DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Rockville MD 20857

November 4, 2003

John W. Bode, Esq.
Olsson, Frank and Weeda, P.C.
1400 16th St., N.W.
Washington, DC 20036-2220

Re: Docket No. 03P-0078/CP 1

Dear Mr. Bode:

This letter is in response to your citizen petition dated February 26, 2003, filed under Docket No. 03P-0078/CP 1 in the Dockets Management Branch. The petition requested that the FDA conduct a notice-and-comment rulemaking to implement Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the BT Act), P.L. 107-188, section 308, which concerns the marking of food refused admission into the United States.

The procedures governing the review of citizen petitions are set out in regulations found at 21 CFR 10.30. The regulations provide, among other things, that the Commissioner shall furnish a response to a petition within 180 days of receipt. See 21 CFR 10.30(e)(2). This is to advise you, pursuant to 21 CFR 10.30(e)(2), that because of the existence of other priorities, including the implementation by rulemaking of other provisions of the BT Act, the agency is unable to provide a final response to the petition at this time. The agency will, however, continue to consider whether to grant your petition. We will respond to your petition as soon as we have made such a decision and anticipate that the decision will be made in the very near future.

If you have any questions regarding this matter, please refer to the docket and comment numbers noted above and submit all inquiries to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm 1061, Rockville, Maryland 20852.

Sincerely yours,

William K. Hubbard
Associate Commissioner for Policy and Planning

03P-0078 LET 1