

SAFE FOOD COALITION

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June 25, 2024

Jim Jones
Deputy Commissioner
U.S. Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993

Dear Deputy Commissioner Jones:

The undersigned members of the Safe Food Coalition write to express our opposition to efforts to delay implementation of FDA’s final rule on Requirements for Additional Traceability Records for Certain Foods (Food Traceability Final Rule), and to urge you to stand firm in requiring compliance with the rule’s recordkeeping requirements by January 20, 2026. This compliance date gives industry ample time to prepare, and represents an already long overdue enactment of the Food Safety Modernization Act (FSMA), which Congress passed with broad bipartisan support in 2010 and President Barack Obama signed into law.

FSMA directed FDA to propose recordkeeping requirements for certain “high risk” foods no later than January 2013. When FDA failed to propose those requirements, Safe Food Coalition member Center for Food Safety sued the agency, leading to a federal court order mandating that the agency propose requirements by September 2020, and finalize the rulemaking process by November 2022.¹ The agency complied with that order, announcing a final rule that requires food manufacturers, processors, packers and retailers to maintain records containing certain “Key Data Elements,” including lot codes, associated with specified “Critical Tracking Events” for designated foods. Parties subject to the rule must be able to report the required information to FDA within 24 hours, thereby facilitating more effective foodborne illness outbreak investigations.²

The rule aligns with the best practices observed among members of industry. Already, as the compliance date approaches, companies have made significant progress in tracking and recording data for food traceability purposes, and improving on the current system that limits traceability capabilities to “one step forward and one step back,” with little specificity. Larger food retailers have indicated that they expect suppliers to comply with the rule well ahead of FDA’s compliance date. For example, Kroger has announced that it will require all of its food suppliers—not just those

¹ Kimbrell, G., & Talbott, R. (2019, June 11). Taking Foodborne Illness Off the Menu. Center for Food Safety. <https://www.centerforfoodsafety.org/blog/5622/taking-foodborne-illness-off-the-menu>

² FSMA Final Rule on Requirements for Additional Traceability Records for Certain Foods. (2024, April 17). U.S. Food and Drug Administration; FDA. <https://www.fda.gov/food/food-safety-modernization-act-fsma/fsma-final-rule-requirements-additional-traceability-records-certain-foods>

supplying the “high risk” foods on FDA’s Food Traceability List—to adopt conforming traceability protocols by June 30, 2025, six months prior to FDA’s compliance deadline.³

Despite this progress, some of the regulated industry now seeks to delay FDA’s traceability rule indefinitely. These opponents have championed the so-called *Food Traceability Enhancement Act* (H.R. 7563),⁴ some of which has made its way into the Fiscal Year 2025 bill for the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Subcommittee. The bill would put the FDA’s 2026 implementation date on hold by demanding that the agency conduct additional traceability pilots, including a pilot that will require the agency to “successfully” solve outbreaks without using lot codes.⁵ As FDA has made clear, however, lot codes are the core element of the traceability rule, and exempting retailers from maintaining that information would set the agency back to square one. The *Food Traceability Evisceration Act* more accurately describes the legislation.

We understand that FDA seeks to foster a collaborative relationship with regulated industry, and that you rely on industry to inform effective policy. However, as we expressed in our recent stakeholder meeting, we are concerned that the campaign to derail traceability requirements, including the dialogue between FDA and industry representatives convened by the Reagan-Udall Foundation, will unduly influence the agency. Consumers have had to wait too long for FDA to complete the traceability rule. We urge you to reject efforts to eliminate the requirement that traceability lot codes be captured at retail and food service, to explain clearly to Congress that the *Food Traceability Evisceration Act* and the traceability provisions in the House appropriations bill would undermine the agency’s longstanding efforts, and to follow through on this important regulatory initiative to protect consumers from foodborne illness.

Thank you for your consideration.

Sincerely,

Center for Food Safety
Center for Science in the Public Interest
Consumer Federation of America
Consumer Reports
Food & Water Watch
Government Accountability Project
National Consumers League

³ Letter from Stuart Aitken and Gabriel Arreaga to Kroger suppliers RE: The Kroger Co Food Traceability Policy & Requirements (December 1, 2023). <https://edi.kroger.com/EDIPortal/documents/Maps/kroger-modernized-systems/Food%20Traceability%20Requirements.pdf>

⁴ FMI Applauds Introduction of Legislation to Address Challenges with FDA’s Food Traceability Rule. (2024, March 6). The Food Industry Association. <https://www.fmi.org/newsroom/news-archive/view/2024/03/06/fmi-applauds-introduction-of-legislation-to-address-challenges-with-fda-s-food-traceability-rule>

⁵ Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2025, Sec. 768, 118th Cong. <https://appropriations.house.gov/news/press-releases/committee-releases-fy25-agriculture-rural-development-food-and-drug>