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May 22, 2008

**Via Overnight Delivery**

**COMPANY CONFIDENTIAL**

The Honorable John D. Dingell, Chairman  
Committee on Energy and Commerce  
The Honorable Bart Stupak, Chairman  
Subcommittee on Oversight and Investigations  
U.S. House of Representatives  
2125 Rayburn House Office  
Washington, D.C. 20515-6115

RE: Committee on Energy and Commerce – Investigation of U.S. Food Safety

Dear Chairmen Dingell and Stupak:

This letter and the information contained in the enclosed Exhibits are provided in response to your correspondence addressed to David J. West dated May 8, 2008 which requested information relating to microbiological and chemical contamination in food.

The Hershey Company is happy to work with the Committee on Energy and Commerce on its investigation of the safety of the food supply in the United States. Since receipt of your letter, we have worked diligently to collect information that is responsive to the request to the best of our understanding and knowledge. However, due to the extremely short time requested for a response and the extended time frame covered by the request, we have not yet completed collection and compilation of the information. The information contained in this response includes the results of our efforts to-date. We will continue to collect and compile any additional responsive information and will forward to you as it becomes available.

Hershey is a major manufacturer of chocolate and confectionery products in the United States with North American and worldwide distribution of its products. Most of our products are manufactured in the United States where we operate 11 manufacturing plants. Some of our products are also produced by contract manufacturers who are required to comply with strict safety and quality guidelines. Hershey also operates manufacturing plants in Canada (1) and Mexico (2). Most of the products that are sold in the United States are produced in the United States, although we do import some products from our facilities in Canada and Mexico and from contract manufacturers. Hershey also operates manufacturing facilities in Brazil, India and

China together with its joint venture partners in these countries. As this country's largest producer of chocolate products, Hershey is committed to providing consumers with products that are safe and of high quality. The Company has also implemented a HACCP based food safety program which includes strict standards for our finished products and ingredients. Our suppliers are also required to meet these same standards.

The information that is contained in the Exhibits is considered by Hershey to be confidential and is being produced to facilitate the Committee's understanding of current practices and experience of Hershey as part of the evaluation of the safety of the food supply in the United States. We trust that the Committee and the Staff will treat the information in a confidential manner.

Our responses follow:

1. A list of all food recalls and food safety alerts issued by your company. For each recall or safety alert, please provide the date of the recall or alert, the product and brand affected, and the reason for the recall or alert. If the food was affected by microbial or chemical contamination, please identify the contaminant.

**Response:**

**Exhibit 1** includes a list of food recalls occurring on or after January 1, 2000. We did not distinguish between food recalls and food safety alerts since a food safety alert would only be associated with a recall. We have also assumed that a recall is defined as set forth in FDA regulations found at 21 CFR, §7.3. Because of the short period for response and the time period that was covered in the request, we focused our efforts on identifying incidents that involved microbiological or chemical contamination of products. We will follow up with any additional information as it is compiled.

2. For each brand or kind of product, please list all instances when internal microbiological testing was found to be positive for the presence of *E. coli*, *Salmonella*, *Cyclospora cayetanensis*, *Cryptosporidium*, hepatitis A, *Clostridium botulinum*, or *Listeria* in excess of the highest limit acceptable to the Food and Drug Administration (FDA) or any State regulatory authority.

**Response:**

**Exhibit 2** contains information relating to instances when microbiological testing of finished product was found positive for one of the listed microorganisms at a level in excess of limits acceptable to FDA or state regulatory authorities. The timeframe covered was January 1, 2000 to the present. We recognize that some types of *E. coli* are not considered to be harmful at low levels. Hershey's Quality Assurance labs have conducted in excess of 660,000 tests on 113,000 samples of finished product since January 1, 2000. Of these, only 33 resulted in a positive finding for *E. coli*. None of the findings involved strains that would be considered to be harmful. Nevertheless, all finished product that tested positive was destroyed in accordance with Hershey's strict internal policy.

3. For each brand or kind of product, please list the instances when internal testing was found to be positive for the presence of a chemical contaminant at levels in excess of the highest limit acceptable to FDA or any State regulatory authority.

**Response:**

**Exhibit 3** contains information involving instances when internal testing found chemical contamination of finished product at levels in excess of limits acceptable to FDA or state regulatory authorities. The timeframe covered was January 1, 2000 to the present.

4. For product imported into the United States for handling or processing by any facility operated by your firm, please list the instances when internal or outside laboratory testing was positive for the presence of either a chemical or microbiological contaminant in excess of FDA or State regulatory limits.

**Response:**

**Exhibit 4** contains information relating to imported finished products and ingredients when either internal or external testing found chemical or microbiological contamination in excess of limits acceptable to FDA or state regulatory authorities. The timeframe covered was January 1, 2000 to the present.

5. For each of the above items, please specify whether FDA was notified, and if not, why not.

**Response:**

See Exhibits 1-4

6. Please supply a list of all instances where FDA or any State regulatory authority was denied entrance to any facility, foreign or domestic, or denied access to any records regarding microbiological or chemical testing performed on products processed at the facility. This request encompasses denials of initial requests for entry or any such testing record regardless of whether the plant or its records were to be made available for inspection at a later date.

**Response:**

To the best of our knowledge, we are not aware of any instances since January 1, 2000 where an FDA or state regulatory authority was denied entrance to a Hershey owned facility, domestic or foreign. Hershey does maintain a policy relating to regulatory inspections. That policy allows for access to records as required by law and provides flexibility to facility management to share additional records with regulatory authorities as necessary to facilitate an understanding of the operations of the facility. In some cases, regulatory inspectors may be asked to put requests in writing if the request is clearly beyond the scope of their authority or stated purpose of the inspection. We believe that our facility management adheres to such policy and to the best of our knowledge, we are

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not aware of any instances where an FDA or state regulatory authority was denied access to records involving microbiological or chemical testing of products.

If you have any questions, please feel free to contact me at 717-534-4607. Thank you.

Sincerely,  
  
Donald A. Mastrococco, Jr.

DAM:skl

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

The Honorable John Shimkus, Ranking Member  
Subcommittee on Oversight and Investigations