the House Calendar and ordered to be printed.

FOOD SAFETY ENHANCEMENT ACT OF 2009

Mr. DINGELL. Mr. Speaker, pursuant to H. Res. 691, I call up the bill (H.R. 2749) to amend the Federal Food, Drug, and Cosmetic Act to improve the safety of food in the global market, and for other purposes, and ask for its immediate consideration in the House.

The Clerk reads the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 691, in lieu of the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill, the amendment in the nature of a substitute printed in House Report 111-235 is adopted, and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 2749

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SEC. 1. SHORT TITLE.

This Act may be cited as the "Food Safety Enhancement Act of 2009".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.
Sec. 4. Rules of construction.
Sec. 5. USDA exemptions.
Sec. 6. Alcohol-related facilities.

TITLE I—FOOD SAFETY

Subtitle A—Prevention

Sec. 101. Changes in registration of food facilities.
Sec. 102. Hazard analysis, risk-based preventive controls, food safety plan, finished product test results from category 1 facilities.
Sec. 103. Performance standards.
Sec. 104. Safety standards for produce and certain other raw agricultural commodities.
Sec. 105. Risk-based inspection schedule.
Sec. 106. Accrual of funds.
Sec. 107. Traceability of food.
Sec. 108. Reinspection and food recall fees applicable to facilities.
Sec. 109. Certification and accreditation.
Sec. 110. Testing by accredited laboratories.
Sec. 111. Notification, nondistribution, and recall of adulterated or misbranded food.
Sec. 112. Reportable food registry; exchange of information.
Sec. 113. Sanitary and phytosanitary food importation program.
Sec. 114. Infant formula.
Subtitle B—Intervention

Sec. 121. Surveillance.
Sec. 122. Public education and advisory system.
Sec. 123. Research.

Subtitle C—Response

Sec. 131. Procedures for seizure.
Sec. 132. Administrative detention.
Sec. 133. Authority to prohibit or restrict the movement of food.
Sec. 134. Criminal penalties.
Sec. 135. Civil penalties for violations relating to food.
Sec. 136. Improper import entry filings.

TITLE II—MISCELLANEOUS

Sec. 201. Food substances generally recognized as safe.
Sec. 203. Export compliance under the voluntary food safety program.
Sec. 204. Registration for commercial importers of food; fee.
Sec. 205. Registration for customs brokers.
Sec. 206. Use of the voluntary food safety program for food facilities, importers, and customs brokers.
Sec. 207. Prohibition against delaying, limiting, or refusing inspection.
Sec. 208. Dedicated foreign inspectorate.
Sec. 209. Plan and review of continued operation of Screened Laboratories.
Sec. 210. False or misleading reporting to FDA.
Sec. 211. Subpoena authority.
Sec. 212. Whistleblower protections.
Sec. 213. Extraterritorial jurisdiction.
Sec. 214. Support for training institutes.
Sec. 215. Bisphenol A in food and beverage containers.
Sec. 216. Lead content labeling requirement.

SEC. 3. REFERENCES.

Except as otherwise specified, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

SEC. 4. RULES OF CONSTRUCTION.

(a) Nothing in this Act or the amendments made by this Act shall be construed to prohibit or limit—

(1) any cause of action under State law; or
(2) the introduction of evidence of compliance or noncompliance with the requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) Nothing in this Act or any amendment made by this Act shall be construed to—

(1) alter the jurisdiction between the Secretary of Agriculture and the Secretary of Health and Human Services, under applicable statutes and regulations;
(2) limit the authority of the Secretary of Health and Human Services to issue regulations related to the safety of food under—
(A) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) as in effect on the day before the date of the enactment of this Act; or
(B) the Public Health Service Act (42 U.S.C. 201 et seq.) as in effect on the day before the date of the enactment of this Act; or
(3) impede, minimize, or affect the authority of the Secretary of Agriculture to—
(B) livestock and poultry—Livestock and poultry that are intended to be presented for slaughter pursuant to the regulations under the Federal Meat Inspection Act or the Poultry Products Inspection Act are exempt from the requirements of this Act. A cow, sheep, or goat for the production of milk is exempt from the requirements of this Act.

(c) USDA-REGULATED FACILITIES.—A facility is exempt from the requirements of this Act to the extent such facility is regulated as an official establishment by the Secretary of Agriculture under the Federal Meat Inspection Act, the Poultry Products Inspection Act, or the Egg Products Inspection Act or under a program recognized by the Secretary of Agriculture as a condition of Federal regulation under the Federal Meat Inspection Act, the Poultry Products Inspection Act, or the Egg Products Inspection Act.

(d) FARMS.—A farm is exempt from the requirements of this Act to the extent such farm raises animals from which food is derived that is regulated as a breed in the United States; and (2) under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act, is required to register as a facility because such facility is engaged in manufacturing, processing, packing, or holding 1 or more alcoholic beverages.

(e) LIMESTONE CRACKER AND DISTRIBUTION OF NON-ALCOHOL FOOD.—Subsection (a) shall not apply to a facility engaged in the distributing of any non-alcoholic food, except that subsection (a) shall apply to a facility described in paragraphs (1) and (2) of subsection (a) that receives and distributes non-alcoholic food which is received and distributed—

(1) in a prepackaged form that prevents any direct human contact with such food; and
(2) in amounts that constitute not more than 5 percent of the overall sales of such facility, as determined by the Secretary of the Treasury.

(f) RULE OF CONSTRUCTION.—This section shall not be construed to exempt any food, apart from distilled spirits, wine, and malt beverages as defined by section 225 of the Federal Alcohol Administration Act (27 U.S.C. 211), from the requirements of this Act and the amendments made by this Act.

TITLE III—FOOD SAFETY

Subtitle A—Prevention

SEC. 101. CHANGES IN REGISTRATION OF FOOD FACILITIES.

(a) MISBRANDING.—Section 403 (21 U.S.C. 343) is amended by adding at the end the following:

"(z) If it was manufactured, processed, packed, or held in a facility that is not duly registered under section 415, including a facility whose registration is canceled or suspended under such section."

(b) ANNUAL REGISTRATION.—

(1) DEFINITION OF FACILITY.—Paragraph (1) of section 415(b) (21 U.S.C. 350d(b)) is amended to read as follows:

"(1)(A) The term "facility" means any factory, warehouse, or establishment (including a factory, warehouse, or establishment of an importer) that manufactures, processes, packs, or holds food.
(1) Such term does not include farms; private residences of individuals; restaurants; other retail food establishments; nonprofit
food establishments in which food is prepared for or served directly to the consumer; or fishing vessels (except such vessels engaged in processing as defined in section 123.3(h) of the regulations, or any successor regulations).

(ii) The term ‘retail food establishment’ means an establishment that, as its primary function, uses one or more farms for the production of food products (that it manufactures, procures, packs, or holds) directly to consumers (including by Internet or mail order).

(iii) A retail food establishment’s primary function is to sell food directly to consumers if the annual monetary value of sales of food products directly to consumers exceeds the annual monetary value of sales of food products to all other buyers.

(D)(i) The term ‘farm’ means an operation in one general physical location devoted to the growing and harvesting of crops, the raising of animals (including seafood, or both).

(ii) Such term includes—

(I) an operation that packs or holds food, provided that all food used in such activities is grown, raised, or consumed on such farm or another farm under the same ownership;

(II) such an operation that manufactures or processes food, provided that all food used in such activities is consumed on such farm or another farm under the same ownership;

(III) such an operation that sells food directly to consumers if the annual monetary value of sales of the food products from the farm or by the food manufacturer, processed, packed, or held at the facility.

(iv) such an operation that manufactures grains or other feed stuffs that are grown and harvested on such farm or another farm under the same ownership and are distributed to such farm for consumption as food by humans or animals on such farm;

(v) a fishery, including a wild fishery, an aquaculture or other, a freshwater fishery, and a saltwater fishery.

(iii) Such term does not include an operation that receives manufactured feed from an agent of the farm to consumers exceeds the annual monetary value of sales of the food products to all other buyers.

(iv) Such an operation that manufactures grains or other feed stuffs that are grown and harvested on such farm or another farm under the same ownership and are distributed to such farm as described in clause (ii)(IV) if the receiving farm releases the feed to another farm or facility under different ownership.

(ii) The term ‘harvesting’ includes washing, trimming, of outer leaves of, and cooling produce.

(b) The term ‘consumer’ does not include a business.

(2) REGISTRATION.—Section 415(a) (21 U.S.C. 350d(a)) is amended—

(A) in the first sentence of paragraph (1)—

(i) by striking ‘‘require that, on or before December 31 of each year, ’’; and

(ii) by striking ‘‘food for consumption in the United States’’ and inserting ‘‘food for consumption in the United States or for export from the United States’’;

(B) in subparagraphs (A) and (B) of paragraph (2), by striking ‘‘and pay the registration fee required under section 743 after’’ and inserting ‘‘after submit a registration to the Secretary’’ each place it appears;

(C) by deleting the first sentence of paragraph (2), by inserting ‘‘in electronic format’’ after ‘‘submit’’; and

(D) in paragraph (4), by inserting after the first sentence the following: ‘‘The Secretary shall remove from such list the name of any facility that fails to reregister in accordance with this paragraph (3) and the registration fee required under section 743, or whose registration is canceled by the registrant, canceled by the Secretary in accordance with this section or otherwise by the Secretary in accordance with this section’’.

(3) CONTENTS OF REGISTRATION.—Paragraph (2) of section 415(a) (21 U.S.C. 350d(a)), as amended by paragraph (1), is amended by inserting ‘‘containing information’’ and all that follows and inserting the following: ‘‘containing information that identifies the following:’’.

(A) The name, address, and emergency contact information of the facility being registered.

(B) The primary purpose and business activity of the facility, including the dates of operation if the facility is seasonal.

(C) The general food category (as defined by the Secretary by guidance) of each food manufactured, processed, packed, or held at the facility.

(D) All trade names under which the facility conducts business related to food.

(E) The name, address, and 24-hour emergency contact information of the United States distribution agent for the facility, which agent is to supply information required to be maintained under section 414(d) for food that is manufactured, processed, packed, or held at the facility.

(F) If the facility is located outside of the United States, the name, address, and emergency contact information for a United States agent.

(G) The unique facility identifier of the facility, as specified under section 101.

(H) Such additional information pertaining to the facility as the Secretary may require by regulation.

(i) the registration was not updated in accordance with this section or otherwise contains false, incomplete, or inaccurate information; or

(ii) the required registration fee has not been paid within 30 days after the date due.

(2) NOTICE OF CANCELLATION.—Cancellation shall be preceded by notice to the facility and the basis for such cancellation.

(C) TIMELY UPDATE OR CORRECTION.—If the registration for the facility is updated or corrected no later than 7 days after notice is provided under subparagraph (B), the Secretary shall not cancel such registration.

(7) REPORT TO CONGRESS.—Not later than May 30th of each year, the Secretary shall submit to the Congress a report, based on the registrations on or before December 31 of the previous year, on the following:

(A) The number of facilities registered under this section.

(B) The number of such facilities that are domestic.

(C) The number of such facilities that are foreign.

(D) The number of such facilities that are high-risk.

(E) The number of such facilities that are low-risk.

(F) The number of such facilities that hold food.

(8) REGISTRATION FEE.—Chapter VII (21 U.S.C. 371 et seq.) is amended by adding at the end of subchapter C the following:

PART 6—FEES RELATING TO FOOD

SEC. 743. FACILITY REGISTRATION FEE.

(A) IN GENERAL.—

(i) ASSESSMENT AND COLLECTION.—Beginning in fiscal year 2010, the Secretary shall assess and collect an annual fee for the registration of a facility under section 415.

(ii) PAYABLE DATE.—A fee under this section shall be payable—

(A) for a facility that was not registered under section 415 for the preceding fiscal year, on the date of the enactment of this part on December 31, 2009; and

(B) for any other facility—

(i) for fiscal year 2010, not later than the sooner of 90 days after the date of the enactment of this part on December 31, 2009; and

(ii) for a subsequent fiscal year, not later than December 31 of such fiscal year.

(iii) FEE AMOUNTS.—

(A) IN GENERAL.—The registration fee under subsection (a) shall be—

(B) for fiscal year 2010, $500; and

(C) for each fiscal year after fiscal year 2011 and each subsequent fiscal year, the fee for fiscal year 2010 as adjusted under subsection (c).

(2) ANNUAL FEE SETTING.—The Secretary shall, not later than 60 days before the start of fiscal year 2011 and each subsequent fiscal year, establish, for the next fiscal year, registration fees under subsection (a), as described in paragraph (2)(B), for a subsequent fiscal year.

(3) MAXIMUM AMOUNT.—Notwithstanding paragraph (1), a person who owns or operates multiple facilities for which a fee must be paid under this section for each facility shall be liable for not more than $75,000 in aggregate fees under this section for such fiscal year.

(4) INFLATION ADJUSTMENT.—For fiscal year 2011 and each subsequent fiscal year, the fee amount under subsection (b)(1) shall be—
be adjusted by the Secretary by notice, published in the Federal Register, to reflect the greater of—

(1) the total percentage change that occurs in the Consumer Price Index for all urban consumers (all items; U.S. city average) for the 12-month period ending June 30 preceding the fiscal year for which fees are being assessed and paid; or

(2) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5334 of such title to Federal employees stationed in the District of Columbia; or

(3) the average annual change in the cost, per full-time equivalent position of the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) multiplied by the adjustment factor applicable to the fiscal year involved.

(2) The Secretary may assess fees under subsection (a) during any fiscal year in accordance with the fiscal year limitation to such appropriation account without regard to fiscal year limitation.

(d) LIMITATIONS.—(1) IN GENERAL.—Fees under subsection (a) shall not be assessed for fiscal year 2010 unless appropriations for salaries and expenses of the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) are equal to or greater than the amount of appropriations for the salaries and expenses of the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) multiplied by the adjustment factor applicable to the fiscal year involved.

(2) The Secretary does not assess fees under subsection (a) during any portion of a fiscal year because of paragraph (1) and if at a later date in such fiscal year the Secretary assesses fees, the Secretary may assess and collect such fees, without any modification in the rate, for registration under section 415 at any time in such fiscal year.

(3) ADJUSTMENT FACTOR.—In this subsection, the term ‘adjustment factor’ applicable to a fiscal year is the Consumer Price Index for all urban consumers, as published by the Bureau of Labor Statistics of the Department of Labor, United States Government subject to subchapter II of chapter 31 of title 31, United States Code.

(e) CREDITING AND AVAILABILITY OF FEES.—(1) IN GENERAL.—Fees authorized under subsection (a) shall be credited to the appropriation account for fiscal year 2010 unless appropriations for salaries and expenses appropriation account without regard to fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation.

(2) CREDITING AND AVAILABILITY OF FEES.—(A) The fees authorized under subsection (a) shall be credited to and available for obligation only to the extent and in the amount provided in appropriate Appropriations Acts. Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from the appropriation account for salaries and expenses appropriation account without regard to fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation.

(3) COLLECTING AND APPROPRIATIONS ACTS.—(A) The fees authorized by this section—

(1) shall be retained in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation, for such fiscal year; and

(2) shall only be collected and available to defray the costs of food safety activities.

(B) The fees authorized by this section—

(1) are appropriated for fiscal years 2010 through 2014; and

(2) are separately identifiable as fees.

(4) PUBLIC MEETINGS.—For each fiscal year, the Secretary shall hold a public meeting on how fees collected under this section will be used to defray the costs of food safety activities in order to solicit the views of the regulated industry, consumers, and other interested stakeholders.

(5) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) with respect to such fee, such fee shall be treated as a claim of the United States Government subject to subsection II of chapter 13 of title 31, United States Code.

(g) CONSTRUCTION.—This section may not be construed to require that the number of full-time equivalent positions in the Department of Health and Human Services, for officers, employees, and advisory committees not engaged in food safety activities, be reduced to offset the number of officers, employees, and advisory committees so engaged.

(h) ANNUAL FISCAL REPORTS.—Beginning with fiscal year 2011, not later than 120 days after the end of each fiscal year for which fees are collected under this section, the Secretary shall prepare and submit to the President, the Committees on Appropriations, the Committees on Energy and Commerce of the House of Representatives and the Committee on Appropriations of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for such fiscal year.

(i) DEFINITIONS.—In this section—

(1) the term ‘costs of food safety activities’ means the expenses incurred in connection with food safety activities for—

(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees, and costs related to such officers, employees, and advisory committees and to contracts with such contractors;

(B) laboratory capacity;

(C) management of information, and the acquisition, maintenance, and repair of technology resources;

(D) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies; and

(E) collecting fees under this section and accounting for resources allocated for food safety activities.

(2) the term ‘food safety activities’ means activities related to compliance by facilities to the requirements of this Act, including assessments, hazard analyses, inspection planning and inspections, third-party inspections, compliance review and enforcement, import review, information technology support, test development, product sampling, risk communication, and administrative detention.

(j) TRANSITIONAL PROVISIONS.—(1) FEES.—The Secretary of Health and Human Services shall impose the fee established under this section on the Federal Food, Drug, and Cosmetic Act, as added by subsection (c), for fiscal years beginning after fiscal year 2010.

(2) MODIFICATION OF REGISTRATION FORM.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall modify the registration form under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d) to comply with the amendments made by this section.

(3) APPLICATION.—(A) The amendments made by this section, other than subsections (b)(2) and (c), shall take effect on the date that is 30 days after the date on which such modified registration form takes effect, but not later than 210 days after the date of the enactment of this Act.

(B) NOTwithstanding section 733 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (c), does not authorize the assessment or collection of a fee for registration under subsection (d) of such Act (21 U.S.C. 360c) occurring after fiscal year 2014.

SEC. 102. HAZARD ANALYSIS, RISK-BASED PREVENTIVE CONTROLS, FOOD SAFETY PLAN, FINISHED PRODUCT TEST RESULTS FROM CATEGORY 1 FACILITIES.

(a) HAZARD ANALYSIS, RISK-BASED PREVENTIVE CONTROLS, FOOD SAFETY PLAN.—(1) ADULTERATED FOOD.—Section 402 (21 U.S.C. 342) is amended by adding at the end thereof the following:

‘‘(j) If it has been manufactured, processed, packed, transported, or held under conditions that do not meet the requirements of sections 418 and 419.’’

(2) REQUIREMENTS.—Chapter IV (21 U.S.C. 341 et seq.) is amended by adding at the end thereof the following:

‘‘SEC. 418. HAZARD ANALYSIS AND RISK-BASED PREVENTIVE CONTROLS.—(a) IN GENERAL.—The owner, operator, or agent of a facility shall establish and implement effective preventive controls;

(1) conduct a hazard analysis (or more than one if appropriate);

(2) identify and implement effective preventive controls;

(3) monitor preventive controls;

(4) institute corrective actions when needed to prevent and control hazards; and

(5) reanalyze for hazards.

(b) IDENTIFICATION OF HAZARDS.—(1) IN GENERAL.—The owner, operator, or agent of a facility shall evaluate whether there are any hazards, including hazards due to the source of the ingredients, that are reasonably likely to occur in the absence of preventive controls that may affect the safety, wholesomeness, or suitability of the food manufactured, processed, packed, transported, or held by the facility, including—

(A) biological, chemical, physical, and radiological hazards; natural toxins, pesticides, drug residues, filth, decomposition, parasites, allergens, and unapproved food additives;

(B) hazards that occur naturally or that may be unintentionally introduced.

(2) IDENTIFIED BY THE SECRETARY.—The Secretary, by regulation or guidance, shall identify hazards that are reasonably likely to occur in the absence of preventive controls.

(c) HAZARD ANALYSIS.—(1) REQUIREMENTS.—The Secretary, by regulation or guidance, may establish, describe the hazards evaluated under paragraph (1) or identify hazards to which the facility is subject, in a hazard analysis.

(2) PREVENTIVE CONTROLS.—(1) IN GENERAL.—The owner, operator, or agent of a facility shall identify and implement effective preventive controls to prevent, eliminate, or reduce to acceptable levels the occurrence of any hazards identified in a hazard analysis under subsection (b)

(2) IDENTIFIED BY THE SECRETARY.—(A) ESTABLISHMENT.—The Secretary may establish by regulation or guidance preventive controls for specific product types to prevent unintentional contamination.
throughout the supply chain. The owner, operator, or agent of a facility shall implement any preventive controls identified by the Secretary under this paragraph.

(b) Recordkeeping.—The owner, operator, or agent of a facility shall maintain, for not less than 2 years, records documenting the activities described in subsection (a) through (g).

(1) Definitions.—For purposes of this section:

(1) Facility.—The term ‘facility’ means a domestic or foreign facility that is required to be registered under section 415.

(2) Preventive controls.—The term ‘preventive controls’ means those risk-based procedures, practices, and controls that are scientifically and technically sound so identified under subsection (b)(3) and that are consistent with the current scientific understanding of safe food manufacturing, processing, packaging, transporting, or holding at the time of the analysis. Those procedures, practices, and controls shall include the following, as appropriate to the type of facility or food:

(A) Sanitation practices and procedures.

(B) Supervisors, manager, and employee hygiene training.

(C) Process controls.

(D) An allergen control program to minimize potential allergic reactions in humans from ingestion of, or contact with, human and animal food.

(E) Good manufacturing practices.

(F) Verification procedures, practices, and processes for suppliers and incoming ingredients, which may include onsite auditing of suppliers and testing of incoming ingredients.

(G) Other procedures, practices, and processes established by the Secretary under subsection (c)(2).

(2) Hazard that is reasonably likely to occur.—A food safety hazard that is reasonably likely to occur is one for which a prudent person who, as applicable, manufactures, processes, packs, transports, or holds food, would establish controls because experience, illness data, scientific reports, or other information provides a basis to conclude that there is a reasonable possibility the hazard is发生的, or if the type of food being manufactured, processed, packed, transported, or held in the absence of those controls.

(3) Section 418A. Food safety plan.

(a) In general.—Before a facility (as defined in section 418A) introduces or delivers for introduction into interstate commerce any shipment of food, the owner, operator, or agent of the facility shall develop and implement a written food safety plan (in this section referred to as ‘food safety plan’).

(b) Contents.—The food safety plan shall include each of the following elements:

(1) The hazard analysis and any reanalysis conducted under section 418.

(2) A description of the procedures for monitoring preventive controls.

(3) A description of the procedures for taking corrective actions.

(4) A description of verification activities for the preventive controls, including validation that the system of preventive controls, including the use of environmental and product testing programs.

(c) A description of the facility’s record-keeping procedures.

(7) A description of the facility’s procedures for the recall of articles of food, whether voluntarily or when required under section 414.

(8) A description of the facility’s procedures for ensuring a safe and secure supply chain for the ingredients or components used in making the food manufactured, processed, packed, transported, or held in the facility.

(9) A description of the facility’s procedures to ensure a safe and secure supply chain for the ingredients or components used in making the food manufactured, processed, packed, transported, or held in the facility.

(10) A description of the facility’s procedures to evaluate the scientific basis of performance standards issued under section 414.

(d) Guidance or regulations.—In issuing guidance or regulations under subparagraph (A), the Secretary may establish science-based standards for conducting a hazard analysis, documenting hazards, identifying and implementing preventive controls, and documenting the implementation of the preventive controls, including verification and corrective actions under sections 418 and 418A of the Federal Food, Drug, and Cosmetic Act (as added by paragraph (2)).

(e) International standards.—In issuing guidance or regulations under subparagraph (A), the Secretary shall review international food safety standards and provide guidelines or regulations to ensure that the programs under sections 418 and 418A of the Federal Food, Drug, and Cosmetic Act (as added by paragraph (2)) are consistent, to the extent the Secretary determines practicable and appropriate, with such standards.

(f) Authority with respect to certain facilities.—The Secretary may, by regulation or order, exempt or modify the requirements for compliance under this section and the amendments made by this section with respect to facilities that are solely engaged in—

(1) the production of food for animals other than man or the storage of packaged foods that are not exposed to the environment; and

(2) the storage of agricultural commodities for further distribution or processing.

(g) Small businesses.—The Secretary—

(1) shall consider the impact of any guidance or regulations under this section on small businesses; and

(2) shall issue guidance to assist small businesses in complying with the requirements of this section and the amendments made by this section.

(4) No effect on existing HACCP authorities.—Nothing in this section or the amendments made by this section limits the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Public Health Service Act (42 U.S.C. 201 et seq.), as in effect on the day before the date of the enactment of this Act, to revise, issue, or enforce product- and category-specific regulations, such as the Seafood Inspection Law, the Juice Quality Control Points Program, the Juice Hazard Analysis Critical Control Program, and the Thermally Processed Low-Acid Foods Purchased in Hermetically Sealed Containers, the sandy state of Hawaii, or the like, as needed.

(5) Consideration.—When implementing sections 418 and 418A of the Federal Food,
(a) AUTHORITY.—Beginning on the date specified in paragraph (f), the Secretary shall require, after public notice and an opportunity for comment, the submission to the Secretary of finished product test results by the owner, operator, or agent of each category 1 facility subject to good manufacturing practices regulations documenting the presence of contaminants in food in the presence of such facility posing a risk of severe adverse health consequences or death.

(b) CONSIDERATIONS.—The Secretary shall require submissions under subsection (a)—

(1) as the Secretary determines feasible and appropriate; and

(2) taking into consideration available data and information on the potential risks posed by the facility.

(c) BEGINNING DATE.—The date specified in paragraph (f) shall be the beginning date for purposes of this section.

(d) PILOT PROJECTS.—The Secretary shall conduct 2 or more pilot projects to evaluate the feasibility of collecting positive finished product test results from category 1 facilities, including the value and feasibility of reporting corrective actions taken when positive finished product test results are reported to the Secretary.

(e) FEASIBILITY STUDY.—The Secretary shall conduct a feasibility study of the potential benefits and costs of the reporting by facilities subject to good manufacturing practices regulations of appropriate finished product test results from category 1 facilities to the Secretary including the extent to which the collection of such finished product testing results will help the Secretary assess the risk presented by a facility or category 1 facilities.

(f) LIMITATIONS.—Nothing in this section shall be construed to—

(1) require the Secretary to mandate testing of finished product test results from such facilities;

(2) limit the Secretary’s authority under any other provisions of law to require any person to provide access, or to submit information or test results, to the Secretary, including the ability of the Secretary to require field or other testing and to obtain test results for the purpose of a food defense assessment in the event of a potential food-borne illness or contamination incident.

(g) DEFINITION.—In this section, the term ‘category 1 facility’ means a facility within the meaning of section 418C.

(2) REQUIREMENTS.—Chapter IV (21 U.S.C. 341 et seq.), as amended by adding at the end the following:

SEC. 418C. FINISHED PRODUCT TEST RESULTS FROM CATEGORY 1 FACILITIES.

(a) AUTHORITY.—Beginning on the date specified in paragraph (f), the Secretary shall require, after public notice and an opportunity for comment, the submission to the Secretary of finished product test results in the course of an investigation of a hazard that may be intentionally introduced, including by a facility.

(A) to reduce the likelihood of recurrence of the failure; and

(2) to assess the consequences of the failure.

(c) DESCRIPTION.—A description of evaluation activities for the preventive measures, including a review of records provided for under paragraph (b) and procedures to periodically test the effectiveness of the measures.

(d) DESCRIPTION.—A description of the facility’s record-keeping procedures, including records documenting implementation of the procedures under paragraphs (3), (4), and (5).

(e) HAZARD.—For purposes of this section, the term ‘hazard’ means an intentional introduction, including by an act of terrorism, of a food defense hazard that may be so designated unless the official senior to such director, provides notice under section 414(a)(1)(C).

(2) NONDISCLOSURE.—A food defense plan, or any information derived from such a plan, shall be exempt from disclosure under section 552 of title 5, United States Code.

(3) PROHIBITION.—Section 304(i) (21 U.S.C. 343(i)) is amended by striking ‘‘or entitled to protection’’ and inserting ‘‘or a food defense plan, or any information derived from such a plan, under section 418C’’. SEC. 103. PERFORMANCE STANDARDS.

SEC. 104. PERFORMANCE STANDARDS. Food is adulterated, as defined in section 402(j), as added by section 102(b), is amended by adding at the end the following:

SEC. 419. PERFORMANCE STANDARDS.

(a) PERFORMANCE STANDARDS.—The Secretary shall not less frequently than every 2 years review and evaluate epidemiological data and other appropriate sources of information, including research under section 123 of the Food Safety Enhancement Act of 2009, to identify the most significant food-borne contaminants and the most significant resulting hazards. The Secretary shall issue, as soon as practicable, guidance or by order, science-based standards (which may include action levels) applicable to foods or food classes, as appropriate.
to minimize to an acceptable level, prevent, or eliminate the occurrence of such hazards. Such standards shall be applicable to foods and food classes. Notwithstanding the timelines established under this paragraph, the Secretary shall as appropriate establish such science-based performance standards for identified contaminants as necessary to protect the public health.

"(b) Revocation by Secretary.—All performance standards of the Food and Drug Administration applicable to foods or food classes in effect on the date of the enactment of this section, or issued under this section, shall remain in effect until revised or revoked by the Secretary.

"(c) Report to Congress.—The Secretary of Health and Human Services shall submit to the Congress by March 30th of the year following enactment a report under section 419A of the Federal Food, Drug, and Cosmetic Act, as added by subsection (b), a report on the results of such review and the Secretary's plans to perform activities to ensure compliance with the performance standards established under this section.

"(d) Sampling Program.—In conjunction with the establishment of a performance standard under this section, the Secretary may make recommendations to industry for conducting product sampling.

"(e) Recycling by Secretary.—All performance standards of the Food and Drug Administration applicable to foods or food classes in effect on the date of the enactment of this section, or issued under this section, may be subject to consideration by the Secretary.

"(f) Identification of Clusters.—The Secretary shall consider the number and severity of illnesses and the number of deaths associated with the foods associated with such contaminant.

"(g) Sampling Program.—In conjunction with the establishment of a performance standard under this section, the Secretary may make recommendations to industry for conducting product sampling.

"(h) Revocation by Secretary.—All performance standards of the Food and Drug Administration applicable to foods or food classes in effect on the date of the enactment of this section, or issued under this section, shall remain in effect until revised or revoked by the Secretary.

"(i) Report to Congress.—The Secretary of Health and Human Services shall submit to the Congress by March 30th of the year following enactment a report under section 419A of the Federal Food, Drug, and Cosmetic Act, as added by subsection (b), a report on the results of such review and the Secretary's plans to perform activities to ensure compliance with the performance standards established under this section.

SEC. 104. SAFETY STANDARDS FOR PRODUCERS AND HANDLING OF OTHER RAW AGRICULTURAL COMMODITIES.

(a) Adulterated Food.—Section 402 (21 U.S.C. 342), as amended by sections 102 and 103(a), is amended by adding at the end the following:

"(m) If it has been grown, harvested, processed, packed, sorted, transported, or held under conditions that do not meet the standards established under section 419A ."

(b) Standards.—Chapter IV (21 U.S.C. 341 et seq.), as amended by sections 102(b) and 103(b), is amended by adding at the end the following:

"SEC. 419A. SAFETY STANDARDS FOR PRODUCERS AND HANDLING OF OTHER RAW AGRICULTURAL COMMODITIES.

(a) Standards.—The Secretary, in coordination with the Secretary of Agriculture, shall establish by regulation scientific and risk-based food safety standards for the growing, harvesting, processing, packing, sorting, transporting, and holding of those types of commodities that do not meet the standards established under this section.

"(1) that are a fruit, vegetable, nut, or fungus; and

"(2) for which the Secretary has determined that such standards are reasonably necessary to minimize the risk of serious adverse health consequences or death to humans or animals.

(b) Food safety standards.—The regulations under subsection (a) —

"(1) may set forth such procedures, processes, and practices as the Secretary determines to be necessary—

"(A) to prevent the introduction of known or reasonably foreseeable biological, chemical, and physical hazards, including hazards that may be introduced into food intentionally or by acts of terrorism, into raw agricultural commodities that are a fruit, vegetable, nut, or fungus; and

"(B) to provide reasonable assurances that such commodity is not adulterated under section 402.

"(2) may include, with respect to growing, harvesting, processing, packing, sorting, transporting, and storage operations, standards for sanitizing facilities, sanitizing processes, sanitizing equipment, sanitizing practices, and sanitizing agents, that the Secretary determines to be reasonable necessary;

"(3) may include standards addressing manner, use, water quality, employee hygiene, and animal control, and temperature controls, as the Secretary determines to be reasonable necessary;

"(4) may include standards for such other elements as the Secretary determines necessary to carry out subsection (a);

"(5) shall provide a reasonable period of time for compliance, taking into account the needs of small businesses for additional time to comply;

"(6) may provide for coordination of education and enforcement activities;

"(7) shall take into consideration, consistent with ensuring enforceable public health protection, the impact on small-scale and diversified farms, and on wildlife habitat, conserving critical food production areas, protection efforts, and organic production methods;

"(8) may provide for coordination of education and training with other government agencies, universities, private entities, and others with experience working directly with farmers; and

"(9) may provide for recognition through guidance of other publicly available procedures, processes, and practices that the Secretary determines to be equivalent to those established under paragraph (1).

"(c) Education and Compliance.—The Secretary shall coordinate with the Secretary of Agriculture to provide for effective implementation of education and compliance activities. The Secretary may contract and coordinate with the agency or department designated by the Governor of each State to perform activities to ensure compliance with this section.

"(d) Timings.—

"(1) Proposed Rule.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue a proposed rule to carry out section 419A of the Federal Food, Drug, and Cosmetic Act, as added by subsection (b).

"(2) Final Rule.—Not later than 3 years after such date, the Secretary of Health and Human Services shall issue a final rule under such section.

"(d) No Effect on Existing HACCP Authorities.—Nothing in this section or the amendments made by this section limits the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Public Health Service Act (42 U.S.C. 201 et seq.) to respond to food-borne illness outbreaks and food recalls; and

"(e) May, on a case-by-case basis, provide for recognition for facilities that meet the requirements established under this section.

"(f) May, by guidance, modify the types of performance standards established under this section.

"(g) May limit such recognition to inspections of specific commodities or food types.

"(h) May alter the inspection frequencies specified in paragraphs (b) and (c) (1) based on the need to respond to food-borne illness outbreaks and food recalls; and

"(i) May, by guidance, modify the types of performance standards established under this section.

SEC. 105. RISK-BASED INSPECTION SCHEDULE.

(a) In General.—Section 704 (21 U.S.C. 374) is amended by adding at the end the following:

"(b) Each facility registered under section 415 shall be inspected—

"(A)(i) by one or more officers duly designated under section 404 of this Act, or other statutory authority by the Secretary;

"(ii) for domestic facilities, by a Federal, State, or local official recognized by the Secretary under paragraph (2); or

"(iii) for foreign facilities, by an agency or a representative of a country that is recognized by the Secretary under paragraph (2); and

"(B) at a frequency determined pursuant to a risk-based schedule.

(b) For purposes of paragraph (1)(A), the Secretary—

"(A) may recognize Federal, State, and local officials and agencies and representatives of foreign countries as meeting standards established by the Secretary for conducting inspections under this Act; and

"(B) may limit such recognition to inspections of specific commodities or food types.

"(c) In determining the appropriate frequency schedule under paragraph (1)(B) shall be implemented beginning not later than 18 months after the date of enactment of this Act.

"(d) Such risk-based schedule shall provide for a frequency of inspections commensurate with the risk presented by the facility and shall be based on the following categories and inspection frequencies:

"(A) Category 1.—A category 1 food facility is a high-risk facility that manufactures or processes food. The Secretary shall randomly inspect a category 1 food facility at least every 6 to 12 months.

"(B) Category 2.—A category 2 food facility is a low-risk facility that manufactures or processes food or a facility that packs or labels food. The Secretary shall randomly inspect a category 2 facility at least every 18 months to 3 years.

"(C) Category 3.—A category 3 food facility is a facility that holds food. The Secretary shall randomly inspect a category 3 facility at least every 3 years.

"(D) The Secretary—

"(A) may, by guidance, modify the types of food facilities within a category under paragraph (2); and

"(B) may alter the inspection frequencies specified in paragraph (1)(B) based on the need to respond to food-borne illness outbreaks and food recalls; and

"(C) may inspect a facility more frequently than the inspection frequency provided by paragraph (1)(B) beginning 6 months after submitting the report required by section 105(b)(2) of the Food Safety Enhancement Act of 2009, may—

"(1) publish in the Federal Register adjustments to the inspection frequencies specified in subparagraphs (B) and (C) of paragraph (4) for category 2 and category 3 food facilities, which adjustments shall be in accordance with the Secretary's recommendations in such report; and

"(ii) after such publication, implement the adjustments; and

"(B) except as provided in subparagraphs (B) and (C), may not alter the inspection frequency specified in paragraph (4)(A) for category 1 food facilities.

"(E) In determining the appropriate frequency of inspection, the Secretary shall consider—

"(D) the type of food manufactured, processed, packed, or held at the facility;

"(B) the compliance history of the facility; and

"(C) whether the facility importing or offering for import into the United States food is certified by a qualified certifying entity in accordance with section 801(q) and
(e) Records access on farms prior to rulemaking.—

(i) General. As soon as practicable after the enactment of this paragraph, the Secretary of Agriculture, with the concurrence of the Committee on Agriculture of the Senate, shall make available immediately on commencement of an inspection under subparagraph (A) or (B) the best available evidence concerning the timing of the schedule and other ways to improve the risk-based allocation of resources by the Federal Food, Drug, and Cosmetic Administration. In making such recommendations, the Secretary shall consider:

(A) the number of foreign and domestic facilities by risk category, inspected under the risk-based inspection schedule established under section 704(h) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), in the preceding fiscal year; and

(B) the costs of implementing the risk-based inspection schedule for the preceding 12 months.

(ii) Remote access to records related to food safety plans. With respect to a facility subject to section 418 and 418a, the Secretary may require the owner, operator, or agent of such facility to submit to the Secretary, as soon as reasonably practicable after receiving written notice of such requirement, the food safety plan, supporting information relied on by the facility to select the preventive controls to include in its food safety plan, and other corrective actions, if any, taken under section 418e within the preceding 2 years.

(f) Regulations concerning recordkeeping. The Secretary, in consultation with the Food and Drug Administration, may promulgate regulations concerning recordkeeping, as appropriate, with other Federal departments and agencies with responsibilities for regulating food safety, regarding the establishment and maintenance, for not longer than 3 years, of records by persons who manufacture, process, pack, transport, distribute, receive, or hold food in the United States for or on behalf of a person who distributes to the fruit, vegetable, nut, or fungus.

(1) in a foreign country and the risk that a similar outbreak could occur in the United States.

(2) the costs of implementing the risk-based inspection schedule for the preceding 12 months.

(2) Third-year report.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate describing recommendations on the risk-based inspection schedule established under section 704(h) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), including a description of the timing of the schedule and other ways to improve the risk-based allocation of resources by the Food and Drug Administration. In making such recommendations, the Secretary shall consider:

(A) the nature of the food products being processed, stored, or transported;

(B) the manner in which food products are processed, stored, or transported;

(C) the inherent likelihood that the products will contribute to the risk of food-borne illnesses or death to humans or animals;

(D) the best available evidence concerning reported illnesses associated with the foods processed, stored, held, or transported in the category, including compliance with applicable performance standards and the frequency of recalls.

SEC. 106. ACCESS TO RECORDS.

(a) Records access.—Subsection (a) of section 414 (21 U.S.C. 350c) is amended to read as follows:

(i) such article of food is a fruit, vegetable, or nut;

(ii) such article of food is the subject of an active investigation by the Secretary of a restaurant’s suppliers and subsequent distribution other than to consumers.’’

(C) Records access on farms prior to rulemaking.—

(i) General. As soon as practicable after the enactment of this paragraph, the Secretary of Agriculture, identify 1 or more fruits, vegetables, nuts, or fungi for which the Secretary shall have access to records on farms under sections 418 and 418a. The Secretary shall apply the provisions made by guidance, following notice and public comment.

(ii) Identification of raw agricultural commodities.—The Secretary, in coordination with the Secretary of Agriculture, shall make the identification in clause (i), based on any past food borne illness outbreak attributed to the fruit, vegetable, nut, or fungus.

(iii) Duration of authority.—The authority to have access to records for a fruit, vegetable, nut, or fungus under this subparagraph shall begin on the date on which the Secretary identifies the fruit, vegetable, nut, or fungus under clause (i) and shall terminate on the effective date of a final rule issued by the Secretary under section 418.

(B) Additional authorities to access records remotely; submission of records to the Secretary.—

(1) Remote access in emergencies.—If the Secretary believes that an article of food presents a threat of serious adverse health consequences or death to human or animal life, the Secretary may require the manufacturer, producer, processor, packer, distributor, transporter, distributor, receives, holds, or imports such article of food, or any other entity it believes may be affected in a similar manner, to submit to the Secretary all records reasonably related to such article of food as soon as is reasonably practicable, after receiving written notice (including by notice served personally and outside normal business hours to an agent identified under subparagraph (E) or (F) of section 415(a)(2)) of such requirement.

(2) Remote access to records related to food safety plans. With respect to a facility subject to section 418 and 418a, the Secretary may require the owner, operator, or agent of such facility to submit to the Secretary, as soon as reasonably practicable after receiving written notice of such requirement, the food safety plan, supporting information relied on by the facility to select the preventive controls to include in its food safety plan, and other corrective actions, if any, taken under section 418e within the preceding 2 years.

(e) Records access during an inspection.—

(1) In general.—Except as provided in paragraph (3), each person who manufactures, processes, transports, distribu-

(iii) such article of food is the subject of an active investigation by the Secretary of a restaurant’s suppliers and subsequent distribution other than to consumers.’’

(b) Regulations concerning recordkeeping.—The Secretary, in consultation with the Food and Drug Administration, may promulgate regulations concerning recordkeeping, as appropriate, with other Federal departments and agencies with responsibilities for regulating food safety, regarding the establishment and maintenance, for not longer than 3 years, of records by persons who manufacture, process, pack, transport, distribute, receive, or hold food in the United States for or on behalf of a person who distributes to the fruit, vegetable, nut, or fungus.
(c) CONFORMING AMENDMENTS.—Section 709(a)(1) (21 U.S.C. 374(a)(1)) is amended—

(1) in the second sentence—

(A) by striking "excluding farms or restaurants;" and inserting "excluding farms, except as provided in section 414(a)(3));"

(B) by inserting "receives," before "holds;"

(C) by striking "described in section 414 and included in or required under section 414;" and

(D) by striking "when the Secretary has a reasonable belief that an article of food is adulterated and presents a threat of serious adverse health consequences or death to humans or animals;" and inserting "bearing on whether such food is adulterated, misbranded or otherwise in violation of this Act, including all records collected or developed to comply with section 418 or 418A;" and

(2) in the fourth sentence—

(A) by striking "the preceding sentence" and inserting "either of the preceding two sentences"; and

(B) by inserting "recipes for food," before "financial data.".

SEC. 107. TRACEABILITY OF FOOD.

(a) PROHIBITED ACT.—Section 301(e) (21 U.S.C. 331(e)) is amended by inserting "or (4) the refusal to permit access to or verification or copying of any such required record":

(b) IMPORTS.—Section 801(a) (21 U.S.C. 331(a)) is amended by inserting "or (4) the requirement of a tracing system under section 414(c);" before "or the refusal to permit access to or verification or copying of any such required record":

(c) PRODUCT TRACING FOR FOOD.—Section 414 (21 U.S.C. 350c), as amended by section 106, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) TRACING SYSTEM FOR FOOD.—

"(1) IN GENERAL.—The Secretary shall by regulation establish a tracing system for food that is located in the United States or is for import into the United States.

"(2) TRACING TECHNOLOGIES.—Before issuing a proposed regulation under this subsection, the Secretary shall—

"(I) maintain the full pedigree of the origin and previous distribution history of the food;

"(II) link that history with the subsequent distribution information gathering;

"(III) establish and maintain a system for tracing the food that is interoperable with the systems established and maintained by other such persons; and

"(IV) use a unique identifier for each facility owned or operated by such person for such purpose, as specified under section 1011; and

"(V) to the extent practicable, assess—

"(A) the costs and benefits associated with the adoption and use of such technologies;" and

"(B) the feasibility of such technologies for different sectors of the food industry; and

"(C) whether such technologies are compatible with the requirements of this subsection;

"(2) PUBLIC MEETINGS.—Before issuing a proposed regulation under this subsection, the Secretary shall conduct not less than 2 public meetings in diverse geographical areas of the United States to provide persons in different regions an opportunity to provide information to the Secretary.

"(C) PILOT PROJECTS.—Before issuing a proposed regulation under this subsection, the Secretary shall conduct 1 or more pilot projects in 1 or more sectors of the food industry to explore and evaluate tracing systems for food. The Secretary shall coordinate with the Secretary of Agriculture to identify technologies with respect to farms under this subsection.

"(3) REGULATION.—

"(A) IN GENERAL.—Taking into account information obtained through information gathering under paragraph (2), the Secretary shall issue regulations establishing a tracing system that enables the Secretary to identify each person who grows, produces, manufactures, processes, packs, transports, holds, or sells such food in such a timeframe as practicable but no longer than 2 business days.

"(B) SCOPE OF REGULATION.—The Secretary may include in the regulations establishing a tracing system—

"(i) the establishment and maintenance of lot numbers;

"(ii) a standardized format for pedigree information; and

"(iii) the use of a common nomenclature for food.

"(C) COORDINATION REGARDING FARM IMPACT.—In issuing regulations under this paragraph that will impact farms, the Secretary—

"(i) shall coordinate with the Secretary of Agriculture; and

"(ii) take into account the nature of the impact of the regulations on farms.

"(4) EXEMPTIONS AND LIMITATIONS.—

"(A) DIRECT SALES BY FARMS.—Food is exempt from the requirements of this subsection if such food is—

"(i) produced on a farm; and

"(ii) sold by the owner, operator, or agent in charge of such farm directly to a consumer or to a restaurant or grocery store.

"(B) FISHING VESSELS.—Food is exempt from the requirements of this subsection if such food is produced through the use of a fishing vessel as defined in section 3(10) of the Magnuson-Stevens Fishery Conservation and Management Act until such time as the food is sold by the owner, operator, or agent in charge of such fishing vessel.

"(C) GRAINS AND SIMILARLY HANDLED COMMODITIES.—

"(1) LIMITATION ON EXTENT OF TRACING.—In addition to the追溯 system referred to in such subsection; and

"(2) during such fiscal year is subject to a food recall.

"(2) during such fiscal year is subject to a food recall.

"(3) RECORDKEEPING REGARDING PREVIOUS SOURCES OF FOOD.—The Secretary shall require each person who distributes, processes, packs, transports, holds, or sells such food to maintain records to identify the immediate previous sources of such food and its ingredients and the immediate subsequent recipients of such food.

"(D) RECORDKEEPING BY RESTAURANTS AND GROCERY STORES.—For a food covered by an exemption under subparagraph (A), restaurants and grocery stores shall keep records documenting the farm that was the source of the food.

"(E) RECORDKEEPING BY FARMS.—For a food covered by an exemption under subparagraph (A), farms shall keep records in a format, whether electronic or non-electronic, for at least 6 months documenting the farm or grocery store to which the food was sold.

SEC. 108. REINSPECTION AND FOOD RECALL FEES APPLICABLE TO FACILITIES.

(a) IN GENERAL.—Part 6 of subchapter C of chapter VII (21 U.S.C. 371 et seq.), as added by section 101(c), is amended by adding at the end the following:

"SEC. 743A. REINSPECTION AND FOOD RECALL FEES APPLICABLE TO FACILITIES.

"(a) IN GENERAL.—The Secretary shall assess and collect fees from each entity in a fiscal year—

"(1) that—

"(A) during such fiscal year commits a violation of any requirement of this Act relating to food, including any such requirement relating to good manufacturing practices; and

"(B) because of such violation, undergoes additional inspection by the Food and Drug Administration; or

"(2) during such fiscal year is subject to a food recall.

"(b) AMOUNT OF FEES.—The Secretary shall set the amount of the fees under this section to fully cover the costs of—

"(1) in the case of fees collected under subsection (a)(1), conducting the additional inspections referred to in such subsection; and

"(2) in the case of fees collected under subsection (a)(2), conducting food recall activities, including technical assistance, follow-up evaluations, effectiveness check, and communications, during the fiscal year involved.

"(c) CREDITING AND AVAILABILITY OF FEES.—

"(1) IN GENERAL.—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriate Acts. Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such funds available only to the extent and in the amount provided in advance in appropriate Acts.

"(2) COLLECTIONS AND APPROPRIATIONS ACTS.—The fees authorized by this section—
"(A) shall be retained in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation, for such fiscal year; and (B) shall only be collected and available to defray the costs referred to in subsection (b)."

(3) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 2010 through 2014, there are authorized to be appropriated for fees under this section such sums as may be necessary to carry out the provisions of this Act.

(4) WAIVER.—The Secretary shall waive and, if applicable, refund the amount of any fee collected under this section from an entity as a result of a food recall that the Secretary determines was inappropriately ordered.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to inspections and food recall activities occurring after the date of the enactment of this Act.

ARTICLES.—

SEC. 109. CERTIFICATION AND ACCREDITATION.

(a) MISREPRESENTATION.—

(1) IN GENERAL.—Section 403 (21 U.S.C. 343), as amended by section 101(a), is amended by adding at the end the following:

"(aa) If it is part of a shipment offered for import into the United States and such shipment is in violation of section 801(q) (requiring a certification of compliance for certain food shipments),";

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to shipments offered for import on or after the date that is 3 years after the date of the enactment of this Act.

(b) CERTIFICATION OF COMPLIANCE FOR IMPORTS.—Chapter VIII (21 U.S.C. 381 et seq.) is amended—

(1) in section 801(a), as amended by section 107(b), by inserting after the third sentence of the fourth paragraph a fourth sentence and inserting "the fourth sentence" and inserting the following:

"(ii) The term 'qualified certifying entity' means—"

(2) in the second sentence of section 801(b), by striking "the requirement is that," and inserting "the requirements include additional information regarding compliance;"

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to inspections and food recall activities occurring after the date of the enactment of this Act.

(5) FEES.—The fees charged or accepted shall not be contingent or based upon the report made by the qualified certifying entity or any person involved in the audit process.

(6) NEITHER THE QUALIFIED CERTIFYING ENTITY NOR ANY OF ITS AUDITORS SHALL accept anything of value from anyone in connection with the facility being audited other than the audit fee;

(7) THE QUALIFIED CERTIFYING ENTITY SHALL NOT engage in any business operations that might be used (such as laboratories and sampling services) to provide similar assurances, except that it shall not be a violation of this subsection to the extent such subcontractors perform additional nutritional testing services unrelated to the testing under this subsection;

(d) DEFINITIONS.—In this paragraph:

"(1) "The term "anything of value" includes gifts, gratuities, reimbursement of non-audit-related expenses, entertainment, loans, or any other form of compensation in cash or in kind.

"(2) The term "direct financial interest" does not include any ownership of mutual funds that have a financial interest in a company.

"(e) RENEWAL AND REFUSAL OF CERTIFICATIONS.—The Secretary shall—

(A) require that, to the extent applicable, any certification provided by a qualified certifying entity be renewed by such entity at times such as the Secretary determines appropriate; and
“(B) refuse to accept any certification if the Secretary determines that such certification is no longer valid or reliable.

(5) ON-SITE AUDITS.—In evaluating whether any such testing is covert, or continues to meet, the standards for recognition under this subsection, or whether to accept certifications from a qualified certifying entity, the Secretary may—

(A) observe on-site audits of qualified certifying entities by such accreditation body; or

(B) for any facility that is certified by a qualified certifying entity, upon request of an officer or employee designated by the Secretary and upon presentation of appropriate credentials, by such accreditation body, or person named by such accreditation body under this section, upon request of an officer or employee designated by the Secretary and upon presentation of appropriate credentials, at reasonable times and within reasonable limits and in a reasonable manner, conduct an on-site audit of the facility, which shall include access to, and copying and verification of, any related records.

(6) ELECTRONIC SUBMISSION.—The Secretary shall provide, in coordination with the Commissioner responsible for Customs and Border Protection, for the electronic submission of certifications under this subsection.

(7) NO LIMIT ON AUTHORITY.—This subsection shall not be construed to limit the authority of the Secretary to conduct random inspections of imported articles or facilities of importers, issue import alerts for the purpose of, or to detain without physical examination, require submission to the Secretary of documentation or other information about an article imported or offered for import, or to take such other steps as the Secretary deems appropriate to determine the admissibility of imported articles.

SEC. 110. TESTING BY ACCREDITED LABORATORIES.

(a) PROHIBITED ACT.—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

“(uu) The violation of any requirement of section 714 (relating to testing by accredited laboratories).”

(b) LABORATORY ACCREDITATION.—Subchapter A of chapter VII (21 U.S.C. 371 et seq.) is amended by adding at the end the following:

“SEC. 714. TESTING BY ACCREDITED LABORATORIES.

“(a) IN GENERAL.—

“(1) REQUIREMENT.—Whenever analytical testing of food is conducted as part of testimony for the purposes of section 801(a), or for such other purposes as the Secretary deems appropriate through regulation or guidance, such testing shall be conducted by a laboratory that—

“(A) is accredited, for the analytical method used, by a laboratory accreditation body that has been recognized by the Secretary; and

“(B) samples such article with adequate controls for ensuring the integrity of the sample used;

“(2) INDEPENDENCE OF LABORATORY.—

“(A) CERTAIN TESTS.—Tests required for purposes of section 801(a) or in response to a finding of noncompliance by the Secretary shall be conducted by a laboratory independent of the person on whose behalf such testing is conducted and analyzed.

“(B) CERTAIN PRODUCTS.—The Secretary may require that testing for certain products under paragraph (1) be conducted by a laboratory independent of the person on whose behalf such testing is conducted.

“(B) RECOGNITION OF LABORATORY ACCREDITATION BODIES.—The Secretary shall establish and implement a program for the recognition of laboratories that the Secretary deems appropriate, of laboratory accreditation bodies that accredit laboratories to perform analytical testing for the purposes of this section. The Secretary shall issue regulations or guidance to implement this program.

“(c) ON-SITE AUDITS.—In evaluating whether an accredited laboratory continues to meet, the standards for recognition under subsection (b), the Secretary may—

“(1) observe on-site audits of laboratories by such accreditation bodies; or

“(2) for any laboratory that is accredited by such accreditation body under this section, upon request of an officer or employee designated by the Secretary and upon presentation of appropriate credentials, at reasonable times and within reasonable limits and in a reasonable manner, conduct an on-site audit of the laboratory, which shall include access to, and copying and verification of, any related records.

“(d) PUBLICATION OF LIST OF RECOGNIZED ACCREDITATION BODIES.—The Secretary shall publish and maintain on the public Web site of the Food and Drug Administration a list of accreditation bodies recognized by the Secretary under subsection (b).

“(e) NOTIFICATION OF ACCREDITATION OF LABORATORY.—An accreditation body that has been recognized pursuant to this section shall promptly notify the Secretary when it accredits a laboratory for the purposes of this section and whenever it withdraws or suspends such accreditation.

“(f) ADVANCE NOTICE.—Whenever analytical testing is conducted pursuant to subsection (a), the laboratory conducting such testing shall submit, directly to the Secretary—

“(1) the results of all analyses conducted by the laboratory on each sample of such article; and

“(2) all information the Secretary deems appropriate to determine the admissibility of such article.

“(A) determine whether the laboratory is accredited by a recognized laboratory accreditation body; and

“(B) identify the article tested.

“(g) EVALUATION OF RESULTS.—The Secretary shall evaluate the analytical results and determine whether the requirements of this section have been met.

“(h) EXEMPT CIRCUMSTANCES.—The Secretary may waive the requirement of subsection (a)(1)(A) (relating to analytical methods) on a laboratory or method basis due to exempt or other circumstances.

“(i) FEDERAL LABORATORY TESTING.—If Customs and Border Protection laboratory testing concludes that an article of food is adulterated or misbranded, the Secretary shall consider and utilize as appropriate the testing results issued by the Customs and Border Protection laboratories in making a decision about the admissibility of the product.

“(j) NO LIMIT ON AUTHORITY.—Nothing in this section shall be construed to limit—

“(1) the ability of the Secretary to review and act upon information from the analytical testing conducted under this section, including determining the sufficiency of such information and testing; or

“(2) the authority of the Secretary to conduct, or consider the results of analytical testing pursuant to any other provision of law.”.

“(c) ORDER TO RECALL.—

“(1) IN GENERAL.—A responsible party as that term is defined in section 417(a)(1) or a person required to register under section 801(s) that has reason to believe that an article of food when introduced into or while in interstate commerce, or while held for sale (regardless of whether the first sale) after shipment in interstate commerce, is adulterated or misbranded in a manner that presents a reasonable risk of adverse human health consequences, or to humans or animals shall, as soon as practicable, notify the Secretary of the identity and location of the article.

“(2) MANNER OF NOTIFICATION.—Notification under paragraph (1) shall be made in such manner and by such means as the Secretary may require by regulation or guidance.

“(b) VOLUNTARY RECALL.—The Secretary may require that any person who distributes an article of food that the Secretary has reason to believe is adulterated, misbranded, or otherwise in violation of this Act voluntarily—

“(1) recall such article;

“(2) provide for notice, including to individuals as appropriate, to persons to whom may be affected by the recall.

“(c) ORDER TO CEASE DISTRIBUTION.—If the Secretary has reason to believe that the use or consumption of, or exposure to, an article of food may cause serious adverse health consequences to humans or animals, the Secretary shall have the authority to issue an order requiring any person who distributes such article to immediately cease distribution of such article.

“(d) ACTION FOLLOWING ORDER.—Any person who is subject to an order under subsection (c) shall immediately cease distribution of such article and provide notification as required by such order, and may appeal within 24 hours of issuance such order to the Secretary. Such appeal may include a request for an informal hearing. The Secretary may establish rules to govern the conduct of such appeals and specifies any efforts to recall such article undertaken voluntarily by the person, including after a request under subsection (b). Ex- ceptions provided in subsection (f), an informal hearing shall be held as soon as practicable, but not later than 5 calendar days, or less as determined by the Secretary, after such appeal is filed. The parties jointly agree to an extension. After affording an opportunity for an informal hearing, the Secretary shall determine whether the order shall be amended to limit the recall of such article. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the action required by the order, the Secretary shall vacate the order.”
consumers to whom the article was, or may notice of a recall order under this section to such director.

Secretary. An official may not be so designated unless the official is the director of the division of food and drugs, or the agent of, or is otherwise responsible for, any person to perform a voluntary activity related to any article subject to this Act or any other provision of this Act.

An order to cease distribution of, or to recall, an article under any other provision of this Act or the Public Health Service Act; or

2) the ability of the Secretary to request any person to perform a voluntary activity related to any article subject to this Act or the Public Health Service Act.

(c) ARTICLES SUBJECT TO REFUSAL.—The third sentence of subsection (a) of section 301 (21 U.S.C. 311), as amended by section 107(b), is amended by inserting “or (5) such article is subject to an order under section 320 to cease distribution of or recall the article,” before “then such article shall be refused admission.”

(e) EFFECTIVE DATE.—Sections 301(v)(1) and 420 of the Federal Food, Drug, and Cosmetic Act, as added by subsections (a) and (b) of section 415(a), shall apply to articles of food as of such date, not later than 1 year after the date of the enactment of this Act, as the Secretary of Health and Human Services shall specify.

SEC. 112. REPORTABLE FOOD REGISTRY; EXCHANGE OF INFORMATION.

(a) REPORTABLE FOOD REGISTRY.—Section 417 (21 U.S.C. 350) is amended—

(1) in subsection (a)(1), by striking “means a person and all that follows through the end of paragraph (4) and inserting the following:—

(A) a person who submits the registration under section 415(a) for a food facility that is required to be registered under section 415(a), at which such food is manufactured, processed, packed, or held;

(B) a person who owns, operates, is an agent of, or is otherwise responsible for such food on a farm (as such term is defined in section 122(b)(9) of title 21, Code of Federal Regulations, or successor regulations) at which such food is produced for sale or distribution in interstate commerce;

(C) a person who owns, operates, or is an agent of a restaurant or other retail food establishment (as such terms are defined in section 122(b)(1) and (12), respectively, of title 21, Code of Federal Regulations, or successor regulations) at which such food is offered for sale;

(D) a person that is required to register pursuant to section 301(s) with respect to importation of such food;

(2) in subsection (b), by adding at the end the following:

(3) REPORTING BY FARMS, RESTAURANTS, AND RETAIL FOOD ESTABLISHMENTS.—In addition to the electronic portal described in paragraph (1), the Secretary shall make available alternative means of reporting under this subsection to farms, restaurants, and other retail food establishments with limited ability for such reporting.

(3) in subsection (d)(1)—

(A) in the matter preceding subparagraph (A), by inserting “following a timely review of any reasonably available data and information,” after “such data and information;”;

(B) in subparagraph (A), by striking “and” at the end;

(C) by redesignating subparagraph (B) as subparagraph (A) as follows:

(1) submit, with such report, through the electronic portal of results from any sampling and testing of such article, including—

(i) analytical results from testing such article conducted by or on behalf of the responsible party under section 418, 418A, 419A, 419A, or 714;

(ii) analytical results from testing conducted by or on behalf of the responsible party of a component of such article;

(iii) analytical results of environmental testing of any facility at which such article, or a component of such article, is manufactured, processed, packed, or held; and

(iv) any other information the Secretary determines is necessary to evaluate the adulteration of such article, or a component of such article, any other article of food manufactured, processed, packed or held in the "same manner as, or at the same facility as, such article, or any other article containing a component from the same source as a component of such article; and

(b) EXCHANGE OF INFORMATION.—Section 708 (21 U.S.C. 379) is amended—

(1) by striking “The Secretary” and inserting “(a) The Secretary;” and

(2) by adding at the end the following:

“(12) Such additional information as the Secretary deems appropriate.”;

2.(A) The Secretary shall provide to any Federal agency acting within the scope of its jurisdiction any information relating to any such information pursuant to section 301(a) of section 552 of title 5, United States Code, by reason of subsection (b)(a) of such section, or that is referred to in section 301(j) or 415(a)(4).

(b) Any such information provided to another Federal agency shall not be disclosed by such agency except in any action or proceeding提供的 the information to which the receiving agency or the United States is a party.

2.(A) In carrying out this Act, the Secretary may provide to a State or local government agency any information relating to food that is exempt from disclosure pursuant to section 552(a) of title 5, United States Code, by reason of subsection (b)(a) of such section, if the Secretary determines that providing the information to the person is appropriate under the circumstances and the recipient provides adequate assurances to the Secretary that the recipient will preserve the confidentiality of the information.

(b) Any such information provided to a State or local government agency shall not be disclosed by such agency.

2.(A) In carrying out this Act, the Secretary may provide to any person any information relating to food that is exempt from disclosure pursuant to section 552(a) of title 5, United States Code, by reason of subsection (b)(a) of such section, or that is referred to in section 301(j) or 415(a)(4).

3. (A) In carrying out this Act, the Secretary may provide any information relating to food that is exempt from disclosure pursuant to section 552(a) of title 5, United States Code, by reason of subsection (b)(a) of such section, or that is referred to in section 301(j) or 415(a)(4).

(B) Any such information provided to a State or local government agency shall not be disclosed by such agency.

(c) Except where specifically prohibited by statute, the Secretary may disclose to the extent necessary the information.

Responsible party is required to register its jurisdiction any information relating to the public health efforts, the Food and Drug Administration; or

(ii) to promote and coordinate public health efforts. If the agency or organization provides adequate assurances to the Secretary that the agency or organization will preserve the confidentiality of the information, the Secretary may disclose such information to the extent necessary to perform the public health efforts.

(d) Except as provided in subsection (e), the Secretary shall not be required to disclose any information relating to any Federal agency acting within the scope of its jurisdiction any information relating to food obtained

Secretary shall not be required to disclose any information relating to food obtained
from a Federal, State, or local government agency, or from a foreign government agency, or from an international organization described in subsection (b)(4), if the agency or organization has requested that the information be kept confidential, or has precluded such disclosure under other use limitations, as a condition of providing the information. (c) CONFORMING AMENDMENT.—Section 301(j) (21 U.S.C. 331(j)) is amended by striking "or to the courts when relevant in any judicial proceeding under this Act," and inserting "to the courts when relevant in any judicial proceeding under this Act, or as specified in section 708.".

SEC. 113. SAFE AND SECURE FOOD IMPORTATION PROGRAM.

Chapter VIII (21 U.S.C. 381 et seq.) is amended by adding at the end the following:

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SEC. 805. SAFE AND SECURE FOOD IMPORTATION PROGRAM.

(a) IN GENERAL.—The Secretary may establish a food safety and security program that facilitates the movement of food into the United States.

(b) GUIDELINES.—

(1) DEVELOPMENT.—For purposes of the program established under subsection (a), the Secretary shall establish guidelines that are developed in consultation with the appropriate governmental entities, including the appropriate State and local governments, and with the appropriate United States agencies and with counterparts at the Federal, State, and local levels; and

(2) FACTORS.—Such guidelines shall take into account the following factors:

(A) The sufficiency of preventive controls in place throughout the supply chain for such food; and

(B) The personnel of the person importing such food.

(c) IMPROVING FOOD SAFETY AND DEFENSE CAPACITY AT THE STATE AND LOCAL LEVELS.—

The Secretary shall develop and implement strategies to leverage and enhance the food safety and defense capacities of State and local agencies in order to achieve the following goals:

(A) Improve food-borne illness outbreak response and containment.

(B) Accelerate food-borne illness surveillance and outbreak investigation, including rapid shipment of clinical isolates from clinical laboratories to appropriate State laboratories, and conducting more standardized illness outbreak interviews.

(C) Strengthen the capacity of State and local agencies to carry out inspections and enforce safety standards.

(3) Developing improved surveillance systems to support data management and sharing of food safety and defense information among State and local agencies and with counterparts at the Federal, State, and local levels.

(D) Other State and local activities and needs as determined appropriate by the Secretary.

SEC. 121. SURVEILLANCE.

(a) PUBLIC EDUCATION.—The Secretary, in consultation with the appropriate Federal, State, and local government agencies and with counterparts at the Federal, State, and local levels; and

(b) HEALTH ADVISORIES.—The Secretary shall, not later than 1 year after the date of enactment of this Act, establish a system for the delivery of health advisories to the public that provide information on a timely basis about food-borne illnesses.

(c) IMPROVING FOOD SAFETY AND DEFENSE CAPACITY.—

The Secretary shall improve food-borne illness surveillance systems to improve the collection, analysis, and sharing of data on food-borne illnesses by—

(1) coordinating Federal, State, and local food-borne illness surveillance systems, including complaint systems, and increasing participation in national networks of public health and food regulatory agencies and laboratories;

(2) developing a flexible mechanism for rapidly initiating scientific research by academic institutions;

(3) integrating food-borne illness surveillance systems and improving food-borne illness surveillance and public health situational awareness capabilities at the Federal, State, and local levels; and

(4) improving other activities as determined appropriate by the Secretary.

SEC. 122. PUBLIC EDUCATION AND ADVISORY SYSTEM.

(a) PUBLIC EDUCATION.—The Secretary, in consultation with the appropriate Federal, State, and local government agencies and with counterparts at the Federal, State, and local levels; and

(b) HEALTH ADVISORIES.—The Secretary shall improve food-borne illness surveillance systems to improve the collection, analysis, and sharing of data on food-borne illnesses by—

(1) coordinating Federal, State, and local food-borne illness surveillance systems, including complaint systems, and increasing participation in national networks of public health and food regulatory agencies and laboratories;

(2) developing a flexible mechanism for rapidly initiating scientific research by academic institutions;

(3) integrating food-borne illness surveillance systems and improving food-borne illness surveillance and public health situational awareness capabilities at the Federal, State, and local levels; and

(4) improving other activities as determined appropriate by the Secretary.

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SEC. 131. 121. PUBLIC EDUCATION AND ADVISORY SYSTEM.

(a) PUBLIC EDUCATION.—The Secretary, in consultation with the appropriate Federal, State, and local government agencies and with counterparts at the Federal, State, and local levels; and

(b) HEALTH ADVISORIES.—The Secretary shall improve food-borne illness surveillance systems to improve the collection, analysis, and sharing of data on food-borne illnesses by—

(1) coordinating Federal, State, and local food-borne illness surveillance systems, including complaint systems, and increasing participation in national networks of public health and food regulatory agencies and laboratories;

(2) developing a flexible mechanism for rapidly initiating scientific research by academic institutions;

(3) integrating food-borne illness surveillance systems and improving food-borne illness surveillance and public health situational awareness capabilities at the Federal, State, and local levels; and

(4) improving other activities as determined appropriate by the Secretary.

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SEC. 131. SURVEILLANCE.

(a) DEFINITION OF FOOD-BORNE ILLNESS OUTBREAK.—In this section, the term "food-borne illness outbreak" means the occurrence of 2 or more cases of a similar illness resulting from the ingestion of a food.

(b) FOOD-BORNE ILLNESS SURVEILLANCE SYSTEMS.—

The Secretary of Health and Human Services (in this subtitle referred to as the "Secretary"), acting through the Director of the Centers for Disease Control and Prevention, shall enhance food-borne illness surveillance systems to improve the collection, analysis, reporting, and usefulness of data on food-borne illnesses by—

(1) coordinating Federal, State, and local food-borne illness surveillance systems, including complaint systems, and increasing participation in national networks of public health and food regulatory agencies and laboratories;

(2) facilitating sharing of findings on a more timely basis among governmental agencies, including the Food and Drug Administration, the Department of Agriculture, and State and local agencies, and with the public;

(3) developing improved epidemiological tools for obtaining and interpreting exposure data, and microbiological methods for classifying cases;

(4) augmenting such systems to improve attribution of food-borne illness outbreaks to a specific food;

(5) expanding capacity of such systems, including fingerprinting and other detection strategies; and

(6) allowing timely public access to aggregated, de-identified surveillance data;

(7) at least annually, publishing current reports on findings from such systems;

(8) establishing a flexible mechanism for rapidly initiating scientific research by academic institutions;

(9) integrating food-borne illness surveillance systems and improving food-borne illness surveillance and public health situational awareness capabilities at the Federal, State, and local levels; and

(10) other activities as determined appropriate by the Secretary.

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from a Federal, State, or local government agency, or from a foreign government agency, or from an international organization described in subsection (b)(4), if the agency or organization has requested that the information be kept confidential, or has precluded such disclosure under other use limitations, as a condition of providing the information. (c) CONFORMING AMENDMENT.—Section 301(j) (21 U.S.C. 331(j)) is amended by striking "or to the courts when relevant in any judicial proceeding under this Act," and inserting "to the courts when relevant in any judicial proceeding under this Act, or as specified in section 708.").

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(1) a citation to a prior approval by the Secretary of the new ingredient for use in infant formulas submitted under paragraph (b)(1), and

(2) information to the public so that individuals can understand the potential impact and risk of food-borne illness, take action to reduce their risk of food-borne illness and injury, and make healthy dietary choices;

(3) information to health professionals so that they may improve diagnosis and treatment of food-related illness and advise individuals whose health conditions place them in particular risk; and

(4) other information or advice to consumers and other persons as the Secretary determines will promote the purposes of this Act.

The Secretary shall, not later than 1 year after the date of enactment of this Act, establish a system for the delivery of health advisories to the public that provide information on a timely basis about food-borne illnesses.

The Secretary shall improve food-borne illness surveillance systems to improve the collection, analysis, and sharing of data on food-borne illnesses by—

(1) coordinating Federal, State, and local food-borne illness surveillance systems, including complaint systems, and increasing participation in national networks of public health and food regulatory agencies and laboratories;

(2) facilitating sharing of findings on a more timely basis among governmental agencies, including the Food and Drug Administration, the Department of Agriculture, and State and local agencies, and with the public;

(3) developing improved epidemiological tools for obtaining and interpreting exposure data, and microbiological methods for classifying cases;

(4) augmenting such systems to improve attribution of food-borne illness outbreaks to a specific food;

(5) expanding capacity of such systems, including fingerprinting and other detection strategies; and

(6) allowing timely public access to aggregated, de-identified surveillance data;

(7) at least annually, publishing current reports on findings from such systems;

(8) establishing a flexible mechanism for rapidly initiating scientific research by academic institutions;

(9) integrating food-borne illness surveillance systems and improving food-borne illness surveillance and public health situational awareness capabilities at the Federal, State, and local levels; and

(10) other activities as determined appropriate by the Secretary.

The Secretary shall improve food-borne illness surveillance systems to improve the collection, analysis, and sharing of data on food-borne illnesses by—

(1) coordinating Federal, State, and local food-borne illness surveillance systems, including complaint systems, and increasing participation in national networks of public health and food regulatory agencies and laboratories;

(2) facilitating sharing of findings on a more timely basis among governmental agencies, including the Food and Drug Administration, the Department of Agriculture, and State and local agencies, and with the public;

(3) developing improved epidemiological tools for obtaining and interpreting exposure data, and microbiological methods for classifying cases;

(4) augmenting such systems to improve attribution of food-borne illness outbreaks to a specific food;

(5) expanding capacity of such systems, including fingerprinting and other detection strategies; and

(6) allowing timely public access to aggregated, de-identified surveillance data;
(2) develop standardized formats for written and broadcast advisories; and
(3) incorporate State and local advisories into the national public education program required under subsection (a).

SEC. 123. RESEARCH.
The Secretary shall conduct research to assist in the implementation of this Act, including studies to—
(1) improve sanitation and food safety practices in the production, harvesting, and processing of food products;
(2) develop improved techniques for the monitoring of food and inspection of food products;
(3) develop efficient, rapid, and sensitive methods for determining and detecting the presence of pathogens in food products;
(4) determine the sources of contamination of food and food products, including critical points of risk for fresh produce and other fresh agricultural commodities;
(5) develop consumption data with respect to food products;
(6) draw upon research and educational programs that exist at the State and local level;
(7) utilize the DNA matching system and other processes to identify and control pathogenic agents; and
(8) address common and emerging zoonotic diseases.

SEC. 131. PROCEDURES FOR SEIZURE.
Section 304(b) (21 U.S.C. 334(b)) is amended by inserting “and except that, with respect to proceedings relating to food, Rule G of the Supplemental Rules of Admiralty or Maritime Claims and Asset Forfeiture Actions shall not apply in any such case, exigent circumstances shall be deemed to exist for all seizures brought under this section, and the summons and arrest warrant shall be issued by the clerk of the court without court review in any such case” after “in any such case shall be tried by jury.”

SEC. 132. ADMINISTRATIVE DETENTION.
(a) AMENDMENTS.—Section 304(h) (21 U.S.C. 334(h)) is amended—
(1) in paragraph (1)(A), by striking “credibility of evidence or information indicating” and inserting “reason to believe”;
(2) in paragraph (1)(A), by striking “likely” and inserting “credible”; and
(3) by striking “or” at the end of the clause and inserting “and” in lieu thereof.

SEC. 133. AUTHORITY TO PROHIBIT OR RESTRICT THE MOVEMENT OF FOOD.
(a) PROHIBITED ACT.—Section 301 (21 U.S.C. 331(a)) is amended by inserting at the end of the section—
“(ww) The violation of a prohibition or restriction under section 301(1)(i)(I) shall be treated as if it were a separate offense.”

(b) IN GENERAL.—Section 304 (21 U.S.C. 334) is amended by adding at the end the following:
“(1) AUTHORITY TO PROHIBIT OR RESTRICT THE MOVEMENT OF FOOD WITHIN A STATE OR PORTION OF A STATE.—
“(A) IN GENERAL.—
“(i) After consultation with the Governor or other appropriate official of a State not later than 10 business days after commence ment of the action, including an estimate of the anticipated duration of the action.
“(T) RULEMAKING.—The Secretary shall, consistent with national security interests as appropriate for known hazards, establish by regulation standards for conducting actions under paragraph (1), including, as appropriate, sanitation standards and procedures to restore any damaged equipment or means of conveyance to its status prior to an action under paragraph (1).”.

SEC. 134. CRIMINAL PENALTIES.
Section 303(a) (21 U.S.C. 333) is amended—
(1) in paragraph (1), by striking “Any” and inserting “Except as provided in paragraph (2) or (3), any”; and
(2) by adding the following:
“(b) IN GENERAL.—Notwithstanding paragraph (1), any person who knowingly violates paragraph (a), (b), (c), (k), or (v) of section 301 with respect to any food that is misbranded or adulterated shall be imprisoned for not more than 10 years or fined in accordance with title 18, United States Code, or both.”

SEC. 135. CIVIL PENALTIES FOR VIOLATIONS RELATING TO FOOD.
(a) IN GENERAL.—Section 304(c)(1) (21 U.S.C. 334(c)(1)) is amended—
(1) in paragraph (1)(A), by striking “credibility of evidence or information indicating” and inserting “reason to believe”;
(2) in paragraph (1)(A), by striking “likely” and inserting “credible”; and
(3) by striking “or” at the end of the clause and inserting “and” in lieu thereof.

(b) IN GENERAL.—Section 304(c)(1) (21 U.S.C. 334(c)(1)) is amended—
(1) in paragraph (1)(A), by striking “credibility of evidence or information indicating” and inserting “reason to believe”;
(2) in paragraph (1)(A), by striking “likely” and inserting “credible”; and
(3) by striking “or” at the end of the clause and inserting “and” in lieu thereof.

SEC. 136. IMPROPER IMPORT ENTRY FILING.
Section 801 (21 U.S.C. 331) is amended by adding at the end of the section—
“(xx) The submission of information relating to food that is required by or under section 801 that is inaccurate or incomplete.

SEC. 137. DOCUMENTATION FOR IMPORTS.
Section 801 (21 U.S.C. 331) is amended by adding at the end of the section—
“(XX) The submission of information relating to food that is required by or under section 801.”

SEC. 138. EFFECTIVE DATE.—The amendments made by this Act shall apply on and after the date of enactment of this Act.

SEC. 139. PROHIBITION OF CERTAIN ACTIVITIES.
(a) PROHIBITED ACT.—Section 301 (21 U.S.C. 331) is amended—
(1) by inserting “and” at the end of the section; and
(2) by adding a new subsection (a) following subsection (a)
“(a) Grounds for action.—An action under subsection (a) may only be taken by the Commissioner of Food and Drugs or the Principal Deputy Commissioner.

(b) DURATION.—Fourteen days after the initiation of an action under paragraph (1), and each 14 days thereafter, the Secretary may extend the action for a total period not to exceed 10 business days, if the Secretary determines that it is necessary to continue the action, the Secretary shall—
“(A) notify the Governor or other appropriate official of the State affected of the action; and
“(B) notify the Governor of any other appropriate official of an affected State under this subsection, the Secretary shall—
“(i) the findings of the Secretary that support the action; and
“(ii) a statement of the reasons for the action.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

SEC. 140. CRIMINAL PENALTIES.
Section 301 (21 U.S.C. 331) is amended—
(1) in paragraph (1)(v), by striking “Any” and inserting “Except as provided in paragraph (2) or (3), any”;
(2) by adding the following:
“(b) IN GENERAL.—Notwithstanding paragraph (1), any person who knowingly violates paragraph (a), (b), (c), (k), or (v) of section 301 with respect to any food that is misbranded or adulterated shall be imprisoned for not more than 10 years or fined in accordance with title 18, United States Code, or both.”

SEC. 141. CIVIL PENALTIES FOR VIOLATIONS RELATING TO FOOD.
(a) IN GENERAL.—Section 304(c)(1) (21 U.S.C. 334(c)(1)) is amended—
(1) in paragraph (1)(A), by striking “credibility of evidence or information indicating” and inserting “reason to believe”;
(2) in paragraph (1)(A), by striking “likely” and inserting “credible”; and
(3) by striking “or” at the end of the clause and inserting “and” in lieu thereof.

(b) IN GENERAL.—Section 304(c)(1) (21 U.S.C. 334(c)(1)) is amended—
(1) in paragraph (1)(A), by striking “credibility of evidence or information indicating” and inserting “reason to believe”;
(2) in paragraph (1)(A), by striking “likely” and inserting “credible”; and
(3) by striking “or” at the end of the clause and inserting “and” in lieu thereof.

SEC. 142. EFFECTIVE DATE.—The amendments made by this section shall apply on and after the date of the enactment of this Act.

SEC. 143. PROHIBITION OF CERTAIN ACTIVITIES.
(a) PROHIBITED ACT.—Section 301 (21 U.S.C. 331) is amended—
(1) by inserting “and” at the end of the section; and
(2) by adding a new subsection (a) following subsection (a)
“(a) Grounds for action.—An action under subsection (a) may only be taken by the Commissioner of Food and Drugs or the Principal Deputy Commissioner.

(b) DURATION.—Fourteen days after the initiation of an action under paragraph (1), and each 14 days thereafter, the Secretary may extend the action for a total period not to exceed 10 business days, if the Secretary determines that it is necessary to continue the action, the Secretary shall—
“(A) notify the Governor or other appropriate official of the State affected of the action; and
“(B) notify the Governor of any other appropriate official of an affected State under this subsection, the Secretary shall—
“(i) the findings of the Secretary that support the action; and
“(ii) a statement of the reasons for the action.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

SEC. 144. CRIMINAL PENALTIES.
Section 301 (21 U.S.C. 331) is amended—
(1) in paragraph (1)(v), by striking “Any” and inserting “Except as provided in paragraph (2) or (3), any”;
(2) by adding the following:
“(b) IN GENERAL.—Notwithstanding paragraph (1), any person who knowingly violates paragraph (a), (b), (c), (k), or (v) of section 301 with respect to any food that is misbranded or adulterated shall be imprisoned for not more than 10 years or fined in accordance with title 18, United States Code, or both.”

SEC. 145. CIVIL PENALTIES FOR VIOLATIONS RELATING TO FOOD.
(a) IN GENERAL.—Section 304(c)(1) (21 U.S.C. 334(c)(1)) is amended—
(1) in paragraph (1)(A), by striking “credibility of evidence or information indicating” and inserting “reason to believe”;
(2) in paragraph (1)(A), by striking “likely” and inserting “credible”; and
(3) by striking “or” at the end of the clause and inserting “and” in lieu thereof.
TITLE II—MISCELLANEOUS

SEC. 201. FOOD SUBSTANCES GENERALLY RECOGNIZED AS SAFE.

Section 409 (21 U.S.C. 348) is amended by adding at the end the following:

"Sec. 409a. Prohibited Substances Generally Recognized As Safe.

"(a) Not later than 60 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate final regulations to carry out paragraphs (cc) and (kk) of section 801(s).''.

SEC. 202. COUNTRY OF ORIGIN LABELING.

SEC. 203. REGISTRATION OF COMMERCIAL IMPORTERS OF FOOD; FEE.

SEC. 204. REGISTRATION FOR COMMERCIAL IMPORTERS OF FOOD; FEE.

SEC. 205. REGISTRATION FOR COMMERCIAL IMPORTERS OF FOOD; FEE.

SEC. 206. EXPORTATION CERTIFICATE PROGRAM.

SEC. 207. CANCELLATION OF REGISTRATION.

SEC. 208. EXEMPTIONS.

SEC. 209. REGISTRATION FOR COMMERCIAL IMPORTERS OF FOOD; FEE.

SEC. 210. BILLS OF LADING.

SEC. 211. PROHIBITIONS.

SEC. 212. MISREPRESENTATION.

SEC. 213. VACATING SUSPENSION.

SEC. 214. TIMELY UPDATE OR CORRECTION.

SEC. 215. NOTICE OF CANCELLATION.

SEC. 216. EXEMPTIONS.

SEC. 217. REGULATIONS.

SEC. 218. EFFECTIVE DATE.

SEC. 219. PROHIBITIONS.

SEC. 220. MISREPRESENTATION.

SEC. 221. VACATING SUSPENSION.

SEC. 222. TIMELY UPDATE OR CORRECTION.

SEC. 223. NOTICE OF CANCELLATION.

SEC. 224. EXEMPTIONS.

SEC. 225. REGULATIONS.

SEC. 226. EFFECTIVE DATE.

SEC. 227. PROHIBITIONS.

SEC. 228. MISREPRESENTATION.

SEC. 229. VACATING SUSPENSION.

SEC. 230. TIMELY UPDATE OR CORRECTION.

SEC. 231. NOTICE OF CANCELLATION.

SEC. 232. EXEMPTIONS.

SEC. 233. REGULATIONS.

SEC. 234. EFFECTIVE DATE.

SEC. 235. PROHIBITIONS.

SEC. 236. MISREPRESENTATION.

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under section 801(s), the Secretary shall, in consultation with the Commissioner responsible for Customs and Border Protection, as appropriate, provide a reasonable period of time to those food inspectors to come into good importer practices, taking into account differences among importers and the types of imports, including based on the level of risk posed to the import food.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that is 24 months after the date of enactment of this Act.

(b) FEES.—Subchapter C of chapter VII (21 U.S.C. 379h et seq.) is amended and section 801(s) amended by adding at the end the following:

"PART 7—IMPORTERS OF FOOD

SEC. 744. IMPORTERS OF FOOD.

(a) IMPORTERS.—The Secretary shall assess and collect an annual fee for the registration of an importer of food under section 801(s).

(b) AMOUNT OF FEE.—

(1) BASE AMOUNTS.—The registration fee under subsection (a) shall be—

(A) for fiscal year 2010, $500; and

(B) for each fiscal year 2011 and each subsequent fiscal year, the fee for fiscal year 2010 as adjusted under paragraph (2).

(2) ADJUSTMENT.—For fiscal year 2011 and subsequent fiscal years, the fees established pursuant to paragraph (1) shall be adjusted by the Secretary by notice, published in the Federal Register, for a fiscal year to reflect the greater of—

(A) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average), for the 12-month period ending June 30 preceding the fiscal year for which fees are being established; and

(B) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with section 5302 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia; or

(C) the average annual change in the cost, per full-time equivalent position of the Food and Drug Administration, of all personnel compensation and benefits paid with respect to such a position during the first 5 years of the preceding 6 fiscal years.

(3) COMPOUNDED BASIS.—The adjustment made each fiscal year pursuant to this subsection is a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 2010 under this subsection.

(4) WAIVER FOR IMPORTERS REQUIRED TO PAY REGISTRATION FEE.—In the case of a person who is required to pay both a fee under section 744 and registration of one or more facilities under section 801(s) and a fee under this section for registration as an importer of food under section 801(s), the Secretary shall waive the fee applicable to such person under section 744 or the fee applicable to such person under this section.

(c) CREDITING AND AVAILABILITY OF FEES.

(1) IN GENERAL.—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation.

(2) COLLECTIONS AND APPROPRIATIONS ACTS.—The fees authorized by this section—

(A) shall be retained in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation, for such fiscal year; and

(B) shall only be collected and available to cover the costs associated with registering importers under section 801(s) and with ensuring compliance with good importer practices respecting food.

(3) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 2010 through 2014, there are hereby appropriated the fees under this section such sums as may be necessary.

(4) INSPECTION.—Section 704 (21 U.S.C. 374), as amended by section 105, is amended by adding at the end the following:

"(I) IMPORTERS.—Every person engaged in the importing of any food shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to inspect the facilities of such person and have access to, and to copy and verify, any related records.".

SEC. 205. REGISTRATION FOR CUSTOMS BROKERS.

(a) REGISTRATION.—

(1) PROHIBITIONS.—Section 301(zz) (21 U.S.C. 331), as added by section 204, is amended by inserting "or broker" after "in the manner specified by the Secretary".

(2) MISINTERPRETATION.—Section 303(ee) (21 U.S.C. 343), as added by section 204, is amended—

(A) by inserting "or a customs broker" after "by an importer"; and

(B) by inserting "or 801(t)" after "801(a)".

(3) REGISTRATION.—Section 801, as amended by sections 105, 130, and 204, is amended by adding at the end the following:

"(t) REGISTRATION OF CUSTOMS BROKER.—

(1) REGISTRATION.—The Secretary shall require a customs broker, with respect to the importation of food—

(A) to be registered with the Secretary in a form and manner specified by the Secretary; and

(B) consistent with section 1011, to submit appropriate unique facility identifiers as a condition of registration.

(2) CANCELLATION OF REGISTRATION.—

(A) IN GENERAL.—Not earlier than 10 days after providing the notice under subparagraph (B), the Secretary may cancel a registration in the case of a customs broker determined to have failed to maintain appropriate unique facility identifiers as required by subsection (t).

(B) NOTICE AND CANCELLATION.—Cancellation shall be preceded by notice to the customs broker of the intent to cancel the registration and the basis for such cancellation.

(C) TIMELY UPDATE OR CORRECTION.—If the registration for the customs broker is updated or corrected no later than 7 days after notice is provided under subparagraph (B), the Secretary shall not cancel such registration.

(3) NOTIFICATION.—The Secretary shall notify the Commissioner responsible for Customs and Border Protection when the Secretary cancels a registration under this subsection.

(4) EXEMPTIONS.—In consultation with the Commissioner responsible for Customs and Border Protection, the Secretary, by notice published in the Federal Register—

(A) shall establish an exemption from the requirements of this subsection for importers for personal use; and

(B) may establish other exemptions from the requirements of this subsection.

(5) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 24 months after the date of enactment of this Act.

(b) INSPECTION.—Section 704 (21 U.S.C. 374), as amended by sections 105 and 204, is amended by adding at the end the following:

"(I) BROKERS.—Every customs broker required to be registered with the Secretary shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to inspect the facilities of such person and have access to, and to copy and verify, any related records.".

SEC. 206. UNIQUE IDENTIFICATION NUMBER FOR FOOD FACILITIES, IMPORTERS, AND CUSTOM BROKERS.

Chapter X (21 U.S.C. 381 et seq.) is amended by adding at the end the following:

"SECTION 1011. UNIQUE FACILITY IDENTIFIER.

"(a) REGISTRATION OF FACILITY OR ESTABLISHMENT.—A person required to register a facility pursuant to section 801(s) or 801(t) shall, at the time of registration, a unique facility identifier for the facility or establishment.

"(b) REGISTRATION OF IMPORTERS AND CUSTOM BROKERS.—A person required to register pursuant to section 801(s) or 801(t) shall submit, at the time of registration, a unique facility identifier for the principal place of business for which such person is required to register under section 801(s) or 801(t).

"(c) GUIDANCE.—The Secretary may, by guidance, and, with respect to importers and customs brokers, in consultation with the Commissioner responsible for Customs and Border Protection, specify the unique numerical identifier system to be used to meet the requirements of subsections (a) and (b) and the form, manner, and timing of a submission under such subsections. Development of such guidelines shall take into account the utilization of unique facility identification schemes and compatibility with customs automated systems, such as integration with the Automated Commercial Environment (ACE) automatic Data Trade System (ITDS), and any successor systems.

"(d) IMPORTATION.—An article of food imported for commercial sale is required to be registered and be subject to a civil penalty under section 301 because of a failure to register, unless the appropriate unique facility identifiers, as specified by the Secretary, are provided for such article.

"SEC. 207. PROHIBITION AGAINST DELAYING, LIMITING, OR REFUSING INSPECTION.

(a) ADULTERATION.—Section 402 (21 U.S.C. 342), as amended by section 102, 103(a), and 104 are amended by adding at the end the following:

"(3) If it has been produced, manufactured, processed, packed, or held in any farm, factory, warehouse, or establishment, or any agent of a governmental authority in the foreign country within which such farm, factory, warehouse, or establishment is located, delays or limits an inspection, or refuses to permit entry or inspection, under section 415 or 416 on the date of the enactment of this Act.

(b) FOREIGN INSPECTIONS.—Section 704(a)(1) (21 U.S.C. 374(a)(1)), as amended by section 106(c), is amended—

(1) in the first sentence, by inserting "or the Secretary, in the case of a facility, warehouse, or establishment whether foreign or domestic, or establishment whether foreign or domestic, with the appropriate unique facility identifier, as specified by the Secretary, is provided for such article."
after “factory, warehouse, or establishment”; and
(2) in the third sentence, by inserting “including any food factory, warehouse, established, or consulting laboratory” after “factory, warehouse, establishment, or consulting laboratory”.

SEC. 208. DEDICATED FOREIGN INSPECTORATE.
Section 704 (21 U.S.C. 374), as amended by sections 105, 204, and 205, is amended by adding at the end the following:

“(k) DEDICATED FOREIGN INSPECTORATE.—The Secretary shall establish and maintain a corps of inspectors dedicated to inspections of foreign food facilities. This corps shall be staffed and funded by the Secretary at a level sufficient to enable it to assist the Secretary in achieving the frequency of inspections for food facilities as described in this Act.”

SEC. 209. PLAN AND REVIEW OF CONTINUED OPERATION OF FIELD LABORATORIES.
(a) SUBMISSION OF PLAN.—Not later than 90 days before the Secretary terminates or consolidates any laboratory, district office, or the functions (including the inspection and compliance functions) of any such laboratory or district office specified in subsection (b), the Secretary shall submit a reorganization plan to the Comptroller General of the United States, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(b) SPECIFIED LABORATORIES AND OFFICES.—The laboratories and offices specified in this subsection are the following:

(1) Any of the 13 field laboratories responsible for analyzing food that were operated by the former Affirmative Actions of Food and Drug Administration as of January 1, 2007.

(2) Any of the 20 district offices of the Food and Drug Administration with responsibility for food safety functioning as of January 1, 2007.

(c) CONGRESSIONAL REVIEW.—A reorganization plan described in subsection (a) is deemed to be a major rule as defined in section 804(2) of title 5, United States Code for purposes of chapter 8 of such title.

SEC. 210. FALSE OR MISLEADING REPORTING TO FOOD AND DRUG ADMINISTRATION.
(a) IN GENERAL.—Section 301(q)(2) (21 U.S.C. 331(q)(2)) is amended by inserting after the period “or” the following: “;

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to submissions made on or after the date of the enactment of this Act.

SEC. 211. SUBPOENA AUTHORITY.
(a) PROHIBITED ACT.—Section 301(f) is amended by inserting before the period “or” the following: “or refusal to obey a subpoena issued pursuant to section 311.”

(b) AMENDMENT.—Chapter III (21 U.S.C. 331 et seq.) is amended by adding at the end the following:

“SEC. 311. EXERCISE OF SUBPOENA AUTHORITY.
“(a) IN GENERAL.—For the purpose of—

(1) any hearing, investigation, or other proceeding respecting a violation of a provision of this Act, the Public Health Service Act, or the Federal Anti-Tampering Act, relating to food; or

(2) any hearing, investigation, or other proceeding to determine if a person is in violation of a specific provision of this Act, the Public Health Service Act, or the Federal Anti-Tampering Act, the Commissioner may issue subpoenas requiring the attendance and testimony of witnesses and the production of records and other evidence.

“(b) TIMING OF COMPLIANCE.—When the Commissioner deems that immediate compliance with a subpoena issued under this section is necessary to address a threat of serious adverse health consequences or death, the subpoena may require immediate production.

“(c) SERVICE OF SUBPOENA.—

(1) IN GENERAL.—Subpoenas of the Commissioner shall be served by a person authorized by the Commissioner by delivering a copy thereof to the person named therein or by certified mail addressed to such person at such person’s last known dwelling place or principal place of business.

(2) CORPORATIONS AND OTHER ENTITIES.—Service on a domestic or foreign corporation, partnership, union, or any other association, or other entity that is subject to suit under a common name may be made by delivering the subpoena to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process.

(3) PERSON OUTSIDE U.S. JURISDICTION.—Service on any person not found within the territorial jurisdiction of any court of the United States may be made in any manner as the Federal Rules of Civil Procedure prescribe for service.

(4) PROOF OF SERVICE.—A verified return by the person so served the subpoena setting forth the manner of service, or, in the case of service by mail, the return post office receipt signed by the person so served, shall be proof of service.

(5) PAYMENT OF WITNESSES.—Witnesses subpoenaed under subsection (a) shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

(e) ENFORCEMENT.—In the case of a refusal to obey a subpoena duly served upon any person under subsection (a), any district court of the United States, within the district in which such person charged with refusal to obey is found, resides, or transacts business, upon application by the Commissioner, shall have jurisdiction to issue an order compelling compliance with the subpoena and requiring such person to appear and give testimony or to appear and produce records and other things, or both. The failure to obey such order of the court may be punished by the court as contempt thereof. If the person charged with failure or refusal to obey is not found within the jurisdiction of the United States, the United States District Court for the District of Columbia shall have the same jurisdiction, consistent with due process, to issue a subpoena compelling compliance with the subpoena by such person that such district court would have if such person were personally within the jurisdiction of such district court.

(f) NONDISCLOSURE.—A United States district court for the district in which the subpoena is served, upon application of the Commissioner, may issue an ex parte order that no person or entity disclose to any other person or entity (other than to an attorney for the person being served) the existence of such subpoena for a period of up to 90 days. Such order may be issued on a showing that the records or things being sought may be relevant to the hearing, investigation, proceeding, or other matter and that there is reason to believe that such disclosure may result in—

(1) the violation of a potential violation under investigation;

(2) endangerment to the life or physical safety of any person;

(3) the taking of action to avoid prosecution or other enforcement remedies;

(4) destruction of or tampering with evidence; or

(5) the intimidation of potential witnesses.

An order under this subsection may be renewed for additional periods of up to 90 days upon a showing that any of the circumstances described in paragraphs (1) through (5) continue to exist.

(g) RELATION TO OTHER PROVISIONS.—The subpoena authority vested on the Commissioner and the district courts of the United States by this section is in addition to any such authority vested in the Commissioner under other provisions of law, or as is otherwise authorized by law.

(h) NONDELIVERY.—The authority to issue a subpoena under this section is limited to the Secretary or an official designated by the Secretary. An official may not be so designated unless the official is the director of the district under this Act in which the article involved is located, or an official senior to such director.”

SEC. 212. WHISTLEBLOWER PROTECTIONS.
Chapter X (21 U.S.C. 331 et seq.), as amended by section 206, is amended by adding at the end the following:

“SEC. 1012. PROTECTIONS FOR EMPLOYEES WHO REFUSE TO VIOLATE, OR WHO DISCLOSE VIOLATIONS OF, THIS ACT.
“(a) IN GENERAL.—No person who submits or is required under this Act or the Public Health Service Act to submit any information related to a food, or any officer, employee, or agent of such person may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against any employee of such person for refusing to violate, or who discloses to any person or entity (other than to an attorney for the person being served) the existence of, any violation of this Act, or any other provision of Federal law relating to the safety of a food, if the information or assistance is provided to, or an investigation stemming from the provided information is conducted by—

(A) a Federal regulatory or law enforcement agency;

(B) any Member of Congress or any committee of Congress;

(C) a person with supervisory authority over the employee (or a person working for the employer who has the authority to investigate, discover, or terminate the misconduct);

(D) cause to be filed, testify, participate in, or otherwise assist in a proceeding filed, or about to be filed (with any knowledge of the employer), in any court or administrative forum relating to any such alleged violation; or

(E) to refuse to commit or assist in any such violation.

“(b) ENFORCEMENT ACTION.—

(1) IN GENERAL.—An employee who alleges discharge or other discrimination in violation of subsection (a) may seek relief in accordance with the provisions of subsection (c) by—

(A) filing a complaint with the Secretary of Labor;

(B) the Secretary of Labor has not issued a final decision within 210 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, or within 90 days after receiving a final decision or order from the Secretary, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which court shall have jurisdiction over such action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

(2) PROCEDURE.—
“(A) IN GENERAL.—Any action under paragraph (1) shall be governed under the rules and procedures set forth in section 4212(b) of title 49, United States Code.

(B) DETERMINATION.—A determination in an action under paragraph (1) shall be made in accordance with section 4212(b)(1) of title 49, United States Code, except that such notification that a violation has occurred in the complaint, the employer, and the Commissioner of Food and Drugs.

(C) BURDENS OF PROOF.—An action brought under paragraph (1)(A) or (1)(B) shall be governed by the legal burdens of proof set forth in section 4212(b) of title 49, United States Code.

(D) STATUTE OF LIMITATIONS.—An action under paragraph (1)(A) shall be commenced not later than 180 days after the date on which the violation occurs.

(E) REMEDIES.—

(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.

(2) ISSUANCE OF ORDER.—If, in response to a complaint filed under paragraph (b)(1), the Secretary of Labor or the district court, as applicable, determines that a violation of subsection (a) has occurred, the Secretary or the court shall order the person who committed such violation—

(A) to take affirmative action to abate the violation;

(B) to—

(i) reinstate the complainant to his or her former position together with compensation (including back pay); and

(ii) restore the terms, conditions, and privileges associated with his or her employment;

and

(C) to provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary or the court, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the action and in connection with which the order was issued.

(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement.

(e) PENALTIES.—Nothing in this section may be waived by any agreement, policy, form, or condition of employment.

SEC. 313. EXTRATERRITORIAL JURISDICTION.

(a) PROHIBITED ACT.—Section 301 (21 U.S.C. 331), as amended by sections 110, 111, 133, 136, and 204, is amended by adding at the end the following:

“(aaa) The production, manufacture, processing, preparation, packing, holding, or distribution of an adulterated or misbranded food with the knowledge or intent that such article will be imported into the United States.”.

(b) JURISDICTION.—Chapter III (21 U.S.C. 331 et seq.) is amended by adding to the end the following:

“SEC. 312. EXTRATERRITORIAL JURISDICTION.

There is extraterritorial Federal jurisdiction over any violation of this Act relating to any article of food if such article was intended for import into the United States or if any act in furtherance of the violation was committed in the United States.

SEC. 314. SUPPORT FOR TRAINING INSTITUTES.

The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall provide financial and other assistance to appropriate entities to establish and maintain one or more university-affiliated food protection training institutions that—

(1) conduct training related to food protection activities for Federal, State, local, territorial, and tribal officials; and

(2) meet standards developed by the Secretary.

SEC. 215. BISPHENOL A IN FOOD AND BEVERAGE CONTAINERS.

(a) NOTICE OF DETERMINATION.—No later than December 31, 2009, the Secretary of Health and Human Services shall notify the Congress whether the available scientific data support a determination that there is a reasonable certainty of no harm, for infants, young children, pregnant women, and adults, for approved uses of polycarbonate plastic and epoxy resin made with bisphenol A in food and beverage containers, including reusable food and beverage containers, under the conditions of use for food in current Food and Drug Administration regulations.

(b) NOTICE OF ACTIONS TO BE TAKEN.—If the Secretary concludes that such a determination cannot be made for any approved use, the Secretary shall notify the Congress of the actions the Secretary intends to take under the Secretary’s authority to regulate food additives to protect the public health, which may include—

(1) revoking or modifying any of the approved uses of bisphenol A in food and beverage containers, including reusable food and beverage containers; and

(2) ensuring that the public is sufficiently informed of such a determination and the steps the public may take in response to such determination.

(c) RULE OF CONSTRUCTION.—Nothing hereinafter is intended to preclude the Secretary from enforcing existing Federal laws and regulations, procedures, or policies for assessing scientific data, making safety determinations, or regulating the safe use of food additives.

SEC. 216. LEAD CONTENT LABELING REQUIREMENTS FOR CERAMIC TABLEWARE AND COOKWARE.

(a) IN GENERAL.—Section 403 (21 U.S.C. 343), as amended by sections 101(a), 109(a), 114(a), 202, and 294, is amended by adding at the end the following:

“(ff) If it is ceramic tableware or cookware and includes a glaze that contains lead, the product and its packaging shall bear the statement: ‘This product is made with lead.’”.

(b) EFFECTIVE DATE.—Section 403(ff) of the Federal Food, Drug, and Cosmetic Act, as amended by subsection (a), shall apply only to ceramic tableware or cookware that bears the statement described in paragraph (1) after December 31, 2012.

(c) PENALTIES.—If a person violates paragraph (1), the Secretary shall impose a civil money penalty not to exceed $1,000 for each violation, to be assessed and collected in the same manner as a civil money penalty imposed under section 303(g)(6) of this Act.

SEC. 217. IMPROVEMENTS TO COMPLIANCE AND ENFORCEMENT.

(a) IN GENERAL.—The Secretary shall take the following actions to improve the enforcement of this Act:

(1) develop procedures for identifying and investigating complaints or allegations of violations of this Act;

(2) develop a plan for establishing and maintaining one or more universal information systems for electronic data collection and analysis to identify patterns of violations and to monitor enforcement efforts; and

(3) establish and maintain one or more universal information systems for electronic data collection and analysis to establish and maintain a database of information related to violations of this Act.

(b) REASSESSMENT.—The Secretary shall reassess the effectiveness of such systems at least once every 2 years and shall report the results of such reassessment to the Committees on Appropriations of the Senate and the House of Representatives.

(c) REPORT.—The Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on the status of enforcement activities for Federal, State, local, territorial, and tribal officials, and the gentleman from Illinois (Mr. DINGELL) and the gentleman from Illinois (Mr. SHIMkus) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in strong support of H.R. 2749, the Food Safety Enhancement Act of 2009.

I remind my colleagues that this bill was up before us yesterday and got 280 something votes in favor of it. It is a good piece of legislation. It is bipartisan. It will fundamentally change the way in which we ensure the safety of our food supply and protect American consumers, farmers and businesses.

I would note it came out of committee in a bipartisan fashion, unanimously, by voice vote.

A series of foodborne disease outbreaks have laid bare unacceptable gaps in our food-safety laws, and this will be the first major change in our food-safety laws with regard to food and drugs since 1938.

In the past 2 years alone, we have witnessed issues of melamine in infant formula and in milk products, and we have seen tainted peppers from Mexico, harmful seafood and shellfish from China, E. coli in spinach, and problems with strawberries and raspberries.

Each year, in spite of the fact that we have the most careful and safe food in the world, we find that 76 million people contact a foodborne illness in the United States. According to CDC, some 5,000 die.

This legislation contains significant policy solutions that will address this situation. It is largely based upon legislation I introduced last year along with Energy and Commerce subcommittee Chairman Pallone and Stupak.

We have worked with our Republican colleagues in a bipartisan fashion on the Committee on Energy and Commerce to get this bill right. We have worked with our colleagues on the Agriculture and the Ways and Means Committees to address their concerns, and I believe we have done so.
Mr. DINGELL and I want to thank Chairman Dingell and Mr. Deal for their hard work both in energy and in food safety issues, and we think we've done that bill up again today.

We have to have confidence in our food supply, and that's what we're trying to do in this bill. And this bill takes the necessary steps to move us forward.

The changes that we have made not just in the original text of the bill, but in addressing some of the concerns we think are very, very helpful. And I want to pledge to my ag Republican friends—and I'm from an agricultural district, and a lot of these groups that support them are good friends of mine. And we want to ensure that we continue to work forward and move forward as the bill does.

A couple of issues that Chairman Emeritus Dingell said was, you know, the bill does not require farms to register with FDA, and as a result farms do not have to pay a registration fee. Access to farm records is significantly restricted. Livestock and poultry are exempt from the bill. Grain and related commodities are exempt from produce standards. USDA regulated farms, facilities, and products are not subject to the bill. It allows farms to be exempt from the traceability requirements.

We, as a committee, both in the Oversight and Investigation and then as a full committee, we just couldn't sit on the sidelines anymore as we saw case after case of food-borne illnesses. We had to come together in a way to address this.

I think we have done it. I think it's a good product. Can there be some fixes as it moves forward? Yes, there can. But I would ask all my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SHIMkus. Mr. Speaker, I yield myself such time as I may consume.

I was a member of the Oversight and Investigation Subcommittee in the last Congress serving 10 or 12 months in that position. And every time we had a hearing on some unsafe food product, another outbreak would occur. So we knew that we really had to get our heads together and try to address food-safety issues. And we think we've done that with this bill.

I want to thank Chairman Emeritus Dingell and I want to thank Chairman Waxman, Chairman Pallone, and Chairman Stupak for working with Ranking Member Barton and Deal and myself to really move the bill forward in a way that we could pass it on a voice vote. I just only wish—and I think we could do even better. We voted and we could do this on health if we really sat down and tried to work out the differences.

This is not an easy bill to pass. And as Chairman Emeritus Dingell said, 21 years he has been working on this. And this is not an easy thing to do. We did all we could. And I do appreciate the time that we spent on the floor and then with staff to work out the difficult options. And so we come here today with a pretty united bill, one that would have passed had it not been on the suspension calendar, and so we bring it up again today.

I have also heard concern that FDA will have the authority to issue safety standards that will apply to farms and interfere with organic farming practices. I want to dispel that that is not so. In fact, FDA is prohibited from imposing safety standards unless it determines those standards are "reasonably necessary to minimize the risk of serious adverse health consequences or death," a very, very high standard that they have to meet. This will ensure protection of the concerns of organic farmers and that they are taken into consideration before issuing standards. This is why it has the support of the distinguished chairman of the Agriculture Committee and members of that committee from both sides of the aisle.

Mr. Speaker, this is a product of bipartisan cooperation. It is supported by industry. It was approved unanimously by a voice vote in the Energy and Commerce Committee. It reflects findings of more than 20 hearings on the failure of our food system safety processes conducted by five different committees of the House over 3 years. It addresses weaknesses in the food-safety system at FDA that were identified under the Bush administration and included in concerns under the current administration.

H.R. 2749 it is a well-vetted, mature piece of legislation. I urge my colleagues to support this.

I urge my colleagues to support this legislation. It is a good bill. It will protect the American people, the American consumers, and it will not hurt American industry, which supports this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield myself 1 additional minute.

I have also heard concern that FDA will have the authority to issue safety standards that will apply to farms and interfere with organic farming practices. I want to dispel that that is not so. In fact, FDA is prohibited from imposing safety standards unless it determines those standards are "reasonably necessary to minimize the risk of serious adverse health consequences or death," a very, very high standard that they have to meet. This will ensure protection of the concerns of organic farmers and that they are taken into consideration before issuing standards. This is why it has the support of the distinguished chairman of the Agriculture Committee and members of that committee from both sides of the aisle.

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H.R. 2749 is a well-vetted, mature piece of legislation. I urge my colleagues to support this bill. It is a good bill. It will protect the American people, the American consumers, and it will not hurt American industry, which supports this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SHIMkus. Mr. Speaker, I yield myself such time as I may consume.

I was a member of the Oversight and Investigation Subcommittee in the last Congress serving 10 or 12 months in that position. And every time we had a hearing on some unsafe food product, another outbreak would occur. So we knew that we really had to get our heads together and try to address food-safety issues. And we think we've done that with this bill.

I want to thank Chairman Emeritus Dingell and I want to thank Chairman Waxman, Chairman Pallone and Chairman Stupak for working with Ranking Member Barton and Deal and myself to really move the bill forward in a way that we could pass it on a voice vote. I just only wish—and I think we could do even better. We voted and we could do this on health if we really sat down and tried to work out the differences.

This is not an easy bill to pass. And as Chairman Emeritus Dingell said, 21 years he has been working on this. And this is not an easy thing to do. We did all we could. And I do appreciate the time that we spent on the floor and then with staff to work out the difficult options. And so we come here today with a pretty united bill, one that would have passed had it not been on the suspension calendar, and so we bring it up again today.

We have to have confidence in our food supply, and that's what we're trying to do in this bill. And this bill takes the necessary steps to move us forward.

The changes that we have made not just in the original text of the bill, but in addressing some of the concerns we think are very, very helpful. And I want to pledge to my ag Republican friends—and I'm from an agricultural district, and a lot of these groups that support them are good friends of mine. And we want to ensure that we continue to work forward and move forward as the bill does.

A couple of issues that Chairman Emeritus Dingell said was, you know, the bill does not require farms to register with FDA, and as a result farms do not have to pay a registration fee. Access to farm records is significantly restricted. Livestock and poultry are exempt from the bill. Grain and related commodities are exempt from produce standards. USDA regulated farms, facilities, and products are not subject to the bill. It allows farms to be exempt from the traceability requirements.

We, as a committee, both in the Oversight and Investigation and then as a full committee, we just couldn't sit on the sidelines anymore as we saw case after case of food-borne illnesses. We had to come together in a way to address this.
Mr. Speaker, I yield at this time 2 minutes to the distinguished chairwoman of the Appropriations Subcommittee of jurisdiction on this matter, Ms. DeLAURO.

Ms. DeLAURO. Mr. Speaker, what is this bill all about?

Food-borne illness in the United States of America kills 5,000 people every single year.

We went to war in Iraq and Afghanistan when 3,000 people, unbeknownst that when they went to work that day that they weren’t coming home, and we went to war in Afghanistan as a result.

We know that 5,000 people every year die of a food-borne illness and an illness, my friends, that can be prevented.

Stand with the mother and the father of a 2-year-old child, the parents who went to the grocery store and brought home spinach or lettuce or sprouts or tomatoes and their child died because of E. coli, with the son and daughter of an elderly person in a nursing home who ate a peanut-based product and wound up dying because of that, having survived illness. That’s what this bill is all about.

We can prevent food-borne illness in the United States of America. We can prevent 5,000 deaths every year. That’s what this bill is focused on. It is of critical importance. It is about the health and the safety of American families. That health and safety is not only threatened in airports and border checkpoints or harbor containers. It’s in fridges, on kitchen tables.

And for too long the cornerstone of our food safety system, the FDA, has only rudimentary, ancient tools and an outdated mandate at its disposal. This bill rectifies that oversight. It gives the FDA the means to deal with the dangers that are posed by our global food system. It enhances the agency’s ability to stem microbial illnesses, prevent what won’t happen before it happens.

It looks at risk-based inspection and says, what are the foods that are at highest risk? Let’s set up some performance standards to deal with that. Let’s put mechanisms in place so that we can trace the contamination and make sure we find it and find it quickly, protect the public health, and, yes, protect industry as well. That was part of this effort as well.

Performance standards are the backbone of an effective process and a control system. I would urge the FDA to develop testing protocols for each performance standard that it sets. This would include ongoing industry testing programs, supported by periodic sampling by the FDA.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. DINGELL. Mr. Speaker, I yield the distinguished gentlewoman an additional 30 seconds.

Ms. DeLAURO. Mr. Speaker, thank you. We have an opportunity. The laws and the statutes at the Food and Drug Administration today are inadequate to protect the food and the safety of the American people and at the very same time they put at risk the industries that deal with these products. The industry has come forward and said, Give us standards. That’s what this bill is all about.

We have an obligation today to pass this bill and to make sure that we say to the American people we are doing everything that we can to prevent 5,000 deaths every single year and particularly the most vulnerable, our children and the elderly.

Mr. SHIMKUS. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. Upton), who is ranking member on the Energy and Air Quality Subcommittee.

Mr. UPTON. Mr. Speaker, let’s face it: the recent events have shown us that the current system regarding food safety is not working. And I want to compliment those Members that have been actively involved in this, those from our Committee on Oversight and Investigations that exposed many of the problems, obviously the leadership on both sides, Republicans and Democrats, as we moved this bill through our subcommittee and then full committee by a voice vote.

The Oversight and Investigations Subcommittee found severe problems. We are very aware of those problems because those problems have been exposed nationally. Obviously, we have a number of very bad actors, but they have jeopardized the whole food chain. We remember the peanut butter issue and spinach and tomatoes. We need to be deliberate to tackle the issue and obviously be bipartisan to resolve the issue, and that’s what this legislation does.

As Mr. SHIMKUS indicated, farms are not required to register with the FDA. There are no large fees associated with this bill. There is no duplication with the USDA, as I understand it.

In my district in southwest Michigan we have a whole number of different food sources from fruits and vegetables to giant food processors and great companies like Kellogg’s. Industry is united behind this legislation. It needs to happen so that consumers will know for sure that there is a mechanism in place to identify when a product, in fact, is bad, that needs to be recalled. And this bill, as it has moved through committee, has shown that bipartisan support.

I would urge my colleagues on both sides to support it.

Mr. DINGELL. Mr. Speaker, I yield at this time 3 minutes to the distinguished gentleman from California (Mr. Farr).

Mr. FARR. Thank you. And would this bill necessarily require small farms to participate in the expensive and unworkable electronic traceability system that FDA will set up?

Mr. DINGELL. The answer to that is no.

Mr. FARR. I yield to Mr. BLUMENAUER from Oregon, who has worked with Ms. KAPTUR and myself to make sure that the organic and small growers and processors’ concerns have a voice.

Mr. BLUMENAUER. I appreciate the gentleman’s courtesy, as I appreciate the leadership of the chairman. And it’s great to see food safety receive the full attention that it deserves.

I am especially concerned about the language regarding interaction between wildlife, livestock, and farming practices. Biodiversity is a prerequisite for a healthy farm. We should not penalize farmers for utilizing techniques such as nature-scaping, floodplain restoration, and natural hedgerows to encourage crop health, control pests and invasive species, and enhance soil quality.

We should target reform and safety efforts towards practices which have been directly linked to food disease outbreaks, rather than limiting approaches that farmers have used for centuries to reduce their dependence on pesticides, herbicides, and other carbon-intensive farming techniques.

I would like the assurance from the chairman that he will work with us as Food and Drug Administration develops these criteria so that they will consider the needs of small farms and the practices of organic farmers.
Mr. DINGELL. The answer to that question is, yes; and I will have a more detailed response.

Mr. BLUMENAUER. Thank you, Mr. Chairman, for your courtesy.

Thank you, Mr. FARR, for permitting me to participate in this colloquy.

Mr. DINGELL. If the gentleman from California would yield, I would like to give a more exhaustive response to my friends.

The first thing we've been hearing complaints that the bill will put unfair, inappropriate, and unnecessary burdens on farmers, particularly small, diversified, and organic farms. We have worked hard to avoid doing that. I want to tell my good friends we would be extremely concerned if this bill created a conflict between food safety and other farm practices aimed at protecting and sustaining the environment. The bill therefore has a number of important provisions designed to prevent such conflicts.

For example, it requires FDA to take into consideration the impacts of any produced food safety standards on small and diversified farms, wildlife habitat, conservation practices, and organic production methods. It prohibits FDA from setting any such standards unless those standards are necessary to minimize the risk of serious adverse health consequences or death.

The bill also requires FDA to work in coordination with the U.S. Department of Agriculture to issue such standards. USDA administers the National Organic Program and will be working with FDA to ensure that the safety standards are compatible with organic standards.

Let me speak now to the question about the traceability system in the bill. The traceability provisions in the bill are a critically important part because they allow FDA to quickly track down the sources of food-borne outbreaks and can establish the chain of custody. Under the traceability requirements, the bill requires FDA to go through an extensive information-gathering process with public meetings and a pilot project.

As a part of the process, it requires FDA to consider the costs and the benefits and the feasibility for different sectors of the food industry of any traceability technologies under consideration. And for any regulation that would have an impact on farms, FDA must consult with USDA and take into account the nature of the impact on the regulation on farms.

Additionally, FDA will be prohibited from requiring farms selling food directly to consumers, restaurants, or grocery stores to participate in this system. So I believe we can be confident that whatever traceability system is developed will appropriately take into account the needs and interests of the farmers.

And I assure my two good friends that I will work with them to see to it that these commitments are kept.

Mr. FARR. Thank you, Mr. Chairman. I really appreciate that.

Mr. BLUMENAUER. Thank you, sir.

Mr. DINGELL. I thank my two colleagues for their valuable assistance to the committee.

Mr. SHIMKUS. Mr. Speaker, before I yield time to my colleague, I yield myself 15 seconds.

Mr. Speaker, I want to recognize my colleagues Mr. PUTNAM and Mr. COSTA for their bill, the Safe FEAST Act, which was an original cosponsor on, which got rolled into this bill, and it was of great help when they did that.

Mr. Speaker, I yield such time as he may consume to my colleague from Florida (Mr. PUTNAM).

Mr. PUTNAM. I thank my friend from Illinois for his leadership on this issue and his original cosponsorship of that Safe FEAST Act, which has had a number of its key principles incorporated into the bill that we're debating today.

I rise in support of the bill that we are debating today. It is a bipartisan bill built on an effort and a model that could and should be followed for the other big issues facing this Congress. It's unfortunate that the process that was taken did not adequately include our Agriculture Committee and that as we move this issue forward that it will continue to improve upon that because it is important that our Agriculture Committee and our Representatives from rural America have input into this, and the bill will benefit from their input.

Mr. DINGELL. Mr. Speaker, I am delighted at this time to yield 1 minute to the distinguished gentleman from Georgia (Mr. SCOTT), the chairman of the Subcommittee on Livestock, Dairy and Poultry.

And that is really the crux of the matter between our producers and our consumers, that on this issue of food safety, there is no distinction between the interests of the farmer and the shopper in the grocery store, because the consumer loses out if FDA and USDA cannot rapidly and accurately trace back the source of food-borne illness. If they paint the industry with a broad brush, economic losses are severe, so the interests of the farmer are the same as having a modern, effective regulatory system, so that they have a high level of confidence in the items that they purchase to put on their family's kitchen table. There must be the highest possible standard and the best possible science behind that law.

As this issue moves forward, improvement can be made as it relates to the traceability, and, most importantly, as it relates to the implementation of this bill for State and local governments, the state Departments of Agriculture and Health, who, by definition, have a much more delicate responsibility than FDA to implement this legislation. They must have the resources and the authority and the full cooperation of FDA. There have been breakdowns in the past where FDA did not share as much as they should. This bill does much to address that, and can do a bit more.

And in an era where organic farming continues to grow in popularity, we must be sensitive to these ever-changing forms and trends in American agriculture.

With that, I am proud to support the legislation, and I appreciate the leadership and the strong support he has given for this legislation, and I appreciate the leadership of my friend from Illinois and my friend from Michigan.

Mr. DINGELL. If the gentleman will yield to me just briefly, I want to commend the gentleman not just for a fine statement, but also for the long and staunch support he has been for this kind of legislation and protection for industry and for the consumers.

I would like to observe that the concern the gentleman has expressed are very valuable and are included in the legislation, particularly in seeing to it that foreigner now have to meet the same requirement that Americans do.

Americans produce and process safe food. Foreigners do not. This will assure the people that they can rely on Food and Drug to protect them not just from American producers and from American processors, but also from the foreigners, who are slipping in dangerous substances.

I want to commend the gentleman and thank him.

Mr. PUTNAM. I thank the chairman emeritus and the dean of the House.

Mr. DINGELL. Mr. Speaker, I am delighted at this time to yield 1 minute to the distinguished gentleman from Georgia (Mr. SCOTT), the chairman of the Subcommittee on Livestock, Dairy and Poultry.
Mr. SCOTT of Georgia. I thank the chairman for yielding.

I just want to state that under the auspices of my subcommittee, food safety is a jurisdiction that we handle. It is very important as we move forward to understand that we have got to make our food supply safe. There is no greater thing we can do for the American people and the people of the world than to give absolute assurance that our food supply is safe.

Now, I come from a State, Georgia, where we had an outbreak from salmonella in which we lost eight lives, eight persons that would be alive today if we had this bill in place, because we would have a process of accessing records that we don't have now.

Before this bill is passed, in order to get records from a manufacturer or food processing plant, we can't get it until the food outbreak occurs. But under this bill, when we are inspecting the plant, we will be able to get access to those records. If this was in place, eight Americans would be alive today.

Mr. Speaker, 76 million Americans suffer from food poisoning from our food supply each year 5,000 are dying.

The SPEAKER pro tempore. The time of the gentleman from Georgia has expired.

Mr. DINGELL. I yield the gentleman 30 seconds more.

Mr. SCOTT of Georgia. Five thousand are dying. There is no more plain thing we can do.

And I have heard some comments from those who oppose this bill that this bill does nothing, but it does, Mr. Speaker. It provides for us to have inspections at food plants every 6 to 12 months. Do you know how often we are inspecting them now? Once every 10 years. The American people deserve better than that. They deserve for us to have a trace-back system so that we can trace back and get the origins of the outbreak as quickly as possible.

This is a tremendous bill, a tremendous bipartisan effort, and the American people are expecting us to pass it, and pass it overwhelmingly.

Mr. SHIMKUS. Mr. Speaker, I don't have any additional speakers. I reserve my time.

Mr. DINGELL. Mr. Speaker, I yield to the distinguished gentlewoman from New York (Mrs. MALONEY) for purposes of making a unanimous consent request.

(Mrs. MALONEY asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY. Mr. Speaker, I rise in strong support of this bill.

In recent years, a series of outbreaks of food-borne illnesses have made clear the need to effectively secure our nation's food supply.

From spinach to cookie dough, foods have become contaminated and have threatened the health of the American people, exposing widespread problems with the food safety system in this country. H.R. 2749 will fundamentally change the way we ensure the safety of the foods we eat.

This bipartisan bill will provide the FDA with new powers and the tools it needs to protect the food supply by providing for more frequent inspections of food-processing plants here in the U.S. and by ensuring the safety of foods imported from overseas.

H.R. 2749 will provide a new focus on the prevention of food-borne illness by putting systems in place that allow us to better track the source of these outbreaks. This legislation is critical to the health and safety of the American people, and I urge my colleagues to support it.

Mr. SHIMKUS. Mr. Speaker, I continue to reserve.

Mr. DINGELL. Mr. Speaker, at this time I yield 2 minutes to my distinguished friend, the gentleman from Utah (Mr. MATHESON), a superb Member of this body and a great friend of mine.

Mr. MATHESON. Mr. Speaker, I thank the gentleman for yielding.

Included in this bill was the manager's amendment, addressing an issue that I raised that Mr. DINGELL has worked long and hard on and helped me figure out a way to address concerns about lead glazing on ceramic plates on which we eat our food.

This issue first came to my attention with reports in my home State of Utah when a child was sick. After they analyzed the child, they determined the child had lead poisoning. They investigated the home where this child was living and couldn't find any sources of lead.

Ultimately it was discovered that the child's mother had been heating food in the microwave oven. The ceramic bowl or plate she was using wasn't properly glazed or wasn't properly sealed, and lead was leaching out of the plate into the food. Then when she would nurse the baby, the baby would get lead poisoning.

I think we all want to take steps to prevent that type of thing from happening. What we determined is most people don't even realize lead glazing is used on these plates. These plates come in with FDA labels, because the Food and Drug Administration has authority over it, so people who see a label from the Federal Government probably assume it safe.

Included in the manager's amendment is a requirement that there is labeling, just so consumers have the right to know, that it contains a lead glaze. Whether we determined in most cases it is not necessarily dangerous. But people have the right to know that.

I really commend my friend from Michigan, who has been working on this issue and has been aware of it for a long time. He worked with my office extensively to come up with some way to try to at least make some progress on this issue. It is included in this bill. He is a great legislator, and I am glad he helped me figure that out.

I encourage people to support this bill.

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, I would appreciate it if the gentleman didn't praise me, and instead let me say good words about him.

He is a valuable member, a valuable member of our committee. He works hard. He is smart and decent and has been great on this issue. We are proud of him.

Mr. SHIMKUS. I continue to reserve, Mr. Speaker.

Mr. DINGELL. Mr. Speaker, at this time it is my privilege to yield 3 minutes to the gentleman from Minnesota (Mr. PETERSON), a very distinguished Member of this body, the chairman of the Agriculture Committee, a member of the House and an extremely wise defender of American agriculture and American farmers.

Mr. PETERSON. Mr. Speaker, I thank the gentleman for yielding.

I first want to commend Chairman Emeritus DINGELL for all of his hard work on this issue, not only during this session of Congress but in many sessions past. We are hopeful that we can move this legislation forward and get additional safeguards in place for food safety in this country.

We also want to commend the other members of the Energy and Commerce Committee on our side of the aisle and on the Republican side of the aisle for their work on this on a bipartisan basis. It is good to see some bipartisan effort happening in the House, and there was some good work done.

We did have some concerns in the Agriculture Committee that we engaged in some discussions and negotiations with Mr. DINGELL and others on the staff of the Energy and Commerce Committee on, and we think we have further improved the bill in terms of how it relates to agriculture. We were able to clarify things in terms of livestock and grain farmers that there was some concern about the language, so that cleared up issues in terms of performance standards and record keeping.

As the bill came out of Energy and Commerce, there were concerns registered by some of the farm groups. Some of them even indicated they might oppose it. But at this point, because of the changes that have been made, we now have groups that in the past had some concerns, they are now either neutral or supporting this bill.

The United Fresh Fruit and Vegetable Association, Western Growers, the American Farm Bureau, National Association of Wheat Growers, the Cattlemen Beef Association, Turkey Federation, Chicken Council, Pork Producers, Corn Growers, Soybean Association, Rice Federation, United Egg Producers, the American Sheep Industry, the Wheat Growers and the Barley Growers, are now either supporting the legislation or are neutral on the legislation.

I believe that we have addressed the concerns of agriculture. We believe this is a good bill. I encourage Members to support this bill, and again commend my good friend and colleague
Mr. Speaker. I yield myself such time as I may consume and will just close briefly by saying this bill is on the floor.

We did take a very difficult issue, one that has been languishing for 21 years, and worked with young Members and new Members, like Adam Putnam, and with the distinguished Chairman Emeritus Dingell, and got into a room and moved a bill that has the support of almost everybody in the food processing and agriculture community and the marketing of this.

I have sat in numerous hearings, as I said in my opening statement, and every time we would have an oversight investigation hearing there would be an alert of another food-borne illness, and we just knew we couldn’t continue down that route.

As my colleague Mr. Putnam said, it is going to be helpful to the farmers. It is going to be helpful to the processors when we bring some more security and safety and knowledge that we continue to produce the best food supply in the world. It also will help us with the importation of food, and that was a big issue in our debate.

So, with that, this has worked well. We should try this bipartisan method on things like energy and things like health, and maybe we will get there in months to come, I hope, because this is a much better process than us fighting over things like energy and things like issue in our debate.

We had a long list of supporters. The Obama administration; Grocery Manufacturers Association—the people who sell are going to understand that they’re going to be charged a participation fee; the Wine Institute; Wine America; Distilled Spirits Council of the United States; Center for Science in the Public Interest; Consumers Union; Consumers Federation of America; Center for Foodborne Illness Research & Prevention; Food & Water Watch; Government Accountability Project; National Consumers League; Pew Charitable Trusts; and Safe Tables Our Priority are all active supporters of this legislation.

And these agencies which previously had concerns about the legislation have either lifted their opposition, become neutral or actively support H.R. 2749: United Fresh Fruit and Vegetable; Western Growers; American Farm Bureau Federation; National Association of Wheat Growers; National Cattlemen’s Beef Association; National Turkey Federation; National Chicken Council; National Pork Producers Council; National Corn Growers Association; American Soybean Association; U.S. Rice Federation; American Feed Industry Association; United Egg Producers; and the American Sheep Industry.

We have seen that in the long time since legislation was passed to bring food and drug up to national needs since legislation was passed to bring food and drug up to national needs, there have been significant changes, both in the authority of FDA, in its moneys and its abilities to deal, not just with domestic producing problems, but with problems overseas, from which we are receiving lots of dangerous and unsafe food commodities and food products.

This legislation gives food and drug the authority that it needs, the ability to trace, the ability to hold producers accountable to protect the American people, and it is to the detriment of American consumers.

And I would remind my colleagues that Food and Drug has neither the resources at the points of entry, nor do they have the personnel at those places to inspect foods coming in from abroad.

And I would remind my colleagues that Food and Drug has neither the resources at the points of entry, nor do they have the personnel to inspect foods coming in from abroad. This changes that situation. It is also true that the legislation does something else of importance to our people, and that is, it sees to it that where misbehavior occurs abroad, those same penalties that would be assessed against Americans are assessed against foreigners. This is an important matter of competition to American producers and manufacturers to let it be known that they are fairly treated, and that there is no more unfair competition by people who could market unsafe commodities to the detriment of American consumers and American growers, processors and producers.

So the legislation is good. A system of assuring responsibility and traceability is available for the first time. And Food and Drug has the authority to terminate the ability of foreigners to sell in this country for the first time in a way which is consistent with American trade laws and the obligations of American people with regard to the safety of food. So, it is a good piece of legislation, and I would urge my colleagues to support it. I would have them know that this is bipartisan, this is a good piece of legislation. It is legislation which protects American people, which sees to it that Americans will no longer be dying of dangerous foods imported into the United States, and it will see to it that American producers are treated fairly in the world marketplace without jeopardy of violation of our law.

It also will see that Food and Drug has the personnel, the resources that it needs to protect the American people, and it is to the budget of the American taxpayers.

I yield back the balance of my time. The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 691, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. Lucas. Mr. Speaker, I have a motion to recommit the bill.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. Lucas. I am opposed to the bill in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Lucas moves to recommit the bill H.R. 2749 to the Committee on Energy and Commerce with instructions to report the bill back to the House forthwith with the following amendments:

Page 21, lines 3 and 4, strike subparagraph (B) and insert the following:

‘‘(B) shall only be collected and available as follows:‘

(i) Fifty percent shall be available to defray the cost of additional safety inspection of food in the United States.

(ii) Fifty percent shall be available for use under section 137 of the Food Safety Enhancement Act of 2009.’’

Page 23, line 8, strike ‘‘and’’.
Mr. LUCAS. Mr. Speaker, the nature of this bill contemplates a number of different things that try to address and protect the supply of domestic food in this country, food in general, I should say. The bill, the language offered, the motion, refers to using 50 percent of these fees collected under section 137 of the motion, which is referenced on the second page, an additional item to all of the things already outlined in the bill in its present form.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I would observe that the language of the legislation nowhere authorizes purchase of food. Under the number of the legislation appears the language, to amend the Food, Drug and Cosmetic Act to improve the safety of food in the global market and for other purposes. And then, down there where you follow, following the words, a bill, and it says, to amend the Federal Food, Drug and Cosmetic Act to improve the safety of food in the global market and for other purposes. Nowhere in the legislation, in my reading, have I been able to find the authorization for the purchase of food or the purchase of food to achieve safety.

I would observe that the language of the motion to recommit permits the purchase of the food without restriction, without restraint or limit. It is some of the grandest authority that is given and well beyond any authority which Food and Drug now has or seeks. Food and Drug have authority in this area whatsoever for the purchase of food. And the purchasing of food is not for the purpose of protecting the American people, of seeing to it that Food and Drug can properly assure the safety of the food or the protection of the American consumers. And the language that is, I think, most particularly descriptive of what the proposal does, it follows line 3 at page 2. It says, the Secretary of Health—and this is, I'm referring to Secretary of Health and Human Services may make a preemptive purchase related to activities by the government in carrying out any provisions of this act or amendment made by this act.

That might be good language for the Committee on Agriculture to present to the House, but it is no language that Food and Drug and none that would be suggested by the commerce committee.

The SPEAKER pro tempore. If no other Member wishes to be heard, the Chair is prepared to rule.

The gentleman from Michigan makes a point of order that the amendment proposed in the motion to recommit offered by the gentleman from Oklahoma is not germane. The test of germanness in this situation is the relationship of the amendment proposed in the motion to the provisions of the bill as a whole.

The bill, as perfected, amends the Federal Food, Drug, and Cosmetic Act to improve the safety of food. It grants the Secretary of Health and Human Services authority to issue mandatory performance standards for reducing hazards and requires the Secretary to conduct risk-based inspections. It also expands the Secretary’s access to food facilities and authorizes issuance of recalls of contaminated food.

In most pertinent part to the questions at hand, the bill provides the Secretary with special tools to address an outbreak of food-borne illness. These include a system for the rapid tracing of the origin of food, authority to mandate recalls of contaminated food, and authority to quarantine geographic areas of the United States from which the Secretary reasonably believes contaminated food has originated.

The amendment proposed in the motion to recommit contemplates allowing the Secretary to make purchases of food for the purpose of protecting the American people, to spend its registration fees on food facilities, as defined in section 415 of the Act. The amendment also would make a portion of the proceeds of certain fees contemplated by the bill available only for such preemptive purchases.

The Chair finds that the amendment pursues the same fundamental purpose of the bill as a method that dwells within the range of methods employed by the bill. The Chair therefore holds that the amendment is germane.

Accordingly, the point of order is overruled. The motion is in order.

The gentleman from Michigan may be recognized for 5 minutes in opposition.

Mr. DINGELL. Mr. Speaker, we have before us a bad motion to recommit. With all due respect for its author, we know that the FDA has been chronically starved of resources, particularly in the food area. And certainly in its ability to protect the American people.

The amendment offered before us would raid that money and would use it for the purpose of purchasing food. The food is not designated as to how or why it might be purchased. I would point out that this breaks an agreement and an understanding that the committee had in this legislation with regard to the support by the food production industry, especially the parts of the industry that produce food.

The bill only authorizes a modest $500 registration fee for food facilities. The motion to recommit asserts the bill does not require the FDA to spend one additional penny on the inspection of food. This is a serious untruth.

On Page 23, the bill directs the FDA to spend its registration fees on food safety activities. The bill explicitly provides that food safety activities include conducting inspections. This money will be diverted from the inspection and the protection of the American people, and it will not be available for the activities of Food and Drug. It might give relief to somebody,
and it might even be somebody who needs relief, but there's no standards whatsoever given as to who will get the money, how it will be spent, on what, and for what purposes.

The bill requires the FDA to adhere to a voluntary inspection schedule based on risk. This bill does nothing to enhance that, but it takes money away from the protection of the American consumer by having proper inspections at points of entry or inspection by countries. This is a bad situation and one which is going to seriously hurt the safety of the American public.

The bill is carefully crafted to ensure that the American Food and Drug Administration will protect American consumers and American manufacturers, processors, growers, and the farmers of this Nation. It enables them to focus on where there is danger, and it enables them to provide the direct protection that all of those entities need, especially the farmers, the processors and the producers, because today the broad authority that Food and Drug has is no longer sufficiently focused to enable the correct and direct focus on the dangers to the American public.

The bill gives Food and Drug modern authorities to safeguard the food supply, but it gives them the money to do the things that they have to do to protect the American industry and the American-consuming public.

This legislation diverts 50 percent of the receipts that we would get under the legislation into the protection both of producers and from the protection of the American-consuming public.

The bill has provisions that ensure that FDA cannot use its ability to stop distribution recall or to detain or to stop importing to a rigorous mandatory inspection. This bill's most glaring omissions. Specifically, I would like to focus on what I believe to be a lack of accountability on the part of the Food and Drug Administration. The legislation before us provides the agency with numerous ambiguities as well as a new source of revenue charged to people wishing to be in the food business, but it does not require the FDA to spend one additional penny on the inspection of food.

I am hopeful that my colleagues will agree that this is something that we can and should address in this bill as it leaves the House. Therefore, I propose that FDA spend a portion of the funds collected as registration fees for additional food inspections in the United States of America. Let's face it, if we are going to call this bill the Food Safety Enhancement Act, we should probably have something in here that actually enhances food safety.

Now, another issue that is very troubling and the one we hear repeatedly from farm groups is the issue of indemnification. I would point out that the chairman emeritus and the ranking member explained that concern in a Dear Colleague letter last night. The issue of indemnification can be illustrated with the example of what happened to tomato crops in 2008.

The FDA mistakenly attributed an outbreak of salmonella to tomatoes. It was later discovered that contaminated peppers were the actual source of the illness. However, the discovery came after a large part of the 2008 tomato crop was destroyed, and the industry suffered, perhaps, $100 million in losses as a result.

I appreciate that Mr. DINGELL and Mr. BARTON feel that the passage of this bill will reduce the number and the severity of these mistakes in the future. I truly hope they are right. We must not kid ourselves into believing that the FDA will not make such mistakes in the future. Wrongly implicating agriculture products to foodborne disease outbreaks can cause severe economic losses to farmers and ranchers, who can ill afford them. Unfortunately, this legislation does not address this real concern.

We attempt to address this omission in our motion to recommit. We propose that half of the money coming from the registration fees be set aside for preemptive purchase products from producers. Remember, these purchases only result from direct government action. These changes will not fix everything that we feel to be wrong with the legislation, but they will address some of the more significant problems.

Nothing in this motion adds to the cost of the bill, but it does strengthen FDA accountability, and it guarantees enhanced food safety inspections.

Once again, let's direct that half the money goes to food inspection. Let's make sure the other half of this registration money is available to correct the mistakes that the FDA may make. I urge the House to support this motion. Let's clean up two of the biggest problems, and let's move forward. I urge all of my colleagues to support this motion once again.

Mr. Speaker, I yield back the balance of my time.

Mr. LUCAS. Mr. Speaker, once again, let me express my gratitude to the chairman emeritus and to the ranking member of the Energy and Commerce Committee. They have both put a great deal of effort into developing this very important piece of legislation, and they are to be commended for their attempts to accommodate the concerns raised by members of the minority party of the Agriculture Committee.

During the past few days, I have discussed many of the more objectionable provisions of this legislation. Today, I am hopeful and optimistic, in offering this motion to recommit, that we can at the very least address two of the bill's most glaring omissions.

Specifically, I would like to focus on what I believe to be a lack of accountability on the part of the Food and Drug Administration. The legislation before us provides the agency with numerous ambiguities as well as a new source of revenue charged to people wishing to be in the food business, but it does not require the FDA to spend one additional penny on the inspection of food.

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Mr. Speaker, I yield back the balance of my time.
The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was agreed to by the ayes appearing to have it.

The result of the vote was announced on the passage of H.R. 2749, by aye 283, no 142, by aye 240, not voting 7, as follows:

[Vote Details]

[Roll No. 679]

YEAS—186

NAYS—240

[Raw Text of Vote]

[Vote Text]

[Result]

[Vote]

[Recorded Vote]

[Rule 5-minute vote]
ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining on this vote.

NOT VOTING—8

Adler (NJ) Napolitano (AZ)
Akin McMorris (WA)
Grayson (FL) McNerney (CA)

PROVIDING FOR HOUSE OF REPRESENTATIVES STAFF PAYDAY CHANGES

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the bill. H.R. 1752, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mrs. DAVIS) that the House suspend the rules and pass the bill, H.R. 1752, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, both-things being in the affirmative, the ayes have it.

Mr. LATHAM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 282, noes 144, not voting 7, as follows:

[Vote Roll No. 681]