

113TH CONGRESS  
1ST SESSION

# S. 1502

To require the Secretary of Agriculture to protect against foodborne illnesses, provide enhanced notification of recalled meat, poultry, eggs, and related food products, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 12, 2013

Mrs. GILLIBRAND introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## A BILL

To require the Secretary of Agriculture to protect against foodborne illnesses, provide enhanced notification of recalled meat, poultry, eggs, and related food products, and for other purposes.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Safe Meat and Poultry Act of 2013”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings; purposes.

## TITLE I—SAFE MEAT AND POULTRY

Sec. 101. Definition of adulterated.

## TITLE II—FOOD SAFETY

Sec. 201. Food safety.

Sec. 202. Good commercial practices in receiving and processing live poultry.

## TITLE III—RESEARCH AND EDUCATION

Sec. 301. Definition of Secretary.

Sec. 302. Public health assessment system.

Sec. 303. Public education and advisory system.

Sec. 304. Research.

## TITLE IV—CRIMINAL PENALTIES AND OTHER PROVISIONS

Sec. 401. Criminal penalties.

Sec. 402. Ongoing assessment of occupational health.

Sec. 403. Reports and evaluation of implementation.

Sec. 404. Authorization of appropriations.

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

2 (a) FINDINGS.—Congress finds that—

3 (1) the safety of the food supply of the United  
4 States is vital to the public health, public confidence  
5 in the food supply, and the success of the food sector  
6 of the economy of the United States;

7 (2) lapses in the protection of the food supply  
8 and the loss of public confidence that results from  
9 foodborne illness outbreaks and food recalls are  
10 damaging to consumers and the food industry, and  
11 place a burden on interstate commerce and inter-  
12 national trade;

13 (3) the Food Safety and Inspection Service of  
14 the Department of Agriculture has jurisdiction over  
15 meat, poultry, and egg products;

1           (4)(A) events recent to the date of enactment of  
2 this Act demonstrate that the food safety system ad-  
3 ministered by the Food Safety and Inspection Serv-  
4 ice is not effective in controlling risk in regulated  
5 food; and

6           (B) these events have adversely affected con-  
7 sumer confidence;

8           (5) new and emerging pathogens such as anti-  
9 biotic-resistant Salmonella, and enterohemorrhagic  
10 (EHEC) Shiga toxin-producing serotypes of Esch-  
11 erichia coli (*E. coli*) place an increasing number of  
12 people at high risk for foodborne illness;

13           (6) several court decisions, relying on outdated  
14 understandings of the risks and nature of micro-  
15 biological contaminants, have issued rulings that im-  
16 pose barriers to reasonable efforts by the Food Safe-  
17 ty and Inspection Service to prevent foodborne ill-  
18 ness;

19           (7) Federal food safety standard setting, in-  
20 spection, enforcement, and research efforts should be  
21 based on the best available science and public health  
22 considerations, and food safety resources should be  
23 deployed in ways that most effectively prevent  
24 foodborne illness;

1           (8) the Federal Meat Inspection Act (21 U.S.C.  
2           601 et seq.) was first enacted in 1907, the Poultry  
3           Products Inspection Act (21 U.S.C. 451 et seq.) was  
4           first enacted in 1957, and the last substantial  
5           amendment to those laws occurred 44 years before  
6           the date of enactment of this Act;

7           (9) Congress passed the Department of Agri-  
8           culture Reorganization Act of 1994 (7 U.S.C. 6901  
9           et seq.), establishing the office of the Under Sec-  
10          retary of Agriculture for Food Safety in order to  
11          centralize and modernize the food safety system at  
12          the Department of Agriculture; and

13          (10) improving Federal oversight of food safety  
14          requires a modern food safety mandate and clear au-  
15          thorities to effectively protect the public from  
16          foodborne diseases associated with the products that  
17          the Food Safety and Inspection Service regulates.

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

19                 (1) to establish an effective, preventive food  
20                 safety system administered by the Food Safety and  
21                 Inspection Service—

22                         (A) to regulate food safety and labeling to  
23                         strengthen the protection of the public health;

24                         (B) to focus new attention on pathogens of  
25                         public health significance, such as EHEC, in-

1 including Shiga toxin-producing *E. coli* (STEC),  
2 and *Salmonella* strains, including strains that  
3 are antibiotic resistant; and

4 (C) to participate with the Food and Drug  
5 Administration in an integrated, systemwide ap-  
6 proach to food safety and to make more effec-  
7 tive and efficient use of resources to prevent  
8 foodborne illness;

9 (2) to modernize and strengthen the Federal  
10 food safety system to ensure more effective applica-  
11 tion and efficient management of the laws for the  
12 protection and improvement of public health; and

13 (3) to establish that food establishments have  
14 responsibility to ensure that all stages of production,  
15 processing, and distribution of the products of the  
16 food establishments, or under the control of the food  
17 establishments, satisfy the requirements of this Act.

## 18 **TITLE I—SAFE MEAT AND** 19 **POULTRY**

### 20 **SEC. 101. DEFINITION OF ADULTERATED.**

21 (a) MEAT AND MEAT FOOD PRODUCTS.—Section  
22 1(m) of the Federal Meat Inspection Act (21 U.S.C.  
23 601(m)) is amended—

24 (1) in paragraph (8), by striking “or” at the  
25 end;

1           (2) in paragraph (9), by striking the period at  
2           the end and inserting “; or”; and

3           (3) by adding at the end the following:

4           “(10) if it bears or contains a pathogen or con-  
5           taminant associated with serious illness or death.”.

6           (b) POULTRY AND POULTRY PRODUCTS.—Section  
7           4(g) of the Poultry Products Inspection Act (21 U.S.C.  
8           453(g)) is amended—

9           (1) in paragraph (7), by striking “or” at the  
10          end;

11          (2) in paragraph (8), by striking the period at  
12          the end and inserting “; or”; and

13          (3) by adding at the end the following:

14          “(9) if it bears or contains a pathogen or con-  
15          taminant associated with serious illness or death.”.

16          (c) EGGS AND EGG PRODUCTS.—Section 4(a) of the  
17          Egg Products Inspection Act (21 U.S.C. 1033(a)) is  
18          amended—

19          (1) in paragraph (7), by striking “or” at the  
20          end;

21          (2) in paragraph (8), by striking the period at  
22          the end and inserting “; or”; and

23          (3) by adding at the end the following:

24          “(9) if it bears or contains a pathogen or con-  
25          taminant associated with serious illness or death.”.

1                   **TITLE II—FOOD SAFETY**

2   **SEC. 201. FOOD SAFETY.**

3           (a) IN GENERAL.—Subtitle G of the Department of  
4 Agriculture Reorganization Act of 1994 (7 U.S.C. 6981  
5 et seq.) is amended—

6                   (1) by inserting after the subtitle heading the  
7 following:

8                               **“PART I—ADMINISTRATION”;**

9                   and

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

11                               **“PART II—FOOD SAFETY**

12 **“SEC. 263. DEFINITIONS.**

13           “In this part:

14                   “(1) ADULTERATED.—

15                               “(A) IN GENERAL.—The term ‘adulter-  
16 ated’ has the meaning given the term in—

17                                       “(i) in the case of poultry or a poultry  
18 product, section 4 of the Poultry Products  
19 Inspection Act (21 U.S.C. 453);

20                                       “(ii) in the case of meat or a meat  
21 food product, section 1 of the Federal  
22 Meat Inspection Act (21 U.S.C. 601); and

23                                       “(iii) in the case of an egg or egg  
24 product, section 4 of the Egg Products In-  
25 spection Act (21 U.S.C. 1033).

1           “(B) INCLUSION.—The term ‘adulterated’  
2 includes bearing or containing a contaminant  
3 that has the potential to cause illness or death  
4 among sensitive populations.

5           “(2) AGENCY.—The term ‘agency’ has the  
6 meaning given the term in section 551 of title 5,  
7 United States Code.

8           “(3) CONTAMINANT.—The term ‘contaminant’  
9 includes a biological, chemical, physical, or radio-  
10 logical food safety hazard that when found on or in  
11 food can cause human illness, injury, or death.

12           “(4) CONTAMINATION.—The term ‘contamina-  
13 tion’ refers to the presence of a contaminant in food.

14           “(5) FOOD.—The term ‘food’ means—

15           “(A) a meat or a meat food product (with-  
16 in the meaning of the Federal Meat Inspection  
17 Act (21 U.S.C. 601 et seq.));

18           “(B) an egg or egg product (as defined in  
19 section 4 of the Egg Products Inspection Act  
20 (21 U.S.C. 1033)); or

21           “(C) a poultry or poultry product (as de-  
22 fined in section 4 of the Poultry Products In-  
23 spection Act (21 U.S.C. 453)).

24           “(6) FOOD ESTABLISHMENT.—



1           “(A) IN GENERAL.—The term ‘food estab-  
2           lishment’ means a slaughterhouse, factory,  
3           warehouse, or facility owned or operated by a  
4           person located in any State that processes food  
5           or a facility that holds, stores, or transports  
6           food or food ingredients.

7           “(B) EXCLUSIONS.—The term ‘food estab-  
8           lishment’ does not include a farm, restaurant,  
9           other retail food establishment, or nonprofit  
10          food establishment in which food is prepared for  
11          or served directly to the consumer.

12          “(7) FOOD SAFETY LAW.—The term ‘food safe-  
13          ty law’ means—

14                 “(A) the Poultry Products Inspection Act  
15                 (21 U.S.C. 451 et seq.);

16                 “(B) the Federal Meat Inspection Act (21  
17                 U.S.C. 601 et seq.);

18                 “(C) the Egg Products Inspection Act (21  
19                 U.S.C. 1031 et seq.);

20                 “(D) the provisions of Public Law 85–765  
21                 (commonly known as the ‘Humane Methods of  
22                 Slaughter Act of 1958’) (7 U.S.C. 1901 et seq.)  
23                 administered by the Food Safety and Inspection  
24                 Service;

25                 “(E) this part; and

1           “(F) such other provisions of law relating  
2           to and requiring food safety, labeling, inspec-  
3           tion, and enforcement as the President des-  
4           ignates by Executive order as appropriate to in-  
5           clude within the jurisdiction of the Secretary.

6           “(8) FOREIGN FOOD ESTABLISHMENT.—The  
7           term ‘foreign food establishment’ means a slaughter-  
8           house, factory, warehouse, or facility located outside  
9           the United States that processes food for consump-  
10          tion that is imported into the United States or food  
11          ingredients.

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

16          “(10) MISBRANDED.—The term ‘misbranded’  
17          has the meaning given the term in—

18                 “(A) in the case of poultry or a poultry  
19                 product, section 4 of the Poultry Products In-  
20                 spection Act (21 U.S.C. 453);

21                 “(B) in the case of meat or a meat food  
22                 product, section 1 of the Federal Meat Inspec-  
23                 tion Act (21 U.S.C. 601); and

1           “(C) in the case of an egg or egg product,  
2           section 4 of the Egg Products Inspection Act  
3           (21 U.S.C. 1033).

4           “(11) PROCESS.—The term ‘process’ or ‘proc-  
5           essing’ means the commercial harvesting, slaughter,  
6           packing, preparation, or manufacture of food.

7           “(12) SAFE.—The term ‘safe’ refers to human  
8           and animal health.

9           “(13) SECRETARY.—The term ‘Secretary’  
10          means the Secretary of Agriculture, acting through  
11          the Under Secretary of Food Safety.

12          “(14) STATE.—The term ‘State’ means—

13                 “(A) a State;

14                 “(B) the District of Columbia;

15                 “(C) the Commonwealth of Puerto Rico;

16                 and

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

19          “(15) STATISTICALLY VALID.—The term ‘sta-  
20          tistically valid’ means, with respect to a study, evalu-  
21          ated and conducted under standards established by  
22          the National Institute of Standards and Technology.

23          **“SEC. 264. PERFORMANCE STANDARDS FOR FOOD SAFETY.**

24                 “(a) DEFINITIONS.—In this section:

1           “(1) APPROPRIATE LEVEL OF PROTECTION.—

2           The term ‘appropriate level of protection’ means a  
3           level of food safety and public health protection  
4           that—

5                   “(A) if achievable by commercially avail-  
6                   able techniques, reduces a known pathogen or  
7                   contaminant to a level that does not present a  
8                   demonstrated risk of illness or death to con-  
9                   sumers, including sensitive groups; or

10                   “(B) in all other cases, is the lowest rea-  
11                   sonably achievable level of a microbiologic or  
12                   contaminant food safety hazard that can best  
13                   protect public health.

14           “(2) FOOD SAFETY OBJECTIVE.—The term  
15           ‘food safety objective’ means an objective that estab-  
16           lishes the maximum frequency or concentration of a  
17           microbial or contaminant hazard in a regulated food  
18           product at the time of handling and consumption by  
19           a consumer that still provides the appropriate level  
20           of protection.

21           “(3) PATHOGEN REDUCTION PERFORMANCE  
22           STANDARD.—The term ‘pathogen reduction perform-  
23           ance standard’ means a standard that establishes  
24           the degree to which a step or combination of steps  
25           in the production, processing, distribution, or prepa-

1 ration of a food must operate to achieve the required  
2 level of control over microbiological contamination.

3 “(4) PERFORMANCE CRITERIA.—The term ‘per-  
4 formance criteria’ means a criteria that establishes  
5 the effect of one or more control measures needed to  
6 meet or contribute to meet a performance objective.

7 “(5) PERFORMANCE OBJECTIVE.—The term  
8 ‘performance objective’ means an objective that es-  
9 tablishes the maximum frequency or concentration of  
10 a microbial or contaminant hazard in a regulated  
11 food product during a processing step that contrib-  
12 utes to the achievement of a food safety objective or  
13 other end measure or a performance standard.

14 “(6) PUBLIC HEALTH GOALS AND OBJEC-  
15 TIVES.—The term ‘public health goals and objec-  
16 tives’ means goals and objectives establishing the de-  
17 sired outcome associated with reducing the burden  
18 of foodborne disease in society.

19 “(b) STANDARDS, GOALS, AND OBJECTIVES.—In  
20 order to protect the public health and promote food safety,  
21 the Secretary shall prescribe—

22 “(1) pathogen surveys to determine current lev-  
23 els of food contamination and to enable the Sec-  
24 retary to assess compliance;

25 “(2) public health goals and objectives; and

1           “(3) pathogen reduction performance stand-  
2           ards—

3                   “(A) to reduce pathogens in food; and

4                   “(B) to achieve public health goals and ob-  
5                   jectives.

6           “(c) LIST OF PATHOGENS.—

7                   “(1) IN GENERAL.—In consultation with the  
8                   Secretary of Health and Human Services, and tak-  
9                   ing into account data available from the Centers for  
10                  Disease Control and Prevention, the Secretary shall  
11                  identify the pathogens that make a significant con-  
12                  tribution to the total burden of foodborne disease as-  
13                  sociated with food.

14                  “(2) PUBLICATION; UPDATES.—The Secretary  
15                  shall—

16                          “(A) publish a list of the pathogens de-  
17                          scribed in paragraph (1) not later than 180  
18                          days after the date of enactment of this section;  
19                          and

20                          “(B) update and publish the list annually  
21                          thereafter.

22           “(d) PATHOGEN SURVEYS.—

23                   “(1) IN GENERAL.—Not later than 180 days  
24                   after the date of enactment of this section, the Sec-  
25                   retary shall initiate the planning and subsequent im-

1 plementation of comprehensive surveys to determine  
2 the current levels and incidence of contamination of  
3 food products with the pathogens listed under sub-  
4 section (c), including the variation in levels and inci-  
5 dence of contamination among establishments.

6 “(2) PUBLICATION.—Not later than 2 years  
7 after the date of enactment of this section, the Sec-  
8 retary shall compile, and publish in the Federal Reg-  
9 ister, the results of the surveys.

10 “(3) UPDATES.—At least once every 3 years  
11 after the preceding surveys are conducted, the Sec-  
12 retary shall—

13 “(A) conduct surveys described in para-  
14 graph (1); and

15 “(B) compile and publish the results of the  
16 surveys in accordance with paragraph (2).

17 “(e) PUBLIC HEALTH GOALS AND OBJECTIVES.—

18 “(1) IN GENERAL.—Not later than 1 year after  
19 the completion of pathogen surveys under subsection  
20 (d), and in coordination with the Secretary of  
21 Health and Human Services and the Director of the  
22 Centers for Disease Control and Prevention, the  
23 Secretary shall establish public health goals and food  
24 safety objectives to achieve measurable population-  
25 based targets and food safety targets for the reduc-

1 tion of foodborne illness and the exposure of the  
2 public to pathogens.

3 “(2) REQUIREMENTS.—The goals described in  
4 subsection (b)(2) shall be updated every 2 years ac-  
5 cording to current epidemiological studies in  
6 foodborne illness and the most recently updated in-  
7 formation from the Centers for Disease Control and  
8 Prevention about the prevalence of foodborne illness.

9 “(f) PATHOGEN REDUCTION PERFORMANCE STAND-  
10 ARDS.—

11 “(1) IN GENERAL.—The pathogen reduction  
12 performance standards required under subsection (b)  
13 shall ensure the lowest level or incidence of contami-  
14 nation that is reasonably achievable using the best  
15 available processing technology and practices.

16 “(2) CURRENT CONTAMINATION.—In deter-  
17 mining what is reasonably achievable, the Secretary  
18 shall consider data on current levels or incidence of  
19 contamination, including what is being achieved by  
20 establishments in the upper quartile of performance  
21 in controlling the level or incidence of contamination.

22 “(3) INITIAL PATHOGENS.—Not later than 3  
23 years after the date of enactment of this section, the  
24 Secretary shall propose pathogen reduction perform-



1       ance standards for at least 2 pathogens from the list  
2       published under subsection (c).

3           “(4) SUBSEQUENT PATHOGENS.—Not later  
4       than 1 year after proposing pathogen reduction  
5       standards for the initial pathogens under paragraph  
6       (3), and annually thereafter, the Secretary shall pro-  
7       pose a pathogen reduction performance standard for  
8       at least 1 pathogen each year from the list published  
9       under subsection (c) until standards have been pro-  
10      posed for all pathogens on the list.

11          “(5) FINAL STANDARDS.—Not later than 1  
12      year after proposing a pathogen reduction standard  
13      for a pathogen under this subsection, the Secretary  
14      shall promulgate a final pathogen reduction stand-  
15      ard and propose sampling standards and procedures  
16      for the pathogen in regulated products.

17          “(g) PERFORMANCE STANDARDS.—The performance  
18      standards established under this section shall include—

19           “(1) food safety objectives that set the level of  
20      a contaminant that provides the appropriate level of  
21      protection;

22           “(2) zero tolerances, including zero tolerances  
23      for fecal matter, in addition to any zero-tolerance  
24      standards in effect on the day before the date of en-

1 actment of this section, when necessary to protect  
2 against significant adverse health outcomes;

3 “(3) performance objectives, such as log reduc-  
4 tion criteria for cooked products, when sufficient to  
5 ensure the safety of processed food;

6 “(4) in the absence of data to support a per-  
7 formance standard described in paragraph (1), (2),  
8 or (3), as determined by the Secretary, standards  
9 that define required performance in terms of best  
10 reasonably achievable performance, using best avail-  
11 able technologies, interventions, and practices; or

12 “(5) any other food safety objectives or per-  
13 formance criteria, as determined by the Secretary.

14 “(h) REVIEW OF STANDARDS.—

15 “(1) IN GENERAL.—Not later than 3 years  
16 after promulgation of a final pathogen reduction  
17 performance standard for a pathogen under sub-  
18 section (f)(5), the Secretary shall review each stand-  
19 ard to determine whether the standard continues to  
20 ensure the lowest level or incidence of contamination  
21 that is reasonably achievable using the best available  
22 processing technology and practices, taking into ac-  
23 count the most recent survey conducted under sub-  
24 section (d).

1           “(2) PUBLIC HEALTH GOALS.—The goals de-  
2       scribed in subsection (e) shall be—

3           “(A) used in addition to the most recent  
4       survey conducted under subsection (d) to evalu-  
5       ate the pathogen performance standards set by  
6       the Secretary; and

7           “(B) considered when the Secretary re-  
8       views and revises the final pathogen reduction  
9       performance standards in accordance with sub-  
10      section (f).

11          “(3) REVISIONS.—The Secretary shall revise  
12      the standards, as necessary, to comply with sub-  
13      section (f).

14          “(i) ENFORCEMENT.—

15           “(1) SAMPLING PROGRAM.—

16           “(A) IN GENERAL.—Not later than 1 year  
17      after the promulgation of a performance stand-  
18      ard under this section, the Secretary shall im-  
19      plement a sampling program to determine  
20      whether food establishments are complying with  
21      the performance standards promulgated under  
22      this section.

23           “(B) REQUIREMENT.—The program estab-  
24      lished under this paragraph shall be at least as  
25      stringent as the Hazard Analysis and Critical

1 Control Point System requirements established  
2 under part 417 of title 9, Code of Federal Reg-  
3 ulations (or successor regulation).

4 “(2) INSPECTIONS.—If the Secretary deter-  
5 mines that a food establishment fails to meet a  
6 standard promulgated under this section, and the  
7 food establishment fails to take appropriate correc-  
8 tive action as determined by the Secretary, the Sec-  
9 retary shall, as appropriate—

10 “(A) order a recall of food from the food  
11 establishment under section 269;

12 “(B) require enhanced inspection of the  
13 food establishment;

14 “(C) withdraw the mark of inspection from  
15 the food establishment; or

16 “(D) take other appropriate enforcement  
17 action concerning the food establishment, in-  
18 cluding revocation of the grant of inspection.

19 “(j) NEWLY IDENTIFIED CONTAMINANTS.—Notwith-  
20 standing any other provision of this section, the Secretary  
21 shall promulgate interim performance standards for newly  
22 identified contaminants as necessary to prevent disease  
23 outbreaks or other hazards to the public health.

24 “(k) ENFORCEMENT OF CERTAIN REGULATIONS.—  
25 The Secretary shall ensure that, as compared to regula-

1 tions under chapter III of title 9, Code of Federal Regula-  
2 tions, that are in effect as of September 1, 2013, regula-  
3 tions promulgated under this part relating to—

4 “(1) carcass inspection and safety are at least  
5 as stringent;

6 “(2) the frequency of inspection services are at  
7 least as frequent; and

8 “(3) staffing levels are at least as high so as to  
9 ensure public health.

10 **“SEC. 265. PATHOGEN REDUCTION AND TESTING.**

11 “(a) IN GENERAL.—Not later than 180 days after  
12 the date of enactment of this section or the subsequent  
13 adoption of performance standards under section 264, the  
14 Secretary shall require that food establishments described  
15 in subsection (b) sample for the presence of identified  
16 pathogens at any points in production or processing that  
17 are identified by the Secretary.

18 “(b) APPLICATION.—This section applies to—

19 “(1)(A) all slaughterhouses or processing estab-  
20 lishments that produce more than 25,000 pounds of  
21 trim per day; or

22 “(B) grinding facilities that grind more than  
23 25,000 pounds of trim or bench trim per day; and

24 “(2) effective beginning on the date that is 3  
25 years after the date of enactment of this section—

1           “(A) to all food establishments that  
2           produce or grind trim or bench trim; and

3           “(B) such other food establishments as are  
4           designated by the Secretary.

5           “(c) ADMINISTRATION.—To carry out this section,  
6 the Secretary shall—

7           “(1) establish sampling standards and proce-  
8           dures;

9           “(2) define appropriate sampling plans for food  
10          establishments through guidance documents;

11          “(3) promulgate regulations that require that  
12          the food establishment takes corrective action when  
13          violative products are found through testing and es-  
14          tablishes measures to prevent reoccurrence; and

15          “(4) upon inspection, review the definition of  
16          lot sizes established by food establishments to ensure  
17          that—

18                 “(A) there is a rational justification for the  
19                 lot size; and

20                 “(B) no lot is more than 2,000 pounds.

21          “(d) TESTING.—Food establishments undertaking  
22 testing under this section shall use—

23                 “(1) sampling standards and procedures deter-  
24                 mined by the Secretary under section 264(f)(5); and

25                 “(2) a laboratory accredited under section 266.

1 **“SEC. 266. LABORATORY ACCREDITATION.**

2 “(a) RECOGNITION OF LABORATORY ACCREDITA-  
3 TION.—

4 “(1) IN GENERAL.—Not later than 2 years  
5 after the date of enactment of this section, the Sec-  
6 retary shall—

7 “(A) establish a program for the testing of  
8 meat and meat food products by accredited lab-  
9 oratories;

10 “(B) establish and maintain on the Inter-  
11 net Web site of the Department an up-to-date  
12 and publicly available registry of accreditation  
13 bodies recognized by the Secretary and labora-  
14 tories accredited by a recognized accreditation  
15 body, including the name of, contact informa-  
16 tion for, and other information considered ap-  
17 propriate by the Secretary about the accredita-  
18 tion bodies and laboratories; and

19 “(C) require, as a condition of recognition  
20 or accreditation, as appropriate, that recognized  
21 accreditation bodies and accredited laboratories  
22 report to the Secretary any changes that would  
23 affect the recognition of the accreditation body  
24 or the accreditation of the laboratory.

25 “(2) PROGRAM REQUIREMENTS.—The program  
26 established under paragraph (1)(A) shall provide for

1 the recognition of laboratory accreditation bodies  
2 that meet criteria established by the Secretary for  
3 accreditation of laboratories, including independent  
4 private laboratories and laboratories run and oper-  
5 ated by a Federal agency (including the Department  
6 of Commerce), State, or locality with a demonstrated  
7 capability to conduct one or more sampling and ana-  
8 lytical testing methodologies for meat and meat food  
9 products.

10 “(3) INCREASING THE NUMBER OF QUALIFIED  
11 LABORATORIES.—The Secretary shall work with the  
12 laboratory accreditation bodies recognized under  
13 paragraph (1), as appropriate, to increase the num-  
14 ber of qualified laboratories that are eligible to per-  
15 form testing under this subsection beyond the num-  
16 ber so qualified on the date of enactment of this sec-  
17 tion.

18 “(4) LIMITED DISTRIBUTION.—In the interest  
19 of national security, the Secretary, in coordination  
20 with the Secretary of Homeland Security, may deter-  
21 mine the time, manner, and form in which the reg-  
22 istry established under paragraph (1)(B) is made  
23 publicly available.

24 “(5) FOREIGN LABORATORIES.—Accreditation  
25 bodies recognized by the Secretary under paragraph



1 (1) may accredit laboratories that operate outside  
2 the United States, so long as the laboratories meet  
3 the accreditation standards applicable to domestic  
4 laboratories accredited under this subsection.

5 “(6) MODEL LABORATORY STANDARDS.—

6 “(A) IN GENERAL.—The Secretary shall  
7 develop model standards that a laboratory shall  
8 meet to be accredited by a recognized accredita-  
9 tion body for a specified sampling or analytical  
10 testing methodology and included in the reg-  
11 istry provided for under paragraph (1).

12 “(B) REQUIREMENTS.—In developing the  
13 model standards, the Secretary shall—

14 “(i) consult existing standards for  
15 guidance; and

16 “(ii) include—

17 “(I) methods to ensure that—

18 “(aa) appropriate sampling,  
19 analytical procedures (including  
20 rapid analytical procedures), and  
21 commercially available techniques  
22 are followed and reports of anal-  
23 yses are certified as true and ac-  
24 curate;

1                   “(bb) internal quality sys-  
2                   tems are established and main-  
3                   tained;

4                   “(cc) procedures exist to  
5                   evaluate and respond promptly to  
6                   complaints regarding analyses  
7                   and other activities for which the  
8                   laboratory is accredited; and

9                   “(dd) individuals who con-  
10                  duct the sampling and analyses  
11                  are qualified by training and ex-  
12                  perience to do so; and

13                  “(II) any other criteria deter-  
14                  mined appropriate by the Secretary.

15                  “(7) REVIEW OF RECOGNITION.—To ensure  
16                  compliance with the requirements of this subsection,  
17                  the Secretary—

18                  “(A) shall periodically, and in no case less  
19                  frequently than once every 5 years, reevaluate  
20                  accreditation bodies recognized under para-  
21                  graph (1) and may accompany auditors from an  
22                  accreditation body to assess whether the accred-  
23                  itation body meets the criteria for recognition;  
24                  and

1           “(B) shall promptly revoke the recognition  
2 of any accreditation body found not to be in  
3 compliance with the requirements of this sub-  
4 section, specifying, as appropriate, any terms  
5 and conditions necessary for laboratories ac-  
6 credited by the accreditation body to continue  
7 to perform testing as described in this sub-  
8 section.

9           “(b) TESTING PROCEDURES.—

10           “(1) IN GENERAL.—Not later than 30 months  
11 after the date of enactment of this section, food test-  
12 ing shall be conducted by Federal laboratories or  
13 non-Federal laboratories that have been accredited  
14 for the appropriate sampling or analytical testing  
15 methodology or methodologies by a recognized ac-  
16 creditation body on the registry established by the  
17 Secretary under subsection (a)(1)(B)—

18           “(A) in response to a specific testing re-  
19 quirement under this Act (including imple-  
20 menting regulations), when applied to address  
21 an identified or suspected meat or meat food  
22 product safety problem; and

23           “(B) as required by the Secretary, as the  
24 Secretary considers appropriate, to address an  
25 identified or suspected food safety problem.

1           “(2) RESULTS OF TESTING.—

2                   “(A) IN GENERAL.—The results of any  
3 testing under this section shall be sent directly  
4 to the applicable food establishment and the  
5 Secretary, unless the Secretary by regulation  
6 exempts test results from the submission re-  
7 quirement if the Secretary determines that the  
8 results do not contribute to the protection of  
9 public health.

10                   “(B) ELECTRONIC SUBMISSION.—Test re-  
11 sults required to be submitted may be sub-  
12 mitted to the Secretary through electronic  
13 means.

14           “(3) EXCEPTION.—The Secretary may waive  
15 requirements under this subsection if—

16                   “(A) a new methodology has been devel-  
17 oped and validated but a laboratory has not yet  
18 been accredited to perform the methodology;  
19 and

20                   “(B) the use of the methodology is nec-  
21 essary to prevent, control, or mitigate a food  
22 emergency or foodborne illness outbreak.

23           “(c) REVIEW BY SECRETARY.—If food sampling and  
24 testing performed by a laboratory run and operated by a  
25 State or locality that is accredited by a recognized accredi-

1 tation body on the registry established by the Secretary  
 2 under subsection (a) result in a State recalling a food, the  
 3 Secretary shall review the sampling and testing results for  
 4 the purpose of determining the need for a national recall  
 5 or other compliance and enforcement activities.

6 “(d) NO LIMIT ON SECRETARIAL AUTHORITY.—  
 7 Nothing in this section limits the ability of the Secretary  
 8 to review and act on information from food testing, includ-  
 9 ing determining the sufficiency of the information and  
 10 testing.

11 **“SEC. 267. TRACEBACK.**

12 “(a) IN GENERAL.—The Secretary, in order to pro-  
 13 tect the public health, shall establish requirements for a  
 14 national system for tracing food and food-producing ani-  
 15 mals from point of slaughter to retail sale, subject to sub-  
 16 section (b).

17 “(b) APPLICABILITY.—Traceability requirements  
 18 shall—

19 “(1) be established in accordance with regula-  
 20 tions and guidelines issued by the Secretary; and

21 “(2) apply to food establishments.

22 “(c) TRACEABILITY.—

23 “(1) IN GENERAL.—The Secretary shall imple-  
 24 ment tracing protocols using methods and tech-

1 nologies to enable the Food Safety and Inspection  
2 Service to rapidly trace adulterated food to—

3 “(A) the source of the contamination to  
4 determine the original site source of the adul-  
5 teration or contamination; and

6 “(B) destinations to which the food has  
7 been shipped.

8 “(2) REQUIREMENTS.—

9 “(A) IN GENERAL.—Tracing protocols  
10 under this subsection shall include the collection  
11 of documentary and other relevant material to  
12 enable rapid tracing, including—

13 “(i) food establishment identification  
14 data;

15 “(ii) a description of the food;

16 “(iii) shipping marks;

17 “(iv) bar coding; and

18 “(v) disclosure of sole-source or mul-  
19 tiple-source origin.

20 “(B) TIMING.—The collection of documen-  
21 tary and other relevant material to enable rapid  
22 tracing under subparagraph (A) shall occur at  
23 the time that transfer of the relevant food is  
24 completed.

1           “(C) CERTIFICATION.—The onsite inspec-  
2           tor and a responsible food establishment rep-  
3           resentative shall certify that the documentary  
4           and other tracing material collected under sub-  
5           paragraph (A) are complete and accurate.

6           “(3) TRACING OF ADULTERATED AND CON-  
7           TAMINATED FOOD.—If a food sample tests positive  
8           or is indicated to test positive for a contaminant, the  
9           Secretary shall immediately conduct a trace—

10           “(A) to identify all sites of contamination,  
11           including preparation, packaging, and slaugh-  
12           tering establishments;

13           “(B) to identify the original source of con-  
14           tamination; and

15           “(C) to identify any recipient of the food,  
16           other than the consumer, or food that may have  
17           been similarly affected.

18           “(d) RELATIONSHIP TO COUNTRY OF ORIGIN LABEL-  
19           ING.—Nothing in this section prevents or interferes with  
20           implementation of the country of origin labeling require-  
21           ments of subtitle D of the Agricultural Marketing Act of  
22           1946 (7 U.S.C. 1638 et seq.).

1 **“SEC. 268. INTERNATIONAL FOOD SAFETY ASSURANCE.**

2 “(a) INTERNATIONAL AUDITS.—The Secretary shall  
3 ensure that international audits of eligible foreign country  
4 food safety systems shall—

5 “(1) occur no less than annually; and

6 “(2) be of sufficient scope to protect public  
7 health.

8 “(b) IMPORTS.—As soon as practicable after the date  
9 of enactment of this section, the Secretary shall promul-  
10 gate regulations under which the Secretary may remove  
11 a country from the appropriate list maintained by the Sec-  
12 retary of countries allowed to import one or more foods  
13 into the United States if—

14 “(1) the country refuses to allow the Secretary  
15 to conduct such onsite audits as the Secretary deter-  
16 mines to be necessary to verify the safety of the food  
17 to be imported; or

18 “(2) imports of food from the country have  
19 been suspended more than once during a 5-year pe-  
20 riod for major food safety infractions.

21 **“SEC. 269. NOTIFICATION AND RECALL.**

22 “(a) DEFINITIONS.—In this section:

23 “(1) CLASS I RECALL.—The term ‘Class I re-  
24 call’ means a food recall classification defined by the  
25 Secretary that covers a health-hazard situation in  
26 which there is a reasonable probability that the use



1 of the food or food product being recalled will cause  
2 a serious, adverse health consequence, or death.

3 “(2) RETAIL ESTABLISHMENT.—The term ‘re-  
4 tail establishment’ means a grocery store or other  
5 retail establishment that sells food and food prod-  
6 ucts directly to consumers.

7 “(3) SUMMARY NOTICE.—The term ‘summary  
8 notice’ means the 1-page summary notice described  
9 in subsection (d).

10 “(b) NOTICE TO SECRETARY OF VIOLATION.—

11 “(1) IN GENERAL.—A person that has reason  
12 to believe that any food introduced into or in inter-  
13 state commerce, or held for sale (whether or not the  
14 first sale) after shipment in interstate commerce,  
15 may be in violation of the food safety law shall im-  
16 mediately notify the Secretary of the identity and lo-  
17 cation of the food.

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

22 “(c) RECALL AND CONSUMER NOTIFICATION.—

23 “(1) VOLUNTARY ACTIONS.—If the Secretary  
24 determines that food is in violation of the food safe-  
25 ty law when introduced into or while in interstate

1 commerce or while held for sale (whether or not the  
2 first sale) after shipment in interstate commerce or  
3 that there is a reasonable probability that the food,  
4 if consumed, would present a threat to public health,  
5 as determined by the Secretary, the Secretary shall  
6 give the appropriate persons (including the manufac-  
7 turers, importers, distributors, or retailers of the  
8 food) an opportunity—

9 “(A) to cease distribution of the food;

10 “(B) to notify all persons—

11 “(i) processing, distributing, or other-  
12 wise handling the food to immediately  
13 cease such activities with respect to the  
14 food; or

15 “(ii) to which the food has been dis-  
16 tributed, transported, or sold, to imme-  
17 diately cease distribution of the food;

18 “(C) to recall the food;

19 “(D) in conjunction with the Secretary, to  
20 provide notice of the finding of the Secretary—

21 “(i) to consumers to whom the food  
22 was, or may have been, distributed; and

23 “(ii) to State and local public health  
24 officials; or

1           “(E) to take any combination of the meas-  
2           ures described in this paragraph, as determined  
3           by the Secretary to be appropriate in the cir-  
4           cumstances.

5           “(2) MANDATORY ACTIONS.—If a person re-  
6           ferred to in paragraph (1) refuses to or does not  
7           adequately carry out the actions described in that  
8           paragraph within the time period and in the manner  
9           prescribed by the Secretary, the Secretary shall—

10           “(A) have authority to control and possess  
11           the food or recall the food, including ordering  
12           the shipment of the food from the food estab-  
13           lishment to the Secretary—

14           “(i) at the expense of the food estab-  
15           lishment; or

16           “(ii) in an emergency (as determined  
17           by the Secretary), at the expense of the  
18           Secretary; and

19           “(B) by order, require, as the Secretary  
20           determines to be necessary, the person to imme-  
21           diately—

22           “(i) cease distribution of the food;

23           “(ii) notify all persons—

24           “(I) processing, distributing, or  
25           otherwise handling the food to imme-

1                   diately cease such activities with re-  
2                   spect to the food; or

3                   “**(II)** if the food has been distrib-  
4                   uted, transported, or sold, to imme-  
5                   diately cease distribution of the food;  
6                   and

7                   “(iii) recall contaminated food.

8                   “(3) **NOTIFICATION TO CONSUMERS BY SEC-**  
9                   **RETARY.**—In accordance with subsection (d), the  
10                  Secretary shall, as the Secretary determines to be  
11                  necessary, provide notice of the finding of the Sec-  
12                  retary under paragraph (1)—

13                  “(A) to consumers to whom the food was,  
14                  or may have been, distributed;

15                  “(B) to State and local public health offi-  
16                  cials; and

17                  “(C) to such other persons as the Sec-  
18                  retary determines appropriate.

19                  “(4) **NONDISTRIBUTION BY NOTIFIED PER-**  
20                  **SONS.**—A person that processes, distributes, or oth-  
21                  erwise handles the food, or to which the food has  
22                  been distributed, transported, or sold, and that is  
23                  notified under paragraph (1)(B) or (2)(B) shall im-  
24                  mediately cease distribution of the food.

1           “(5) AVAILABILITY OF RECORDS TO SEC-  
2           RETARY.—Each person referred to in paragraph (1)  
3           that processed, distributed, or otherwise handled  
4           food shall make available to the Secretary informa-  
5           tion necessary to carry out this subsection, as deter-  
6           mined by the Secretary, regarding—

7                   “(A) persons that processed, distributed,  
8                   or otherwise handled the food; and

9                   “(B) persons to which the food has been  
10                  transported, sold, distributed, or otherwise han-  
11                  dled.

12          “(d) CONSUMER RECALL NOTIFICATION.—

13               “(1) DISTRIBUTION OF INFORMATION.—In the  
14               case of any Class I recall, the Secretary shall, to the  
15               maximum extent practicable, distribute to each retail  
16               establishment that has received or is likely to have  
17               received recalled product in the United States a 1-  
18               page summary notice containing product information  
19               of each food or food product subject to the Class I  
20               recall.

21               “(2) DISTRIBUTION OF INFORMATION.—The  
22               Secretary shall require each retail establishment that  
23               receives a summary notice—

24                   “(A) to post a copy of the summary notice  
25                   at each cash register of the retail establishment;

1           “(B) to post a copy of the summary notice  
2           on the shelving unit on which the food or food  
3           product was sold; or

4           “(C) in the case of a retail establishment  
5           that uses a customer card system to track cus-  
6           tomer purchases or demographics—

7                   “(i) to place a call to each customer  
8                   that purchased a recalled food or food  
9                   product to inform the customer of the  
10                  Class I recall; or

11                   “(ii) to make available to each cus-  
12                   tomer that purchased a recalled food or  
13                   food product with a targeted coupon with  
14                   information about the recalled food or food  
15                   product.

16           “(3) ASSISTANCE.—In cooperation with and,  
17           when necessary, with direct assistance from the Di-  
18           rector of the Centers for Disease Control and Pre-  
19           vention and the Centers of Excellence of the Food  
20           and Drug Administration, the Secretary shall pro-  
21           vide assistance to regional, State, and local agencies  
22           to assist in carrying out this section through activi-  
23           ties such as providing resources, including timely in-  
24           formation concerning symptoms and tests, for front-  
25           line health professionals interviewing individuals as

1 part of routine surveillance and outbreak investiga-  
2 tions.

3 “(4) AVAILABILITY OF LISTS OF RETAIL CON-  
4 SIGNEES DURING FOOD RECALLS.—The Secretary  
5 shall make publicly available the names and loca-  
6 tions of retail establishment consignees of recalled  
7 food or food products that the Secretary compiles in  
8 connection with a recall for which there is a reason-  
9 able probability that the use of the food or food  
10 product could cause serious adverse health con-  
11 sequences or death.

12 “(e) INFORMAL HEARINGS ON ORDERS.—

13 “(1) IN GENERAL.—The Secretary shall provide  
14 any person subject to an order under subsection (c)  
15 with an opportunity for an informal hearing, to be  
16 held as soon as practicable but not later than 2 busi-  
17 ness days after the issuance of the order.

18 “(2) SCOPE OF THE HEARING.—In a hearing  
19 under paragraph (1), the Secretary shall consider  
20 the actions required by the order and any reasons  
21 why the food that is the subject of the order should  
22 not be recalled.

23 “(f) POST-HEARING RECALL ORDERS.—

24 “(1) AMENDMENT OF ORDER.—If, after pro-  
25 viding an opportunity for an informal hearing under

1 subsection (e), the Secretary determines that there  
2 is a reasonable probability that the food that is the  
3 subject of an order under subsection (e), if con-  
4 sumed, would present a threat to the public health,  
5 the Secretary, as the Secretary determines to be nec-  
6 essary, may—

7 “(A) amend the order to require recall of  
8 the food or other appropriate action;

9 “(B) specify a timetable in which the recall  
10 shall occur;

11 “(C) require periodic reports to the Sec-  
12 retary describing the progress of the recall; and

13 “(D) provide notice of the recall to con-  
14 sumers to whom the food was, or may have  
15 been, distributed.

16 “(2) VACATION OF ORDERS.—If, after providing  
17 an opportunity for an informal hearing under sub-  
18 section (e), the Secretary determines that adequate  
19 grounds do not exist to continue the actions required  
20 by the order, the Secretary shall vacate the order.

21 “(g) REMEDIES NOT EXCLUSIVE.—The remedies  
22 provided in this section shall be in addition to, and not  
23 exclusive of, other remedies that may be available.

24 **“SEC. 270. ENFORCEMENT AND ADMINISTRATION.**

25 “(a) CIVIL PENALTIES.—



1 “(1) CIVIL SANCTIONS.—

2 “(A) CIVIL PENALTY.—

3 “(i) IN GENERAL.—Any person that  
4 commits an act that violates the food safe-  
5 ty law (including a regulation promulgated  
6 or order issued under a Federal food safety  
7 law) may be assessed a civil penalty by the  
8 Secretary of not more than \$10,000 for  
9 each such act.

10 “(ii) SEPARATE OFFENSE.—Each act  
11 described in clause (i) and each day during  
12 which that act continues shall be consid-  
13 ered a separate offense.

14 “(B) OTHER REQUIREMENTS.—

15 “(i) WRITTEN ORDER.—The civil pen-  
16 alty described in subparagraph (A) shall be  
17 assessed by the Secretary by a written  
18 order, which shall specify the amount of  
19 the penalty and the basis for the penalty  
20 under clause (ii) considered by the Sec-  
21 retary.

22 “(ii) AMOUNT OF PENALTY.—Subject  
23 to subparagraph (A)(i), the amount of the  
24 civil penalty shall be determined by the  
25 Secretary, after considering—

1 “(I) the gravity of the violation;

2 “(II) the degree of culpability of  
3 the person;

4 “(III) the size and type of the  
5 business of the person; and

6 “(IV) any history of prior of-  
7 fenses by the person under the food  
8 safety law.

9 “(iii) REVIEW OF ORDER.—The order  
10 may be reviewed only in accordance with  
11 paragraph (2).

12 “(2) JUDICIAL REVIEW.—

13 “(A) IN GENERAL.—An order assessing a  
14 civil penalty under paragraph (1) shall be a  
15 final order unless the person—

16 “(i) not later than 30 days after the  
17 effective date of the order, files a petition  
18 for judicial review of the order in the  
19 United States court of appeals for the cir-  
20 cuit in which that person resides or has its  
21 principal place of business or the United  
22 States Court of Appeals for the District of  
23 Columbia; and

1                   “(ii) simultaneously serves a copy of  
2                   the petition by certified mail to the Sec-  
3                   retary.

4                   “(B) FILING OF RECORD.—Not later than  
5                   45 days after the service of a copy of the peti-  
6                   tion under subparagraph (A)(ii), the Secretary  
7                   shall file in the court a certified copy of the ad-  
8                   ministrative record upon which the order was  
9                   issued.

10                  “(C) STANDARD OF REVIEW.—The find-  
11                  ings of the Secretary relating to the order shall  
12                  be set aside only if found to be unsupported by  
13                  substantial evidence on the record as a whole.

14                  “(3) COLLECTION ACTIONS FOR FAILURE TO  
15                  PAY.—

16                  “(A) IN GENERAL.—If any person fails to  
17                  pay a civil penalty assessed under paragraph  
18                  (1) after the order assessing the penalty has be-  
19                  come a final order, or after the court of appeals  
20                  described in paragraph (2) has entered final  
21                  judgment in favor of the Secretary, the Sec-  
22                  retary shall refer the matter to the Attorney  
23                  General, who shall institute in a United States  
24                  district court of competent jurisdiction a civil  
25                  action to recover the amount assessed.

1           “(B) LIMITATION ON REVIEW.—In a civil  
2           action under subparagraph (A), the validity and  
3           appropriateness of the order of the Secretary  
4           assessing the civil penalty shall not be subject  
5           to judicial review.

6           “(4) PENALTIES PAID INTO ACCOUNT.—The  
7           Secretary—

8           “(A) shall deposit penalties collected under  
9           this section in an account in the Treasury; and

10           “(B) may use the funds in the account,  
11           without further appropriation or fiscal year lim-  
12           itation—

13           “(i) to carry out enforcement activi-  
14           ties under food safety law; or

15           “(ii) to provide assistance to States to  
16           inspect retail commercial food establish-  
17           ments or other food or firms under the ju-  
18           risdiction of State food safety programs.

19           “(5) DISCRETION OF THE SECRETARY TO PROS-  
20           ECUTE.—Nothing in this part requires the Secretary  
21           to report for prosecution, or for the commencement  
22           of an action, the violation of the food safety law in  
23           a case in which the Secretary finds that the public  
24           interest will be adequately served by the assessment  
25           of a civil penalty under this section.

1           “(6) REMEDIES NOT EXCLUSIVE.—The rem-  
2 edies provided in this subsection are in addition to,  
3 and not exclusive of, other remedies that may be  
4 available under this or any other Act.

5           “(b) PRESUMPTION.—In any action to enforce the re-  
6 quirements of the food safety law, the connection with  
7 interstate commerce required for jurisdiction shall be pre-  
8 sumed to exist.

9           “(c) WHISTLEBLOWER PROTECTION.—

10           “(1) IN GENERAL.—No Federal employee, em-  
11 ployee of a Federal contractor or subcontractor, or  
12 any individual employed by a company or other enti-  
13 ty that is a regulated establishment or any other en-  
14 tity involved in the food supply system (referred to  
15 in this subsection as a ‘covered individual’), may be  
16 discharged, demoted, suspended, threatened, har-  
17 assed, or in any other manner discriminated against,  
18 because of any lawful act done by the covered indi-  
19 vidual—

20           “(A) to provide information, cause infor-  
21 mation to be provided, or otherwise assist in an  
22 investigation regarding any conduct that the  
23 covered individual reasonably believes con-  
24 stitutes a violation of this Act or a food safety  
25 law, including any related rules or regulations,

1 or that the covered individual reasonably be-  
2 lieves constitutes a threat to the public health,  
3 if the information or assistance is provided to,  
4 or the investigation is conducted by—

5 “(i) a Federal regulatory or law en-  
6 forcement agency;

7 “(ii) a Member or committee of Con-  
8 gress; or

9 “(iii) a person with supervisory au-  
10 thority over the covered individual (or such  
11 other individual who has the authority to  
12 investigate, discover, or terminate mis-  
13 conduct);

14 “(B) to file, cause to be filed, testify, par-  
15 ticipate in, or otherwise assist in a proceeding  
16 or action filed or about to be filed relating to  
17 a violation of any law, rule, or regulation; or

18 “(C) to refuse to violate or assist in the  
19 violation of any law, rule, or regulation.

20 “(2) ENFORCEMENT ACTION.—

21 “(A) COMPLAINT.—

22 “(i) IN GENERAL.—A covered indi-  
23 vidual who alleges discharge or other dis-  
24 crimination by any person in violation of  
25 paragraph (1) may seek relief under para-

1 graph (3) by filing a complaint with the  
2 Secretary of Labor.

3 “(ii) LEGAL ACTION.—If the Sec-  
4 retary of Labor has not issued a final deci-  
5 sion by the date that is 210 days after the  
6 date on which the complaint is filed and  
7 there is no showing that the delay is due  
8 to the bad faith of the claimant, the claim-  
9 ant may bring an action at law or equity  
10 for de novo review in the appropriate dis-  
11 trict court of the United States, which  
12 shall have jurisdiction over such an action  
13 without regard to the amount in con-  
14 troversy.

15 “(B) PROCEDURE.—An action under sub-  
16 paragraph (A) shall be governed under the rules  
17 and procedures established in section 1012 of  
18 the Federal Food, Drug, and Cosmetic Act (21  
19 U.S.C. 399d).

20 “(C) REMEDIES.—A covered individual  
21 who prevails in any action under subparagraph  
22 (A) shall be entitled to remedies equivalent to  
23 relief provided under section 1012(b)(4)(B) of  
24 the Federal Food, Drug, and Cosmetic Act (21  
25 U.S.C. 399d(b)(4)(B)).

1           “(3) APPLICABILITY.—This subsection shall  
2 apply and be carried out in accordance with section  
3 1012 of the Federal Food, Drug, and Cosmetic Act  
4 (21 U.S.C. 399d), including the relation of the whis-  
5 tleblower protection provided under this subsection  
6 to the rights of employees, other laws, and inter-  
7 national agreements, and the inability of an em-  
8 ployee to waive the whistleblower protection.

9           “(4) RIGHTS RETAINED BY THE COVERED INDI-  
10 VIDUAL.—

11           “(A) IN GENERAL.—Nothing in this sub-  
12 section diminishes the rights, privileges, or reme-  
13 dies of any covered individual under any Fed-  
14 eral or State law, or under any collective bar-  
15 gaining agreement.

16           “(B) PROHIBITION ON WAIVER.—The  
17 rights and remedies in this subsection may not  
18 be waived by any agreement, policy, form, or  
19 condition of employment.

20           “(d) ADMINISTRATION AND ENFORCEMENT.—

21           “(1) IN GENERAL.—For the efficient adminis-  
22 tration and enforcement of the food safety law, the  
23 provisions (including provisions relating to penalties)  
24 of sections 6, 8, 9, and 10 of the Federal Trade  
25 Commission Act (15 U.S.C. 46, 48, 49, and 50) (ex-



1       cept subsections (c) through (h) of section 6 of that  
2       Act), relating to the jurisdiction, powers, and duties  
3       of the Federal Trade Commission and the Attorney  
4       General to administer and enforce that Act, and to  
5       the rights and duties of persons with respect to  
6       whom the powers are exercised, shall apply to the ju-  
7       risdiction, powers, and duties of the Secretary and  
8       the Attorney General in administering and enforcing  
9       the provisions of the food safety law and to the  
10      rights and duties of persons with respect to whom  
11      the powers are exercised, respectively.

12           “(2) INQUIRIES AND ACTIONS.—

13           “(A) IN GENERAL.—The Secretary, in per-  
14      son or by such agents as the Secretary may  
15      designate, may prosecute any inquiry necessary  
16      to carry out the duties of the Secretary under  
17      the food safety law in any part of the United  
18      States.

19           “(B) POWERS.—The powers conferred by  
20      sections 9 and 10 of the Federal Trade Com-  
21      mission Act (15 U.S.C. 49 and 50) on the  
22      United States district courts may be exercised  
23      for the purposes of this part by any United  
24      States district court of competent jurisdiction.

25           “(e) CITIZEN CIVIL ACTIONS.—

1           “(1) CIVIL ACTIONS.—A person may commence  
2 a civil action against the Secretary (in his or her ca-  
3 pacity as the Secretary)—

4           “(A) if the Secretary fails to perform an  
5 act or duty that is not discretionary under a  
6 food safety law and the failure to perform that  
7 act or duty presents a clear, demonstrated, and  
8 serious present threat to public health; but

9           “(B) only after the person has—

10           “(i) filed a petition with the Sec-  
11 retary; and

12           “(ii) given the Secretary 180 days to  
13 comply with nondiscretionary acts or du-  
14 ties.

15           “(2) COURT.—

16           “(A) IN GENERAL.—The action shall be  
17 commenced in the United States district court  
18 for the district in which the defendant resides,  
19 is found, or has an agent.

20           “(B) JURISDICTION.—The court shall have  
21 jurisdiction, without regard to the amount in  
22 controversy, or the citizenship of the parties, to  
23 require the Secretary to perform a nondis-  
24 cretionary act or duty under a food safety law,  
25 if—

1 “(i) it is proven that—

2 “(I)(aa) the act or duty is not  
3 discretionary and is critical to public  
4 health protection; and

5 “(bb) the Secretary has the ap-  
6 propriate financial resources to per-  
7 form the act or duty;

8 “(II)(aa) the Secretary was given  
9 180 days to perform the act or duty  
10 prior to the filing of an action; and

11 “(bb) the Secretary did not per-  
12 form the act or duty; and

13 “(ii) the plaintiff presents credible evi-  
14 dence, including, if applicable, evidence  
15 representing the current scientific knowl-  
16 edge, that indicates that an act or duty  
17 necessary to regulate or control a food  
18 safety hazard has not been performed by  
19 the Secretary.

20 “(C) DAMAGES.—The court may—

21 “(i) require the Secretary to perform  
22 the act or duty in question towards a  
23 standard of protecting public health; and

24 “(ii) award the plaintiff part or all of  
25 the costs of suit, including reasonable at-



1           “(1) shall include any current violations that  
2           are grounds for a suspension, withholding, or revoca-  
3           tion of grant of inspection under a food safety law;  
4           and

5           “(2) may include any other violations that con-  
6           stitute a severe violation of major food safety law re-  
7           quirements, which may include intransigent repeated  
8           noncompliance for less than serious violations that  
9           indicate a food establishment is unwilling or neg-  
10          ligent to bring the food establishment into compli-  
11          ance over a period of repeat circumstances lasting at  
12          least 1 year since the last documented severe viola-  
13          tion.

14   **“SEC. 272. NONROUTINE INSPECTION FEES FOR REPEATED**  
15                           **OR SERIOUS NONCOMPLIANCE.**

16          “(a) IN GENERAL.—Not later than 180 days after  
17          the date of enactment of this section, the Secretary shall  
18          establish performance-based fees for food establishments  
19          requiring nonroutine inspection services due to severe or  
20          repeated violations of food safety laws.

21          “(b) INCLUSIONS.—Fees established under this sec-  
22          tion shall include, at minimum, fees for—

23                  “(1) food safety assessments in response to se-  
24                  rious or repeated food safety violations;

1           “(2) humane handling assessments in response  
2           to serious or repeated violations of Public Law 85–  
3           765 (commonly known as the ‘Humane Methods of  
4           Slaughter Act of 1958’) (7 U.S.C. 1901 et seq.);

5           “(3) any actions or enhanced inspections associ-  
6           ated with a mandatory recall; and

7           “(4) follow-up microbiological testing associated  
8           with any nonroutine requirements.

9           “(c) AMOUNT.—The Secretary shall establish the  
10          amount of the fees at a level that recuperates the full costs  
11          or a reasonable portion of the nonroutine inspection serv-  
12          ices.

13          “(d) SMALL AND VERY SMALL FOOD ESTABLISH-  
14          MENTS.—The Secretary may adjust the terms, conditions,  
15          and rates of fees established under this section so as to  
16          minimize economic impacts on small and very small estab-  
17          lishments.

18          “(e) USE OF FEES.—The Secretary shall use any fees  
19          collected under this section to bolster inspection or other  
20          programs in the Office of Field Operations, without the  
21          need for further appropriation.

22          “(f) GUIDANCE.—Not later than 1 year after the date  
23          of enactment of this section, the Secretary shall publish  
24          and make publically available guidance in the form of a

1 list of eligible types of violations for nonroutine inspection  
2 fees, including estimated rates for services.”.

3 (b) CONFORMING AMENDMENT.—Section 296(b) of  
4 the Department of Agriculture Reorganization Act of  
5 1994 (7 U.S.C. 7014(b)) is amended—

6 (1) in paragraph (6)(C), by striking “or” at the  
7 end;

8 (2) in paragraph (7), by striking the period at  
9 the end and inserting “; or”; and

10 (3) by adding at the end the following:

11 “(8) the authority of the Secretary to carry out  
12 food safety activities under part II of subtitle G.”.

13 **SEC. 202. GOOD COMMERCIAL PRACTICES IN RECEIVING**  
14 **AND PROCESSING LIVE POULTRY.**

15 The Poultry Products Inspection Act is amended by  
16 inserting after section 9 (21 U.S.C. 458) the following:

17 **“SEC. 9A. GOOD COMMERCIAL PRACTICES IN RECEIVING**  
18 **AND PROCESSING LIVE POULTRY.**

19 “(a) IN GENERAL.—An establishment shall use rea-  
20 sonable care, handling, lairage, slaughtering, and other  
21 good commercial practices, as defined by the Secretary  
22 through regulation, during the handling and processing of  
23 live poultry, including—

24 “(1) to prevent injury, death by means other  
25 than slaughter, or other avoidable losses; and

1           “(2) to allow for prompt disposition or, if ap-  
2           propriate, prompt euthanasia and sanitary disposal  
3           of severely injured, severely ill, incapacitated, dis-  
4           tressed, or moribund live poultry.

5           “(b) PROHIBITION.—An establishment shall not  
6           present poultry for slaughter if the poultry is—

7           “(1) moribund, distressed, or incapacitated; or

8           “(2) severely ill or injured.

9           “(c) LIVE POULTRY PROCESSING PLAN.—

10           “(1) IN GENERAL.—The Secretary shall require  
11           establishments to implement, through the hazard  
12           analysis and critical control points plans of the es-  
13           tablishments or by other appropriate means, a live  
14           poultry processing plan that includes—

15           “(A) a euthanasia action plan;

16           “(B) ante-mortem segregation and disposi-  
17           tion procedures when appropriate for potentially  
18           severely injured, distressed, ill, incapacitated, or  
19           moribund poultry;

20           “(C) facility outcome standards;

21           “(D) employee training and competency re-  
22           quirements; and

23           “(E) such other requirements as are ap-  
24           propriate to ensure that only live poultry are



1 presented for slaughter in accordance with this  
2 section and other applicable food safety laws.

3 “(2) REQUIREMENT.—The implementation, de-  
4 sign, and effectiveness of the practices contained in  
5 live poultry processing plans by establishments shall  
6 include routine agency veterinary oversight.

7 “(3) REVIEW.—The Secretary shall review the  
8 requirements under paragraph (1) at least every 5  
9 years—

10 “(A) to ensure the requirements reflect the  
11 principles of this section; and

12 “(B) to consider new improvements in  
13 available practices and technology.”.

## 14 **TITLE III—RESEARCH AND** 15 **EDUCATION**

### 16 **SEC. 301. DEFINITION OF SECRETARY.**

17 Except as otherwise provided, in this title, the term  
18 “Secretary” means the Secretary of Agriculture, acting  
19 through the Under Secretary of Food Safety.

### 20 **SEC. 302. PUBLIC HEALTH ASSESSMENT SYSTEM.**

21 (a) IN GENERAL.—The Secretary, acting in coordina-  
22 tion with the Director of the Centers for Disease Control  
23 and Prevention and with the Research Education and Eco-  
24 nomics mission area of the Department of Agriculture,  
25 shall—

1           (1) resolve data-sharing barriers, including  
2 those relating to the application of the Health Insur-  
3 ance Portability and Accountability Act of 1996  
4 (Public Law 104–191; 110 Stat. 1936), to ensure  
5 access to the applicable data systems of the Centers  
6 for Disease Control and Prevention and to the data-  
7 bases made available by a State;

8           (2) maintain an active surveillance system of  
9 food, food products, and epidemiological evidence  
10 submitted by States to the Centers for Disease Con-  
11 trol and Prevention based on a representative pro-  
12 portion of the population of the United States;

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

16           (4) maintain a state-of-the-art DNA matching  
17 system and epidemiological system dedicated to  
18 foodborne illness identification, outbreaks, and con-  
19 tainment; and

20           (5) have access to the surveillance data created  
21 via monitoring and statistical studies conducted as  
22 part of inspections carried out by or for the Sec-  
23 retary.

24           (b) PUBLIC HEALTH SAMPLING.—

1           (1) IN GENERAL.—Not later than 1 year after  
2 the date of enactment of this Act, the Secretary  
3 shall establish guidelines for a sampling system  
4 under which the Secretary shall take and analyze  
5 samples of food—

6           (A) to assist the Secretary in carrying out  
7 this title;

8           (B) to assess the nature, frequency of oc-  
9 currence, and quantities of contaminants in  
10 food; and

11          (C) to enforce this title and other food  
12 safety laws.

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

15          (A) statistically valid monitoring, including  
16 market-based studies, on the nature, frequency  
17 of occurrence, and quantities of contaminants  
18 in food available to consumers; and

19          (B) at the request of the Secretary, such  
20 other information, including analysis of moni-  
21 toring and verification samples, as the Sec-  
22 retary determines may be useful and appro-  
23 priate in assessing the occurrence of contami-  
24 nants in food.

25          (c) ASSESSMENT OF HEALTH HAZARDS.—

1           (1) IN GENERAL.—Through the surveillance  
2 system referred to in subsection (a) and the sam-  
3 pling system described in subsection (b), the Sec-  
4 retary shall work in collaboration with the Director  
5 of the Centers for Disease Control and Prevention,  
6 the Commissioner of Food and Drugs, and other ap-  
7 propriate Federal, State, local, and tribal agencies—

8           (A) to rank food categories under the ju-  
9 risdiction of the Secretary based on the hazard  
10 to human health presented by the food cat-  
11 egory;

12           (B) to identify appropriate industry and  
13 regulatory approaches to minimize hazards in  
14 the food supply; and

15           (C) to assess the public health environment  
16 for emerging diseases, including zoonosis, for  
17 their risk of appearance in the United States  
18 food supply.

19           (2) COMPONENTS OF ANALYSIS.—The analysis  
20 under subsection (b)(1) may include—

21           (A) a comparison of the safety of commer-  
22 cial processing with the health hazards associ-  
23 ated with food that is harvested for recreational  
24 or subsistence purposes and prepared non-  
25 commercially;

1 (B) a comparison of the safety of food that  
2 is domestically processed with the health haz-  
3 ards associated with food that is processed out-  
4 side the United States;

5 (C) a description of contamination origi-  
6 nating from handling practices that occur prior  
7 to or after the sale of food to consumers; and

8 (D) use of comparative risk assessments.

9 **SEC. 303. PUBLIC EDUCATION AND ADVISORY SYSTEM.**

10 (a) PUBLIC EDUCATION.—

11 (1) IN GENERAL.—The Secretary, in collabora-  
12 tion with the Director of the Centers for Disease  
13 Control and Prevention and the Commissioner of  
14 Food and Drugs and in cooperation with private and  
15 public organizations, including the cooperative exten-  
16 sion services and building on the efforts of appro-  
17 priate State and local entities, shall establish a na-  
18 tional public education program on food safety.

19 (2) REQUIREMENTS.—The program shall pro-  
20 vide—

21 (A) information to the public regarding  
22 Federal standards and best practices and pro-  
23 motion of public awareness, understanding, and  
24 acceptance of those standards and practices;

25 (B) information for health professionals—

1 (i) to improve diagnosis and treatment  
2 of food-related illness; and

3 (ii) to advise individuals at special  
4 risk for food-related illnesses;

5 (C) information to increase consumer and  
6 health professional awareness of relative risks  
7 of different regulated products and consumer  
8 practices in preparing, handling, and consuming  
9 the products; and

10 (D) such other information or advice to  
11 consumers and other persons as the Secretary  
12 determines will promote the purposes of this  
13 subtitle.

14 (b) HEALTH ADVISORIES.—The Secretary, in con-  
15 sultation with other Federal departments and agencies as  
16 the Secretary determines necessary, shall work with the  
17 States and other appropriate entities—

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

20 (2) to develop standardized formats for written  
21 and broadcast advisories;

22 (3) to incorporate State and local advisories  
23 into the national public education program estab-  
24 lished under subsection (a); and

1           (4) to present prompt, specific information re-  
2           garding foods found to pose a threat to the public  
3           health.

4 **SEC. 304. RESEARCH.**

5           (a) IN GENERAL.—The Secretary, acting through the  
6           Under Secretary for Research, Education, and Economics,  
7           shall conduct research to carry out this title and improve  
8           food safety, including studies—

9           (1) to improve sanitation and food safety prac-  
10          tices in the processing of food;

11          (2) to develop improved techniques to monitor  
12          and inspect food;

13          (3) to develop efficient, rapid, and sensitive  
14          methods to detect contaminants in food;

15          (4) to determine the sources of contamination  
16          of contaminated food;

17          (5) to develop food consumption data;

18          (6) to identify ways that animal production  
19          techniques could improve the safety of the food sup-  
20          ply;

21          (7) to draw upon research and educational pro-  
22          grams that exist at the State and local level;

23          (8) to use the DNA matching system and other  
24          processes to identify and control pathogens;

1           (9) to address common and emerging zoonotic  
2 diseases;

3           (10) to develop methods to reduce or destroy  
4 harmful pathogens before, during, and after proc-  
5 essing;

6           (11) to analyze the incidence of antibiotic re-  
7 sistance as the resistance pertains to the food supply  
8 and develop new methods to reduce the transfer of  
9 antibiotic resistance to humans;

10          (12) to conduct research to inform risk commu-  
11 nications, including—

12           (A) conducting studies regarding the  
13 knowledge and behavior of industry, health pro-  
14 fessionals, consumers, and other appropriate  
15 stakeholders towards food safety; and

16           (B) developing a protocol that will balance  
17 public welfare needs associated with the food  
18 safety research of the Department of Agri-  
19 culture and the requirements of chapter 35 of  
20 title 44, United States Code (commonly known  
21 as the “Paperwork Reduction Act”) to account  
22 for the time-sensitive nature of communicating  
23 with the public about food safety programs;

24          (13) to improve live animal health, handling,  
25 transport, and slaughter methods; and



1           (14) to conduct other research that supports  
2           the purposes of this title.

3           (b) CONTRACT AUTHORITY.—The Secretary may  
4           enter into contracts and agreements with any State, insti-  
5           tution of higher education, Federal Government agency,  
6           or person to carry out this section.

7           **TITLE IV—CRIMINAL PENALTIES**  
8           **AND OTHER PROVISIONS**

9           **SEC. 401. CRIMINAL PENALTIES.**

10          (a) POULTRY PRODUCTS INSPECTION ACT.—Section  
11          12 of the Poultry Products Inspection Act (21 U.S.C.  
12          461) is amended by adding at the end the following:

13          “(d) KNOWING INTRODUCTION INTO COMMERCE OF  
14          UNSAFE FOOD.—

15                 “(1) CRIMINAL SANCTIONS.—

16                         “(A) IN GENERAL.—Except as provided in  
17                         subparagraph (B), a person that knowingly pro-  
18                         duces or introduces into commerce poultry or a  
19                         poultry product that is unsafe or otherwise  
20                         adulterated or misbranded shall be imprisoned  
21                         for not more than 10 years or fined not more  
22                         than \$25,000, or both.

23                         “(B) SEVERE VIOLATIONS.—A person that  
24                         commits a violation described in subparagraph  
25                         (A) after a conviction of that person under this

1 subsection has become final, or commits such a  
2 violation with the intent to defraud or mislead,  
3 shall be imprisoned for not more than 20 years  
4 or fined not more than \$100,000, or both.

5 “(2) PENALTIES PAID INTO ACCOUNT.—The  
6 Secretary shall deposit penalties collected under this  
7 subsection in the account described in section  
8 270(a)(4) of the Department of Agriculture Reorga-  
9 nization Act of 1994.

10 “(3) DISCRETION OF THE SECRETARY TO PROS-  
11 ECUTE.—Nothing in this subsection requires the  
12 Secretary to report for prosecution, or for the com-  
13 mencement of an action, a violation described in  
14 paragraph (1) in a case in which the Secretary finds  
15 that the public interest will be adequately served by  
16 the assessment of a civil penalty.

17 “(4) REMEDIES NOT EXCLUSIVE.—The rem-  
18 edies provided in this subsection are in addition to,  
19 and not exclusive of, other remedies that may be  
20 available under this or any other Act.”.

21 (b) FEDERAL MEAT INSPECTION ACT.—Section 406  
22 of the Federal Meat Inspection Act (21 U.S.C. 676) is  
23 amended by adding at the end the following:

24 “(d) KNOWING INTRODUCTION INTO COMMERCE OF  
25 UNSAFE FOOD.—

1           “(1) CRIMINAL SANCTIONS.—

2                   “(A) IN GENERAL.—Except as provided in  
3           subparagraph (B), a person that knowingly pro-  
4           duces or introduces into commerce meat or a  
5           meat food product that is unsafe or otherwise  
6           adulterated or misbranded shall be imprisoned  
7           for not more than 10 years or fined not more  
8           than \$25,000, or both.

9                   “(B) SEVERE VIOLATIONS.—A person that  
10           commits a violation described in subparagraph  
11           (A) after a conviction of that person under this  
12           subsection has become final, or commits such a  
13           violation with the intent to defraud or mislead,  
14           shall be imprisoned for not more than 20 years  
15           or fined not more than \$100,000, or both.

16           “(2) PENALTIES PAID INTO ACCOUNT.—The  
17           Secretary shall deposit penalties collected under this  
18           subsection in the account described in section  
19           270(a)(4) of the Department of Agriculture Reorga-  
20           nization Act of 1994.

21           “(3) DISCRETION OF THE SECRETARY TO PROS-  
22           ECUTE.—Nothing in this subsection requires the  
23           Secretary to report for prosecution, or for the com-  
24           mencement of an action, a violation described in  
25           paragraph (1) in a case in which the Secretary finds

1 that the public interest will be adequately served by  
2 the assessment of a civil penalty.

3 “(4) REMEDIES NOT EXCLUSIVE.—The rem-  
4 edies provided in this subsection are in addition to,  
5 and not exclusive of, other remedies that may be  
6 available under this or any other Act.”.

7 (c) EGG PRODUCTS INSPECTION ACT.—Section 12 of  
8 the Egg Products Inspection Act (21 U.S.C. 1041) is  
9 amended by adding at the end the following:

10 “(f) KNOWING INTRODUCTION INTO COMMERCE OF  
11 UNSAFE FOOD.—

12 “(1) CRIMINAL SANCTIONS.—

13 “(A) IN GENERAL.—Except as provided in  
14 subparagraph (B), a person that knowingly pro-  
15 duces or introduces into commerce eggs or egg  
16 products that are unsafe or otherwise adulter-  
17 ated or misbranded shall be imprisoned for not  
18 more than 10 years or fined not more than  
19 \$25,000, or both.

20 “(B) SEVERE VIOLATIONS.—A person that  
21 commits a violation described in subparagraph  
22 (A) after a conviction of that person under this  
23 subsection has become final, or commits such a  
24 violation with the intent to defraud or mislead,

1           shall be imprisoned for not more than 20 years  
2           or fined not more than \$100,000, or both.

3           “(2) PENALTIES PAID INTO ACCOUNT.—The  
4           Secretary shall deposit penalties collected under this  
5           subsection in the account described in section  
6           270(a)(4) of the Department of Agriculture Reorga-  
7           nization Act of 1994.

8           “(3) DISCRETION OF THE SECRETARY TO PROS-  
9           ECUTE.—Nothing in this subsection requires the  
10          Secretary to report for prosecution, or for the com-  
11          mencement of an action, a violation described in  
12          paragraph (1) in a case in which the Secretary finds  
13          that the public interest will be adequately served by  
14          the assessment of a civil penalty.

15          “(4) REMEDIES NOT EXCLUSIVE.—The rem-  
16          edies provided in this subsection are in addition to,  
17          and not exclusive of, other remedies that may be  
18          available under this or any other Act.”.

19 **SEC. 402. ONGOING ASSESSMENT OF OCCUPATIONAL**  
20 **HEALTH.**

21          Not later than 2 years after the date of enactment  
22          of this Act, and not less than every 2 years thereafter,  
23          the Secretary of Agriculture, acting through the Under  
24          Secretary of Food Safety, in cooperation with the Director  
25          of the National Institute for Occupational Safety and

1 Health and the Assistant Secretary of Labor for Occupa-  
2 tional Safety and Health, shall publish a report that—

3 (1) describes occupational health and safety  
4 trends throughout federally inspected establish-  
5 ments; and

6 (2) includes recommendations for improving en-  
7 vironmental health for private and Federal employ-  
8 ees, including findings of appropriate maximum line  
9 speed allowances in processing and slaughter estab-  
10 lishments, as determined by the Secretary of Labor  
11 in consultation with the Secretary of Agriculture to  
12 ensure an appropriate level of occupational safety.

13 **SEC. 403. REPORTS AND EVALUATION OF IMPLEMENTA-**  
14 **TION.**

15 (a) SECRETARY.—

16 (1) IN GENERAL.—Not later than 1 year after  
17 the date of enactment of this Act and each of the  
18 following 2 years, the Secretary of Agriculture shall  
19 submit to Congress a report that—

20 (A) describes the progress of the Secretary  
21 in implementing this Act and the amendments  
22 made by this Act;

23 (B) includes any requests for additional re-  
24 sources or clarification or modification of policy;  
25 and

1 (C) suggests any necessary technical or  
2 conforming amendments.

3 (2) PUBLIC HEALTH INFORMATION SYSTEM.—

4 Not later than 1 year after the date of enactment  
5 of this Act and each of the following 3 years, the  
6 Secretary of Agriculture shall submit to Congress a  
7 report that describes—

8 (A) the effectiveness of the public health  
9 information system of the Food Safety and In-  
10 spection Service;

11 (B) whether the system is effective, accu-  
12 rate, and reflects actual program implementa-  
13 tion; and

14 (C) whether data contained in the system  
15 is usable to evaluate public health programs.

16 (b) COMPTROLLER GENERAL.—Not later than 5  
17 years after the date of enactment of this Act, the Comp-  
18 troller General of the United States shall—

19 (1) carry out a comprehensive evaluation of the  
20 implementation and effectiveness of the implementa-  
21 tion of this Act and the amendments made by this  
22 Act, including—

23 (A) management of agency resources;

24 (B) the ability of industry to comply; and

1 (C) the public health and food safety out-  
2 comes achieved; and

3 (2) submit to Congress a report describing the  
4 results of the evaluation.

5 **SEC. 404. AUTHORIZATION OF APPROPRIATIONS.**

6 (a) IN GENERAL.—Subject to subsection (b), there  
7 are authorized to be appropriated to carry out this Act  
8 and the amendments made by this Act such sums as are  
9 necessary for each fiscal year.

10 (b) LIMITATION ON APPROPRIATIONS.—

11 (1) IN GENERAL.—For the fiscal year that in-  
12 cludes the date of enactment of this Act, the amount  
13 authorized to be appropriated to carry out this Act  
14 (other than section 304) and the amendments made  
15 by this Act shall not exceed—

16 (A) the amount appropriated for that fiscal  
17 year for the Food Safety and Inspection Serv-  
18 ice, including any additional separate appro-  
19 priations for the activities of the Under Sec-  
20 retary for Food Safety; or

21 (B) the amount appropriated for the Food  
22 Safety and Inspection Service and the Under  
23 Secretary for Food Safety for the preceding fis-  
24 cal year, if as of the date of enactment of this  
25 Act, the relevant appropriations for the fiscal



1           year that includes the date of enactment of this  
2           Act have not yet been made.

3           (2) RESEARCH.—For the fiscal year that in-  
4           cludes the date of enactment of this Act, the amount  
5           authorized to be appropriated to carry out section  
6           304 shall not exceed—

7                   (A) the amount appropriated for that fiscal  
8                   year for the research, education, and economics  
9                   mission area of the Department of Agriculture,  
10                  including any additional separate appropria-  
11                  tions for the activities of the Under Secretary  
12                  for Research, Education, and Economics; or

13                   (B) the amount appropriated for the re-  
14                   search, education, and economics mission area  
15                   of the Department of Agriculture and the  
16                   Under Secretary for Research, Education, and  
17                   Economics for the preceding fiscal year, if as of  
18                   the date of enactment of this Act, the relevant  
19                   appropriations for the fiscal year that includes  
20                   the date of enactment of this Act have not yet  
21                   been made.

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