

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 FOSSILLA, 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

September 13, 2007

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

Mr. Robert J. Ulrich  
Chairman and CEO  
Target Corporation  
1000 Nicollet Mall  
Minneapolis, MN 55403

Dear Mr. Ulrich:

Under Rules X and XI of the Rules of the United States House of Representatives, the Committee on Energy and Commerce and its Subcommittee on Oversight and Investigations are investigating the adequacy of the efforts of the Food and Drug Administration (FDA) to protect Americans from unsafe food. We have been informed that Target Corporation stores (Target), including SuperTarget stores, regularly sell its customers fresh meat that is packaged in an atmosphere containing carbon monoxide, which is designed to alter the color of the meat to make it appear fresh and wholesome indefinitely.

Beyond the consumer deception involved, the Committee has concerns about the public health consequences of this packaging. These concerns are set out in the attached letters to Commissioner von Eschenbach and Secretary Leavitt dated February 9, 2006, and March 30, 2006, respectively.

As a large national grocery store chain that has chosen to sell meat packaged in an atmosphere containing carbon monoxide, we have questions regarding Target's decision to sell prepackaged fresh meats that have apparently been deceptively colored, and the conditions under which these products are sold. Accordingly, 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 the following information:

1. Temperature Control

We are interested in any special precautions that Target employs to assure that carbon monoxide treated meats are stored between 34-40°F. This is the temperature range that

meatpacking companies used to support the extended “use or freeze by” dates indicated on these treated meat packages in their Generally Recognized As Safe (GRAS) petitions to FDA.

- a. Has Target commissioned or performed any in-house studies regarding the temperature of its storage and retail displays that house fresh meat and fish, if applicable, that have been treated with carbon monoxide?
- b. Does Target measure the temperature in its fresh meat display cases? If so, please describe the protocols for measuring the temperature, including where in the display case the temperature is measured, *e.g.*, top, bottom, front, or rear of the case. Please also provide the range of variation in temperature for each measurement period from January 1, 2004, forward for the 10 largest and 10 smallest Target stores that sell fresh meat (measured by value of meat sales, if available). If Target does not measure the temperature of its fresh meat display cases, how does Target ensure that the meat on display is not spoiled?
- c. Has Target received any citations from regulators for inadequate temperature control in meat since January 1, 2004? If so, please provide all documents relating to such citations.
- d. Please describe the due diligence that Target performs on the suppliers of such fresh meat products regarding temperature controls in the processing and transport of these products.

## 2. Consumer Purchasing Behavior

Please provide all information and all documents Target has generated or examined relating to the following studies or focus groups regarding:

- a. Criteria for consumer selection of fresh meat products;
- b. Consumer acceptance of meat whose color is preserved by carbon monoxide;
- c. Consumer ability to smell or otherwise detect spoiling meat; and
- d. The ability and actual experience of consumers reading “use or freeze by” dates on packages.

## 3. Labeling/Store Signs

- a. If applicable, please provide any special labeling or store signs that Target employs to inform consumers that the meat has been treated with carbon monoxide, including any labeling or signs advising consumers that the color of treated meat should not be used to judge freshness.

- b. Please describe how Target assures that consumers, particularly those with poor eyesight, can read the “use or freeze by” dates on packages of carbon monoxide treated meat, and provide copies of any special labeling Target used to assure readability of those dates.

#### 4. Shelf Life

- a. Upon receipt by Target and placement in the retail display case, what is the average shelf life remaining for carbon monoxide treated meat (i.e., how many days before the labeled “use or freeze by” date)?
- b. On average, how long is fresh meat that has not been treated with carbon monoxide held in the retail display case?
- c. Please describe and provide all documents relating to any protocols Target employs to ensure that meat that is past its labeled “use of freeze by” date is pulled from the display case and is no longer offered for sale, including steps the company takes to ensure that these protocols are followed. Please provide any disciplinary records regarding store managers that have violated these protocols (names of individuals, but not store locations, may be redacted).
- d. What does Target do with carbon monoxide treated meat that remains unsold past the labeled “use or freeze by” date?
- e. How does Target determine the shelf life of meat not treated with carbon monoxide?

#### 5. Losses Due to Spoilage

- a. What is the average loss due to spoilage of (1) ground meat and (2) other cuts that have been prepackaged in an atmosphere containing carbon monoxide?
- b. How does this loss compare to meat that is not treated with carbon monoxide?
- c. When such losses occur, does Target absorb the loss or does the meat packer reimburse the stores for spoiled meat?
- d. Do the same commercial terms apply to carbon monoxide packed meat as meat that has not been so treated?

Mr. Robert J. Ulrich  
Page 4

## 6. Consumer Complaints

Does Target have any system in place that is capable of documenting consumer complaints relating to carbon monoxide treated meat? If so, please describe such systems and provide any documents relating to such consumer complaints.

Finally, to the extent not otherwise requested, please provide all records relating to Target's decision to sell fresh meat products treated with carbon monoxide. Please note that, for the purpose of responding to the above request, the terms "records" and "relating" should be interpreted in accordance with the attachment to this letter. We request you supply all requested information no later than the close of business three weeks from the date of this letter. If this request is interpreted to require production of documents that would constitute an unreasonable burden on the company, it may be modified upon agreement with Committee staff. 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.