After a series of E. coli outbreaks in spinach products in 2006, the authority of the FDA to regulate recalling was called into question (Yoke, 2007). The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 grants the FDA the right to track potentially harmful foods from consumer back to producer. Title III of the act also gives the FDA authority to detain food which it has jurisdiction over. A common critique of the law, however, is the length of time that it takes to detect an outbreak. According to Yoke, “…often, once an initial point of origin has been established, the field has already been plowed to make it ready for the next crop. Plowing hinders investigative efforts because researchers are left to speculate on the actual causes of the outbreaks due to simple lack of evidence.” (Yoke, 2007) The fact that both FDA and USDA are unable to force a food recall only compounds the problem. A hypothetical independent federal food safety agency (FSA) would ideally have the funding to not only impose mandatory recalls, but the funding to quickly investigate future outbreaks.

Additionally, the creation of the FSA would allow all previously outdated regulations regarding the FDA and USDA to be revised upon and kept to modern standards without completely uprooting the federal Food Drug and Cosmetic act of 1938 (FD&C).

The existence of multiple federal agencies to control the food supply creates legal challenges. According to Hammonds, “This patchwork quilt creates inconsistencies, gaps, overlaps, and duplication of effort that are becoming increasingly unworkable.” (Hammonds, 2004)

The benefits to remaining with the current system, or otherwise work within the legal framework provided therein, are typically convenience driven. “Regulating the U.S. food supply involves dealing with an extraordinarily broad range of issues, of issues, including ensuring basic food safety, addressing human and animal nutrition, dealing with naturally-occurring foodborne pathogens, protecting the environment, monitoring the incidence of diseases, developing an effective program of research, and overseeing a wide variety of means of delivering information to consumers including labels, advertising, and education.” (Hammonds, 2004) This is a system that has been expanded upon for over a century.

Europe has proposed a similar measure with the hypothetical European Food Safety Authority (EFSA) (Collins, 2003)

Diets change, science changes and the knowledge on harmful chemicals changes. The FD&C was