

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6552

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

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 17, 2010

Ms. DELAURO introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Single Food Safety Agency Act of 2010”.

## 1 (b) TABLE OF CONTENTS.—

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

## TITLE I—ESTABLISHMENT OF FOOD SAFETY ADMINISTRATION

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

## TITLE II—ADMINISTRATION AND ENFORCEMENT

- Sec. 201. Administration of national program.  
 Sec. 202. Criminal penalties.  
 Sec. 203. Civil penalties for violations.

## TITLE III—IMPLEMENTATION

- Sec. 301. Definition of transitional period.  
 Sec. 302. Reorganization plan.  
 Sec. 303. Transitional authorities.  
 Sec. 304. Savings provisions.  
 Sec. 305. Authorization of appropriations.

2 **SEC. 2. DEFINITIONS.**

3 In this Act:

4 (1) **ADMINISTRATION.**—The term “Administra-  
 5 tion” means the Food Safety Administration estab-  
 6 lished under section 101(a)(1).

7 (2) **ADMINISTRATOR.**—The term “Adminis-  
 8 trator” means the Administrator of Food Safety ap-  
 9 pointed under section 101(a)(3).

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

13 (4) **CONTAMINANT.**—The term “contaminant”  
 14 includes a bacterium, chemical, natural or manufac-  
 15 tured toxin, virus, parasite, prion, physical hazard,

1 or other human pathogen that when found on or in  
2 food can cause human illness, injury, or death.

3 (5) CONTAMINATION.—The term “contamina-  
4 tion” refers to a presence of a contaminant in food.

5 (6) FOOD.—

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

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

18 (C) EXCLUSION.—The term “food” does  
19 not include dietary supplements, as defined in  
20 section 6(ff) of the Federal Food, Drug, and  
21 Cosmetic Act (21 U.S.C. 321(ff)).

22 (7) FOOD ESTABLISHMENT.—

23 (A) IN GENERAL.—The term “food estab-  
24 lishment” means a foreign or domestic slaugh-  
25 terhouse, factory, warehouse, or facility that

1 processes food or a facility that holds, stores, or  
2 transports food or food ingredients.

3 (B) EXCLUSIONS.—For the purposes of  
4 registration, the term “food establishment”  
5 does not include a farm, restaurant, other retail  
6 food establishment, nonprofit food establish-  
7 ment in which food is prepared for or served di-  
8 rectly to the consumer, or fishing vessel (other  
9 than a fishing vessel engaged in processing, as  
10 that term is defined in section 123.3 of title 21,  
11 Code of Federal Regulations).

12 (8) FOOD SAFETY LAW.—The term “food safety  
13 law” means—

14 (A) the provisions of the Federal Food,  
15 Drug, and Cosmetic Act (21 U.S.C. 301 et  
16 seq.) related to and requiring the safety, label-  
17 ing, and inspection of food, infant formulas,  
18 food additives, pesticide residues, and other  
19 substances present in food under that Act;

20 (B) the provisions of the Federal Food,  
21 Drug, and Cosmetic Act (21 U.S.C. 301 et  
22 seq.) and of any other Act that are adminis-  
23 tered by the Center for Veterinary Medicine of  
24 the Food and Drug Administration;

1 (C) the Poultry Products Inspection Act  
2 (21 U.S.C. 451 et seq.);

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

5 (E) the Egg Products Inspection Act (21  
6 U.S.C. 1031 et seq.);

7 (F) the Sanitary Food Transportation Act  
8 of 1990 (49 U.S.C. App. 2801 et seq.);

9 (G) the provisions enacted by the Sanitary  
10 Food Transportation Act of 2005 (subtitle B of  
11 title VII of Public Law 109–59);

12 (H) the provisions of the Humane Methods  
13 of Slaughter Act of 1978 (Public Law 95–448)  
14 administered by the Food Safety and Inspection  
15 Service;

16 (I) the provisions of this Act; and

17 (J) such other provisions of law related to  
18 and requiring food safety, labeling, inspection,  
19 and enforcement as the President designates by  
20 Executive order as appropriate to include within  
21 the jurisdiction of the Administration.

22 (9) PROCESS.—The term “process” or “proc-  
23 essing” means the commercial harvesting, slaughter,  
24 packing, preparation, or manufacture of food.

1           (10) STATE.—The term “State” means any of  
2           the 50 States, the District of Columbia, the Com-  
3           monwealth of Puerto Rico, and any other territory  
4           or possessions of the United States.

5           **TITLE I—ESTABLISHMENT OF**  
6           **FOOD SAFETY ADMINISTRATION**

7           **SEC. 101. ESTABLISHMENT OF FOOD SAFETY ADMINISTRA-**  
8           **TION.**

9           (a) ESTABLISHMENT.—

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

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

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

20           (b) DUTIES OF ADMINISTRATOR.—The Adminis-  
21           trator shall—

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

23           (2) serve as a representative to international  
24           food safety bodies and discussions;

25           (3) oversee the—

1 (A) implementation of Federal food safety  
2 inspection, enforcement, and research efforts  
3 for the purpose of protecting the public health;

4 (B) development of consistent and science-  
5 based standards for food safety;

6 (C) prioritization of Federal food safety ef-  
7 forts and deployment of Federal food safety re-  
8 sources to achieve the greatest possible benefit  
9 in reducing food-borne illness;

10 (D) coordination and prioritization of food  
11 safety research and education programs with  
12 other Federal agencies;

13 (E) coordination of the Federal response to  
14 food-borne illness outbreaks with other Federal  
15 and State agencies; and

16 (F) integration of Federal food safety ac-  
17 tivities with State and local agencies and tribal  
18 governments; and

19 (4) promulgate regulations as necessary and ap-  
20 propriate to perform the duties under this subsection  
21 and to secure the food supply from all forms of con-  
22 tamination, including intentional contamination.

23 (e) CONFORMING AMENDMENT.—Section 5313 of  
24 title 5, United States Code, is amended by inserting at  
25 the end the following new item:

1 “Administrator of Food Safety.”.

2 **SEC. 102. CONSOLIDATION OF SEPARATE FOOD SAFETY**  
3 **AND INSPECTION SERVICES AND AGENCIES.**

4 (a) **TRANSFER OF FUNCTIONS.**—For each Federal  
5 agency specified in subsection (b), there are transferred  
6 to the Administration all functions that the head of the  
7 Federal agency exercised on the day before the effective  
8 date of this Act (including all related functions of any offi-  
9 cer or employee of the Federal agency) that relate to ad-  
10 ministration or enforcement of the food safety law, as de-  
11 termined by the President.

12 (b) **TRANSFERRED AGENCIES.**—The Federal agen-  
13 cies referred to in subsection (a) are—

14 (1) the Food Safety and Inspection Service of  
15 the Department of Agriculture;

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

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

22 (4) the resources and facilities of the Office of  
23 Regulatory Affairs of the Food and Drug Adminis-  
24 tration, to the extent that such resources and facili-  
25 ties are for the purpose of administering and con-



1       ducting inspections of food establishments and im-  
2       ports;

3               (5) the resources and facilities of the Office of  
4       the Commissioner of the Food and Drug Adminis-  
5       tration, to the extent such resources and facilities  
6       support—

7               (A) the Center for Food Safety and Ap-  
8       plied Nutrition;

9               (B) the Center for Veterinary Medicine;  
10       and

11              (C) the facilities and resources of the Of-  
12       fice of Regulatory Affairs described in para-  
13       graph (4);

14              (6) the Center for Veterinary Medicine of the  
15       Food and Drug Administration;

16              (7) the resources and facilities of the Environ-  
17       mental Protection Agency, to the extent such re-  
18       sources and facilities are for the purpose of control-  
19       ling and regulating pesticide residues in food;

20              (8) the part of the Research, Education, and  
21       Economics mission area of the Department of Agri-  
22       culture related to food safety and animal feed re-  
23       search;

24              (9) the part of the National Marine Fisheries  
25       Service of the National Oceanic and Atmospheric

1 Administration of the Department of Commerce that  
2 administers the seafood inspection program;

3 (10) the Animal and Plant Inspection Health  
4 Service of the Department of Agriculture; and

5 (11) such other offices, services, or agencies as  
6 the President designates by Executive order to carry  
7 out this Act.

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

9 (a) OFFICERS AND EMPLOYEES.—The Administrator  
10 may—

11 (1) appoint officers and employees for the Ad-  
12 ministration in accordance with the provisions of  
13 title 5, United States Code, relating to appointment  
14 in the competitive service; and

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

19 (b) EXPERTS AND CONSULTANTS.—The Adminis-  
20 trator may—

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

24 (2) pay in connection with those services the  
25 travel expenses of the experts and consultants, in-

1 including transportation and per diem in lieu of sub-  
2 sistence while away from the homes or regular  
3 places of business of the individuals, as authorized  
4 by section 5703 of that title.

5 (c) BUREAUS, OFFICES, AND DIVISIONS.—The Ad-  
6 ministrator may establish within the Administration such  
7 bureaus, offices, and divisions as the Administrator deter-  
8 mines are necessary to perform the duties of the Adminis-  
9 trator.

10 (d) ADVISORY COMMITTEES.—

11 (1) IN GENERAL.—The Administrator shall es-  
12 tablish advisory committees that consist of rep-  
13 resentatives of scientific expert bodies, academics,  
14 industry specialists, and consumers.

15 (2) DUTIES.—The duties of an advisory com-  
16 mittee established under paragraph (1) may include  
17 developing recommendations for the development of  
18 new processes, research, communications, perform-  
19 ance standards, and inspection that relate to food  
20 safety.

## 21 **TITLE II—ADMINISTRATION AND** 22 **ENFORCEMENT**

### 23 **SEC. 201. ADMINISTRATION OF NATIONAL PROGRAM.**

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

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

4           (2) ensure that persons who produce or process  
5 food comply with Federal laws and regulations to  
6 prevent or minimize food safety hazards related to  
7 their products.

8 (b) COMPREHENSIVE ANALYSIS.—

9           (1) INITIAL ANALYSIS.—Not later than one  
10 year after the date of the enactment of this Act, the  
11 Administrator shall conduct a comprehensive anal-  
12 ysis of the hazards associated with different food  
13 and with the processing of different food, including  
14 the identification and evaluation of—

15           (A) the severity of the potential health  
16 risks;

17           (B) the sources and specific points of po-  
18 tential contamination in the food supply chain  
19 that may render food unsafe;

20           (C) the potential for persistence, mul-  
21 tiplication, or concentration of naturally occur-  
22 ring or added contaminants in food;

23           (D) opportunities across the food produc-  
24 tion, processing, distribution, and retail system  
25 to reduce potential health risks; and

1 (E) opportunities for intentional contami-  
2 nation.

3 (2) UPDATES.—The administrator shall update  
4 the analysis under paragraph (1) on an annual  
5 basis.

6 (c) PROGRAM DEVELOPMENT AND IMPLEMENTA-  
7 TION.—

8 (1) USE OF ANALYSIS RESULTS.—In developing  
9 the program, the Administrator shall take into ac-  
10 count the results of the analysis under subsection  
11 (b).

12 (2) PROGRAM ELEMENTS.—In carrying out the  
13 program, the Administrator shall—

14 (A) adopt and implement a national sys-  
15 tem for the registration of food establishments  
16 and regular unannounced inspection of food es-  
17 tablishments;

18 (B) revise such system, as necessary, based  
19 on updates to the analysis under subsection  
20 (b)(1);

21 (C) enforce the adoption of process con-  
22 trols in food establishments, based on best  
23 available scientific and public health consider-  
24 ations and best available technologies;

1 (D) establish and enforce science-based  
2 standards for—

3 (i) limiting the presence of contami-  
4 nants in food; and

5 (ii) safety and sanitation in the proc-  
6 essing and handling of food;

7 (E) conduct, on an ongoing basis, a statis-  
8 tically valid sampling program to ensure that—

9 (i) food industry programs and proce-  
10 dures that prevent food contamination are  
11 effective; and

12 (ii) food meets the standards estab-  
13 lished under this Act;

14 (F) implement procedures and require-  
15 ments to ensure the safety and security of im-  
16 ported food;

17 (G) coordinate with other agencies and  
18 State or local governments in carrying out the  
19 inspection, enforcement, research, and moni-  
20 toring of food establishments required by Fed-  
21 eral food safety laws;

22 (H) use data made available under sub-  
23 section (d) to—

24 (i) assess the health risks associated  
25 with the human consumption of food; and

1 (ii) evaluate the need for additional  
2 surveillance data and studies.

3 (I) develop public education risk commu-  
4 nication and advisory programs;

5 (J) implement a basic and applied research  
6 program to further the purposes of this Act;  
7 and

8 (K) coordinate and prioritize food safety  
9 research and educational programs with other  
10 agencies, including State or local agencies.

11 (d) AVAILABILITY OF DATA.—Upon the request of  
12 the Administrator, the head of that department or agency  
13 of the United States shall provide the Administrator with  
14 access to data which is necessary to enable the Adminis-  
15 trator to carry out the Administrator’s responsibilities  
16 under Act. Such data includes surveillance data from the  
17 Centers for Disease Control and Prevention.

18 **SEC. 202. CRIMINAL PENALTIES.**

19 Section 303(a) of the Federal Food, Drug, and Cos-  
20 metic Act (21 U.S.C. 333(a)) is amended—

21 (1) in paragraph (1), by striking “Any” and in-  
22 sserting “Except as provided in paragraph (2) or (3),  
23 any”; and

24 (2) by adding at the end the following:

1           “(3) Notwithstanding paragraph (1) of this sec-  
2           tion, any person who knowingly violates paragraph  
3           (a), (b), (c), (k), or (v) of section 301 with respect  
4           to any food that is misbranded or adulterated shall  
5           be imprisoned for not more than 10 years or fined  
6           in accordance with title 18, United States Code, or  
7           both.”.

8 **SEC. 203. CIVIL PENALTIES FOR VIOLATIONS.**

9           (a) IN GENERAL.—

10           (1) VIOLATIONS.—Subject to subsection (b)(1),  
11           any person who violates the food safety law (includ-  
12           ing a regulation promulgated or order issued under  
13           a Federal food safety law) shall be subject to a civil  
14           monetary penalty, for each such violation, of not  
15           more than—

16                   (A) in the case of an individual, \$20,000,  
17                   not to exceed \$50,000 for all such violations ad-  
18                   judicated in a single proceeding; and

19                   (B) in the case of any other person  
20                   \$250,000, not to exceed \$1,000,000 for all such  
21                   violations adjudicated in a single proceeding.

22           (2) KNOWING VIOLATIONS.—Subject to sub-  
23           section (b)(1), any person who knowingly violates  
24           the food safety law shall be subject to a civil mone-



1 tary penalty, for each such violation, of not more  
2 than—

3 (A) in the case of an individual, \$50,000,  
4 not to exceed \$100,000 for all such violations  
5 adjudicated in a single proceeding; and

6 (B) in the case of any other person,  
7 \$500,000, not to exceed \$7,500,000 for all such  
8 violations adjudicated in a single proceeding.

9 (3) SEPARATE VIOLATIONS.—For purposes of  
10 paragraphs (1) and (2), each day during which a  
11 violation of the food safety law continues shall be  
12 considered to be a separate violation.

13 (b) TREATMENT OF OTHER APPLICABLE PEN-  
14 ALTIES.—

15 (1) EXCEPTIONS.—Notwithstanding subsection  
16 (a), with respect to a violation, a person shall not be  
17 subject to a civil monetary penalty under this section  
18 if such person is subject to a civil monetary penalty  
19 under—

20 (A) section 303(f)(2) of the Federal Food,  
21 Drug, and Cosmetic Act (21 U.S.C. 333(f)(2))  
22 for the same violation; or

23 (B) section 12(c) of the Egg Products In-  
24 spection Act (21 U.S.C. 1014(c)).

1           (2) REMEDIES NOT EXCLUSIVE.—Subject to  
2 paragraph (1), the remedies provided in this section  
3 may be in addition to, and not exclusive of, other  
4 remedies that may be available.

5 (c) JUDICIAL REVIEW.—

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

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

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

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

23           (3) STANDARD OF REVIEW.—The findings of  
24 the Administrator relating to the order shall be set

1       aside only if found to be unsupported by substantial  
2       evidence on the record as a whole.

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

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

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

17      (e) PENALTIES PAID INTO ACCOUNT.—The Adminis-  
18      trator—

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

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

23                  (A) to carry out enforcement activities  
24                  under the food safety law; or

1 (B) to provide assistance to States to in-  
2 spect retail commercial food establishments or  
3 other food or firms under the jurisdiction of  
4 State food safety programs.

5 (f) EFFECTIVE DATE.—This section shall apply to  
6 violations committed on or after the date of the enactment  
7 of this Act.

## 8 **TITLE III—IMPLEMENTATION**

### 9 **SEC. 301. DEFINITION OF TRANSITIONAL PERIOD.**

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

### 13 **SEC. 302. REORGANIZATION PLAN.**

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

18 (1) The transfer of agencies, personnel, assets,  
19 and obligations to the Administration pursuant to  
20 this Act.

21 (2) Any consolidation, reorganization, or  
22 streamlining of agencies transferred to the Adminis-  
23 tration pursuant to this Act.

24 (b) PLAN ELEMENTS.—The plan transmitted under  
25 subsection (a) shall contain, consistent with this Act, such

1 elements as the President determines appropriate, includ-  
2 ing the following:

3 (1) Identification of any functions of agencies  
4 designated to be transferred to the Administration  
5 pursuant to this Act that will not be transferred to  
6 the Administration under the plan.

7 (2) Specification of the steps to be taken by the  
8 Administrator to organize the Administration, in-  
9 cluding the delegation or assignment of functions  
10 transferred to the Administration among the officers  
11 of the Administration in order to permit the Admin-  
12 istration to carry out the functions transferred  
13 under the plan.

14 (3) Specification of the funds available to each  
15 agency that will be transferred to the Administration  
16 as a result of transfers under the plan.

17 (4) Specification of the proposed allocations  
18 within the Administration of unexpended funds  
19 transferred in connection with transfers under the  
20 plan.

21 (5) Specification of any proposed disposition of  
22 property, facilities, contracts, records, and other as-  
23 sets and obligations of agencies transferred under  
24 the plan.

1           (6) Specification of the proposed allocations  
2           within the Administration of the functions of the  
3           agencies and subdivisions that are not related di-  
4           rectly to ensuring the safety of food.

5           (c) MODIFICATION OF PLAN.—The President may,  
6           on the basis of consultations with the appropriate congres-  
7           sional committees, modify, or revise any part of the plan  
8           until that part of the plan becomes effective in accordance  
9           with subsection (d).

10          (d) EFFECTIVE DATE.—

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

15           (A) the date specified in the plan (or the  
16           plan as modified pursuant to subsection (c)),  
17           except that such date may not be earlier than  
18           90 days after the date the President has trans-  
19           mitted the reorganization plan to the appro-  
20           priate congressional committees pursuant to  
21           subsection (a); or

22           (B) the end of the transition period.

23           (2) STATUTORY CONSTRUCTION.—Nothing in  
24           this subsection may be construed to require the  
25           transfer of functions, personnel, records, balances of

1 appropriations, or other assets of an agency on a  
2 single date.

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

6 **SEC. 303. TRANSITIONAL AUTHORITIES.**

7 (a) PROVISION OF ASSISTANCE BY OFFICIALS.—  
8 Until the transfer of an agency to the Administration, any  
9 official having authority over or function relating to the  
10 agency immediately before the effective date of this Act  
11 shall provide the Administrator such assistance, including  
12 the use of personnel and assets, as the Administrator may  
13 request in preparing for the transfer and integration of  
14 the agency to the Administration.

15 (b) SERVICES AND PERSONNEL.—During the transi-  
16 tion period, upon the request of the Administrator, the  
17 head of any executive agency may, on a reimbursable  
18 basis, provide services or detail personnel to assist with  
19 the transition.

20 (c) ACTING OFFICIALS.—

21 (1) IN GENERAL.—During the transition pe-  
22 riod, pending the advice and consent of the Senate  
23 to the appointment of an officer required by this Act  
24 to be appointed by and with such advice and con-  
25 sent, the President may designate any officer whose

1 appointment was required to be made by and with  
2 such advice and consent and who was such an officer  
3 immediately before the effective date of this Act  
4 (and who continues to be in office) or immediately  
5 before such designation, to act in such office until  
6 the same is filled as provided in this Act.

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

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

12 (B) the rates provided for the offices held  
13 at the time of designation.

14 (3) LIMITATION.—Nothing in this Act shall be  
15 construed to require the advice and consent of the  
16 Senate to the appointment by the President to a po-  
17 sition in the Administration of any officer whose  
18 agency is transferred to the Administration pursuant  
19 to this Act and whose duties following such transfer  
20 are germane to those performed before such trans-  
21 fer.

22 (d) TRANSFER OF PERSONNEL, ASSETS, OBLIGA-  
23 TIONS, AND FUNCTION.—

24 (1) IN GENERAL.—Consistent with section 1531  
25 of title 31, United States Code, the personnel, as-



1 sets, liabilities, contracts, property, records, and un-  
2 expended balances of appropriations, authorizations,  
3 allocations, and other funds that relate to the func-  
4 tions transferred under subsection (a) from a Fed-  
5 eral agency shall be transferred to the Administra-  
6 tion.

7 (2) UNEXPENDED FUNDS.—Unexpended funds  
8 transferred under this subsection shall be used by  
9 the Administration only for the purposes for which  
10 the funds were originally authorized and appro-  
11 priated.

12 **SEC. 304. SAVINGS PROVISIONS.**

13 (a) COMPLETED ADMINISTRATIVE ACTIONS.—The  
14 enactment of this Act or the transfer of functions under  
15 this Act shall not affect any order, determination, rule,  
16 regulation, permit, personnel action, agreement, grant,  
17 contract, certificate, license, registration, privilege, or  
18 other administrative action issued, made, granted, or oth-  
19 erwise in effect or final with respect to that agency on  
20 the day before the transfer date with respect to the trans-  
21 ferred functions.

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

24 (1) pending proceedings in an agency, including  
25 notices of proposed rulemaking, and applications for

1 licenses, permits, certificates, grants, and financial  
2 assistance, shall continue notwithstanding the enact-  
3 ment of this Act or the transfer of the agency to the  
4 Administration, unless discontinued or modified  
5 under the same terms and conditions and to the  
6 same extent that such discontinuance could have oc-  
7 curred if such enactment or transfer had not oc-  
8 curred; and

9 (2) orders issued in such proceedings, and ap-  
10 peals therefrom, and payments made pursuant to  
11 such orders, shall issue in the same manner on the  
12 same terms as if this Act had not been enacted or  
13 the agency had not been transferred, and any such  
14 order shall continue in effect until amended, modi-  
15 fied, superceded, terminated, set aside, or revoked by  
16 an officer of the United States or a court of com-  
17 petent jurisdiction, or by operation of law.

18 (c) PENDING CIVIL ACTIONS.—Subject to the author-  
19 ity of the Administrator under this Act, any civil action  
20 commenced with regard to that agency pending before  
21 that agency on the day before the transfer date with re-  
22 spect to the transferred functions shall continue notwith-  
23 standing the enactment of this Act or the transfer of an  
24 agency to the Administration.

25 (d) REFERENCES.—

1           (1) IN GENERAL.—After the transfer of func-  
2           tions from a Federal agency under this Act, any ref-  
3           erence in any other Federal law, Executive order,  
4           rule, regulation, directive, document, or other mate-  
5           rial to that Federal agency or the head of that agen-  
6           cy in connection with the administration or enforce-  
7           ment of the food safety laws shall be deemed to be  
8           a reference to the Administration or the Adminis-  
9           trator, respectively.

10           (2) STATUTORY REPORTING REQUIREMENTS.—  
11           Statutory reporting requirements that applied in re-  
12           lation to such an agency immediately before the ef-  
13           fective date of this Act shall continue to apply fol-  
14           lowing such transfer if they refer to the agency by  
15           name.

16 **SEC. 305. AUTHORIZATION OF APPROPRIATIONS.**

17           (a) IN GENERAL.—Subject to subsection (b), there  
18           are authorized to be appropriated such sums as are nec-  
19           essary to carry out this Act.

20           (b) LIMITATION ON AUTHORIZATION OF APPROPRIA-  
21           TIONS.—For the fiscal year that includes the effective date  
22           of this Act, the amount authorized to be appropriated to  
23           carry out this Act shall not exceed—

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

1 for the purpose of administering or enforcing the  
2 food safety law, if such appropriations have been  
3 made before the date of the enactment of this Act;

4 or

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

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