

108TH CONGRESS
1ST SESSION

S. 1103

To clarify the authority of the Secretary of Agriculture to prescribe performance standards for the reduction of pathogens in meat, meat products, poultry, and poultry products processed by establishments receiving inspection services and to enforce the Hazard Analysis and Critical Control Point (HACCP) System requirements, sanitation requirements, and the performance standards.

IN THE SENATE OF THE UNITED STATES

MAY 22, 2003

Mr. HARKIN (for himself, Mr. SPECTER, Mr. KOHL, Mr. DURBIN, Mr. FEINGOLD, Mrs. CLINTON, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To clarify the authority of the Secretary of Agriculture to prescribe performance standards for the reduction of pathogens in meat, meat products, poultry, and poultry products processed by establishments receiving inspection services and to enforce the Hazard Analysis and Critical Control Point (HACCP) System requirements, sanitation requirements, and the performance standards.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Meat and Poultry
3 Pathogen Reduction and Enforcement Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) the primary purpose of the Federal meat
7 and poultry inspection program is to protect public
8 health;

9 (2) the Centers for Disease Control and Preven-
10 tion report that human pathogens found in raw and
11 cooked meat, meat products, poultry, and poultry
12 products are a significant source of foodborne ill-
13 ness;

14 (3) to reduce the public health burden of
15 foodborne illness, the Federal meat and poultry in-
16 spection system should focus on reducing the risk of
17 foodborne illness associated with the presence of
18 foodborne pathogens through—

19 (A) establishment and enforcement of per-
20 formance standards for the reduction of patho-
21 gens in meat, meat products, poultry, and poul-
22 try products processed by establishments receiv-
23 ing inspection services; and

24 (B) enforcement of the Hazard Analysis
25 and Critical Control Point (HACCP) System
26 requirements and sanitation requirements;

1 (4) good public health practice requires control-
2 ling pathogens as close as practicable to the initial
3 source of contamination to reduce pathogens and
4 prevent foodborne illness;

5 (5) there is a need for strong safeguards at
6 slaughter establishments during the slaughter and
7 processing of meat and poultry products because
8 those establishments are where pathogen contamina-
9 tion often originates;

10 (6) while proper handling and cooking of meat
11 and poultry products can virtually eliminate the risk
12 of foodborne illness from the consumption of meat
13 and poultry, the presence of pathogens in raw meat
14 and poultry products leads to cross-contamination of
15 other foods and surrounding surfaces;

16 (7) to reduce the risk of foodborne illness and
17 protect public health, regulatory authorities and all
18 parties involved in the production and handling of
19 meat, meat products, poultry, or poultry products
20 should make a concerted effort to reduce, to the
21 maximum extent practicable, contamination by
22 pathogens using the best available scientific informa-
23 tion and appropriate technology;

1 (8) the distribution of meat, meat products,
2 poultry, or poultry products that contain human
3 pathogens—

4 (A) impairs the effective regulation of
5 wholesome meat, meat products, poultry, or
6 poultry products in interstate and foreign com-
7 merce; and

8 (B) destroys markets for wholesome prod-
9 ucts;

10 (9) all articles and other animals that are sub-
11 ject to this Act and the amendments made by this
12 Act are either in or substantially affect interstate or
13 foreign commerce; and

14 (10) regulation by the Secretary of Agriculture
15 and cooperation by the States are necessary to pre-
16 vent or eliminate burdens on interstate or foreign
17 commerce and to protect the health and welfare of
18 consumers.

19 **SEC. 3. PATHOGEN PERFORMANCE STANDARDS.**

20 (a) MEAT AND MEAT PRODUCTS.—The Federal Meat
21 Inspection Act (21 U.S.C. 601 et seq.) is amended by in-
22 serting after section 8 (21 U.S.C. 608) the following:

23 **“SEC. 8A. PATHOGEN PERFORMANCE STANDARDS.**

24 “(a) IN GENERAL.—In order to protect the public
25 health and promote food safety, the Secretary shall pre-

1 scribe performance standards for the reduction of patho-
2 gens in raw meat and meat products processed by each
3 establishment receiving inspection services under this Act.

4 “(b) LIST OF PATHOGENS.—

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

12 “(2) PUBLICATION; UPDATES.—The Secretary
13 shall—

14 “(A) publish a list of the pathogens de-
15 scribed in paragraph (1) not later than 60 days
16 after the date of enactment of this section; and

17 “(B) update and publish the list annually
18 thereafter.

19 “(c) PATHOGEN SURVEYS.—

20 “(1) IN GENERAL.—Not later than 180 days
21 after the date of enactment of this section, the Sec-
22 retary shall initiate comprehensive, statistically rep-
23 resentative surveys to determine the current levels
24 and incidence of contamination of raw meat and
25 meat products with the pathogens listed under sub-

1 section (b), including the variation in levels and inci-
2 dence of contamination among establishments.

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

7 “(3) UPDATES.—At least once every 3 years
8 after the preceding surveys are conducted, the Sec-
9 retary shall—

10 “(A) conduct surveys described in para-
11 graph (1); and

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

14 “(d) PATHOGEN REDUCTION PERFORMANCE STAND-
15 ARDS.—

16 “(1) IN GENERAL.—The pathogen reduction
17 performance standards required under subsection (a)
18 shall ensure the lowest level or incidence of contami-
19 nation that is reasonably achievable using the best
20 available processing technology and practices.

21 “(2) CURRENT CONTAMINATION.—In deter-
22 mining what is reasonably achievable, the Secretary
23 shall consider data on current levels or incidence of
24 contamination, including what is being achieved by

1 establishments in the upper quartile of performance
2 in controlling the level or incidence of contamination.

3 “(3) INITIAL PATHOGENS.—Not later than 3
4 years after the date of enactment of this section, the
5 Secretary shall propose pathogen reduction perform-
6 ance standards for at least 2 pathogens from the list
7 published under subsection (b).

8 “(4) SUBSEQUENT PATHOGENS.—Not later
9 than 1 year after proposing pathogen reduction
10 standards for the initial pathogens under paragraph
11 (3), and each year thereafter, the Secretary shall
12 propose a pathogen reduction performance standard
13 for at least 1 pathogen each year from the list pub-
14 lished under subsection (b) until standards have
15 been proposed for all pathogens on the list.

16 “(5) FINAL STANDARDS.—Not later than 1
17 year after proposing a pathogen reduction standard
18 for a pathogen under this subsection, the Secretary
19 shall promulgate a final pathogen reduction stand-
20 ard for the pathogen.

21 “(6) ZERO-TOLERANCE STANDARDS.—Nothing
22 in this section affects the authority of the Secretary
23 to establish a zero-tolerance pathogen reduction per-
24 formance standard.

25 “(e) REVIEW OF STANDARDS.—

1 “(1) IN GENERAL.—Not later than 3 years
2 after promulgation of a final pathogen reduction
3 performance standard for a pathogen under sub-
4 section (d)(5), the Secretary shall review the stand-
5 ard to determine whether the standard continues to
6 ensure the lowest level or incidence of contamination
7 that is reasonably achievable using the best available
8 processing technology and practices, taking into ac-
9 count the most recent survey conducted under sub-
10 section (c).

11 “(2) REVISIONS.—The Secretary shall revise
12 the standard, as necessary, to comply with sub-
13 section (d).

14 “(f) ENFORCEMENT.—

15 “(1) IN GENERAL.—The Secretary shall con-
16 duct regular microbial testing in establishments pro-
17 ducing raw meat and meat products to determine
18 compliance with the pathogen reduction performance
19 standards promulgated under this section.

20 “(2) INSPECTIONS.—If the Secretary deter-
21 mines that an establishment fails to meet a standard
22 promulgated under subsection (d) and that the es-
23 tablishment fails to take appropriate corrective ac-
24 tion, as determined by the Secretary, the Secretary
25 shall refuse to allow any meat or meat product sub-

1 ject to the standard and processed by the establish-
2 ment to be labeled, marked, stamped or tagged as
3 ‘inspected and passed’.

4 “(g) REPORT ON HEALTH-BASED PATHOGEN PER-
5 FORMANCE STANDARDS.—

6 “(1) IN GENERAL.—Not later than 1 year after
7 the date of enactment of this section, the Secretary,
8 in consultation with the Secretary of Health and
9 Human Services, shall submit to Congress a report
10 on the scientific feasibility of establishing health-
11 based performance standards for pathogens in raw
12 meat and meat products.

13 “(2) FACTORS.—In preparing the report, the
14 Secretary shall consider—

15 “(A) the scientific feasibility of deter-
16 mining safe levels for pathogens in raw meat
17 and meat products;

18 “(B) the scientific and public health cri-
19 teria that are relevant to determining the safe
20 levels; and

21 “(C) other factors determined by the Sec-
22 retary.

23 “(h) RELATIONSHIP TO ADULTERATION PROVI-
24 SIONS.—Nothing in this section affects the applicability

1 to pathogens of the provisions of this Act relating to adul-
2 teration.”.

3 (b) POULTRY AND POULTRY PRODUCTS.—The Poul-
4 try Products Inspection Act (21 U.S.C. 451 et seq.) is
5 amended by inserting after section 7 (21 U.S.C. 456) the
6 following:

7 **“SEC. 7A. PATHOGEN PERFORMANCE STANDARDS.**

8 “(a) IN GENERAL.—In order to protect the public
9 health and promote food safety, the Secretary shall pre-
10 scribe pathogen performance standards for the reduction
11 of pathogens in raw poultry and poultry products pro-
12 cessed by each establishment receiving inspection services
13 under this Act.

14 “(b) LIST OF PATHOGENS.—

15 “(1) IN GENERAL.—In consultation with the
16 Secretary of Health and Human Services, and tak-
17 ing into account data available from the Centers for
18 Disease Control and Prevention, the Secretary shall
19 identify the pathogens that make a significant con-
20 tribution to the total burden of foodborne disease as-
21 sociated with poultry and poultry products.

22 “(2) PUBLICATION; UPDATES.—The Secretary
23 shall—

1 “(A) publish a list of the pathogens de-
2 scribed in paragraph (1) not later than 60 days
3 after the date of enactment of this section; and

4 “(B) update and publish the list annually
5 thereafter.

6 “(c) PATHOGEN SURVEYS.—

7 “(1) IN GENERAL.—Not later than 180 days
8 after the date of enactment of this section, the Sec-
9 retary shall initiate comprehensive, statistically rep-
10 resentative surveys to determine the current levels
11 and incidence of contamination of raw poultry and
12 poultry products with the pathogens listed under
13 subsection (b), including the variation in levels and
14 incidence of contamination among establishments.

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

19 “(3) UPDATES.—At least once every 3 years
20 after the preceding surveys are conducted, the Sec-
21 retary shall—

22 “(A) conduct surveys described in para-
23 graph (1); and

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

1 “(d) PATHOGEN REDUCTION PERFORMANCE STAND-
2 ARDS.—

3 “(1) IN GENERAL.—The pathogen reduction
4 performance standards required under subsection (a)
5 shall ensure the lowest level or incidence of contami-
6 nation that is reasonably achievable using the best
7 available processing technology and practices.

8 “(2) CURRENT CONTAMINATION.—In deter-
9 mining what is reasonably achievable, the Secretary
10 shall consider data on current levels or incidence of
11 contamination, including what is being achieved by
12 establishments in the upper quartile of performance
13 in controlling the level or incidence of contamination.

14 “(3) INITIAL PATHOGENS.—Not later than 3
15 years after the date of enactment of this section, the
16 Secretary shall propose pathogen reduction perform-
17 ance standards for at least 2 pathogens from the list
18 published under subsection (b).

19 “(4) SUBSEQUENT PATHOGENS.—Not later
20 than 1 year after proposing pathogen reduction
21 standards for the initial pathogens under paragraph
22 (3), and each year thereafter, the Secretary shall
23 propose a pathogen reduction performance standard
24 for at least 1 pathogen each year from the list pub-

1 lished under subsection (b) until standards have
2 been proposed for all pathogens on the list.

3 “(5) FINAL STANDARDS.—Not later than 1
4 year after proposing a pathogen reduction standard
5 for a pathogen under this subsection, the Secretary
6 shall promulgate a final pathogen reduction stand-
7 ard for the pathogen.

8 “(6) ZERO-TOLERANCE STANDARDS.—Nothing
9 in this section affects the authority of the Secretary
10 to establish a zero-tolerance pathogen reduction per-
11 formance standard.

12 “(e) REVIEW OF STANDARDS.—

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

23 “(2) REVISIONS.—The Secretary shall revise
24 the standard, as necessary, to comply with sub-
25 section (d).

1 “(f) ENFORCEMENT.—

2 “(1) IN GENERAL.—The Secretary shall con-
3 duct regular microbial testing in establishments pro-
4 ducing raw poultry and poultry products to deter-
5 mine compliance with the pathogen reduction per-
6 formance standards promulgated under this section.

7 “(2) INSPECTIONS.—If the Secretary deter-
8 mines that an establishment fails to meet a standard
9 promulgated under subsection (d) and that the es-
10 tablishment fails to take appropriate corrective ac-
11 tion, as determined by the Secretary, the Secretary
12 shall refuse to allow any poultry or poultry product
13 subject to the standard and processed by the estab-
14 lishment to be labeled, marked, stamped or tagged
15 as ‘inspected and passed’.

16 “(g) REPORT ON HEALTH-BASED PATHOGEN PER-
17 FORMANCE STANDARDS.—

18 “(1) IN GENERAL.—Not later than 1 year after
19 the date of enactment of this section, the Secretary,
20 in consultation with the Secretary of Health and
21 Human Services, shall submit to Congress a report
22 on the scientific feasibility of establishing health-
23 based performance standards for pathogens in raw
24 poultry and poultry products.

1 (A) the Secretary of Agriculture, acting
2 through the Under Secretary for Food Safety;
3 and

4 (B) the Secretary of Health and Human
5 Services, acting through the Assistant Secretary
6 for Health.

7 (b) MEMBERSHIP.—

8 (1) COMPOSITION.—The Committee shall be
9 composed of not fewer than 9 nor more than 15
10 members appointed by the Secretary, including a
11 Chairperson designated by the Secretary.

12 (2) QUALIFICATIONS.—In appointing members
13 of the Committee, the Secretary shall appoint indi-
14 viduals who—

15 (A) are qualified by education, training,
16 and experience to evaluate scientific and tech-
17 nical information on matters referred to the
18 Committee; and

19 (B) to the maximum extent practicable,
20 represent the fields of microbiology, risk assess-
21 ment, epidemiology, public health, food science,
22 veterinary medicine, and other relevant dis-
23 ciplines.

24 (3) PROHIBITION ON FEDERAL GOVERNMENT
25 EMPLOYMENT.—A member of the Committee ap-

1 pointed under paragraph (1) shall not be an em-
2 ployee of the Federal Government.

3 (4) DATE OF APPOINTMENTS.—The appoint-
4 ment of an initial member of the Committee shall be
5 made not later than 90 days after the date of enact-
6 ment of this Act.

7 (5) TERM.—A member of the Committee shall
8 be appointed for a term established by the Sec-
9 retary.

10 (c) MEETINGS.—

11 (1) INITIAL MEETING.—Not later than 30 days
12 after the date on which all members of the Com-
13 mittee have been appointed, the Committee shall
14 hold the initial meeting of the Committee.

15 (2) MEETINGS.—The Committee shall meet at
16 the call of the Chairperson, in consultation with the
17 Secretary.

18 (3) QUORUM.—A majority of the members of
19 the Committee shall constitute a quorum, but a less-
20 er number of members may hold hearings.

21 (4) CONFLICTS OF INTEREST.—

22 (A) IN GENERAL.—Notwithstanding sec-
23 tions 201 through 209 of title 18, United
24 States Code, a conflict of interest involving the
25 appointment of a member of the Committee

1 shall be waived under section 208(b)(3) of that
2 title only if the member with the conflict of in-
3 terest is essential to the completion of the work
4 of the Committee.

5 (B) VOTING.—Notwithstanding subpara-
6 graph (A), a member of the Committee with a
7 conflict of interest on a matter before the Com-
8 mittee shall not be allowed to vote on the mat-
9 ter.

10 (d) DUTIES.—

11 (1) IN GENERAL.—The Committee shall provide
12 such independent, impartial, scientific advice to Fed-
13 eral food safety agencies as may be requested by the
14 Secretary for use in the development of an inte-
15 grated national food safety systems approach from
16 farm-to-final consumption to ensure the safety of do-
17 mestic, imported, and exported foods and reduce the
18 public health burden of foodborne illness.

19 (2) FOOD SAFETY STANDARDS AND REGULA-
20 TIONS.—

21 (A) IN GENERAL.—At the time at which
22 the Secretary submits to any Federal agency
23 for formal review and comment any standard or
24 regulation proposed under the Federal Meat In-
25 spection Act (21 U.S.C. 601 et seq.), the Poul-

1 try Products Inspection Act (21 U.S.C. 451 et
2 seq.), or any program administered by the
3 Under Secretary for Food Safety, the Secretary
4 shall make available to the Committee—

5 (i) the standard or regulation; and

6 (ii) relevant scientific and technical
7 information possessed by the Secretary on
8 which the proposed standard or regulation
9 is based.

10 (B) ADVICE AND COMMENTS.—Not later
11 than a date specified by the Secretary that is
12 not later than 90 days after receipt of the
13 standard or regulation, the Committee may
14 make available to the Secretary the advice and
15 comments of the Committee on the adequacy of
16 the scientific and technical basis for the pro-
17 posed standard or regulation, together with any
18 additional information the Committee considers
19 appropriate.

20 (C) CONTEMPORANEOUS REVIEW.—To the
21 maximum extent practicable, the review by the
22 Committee under subparagraph (A) shall be
23 conducted contemporaneously with review by
24 other Federal agencies.

25 (e) POWERS.—

1 (1) HEARINGS.—The Committee may hold such
2 hearings, sit and act at such times and places, take
3 such testimony, and receive such evidence as the
4 Committee considers advisable to carry out this sec-
5 tion.

6 (2) INFORMATION FROM FEDERAL AGENCIES.—

7 (A) IN GENERAL.—The Committee may
8 secure directly from a Federal agency such in-
9 formation as the Committee considers necessary
10 to carry out this section.

11 (B) PROVISION OF INFORMATION.—On re-
12 quest of the Chairperson of the Committee, the
13 head of the agency shall provide the informa-
14 tion to the Committee.

15 (3) SUBCOMMITTEES AND INVESTIGATIVE PAN-
16 ELS.—

17 (A) IN GENERAL.—The Committee may
18 establish such subcommittees and investigative
19 panels as the Secretary and the Committee de-
20 termine necessary to carry out this section.

21 (B) CHAIRPERSON.—Each subcommittee
22 and investigative panel shall be chaired by a
23 member of the Committee.

24 (4) POSTAL SERVICES.—The Committee may
25 use the United States mails in the same manner and

1 under the same conditions as other agencies of the
2 Federal Government.

3 (5) GIFTS.—The Committee may accept, use,
4 and dispose of gifts or donations of services or prop-
5 erty.

6 (f) COMMITTEE PERSONNEL MATTERS.—

7 (1) COMPENSATION OF MEMBERS.—A member
8 of the Committee shall be compensated at a rate
9 equal to the daily equivalent of the annual rate of
10 basic pay prescribed for level IV of the Executive
11 Schedule under section 5315 of title 5, United
12 States Code, for each day (including travel time)
13 during which the member is engaged in the perform-
14 ance of the duties of the Committee.

15 (2) TRAVEL EXPENSES.—A member of the
16 Committee shall be allowed travel expenses, includ-
17 ing per diem in lieu of subsistence, at rates author-
18 ized for an employee of an agency under subchapter
19 I of chapter 57 of title 5, United States Code, while
20 away from the home or regular place of business of
21 the member in the performance of the duties of the
22 Committee.

23 (3) STAFF.—

24 (A) IN GENERAL.—The Chairperson of the
25 Committee may, without regard to the civil

1 service laws (including regulations), appoint
2 and terminate an executive director and such
3 other additional personnel as are necessary to
4 enable the Committee to perform the duties of
5 the Committee.

6 (B) CONFIRMATION OF EXECUTIVE DIREC-
7 TOR.—The employment of an executive director
8 shall be subject to confirmation by the Com-
9 mittee.

10 (C) COMPENSATION.—

11 (i) IN GENERAL.—Except as provided
12 in clause (ii), the Chairperson of the Com-
13 mittee may fix the compensation of the ex-
14 ecutive director and other personnel with-
15 out regard to the provisions of chapter 51
16 and subchapter III of chapter 53 of title 5,
17 United States Code, relating to classifica-
18 tion of positions and General Schedule pay
19 rates.

20 (ii) MAXIMUM RATE OF PAY.—The
21 rate of pay for the executive director and
22 other personnel shall not exceed the rate
23 payable for level V of the Executive Sched-
24 ule under section 5316 of title 5, United
25 States Code.

1 (4) PROCUREMENT OF TEMPORARY AND INTER-
2 MITTENT SERVICES.—The Chairperson of the Com-
3 mittee may procure temporary and intermittent serv-
4 ices in accordance with section 3109(b) of title 5,
5 United States Code, at rates for individuals that do
6 not exceed the daily equivalent of the annual rate of
7 basic pay prescribed for level V of the Executive
8 Schedule under section 5316 of that title.

9 (g) AUTHORIZATION OF APPROPRIATIONS.—

10 (1) IN GENERAL.—There are authorized to be
11 appropriated such sums as are necessary to carry
12 out this section, to remain available until expended.

13 (2) EXISTING FUNDS.—Any funds that are
14 available to the National Advisory Committee on
15 Microbiological Criteria in existence on the date of
16 enactment of this Act shall be made available to the
17 Committee.

18 **SEC. 5. ENFORCEMENT OF HACCP AND SANITATION RE-**
19 **QUIREMENTS.**

20 (a) IN GENERAL.—The Secretary of Agriculture shall
21 enforce the Hazard Analysis and Critical Control Point
22 (HACCP) System requirements established under part
23 417 of title 9, Code of Federal Regulations (or successor
24 regulations), and the sanitation requirements established

1 under part 416 of title 9, Code of Federal Regulations
2 (or successor regulations), in any official establishment.

3 (b) ENFORCEMENT.—

4 (1) IN GENERAL.—If the Secretary determines
5 that an establishment fails to meet a requirement
6 described in subsection (a) and that the establish-
7 ment fails to take appropriate corrective action, as
8 determined by the Secretary, the Secretary may
9 refuse to allow any meat or meat product, or poultry
10 or poultry product, subject to the standard and proc-
11 essed by the establishment to be labeled, marked,
12 stamped or tagged as “inspected and passed”.

13 (2) ADDITIONAL AUTHORITY.—The authority
14 provided under paragraph (1) is in addition to any
15 other authority the Secretary may have to enforce
16 the requirements of this section.

17 **SEC. 6. REGULATIONS.**

18 (a) IN GENERAL.—Consistent with section 553 of
19 title 5, United States Code, the Secretary of Agriculture
20 shall have the authority to enforce the pathogen perform-
21 ance standards of the Secretary in accordance with the
22 Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and
23 the Poultry Products Inspection Act (21 U.S.C. 451 et
24 seq.).

1 (b) CHALLENGES.—Subsection (a) does not prevent
2 a challenge to the standards described in subsection (a)
3 on any basis other than the basis that the Secretary lacks
4 the authority to issue and enforce pathogen performance
5 standards promulgated in accordance with section 553 of
6 title 5, United States Code.

7 (c) EFFECTIVE DATE.—This section takes effect on
8 January 1, 2000.

○