



## Safe Food for a Healthy Life

An Initiative of The Pew Charitable Trusts at Georgetown University

### **Current Law Provides FDA with Authority to Mandate Safety Standards for Produce**

Legal analyses by the Congressional Research Service and by the O'Neill Institute for National and Global Health Law at Georgetown University conclude that FDA has sufficient authority under existing law to adopt produce-safety regulations.

- FDA can rely on provisions of the Federal Food Drug and Cosmetic Act (FFDCA) and the Public Health Service Act (PSHA) in promulgating such regulations.
- The FFDCA prohibits the adulteration of food (including fresh produce), and a number of the grounds for finding a food to be adulterated under the Act could apply to the contamination of fresh produce by pathogens such as *Salmonella* and *E.coli* O157:H7.
- The FFDCA also provides the FDA with broad authority to “promulgate regulations for the efficient enforcement of the Act.”
- The PSHA authorizes the FDA to issue regulations to prevent the introduction, transmission, or spread of communicable diseases.
- The FDA has relied on these statutes in adopting regulations governing the safety of seafood and juice, and in proposing rules establishing on-farm measures for the safety of shell eggs.
- Courts have interpreted the provisions of the FFDCA and PSHA broadly to protect the public health, and have deferred to FDA’s interpretation of these provisions in adopting regulations.
- The FFDCA and the PSHA neither expressly authorize nor limit the FDA’s on-farm regulatory authority. Both statutes, however, do explicitly provide the FDA with rulemaking authority over specific areas that could be interpreted as covering on-farm activities, and relevant FFDCA provisions apply generally to “food,” without specifying where it is grown or produced.

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