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ONE HUNDRED TENTH CONGRESS

**U.S. House of Representatives**  
**Committee on Energy and Commerce**  
**Washington, DC 20515-6115**

JOHN D. DINGELL, MICHIGAN  
CHAIRMAN

February 21, 2007

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DENNIS B. FITZGIBBONS, CHIEF OF STAFF  
GREGG A. ROTHSCHILD, CHIEF COUNSEL

The Honorable Andrew C. von Eschenbach, M.D.  
Commissioner  
U.S. Food and Drug Administration  
5600 Fishers Lane  
Rockville, MD 20857-0001

Dear Dr. von Eschenbach:

I write to you again concerning the Committee on Energy and Commerce's investigation into the adequacy of the Food and Drug Administration (FDA) to protect the Nation's food supply. As you know, I, along with Reps. Dingell, Barton, and Whitfield, previously wrote to you on January 29, 2007, and February 15, 2007 (letters attached). In those letters we requested that, as the initial step in our investigation, you provide a briefing by Dr. David Acheson and other officials of the Center for Food Safety and Applied Nutrition, the Office of Regulatory Affairs, or elsewhere in the Agency. That briefing is currently scheduled for Friday, February 23, 2007.

Last week, in addition to a major outbreak of salmonella in peanut butter, there were other incidents including salmonella on imported cantaloupes and botulism in baby food. The frequency of these incidents of contamination in our food supply is quite disturbing.

In light of these continuing outbreaks of contamination, I am requesting that all information available to the FDA regarding these latest threats to our food supply be included in the briefing. In particular, I would want to know (1) how these contaminations occurred; (2) in each instance, who or what was responsible for the breakdown in the safety of the food supply; (3) when was the last FDA inspection of the processing facilities; (4) what were the results of that inspections; and (5) what are the dimensions of the public health risks?

If you have any questions regarding this request, please have your staff contact David Nelson with the Committee on Energy and Commerce staff at (202) 225-2927.

Sincerely,



Bart Stupak  
Chairman

Subcommittee on Oversight and Investigations

The Honorable Andrew C. von Eschenbach, M.D.  
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**Attachments**

cc: The Honorable John D. Dingell, Chairman  
Committee on Energy and Commerce

The Honorable Joe Barton, Ranking Member  
Committee on Energy and Commerce

The Honorable Ed Whitfield, Ranking Member  
Subcommittee on Oversight and Investigations  
Committee on Energy and Commerce

**Congress of the United States**  
**House of Representatives**  
**Washington, D.C. 20515**

January 29, 2007

The Honorable Andrew C. von Eschenbach, M.D.  
Commissioner  
Food and Drug Administration  
Department of Health and Human Services  
5600 Fishers Lane  
Rockville, Maryland 20857

Dear Dr. von Eschenbach:

Pursuant to Rules X and XI of the Rules of United States House of Representatives, the Committee on Energy and Commerce and the Subcommittee on Oversight and Investigations are conducting an investigation into the adequacy of the efforts of the Food and Drug Administration (FDA) to protect the safety of the Nation's food supply. The E. coli 0157:H7 and salmonella outbreaks in recent months resulting from the consumption of raw spinach, tomatoes, and lettuce have raised serious questions about whether the FDA can adequately protect the Nation's food supply. Unfortunately, these outbreaks are not an anomaly, but are increasing in number. Annual outbreaks of produce-related, food-borne illnesses have grown from about 40 in 1999 to 86 in 2004. We are concerned about whether the public health system failed to protect the Nation's produce, resulting in great personal cost to our citizens, many of whom became seriously ill or died.

The purpose of this inquiry is to determine if the response from the FDA has been sufficient to address this growing risk. We understand that the budget for the FDA's Center for Food Safety and Applied Nutrition (CFSAN) has fallen from \$48 million to \$25 million in just three years. On the enforcement side, annual inspections of the more than 12,000 domestic food-processing plants dropped from 4,573 in 2005 to about 3,400 in 2006.

Three major industry groups have called for Federal or State regulation and several large grocery chains are conducting their own inspections of processing plants because they can no longer trust Government regulators. The Food Marketing Institute and the National Restaurant Association are developing their own guidelines. Eight supermarket chains and distributors sent a letter to growers and packers demanding that they develop a food safety program for lettuce and leafy greens by the end of this week. And one growers association is already negotiating its own agreement with the State of California for a formal system of farm inspections, regulations of water and soil quality and sanitation, and enforcement of violations.

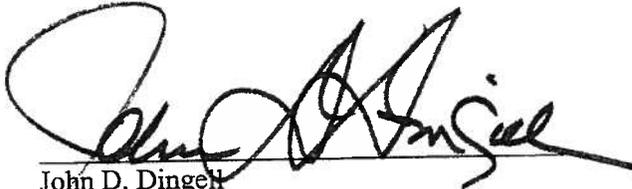
The Honorable Andrew C. von Eschenbach, M.D.  
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The Federal authority over FDA safety is necessary because food is neither grown nor processed locally. A hodge-podge of actions by States, industry groups, and retailers will not suffice to protect our food supply. That was the job Congress gave to the FDA when it was established over a century ago.

Therefore, we request that a briefing be provided by Dr. David Acheson of CFSAN and other officials from CFSAN, the Office of Regulatory Affairs, or elsewhere in FDA that you believe can assist in our inquiry. After that briefing we may need records and additional interviews. We would ask that the briefing take place on or before the close of business on Wednesday, February 7, 2007.

To schedule the briefing and to obtain any further information regarding this inquiry, please contact David Nelson of the Majority committee staff at (202) 225-2927 or Alan Slobodin of the Minority committee staff at (202) 225-3641.

Sincerely,



John D. Dingell  
Chairman  
Committee on Energy and Commerce



Bart Stupak  
Chairman  
Subcommittee on Oversight and Investigations  
Committee on Energy and Commerce



Joe Barton  
Ranking Member  
Committee on Energy and Commerce



Ed Whitfield  
Ranking Member  
Subcommittee on Oversight and Investigations  
Committee on Energy and Commerce

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**U.S. House of Representatives**  
**Committee on Energy and Commerce**  
**Washington, DC 20515-6115**

JOHN D. DINGELL, MICHIGAN  
CHAIRMAN

February 15, 2007

JOE BARTON, TEXAS  
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TIM MURPHY, PENNSYLVANIA  
MICHAEL C. BURGESS, TEXAS

The Honorable Andrew C. von Eschenbach, M.D.  
Commissioner  
U.S. Food and Drug Administration  
5600 Fishers Lane  
Rockville, MD 20857-0001

Dear Dr. von Eschenbach:

Reference is made to our letter of January 29, 2007, (attached) opening the inquiry by the Committee on Energy and Commerce's Subcommittee on Oversight and Investigations into the adequacy of the efforts of the Food and Drug Administration (FDA) to protect the Nation's food supply. In that letter, as the initial step in our investigation, we requested that you arrange a briefing for the Subcommittee by Dr. David Acheson and other officials of the Center for Food Safety and Applied Nutrition, the Office of Regulatory Affairs. That briefing is currently scheduled for Friday, February 23, 2007. At that time our attention was drawn to the Agency's efforts regarding the E. coli found in vegetables. Today we learn that there is a major outbreak of salmonella in peanut butter.

We specifically request that all information available to the FDA regarding this latest threat to our food supply be included in the briefing. Specifically, the Subcommittee is interested in answers to the following questions:

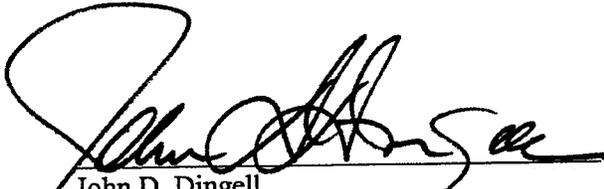
- How did it happen?
- Who was responsible?
- When was the last FDA inspection of the processing facility(ies)?
- What were the results of that inspection(s)?

The Honorable Andrew C. von Eschenbach, M.D.  
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- What are the dimensions of the public health risk? and
- What is being done to rectify the situation and ensure similar outbreaks do not occur at other facilities?

After the briefing the staff will inform you of any documentation or further interviews that may be needed. Should you have any questions regarding this request, please contact David Nelson with the Committee majority staff at (202) 225-2927 or Alan Slobodin with the minority Committee staff at (202) 225-3641. Your assistance with these requests is appreciated.

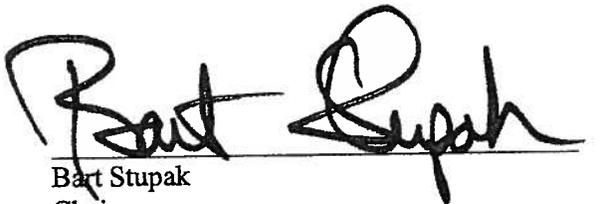
Sincerely,



John D. Dingell  
Chairman



Joe Barton  
Ranking Member



Bart Stupak  
Chairman  
Subcommittee on Oversight and Investigations



Ed Whitfield  
Ranking Member  
Subcommittee on Oversight and Investigations

Attachment