



What is H.R. 2749?

H.R. 2749, the Food Safety Enhancement Act, addresses the programs and authority of the Food and Drug Administration (FDA). FDA currently has authority over processed foods, fruits and vegetables, and fish, while USDA has authority over meat and poultry. H.R. 2749 proposes to expand FDA's role in agriculture, particularly through creating new food safety standards, a new traceability program, and a mandatory processing facility fee.

Some key concerns with HR 2749 include:

1. Fees: Within this bill there is a mandatory \$500 per year fee for processing facilities (with a \$175,000 cap for companies with numerous plants - a cap that benefits large processors). This fee will help pay for FDA inspections of processing plants, but the bill's requirement of inspections every 6-12 months for high-risk food is not nearly frequent enough for the millions of pounds of food being inspected. A sliding-scale fee would be more appropriate and more affordable for the smaller operations.
2. Definition of a "food facility": Another concern within the bill is the definition used for a "food facility". Several advocacy organizations are currently working very hard to get a definition that will work for local/regional food system players.
3. The third major concern is the proposed traceability program. This new traceability program is intended to allow the FDA to track back any food item to its original source within two days. H.R. 2749 exempts farmers or fishermen who sell their products directly to the consumer, a restaurant, or a grocery store from the traceability program and places less burdensome recordkeeping on these producers and buyers. It would be desirable to exempt all product that is "farm and source verified" from small and medium-size farms, but in the very least to exempt those farms involved in direct sales or marketing of on farm processed foods.

Congressional Action on HR 2749:

- In the final days before passage, the House Ag Committee negotiated some changes on behalf of Sustainable Ag and Family Farmers that quieted some fears of FDA encroachment onto the farm.
 - Further clarification was provided for the meaning of a "Food Facility".
 - Also some specific exemptions for "direct selling" were provided.
- However, these changes do not do enough for family farmers and sustainable agriculture.
- HR 2749 was brought to the floor on Wednesday, 7/29/09 under suspension of the rules, which prohibited amendments and floor debate, but required a two-thirds majority vote to pass. The bill failed to pass.
- As a result, the Rules Committee determined the bill would be brought to the floor again on Thursday, 7/30/09, requiring only a simple majority to pass.

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- Unfortunately the Rules Committee did not allow any amendments to be introduced on the floor, but Representative Farr and Representative Blumenauer gave a colloquy, so their objections to the bill were added to the formal record. These objections included concerns about:
- the lack of a scaled fee system,
 - the lack of a plan for coherence with the USDA National Organic Program,
 - the need for electronic records,
 - the lack of recognition of current safe food practices through conservation efforts, and
 - the lack of targeted efforts to focus on high-risk problems.
- Additionally, on the floor of the House, Rep. Dingell chided Sustainable Agriculture and Family Farm Advocates somewhat for our concerns, but promised that these concerns would be worked out in the conference and management process.
 - H.R. 2749 was referred to the Senate on 8/3/09, just before August recess. The bill was read twice and referred to the Senate Committee on Health, Education, Labor and Pensions. It is currently on the regular calendar in the Senate.

In the Senate, the regular calendar process will permit amendments. And, it is likely a conference committee will be required to resolve the differences between the two versions of the food safety bills.

The Companion Bill to H.R. 2749 is S. 510, The FDA Food Safety Modernization Act.

- S. 510 was introduced by Richard Durbin back in March, and has since been waiting on the Senate Calendar. There seems to be no urgency to get to this issue on the Senate side, and no progress is likely until after the health care debate ends (as the HELP committee is also involved in Health Reform).
- S. 510 has not been fully analyzed yet for its differences with H.R. 2749 and for other potential issues. This work will begin among advocate groups, such as NSAC and NOC, in September. They are currently working on a strategy for getting their comments into the bill drafting process before it is “marked-up” by the committee.

CFSC is continuing to track Food Safety legislation, and is in close contact with the above-mentioned groups, but at this time we are not actively advocating for the issue. **We will send out action alerts as necessary.**