
12 (1) shall apply notwithstanding section 905(b) of
13 title 5, United States Code.

14 **SEC. 503. TRANSITIONAL AUTHORITIES.**

15 (a) PROVISION OF ASSISTANCE BY OFFICIALS.—
16 Until the transfer of an agency to the Administration, any
17 official having authority over or function relating to the
18 agency immediately before the effective date of this Act
19 shall provide the Administrator such assistance, including
20 the use of personnel and assets, as the Administrator may
21 request in preparing for the transfer and integration of
22 the agency to the Administration.

23 (b) SERVICES AND PERSONNEL.—During the transi-
24 tion period, upon the request of the Administrator, the
25 head of any Executive agency may, on a reimbursable

1 basis, provide services or detail personnel to assist with
2 the transition.

3 (c) ACTING OFFICIALS.—

4 (1) IN GENERAL.—During the transition pe-
5 riod, pending the advice and consent of the Senate
6 to the appointment of an officer required by this Act
7 to be appointed by and with such advice and con-
8 sent, the President may designate any officer whose
9 appointment was required to be made by and with
10 such advice and consent and who was such an officer
11 immediately before the effective date of this Act
12 (and who continues to be in office) or immediately
13 before such designation, to act in such office until
14 the same is filled as provided in this Act.

15 (2) COMPENSATION.—While acting pursuant to
16 paragraph (1), such officers shall receive compensa-
17 tion at the higher of—

18 (A) the rates provided by this Act for the
19 respective offices in which they act; or

20 (B) the rates provided for the offices held
21 at the time of designation.

22 (3) LIMITATION.—Nothing in this Act shall be
23 construed to require the advice and consent of the
24 Senate to the appointment by the President to a po-
25 sition in the Administration of any officer whose

1 agency is transferred to the Administration pursuant
2 to this Act and whose duties following such transfer
3 are germane to those performed before such trans-
4 fer.

5 (d) TRANSFER OF PERSONNEL, ASSETS, OBLIGA-
6 TIONS, AND FUNCTION.—

7 (1) IN GENERAL.—Consistent with section 1531
8 of title 31, United States Code, the personnel, as-
9 sets, liabilities, contracts, property, records, and un-
10 expended balances of appropriations, authorizations,
11 allocations, and other funds that relate to the func-
12 tions transferred under subsection (a) from a Fed-
13 eral agency shall be transferred to the Administra-
14 tion.

15 (2) UNEXPENDED FUNDS.—Unexpended funds
16 transferred under this subsection shall be used by
17 the Administration only for the purposes for which
18 the funds were originally authorized and appro-
19 priated.

20 **SEC. 504. SAVINGS PROVISIONS.**

21 (a) COMPLETED ADMINISTRATIVE ACTIONS.—The
22 enactment of this Act or the transfer of functions under
23 this Act shall not affect any order, determination, rule,
24 regulation, permit, personnel action, agreement, grant,
25 contract, certificate, license, registration, privilege, or

1 other administrative action issued, made, granted, or oth-
2 erwise in effect or final with respect to that agency on
3 the day before the transfer date with respect to the trans-
4 ferred functions.

5 (b) PENDING PROCEEDINGS.—Subject to the author-
6 ity of the Administrator under this Act—

7 (1) pending proceedings in an agency, including
8 notices of proposed rulemaking, and applications for
9 licenses, permits, certificates, grants, and financial
10 assistance, shall continue notwithstanding the enact-
11 ment of this Act or the transfer of the agency to the
12 Administration, unless discontinued or modified
13 under the same terms and conditions and to the
14 same extent that such discontinuance could have oc-
15 curred if such enactment or transfer had not oc-
16 curred; and

17 (2) orders issued in such proceedings, and ap-
18 peals from those orders, and payments made pursu-
19 ant to such orders, shall be issued in the same man-
20 ner on the same terms as if this Act had not been
21 enacted or the agency had not been transferred, and
22 any such order shall continue in effect until amend-
23 ed, modified, superceded, terminated, set aside, or
24 revoked by an officer of the United States or a court
25 of competent jurisdiction, or by operation of law.

1 (c) PENDING CIVIL ACTIONS.—Subject to the author-
2 ity of the Administrator under this Act, any civil action
3 commenced with regard to that agency pending before
4 that agency on the day before the transfer date with re-
5 spect to the transferred functions shall continue notwith-
6 standing the enactment of this Act or the transfer of an
7 agency to the Administration.

8 (d) REFERENCES.—

9 (1) IN GENERAL.—After the transfer of func-
10 tions from a Federal agency under this Act, any ref-
11 erence in any other Federal law, Executive order,
12 rule, regulation, directive, document, or other mate-
13 rial to that Federal agency or the head of that agen-
14 cy in connection with the administration or enforce-
15 ment of the food safety laws shall be deemed to be
16 a reference to the Administration or the Adminis-
17 trator, respectively.

18 (2) STATUTORY REPORTING REQUIREMENTS.—
19 Statutory reporting requirements that applied in re-
20 lation to such an agency immediately before the ef-
21 fective date of this Act shall continue to apply fol-
22 lowing such transfer if the reporting requirements
23 refer to the agency by name.

1 **SEC. 505. CONFORMING AMENDMENTS.**

2 Section 5313 of title 5, United States Code, is
3 amended by adding at the end the following new item:

4 “Administrator of Food Safety.”.

5 **SEC. 506. ADDITIONAL TECHNICAL AND CONFORMING**
6 **AMENDMENTS.**

7 Not later than 60 days after the submission of the
8 reorganization plan under section 502, the President shall
9 prepare and submit proposed legislation to Congress con-
10 taining necessary and appropriate technical and con-
11 forming amendments to any food safety law to reflect the
12 changes made by this Act.

13 **SEC. 507. REGULATIONS.**

14 The Administrator may promulgate such regulations
15 as the Administrator determines are necessary or appro-
16 priate to perform the duties of the Administrator.

17 **SEC. 508. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated such sums
19 as are necessary to carry out this Act.

20 **SEC. 509. LIMITATION ON AUTHORIZATION OF APPROPRIA-**
21 **TIONS.**

22 For the fiscal year that includes the effective date
23 of this Act, the amount authorized to be appropriated to
24 carry out this Act shall not exceed—

25 (1) the amount appropriated for that fiscal year
26 for the Federal agencies identified in section 102(b)

1 for the purpose of administering or enforcing the
2 food safety law; or

3 (2) the amount appropriated for those agencies
4 for that purpose for the preceding fiscal year, if, as
5 of the effective date of this Act, appropriations for
6 those agencies for the fiscal year that includes the
7 effective date have not yet been made.

8 **SEC. 510. EFFECTIVE DATE.**

9 This Act and the amendments made by this Act take
10 effect on the date of enactment of this Act.

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