

HENRY A. WAXMAN, CALIFORNIA
EDWARD J. MARKEY, MASSACHUSETTS
RICK BOUCHER, VIRGINIA
EDOLPHUS TOWNS, NEW YORK
FRANK PALLONE, Jr., NEW JERSEY
BART GORDON, TENNESSEE
BOBBY L. RUSH, ILLINOIS
ANNA G. ESHOO, CALIFORNIA
BART STUPAK, MICHIGAN
ELIOT L. ENGEL, NEW YORK
ALBERT R. WYNN, MARYLAND
GENE GREEN, TEXAS
DIANA DEGETTE, COLORADO
VICE CHAIRMAN
LOIS CAPPS, CALIFORNIA
MIKE DOYLE, PENNSYLVANIA
JANE HARMAN, CALIFORNIA
TOM ALLEN, MAINE
JAN SCHAKOWSKY, ILLINOIS
HILDA L. SOLIS, CALIFORNIA
CHARLES A. GONZALEZ, TEXAS
JAY INSLEE, WASHINGTON
TAMMY BALDWIN, WISCONSIN
MIKE ROSS, ARKANSAS
DARLENE HOOLEY, OREGON
ANTHONY D. WEINER, NEW YORK
JIM MATHESON, UTAH
G.K. BUTTERFIELD, NORTH CAROLINA
CHARLIE MELANCON, LOUISIANA
JOHN BARROW, GEORGIA
BARON P. HILL, INDIANA

ONE HUNDRED TENTH CONGRESS

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

JOHN D. DINGELL, MICHIGAN
CHAIRMAN

JOE BARTON, TEXAS
RANKING MEMBER
RALPH M. HALL, TEXAS
J. DENNIS HASTERT, ILLINOIS
FRED UPTON, MICHIGAN
CLIFF STEARNS, FLORIDA
NATHAN DEAL, GEORGIA
ED WHITFIELD, KENTUCKY
BARBARA CUBIN, WYOMING
JOHN SHIMKUS, ILLINOIS
HEATHER WILSON, NEW MEXICO
JOHN B. SHADEGG, ARIZONA
CHARLES W. "CHIP" PICKERING, MISSISSIPPI
VITO FOSSELLA, NEW YORK
STEVE BUYER, INDIANA
GEORGE RADANOVICH, CALIFORNIA
JOSEPH R. PITTS, PENNSYLVANIA
MARY BONO, CALIFORNIA
GREG WALDEN, OREGON
LEE TERRY, NEBRASKA
MIKE FERGUSON, NEW JERSEY
MIKE ROGERS, MICHIGAN
SUE MYRICK, NORTH CAROLINA
JOHN SULLIVAN, OKLAHOMA
TIM MURPHY, PENNSYLVANIA
MICHAEL C. BURGESS, TEXAS
MARSHA BLACKBURN, TENNESSEE

October 30, 2007

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

The Honorable Michael O. Leavitt
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Mr. Secretary:

Under Rules X and XI of the Rules of the United States House of Representatives, the Committee on Energy and Commerce and the Subcommittee on Oversight and Investigations are investigating the adequacy of the efforts of the Food and Drug Administration (FDA) to protect the safety of the Nation's food supply.

Since 1995, there have been at least 20 food contamination outbreaks linked to fresh spinach or lettuce. Just last year, 3 people died and more than 200 people became sick after eating bagged spinach contaminated with a virulent strain of *E. coli*. In at least eight of these outbreaks involving leafy greens, the contaminated produce has been traced to fields in the Salinas Valley of California.

Further, food contamination outbreaks involving all produce have doubled since 1998. In response to these outbreaks, it has been reported that earlier this year FDA came up with tough new regulations for the handling of fresh produce. These regulations were intended to replace existing voluntary guidelines. According to an article in *The Wall Street Journal* on May 16, 2007, however, FDA's proposal "went nowhere after it got a cold reception from the Department of Health and Human Services [HHS]." The article states that the FDA plan was rejected after it was presented in February of 2007 at HHS headquarters.

In order to assist the Committee in its investigation of the safety of the Nation's food supply, we request that you provide the Committee with all records relating to the decision not to adopt mandatory regulations on the handling of fresh produce. Please note that, for the purpose of responding to this request, the terms "records" and "relating" should be interpreted in

The Honorable Michael O. Leavitt
Page 2

accordance with the attachment to this letter. Please also provide the names and titles of all HHS employees involved in the meeting or meetings where proposed mandatory FDA regulations involving the processing or growing of fresh produce were discussed, even if such individuals were not named in the documentation.

Because this issue is likely to be addressed in a Subcommittee hearing in the near future, please supply all requested information no later than the close of business one week from the date of this letter. If you have any questions relating to this request, please contact us or have your staff contact David Nelson or Kevin Barstow with the Committee on Energy and Commerce staff at (202) 226-2424.

Sincerely,



John D. Dingell
Chairman



Bart Stupak
Chairman
Subcommittee on Oversight and Investigations

Attachment

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

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

ATTACHMENT

1. The term "records" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to, the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.
2. The terms "relating," or "relate" as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.