



Written by [Ann Shibley](#) on June 18, 2009

From Farming to Serfdom

Members of the House Energy and Commerce Committee — Henry Waxman (D-Calif.), John Dingell (D-Mich.), Frank Pallone (D-N.J.), and Bart Stupack (D-Mich.) — met to discuss the bill on May 26, which 13 days before it was introduced. These congressmen are all sponsors of the bill. They also held a hearing on the bill on June 3, five days before it was officially introduced.



With pre-planning like this, it's no wonder that there's already an amendment to the bill, and that it has been voted out of the Health Subcommittee and already marked up in the Energy and Commerce Committee as a bill being fast-tracked.

Marketed as a bill to "amend the Federal Food, Drug, and Cosmetic Act to improve the safety of food in the global market, and for other purposes," the bill in actuality extends U.S. government control over the food supply and those who produce it, using the issue of food safety as the rationale. In fact, the bill doesn't even address any bad food practices, especially those in foreign countries.

After thoroughly analyzing the [text of H.R. 2749](#), the [Farm-to-Consumer Legal Defense Fund reports](#) that small farms and local producers and small business would be forced to endure "a one-size-fits-all regulatory scheme" that would "disproportionately impact their operations for the worse." The bill contains frightening and costly requirements, with severe penalties for individuals who are found non-compliant by the FDA.

Section 101 (b)(1)-p-3 requires food "facilities" to register annually and pay an annual fee of \$500, with said amount to be adjusted for inflation at any time. While claiming that food facilities do not include farms, the FDA's current vague definition of a "farm" could open the door for the federal agency to designate many farms as food facilities at any time:

A facility in one general physical location devoted to the growing and harvesting of crops, the raising of animals (including seafood), or both. Washing, trimming of outer leaves of, and cooling produce are considered part of harvesting. The term "farm" includes:

(i) Facilities that pack or hold food, provided that all food used in such activities is grown, raised, or consumed on that farm or another farm under the same ownership; and

Facilities that manufacture/process food, provided that all food used in such activities is consumed on that farm or another farm under the same ownership. [21 CFR § 1.227(3)]

By this definition, one owns a farm if one consumes everything one produces, but if one sells any produce, one may no longer be considered a farm. And, a facility is any place that holds food; my kitchen pantry holds food, and so does my local grocery store and I've seen them wash and trim vegetables there, so if one were to adhere strictly to the terms above, a grocery store could be under



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the control of the FDA.

A “facility” according to the FDA is also applied to any place that holds, processes, or manufactures food, including lacto-fermented vegetables, cheeses, and breads. And manufacturing and processing is defined by the FDA to include any activity that uses, cutting, peeling, trimming, washing, waxing, eviscerating, rendering, cooking, baking, freezing, cooling, pasteurizing, homogenizing, mixing, formulating, bottling, milling, grinding, extracting juice, distilling, labeling, or packaging.” [21 CFR § 1.227(6)]

That covers just about anything one could do to a product intended for consumption, and if shared, sold, or purchased, one would fall under the FDA’s regulations, which then would spill over into other areas on the farm or in the business.

Under H.R. 2749 the FDA would require any such producer or holder of such products to develop a food safety plan to be submitted to the FDA for scrutiny. If the small business or farm can devote the time and resources to such a bureaucratic requirement, and if granted approval by the FDA, they then can be subject to “risk-based inspections” at any time for any reason or no reason, which in laymen’s terms are better labeled warrantless searches.

And if that isn’t enough to discourage the small farmer or entrepreneur, the required record keeping would be massive. All foods would have to be traced at all times, and animals would have to be tracked as well, by the farmer or businessman, and God help those who don’t get it right. The penalties could land individuals up to 10 years in prison and fines of up to \$100,000 for each violation for bad recordkeeping to misbranding, to food spoilage or contamination.

The FDA will make the determination to detain food, but the Secretary of Health and Human Services can issue geographic quarantines to be enforced by the FDA if there is “credible evidence or information” that indicates any food presents a threat of “adverse health consequences or death to human or animals,” [21 USC 334(h)(1)(A)] OR if there is even a “reason to believe that the article [of food] is adulterated, misbranded or otherwise is in violation of this act,” [section 132(a)-p. 82].

The nail in the coffin for any independent producer would be provisions in H.R. 2749 empowering the FDA to dictate farming practices. In fact, organic- and sustainable-farming practices could be eliminated outright under a scheme to regularize farming practices under the heading of safety standards. Raw meat may be subject to irradiation, and no one would be allowed to drink raw milk. Manure handling, sanitation, animal controls, and temperature controls would be under the FDA’s discretionary power. For details, check section 104 of the text of the bill.

Food safety is best achieved at the local level; small farmers and local food processors are part of the solution to food safety, not the problem. Yet, this onerous Orwellian-style bill grants more and more power to an opaque and unaccountable agency, hyper-regulating small producers out of business or turning them into serfs for the state, and leaving the industrial food system and food imports completely alone to commandeer the marketplace.

It would seem then, that a centralized food system under the complete control of the government is the goal of this bill and others like it.



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