STATEMENT OF
THE HONORABLE BART STUPAK
SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS
"DIMINISHED CAPACITY: CAN THE FDA ASSURE THE SAFETY AND SECURITY OF THE NATION'S FOOD SUPPLY"

JULY 17, 2007

Today, we hold the second hearing by the Subcommittee on whether FDA can assure the safety and security of the Nation's food supply. Since the Subcommittee began investigating this issue early this year, the news on the food safety front has grown progressively worse.

A steady stream of food safety disasters followed the tragic deaths and illness caused by the spinach outbreak last fall. Fresh spinach packed in California was contaminated with a deadly strain of *E.Coli* bacteria. The spinach tragedies were quickly followed by an outbreak of life threatening illnesses caused by salmonella in Peter Pan peanut butter. Both of these outbreaks were preventable.

Then, there were the mysterious deaths of hundreds of cherished pets. We later learned that American pet food had been contaminated by wheat gluten from China. Wheat gluten is a vegetable protein found in everything from dietary supplements, to baked goods, to children's candy. Unfortunately, the Chinese exporters added a little something extra to its products, a poisonous chemical, melamine.

Shortly thereafter, it was discovered that this same deadly additive melamine was fed to hogs, chickens, and fish destined for human consumption.

Commissioner von Eschenbach claimed that the tainted pet food case "demonstrated [FDA] effectiveness at detecting and containing a problem." His sunny prognosis has certainly been put to the test—the pet food recalls were soon followed by recalls of tainted cantaloupes, toothpaste, and the snack food veggie booty. And recent revelations about the scope of contaminated seafood imported from China are staggering.

Our first hearing on April 24, 2007, exposed a fragmented food safety system beset with inconsistent oversight, ineffective coordination, and ineffective use of minimal resources. How did FDA respond? It announced with great fanfare the appointment of a Food Safety "Czar"—in fact, Dr. David Acheson, who received a glorified new title, has been central to FDA's Food Safety program for years.

Promoting Dr. Acheson does not begin to address the deep and chronic shortcomings in FDA's food safety program. Nearly ten years ago, the National Academy of Sciences concluded

that the Federal food safety system was not equipped to meet emerging challenges. Since then, those challenges have expanded exponentially, while FDA's ability to protect the American people has declined even further.

Dr. David Kessler, FDA commissioner under former Presidents George Bush and Bill Clinton, recently called
the food safety system "broken."

Sadly, the preliminary findings of our investigation support this assessment. Investigators with the Subcommittee traveled to interview FDA field personnel in San Francisco, Los Angeles, Denver, Kansas City, Winchester (MA), Atlanta, New York, and San Jose, Puerto Rico. FDA field personnel, were more forthcoming about gaping holes in FDA food safety net than were headquartered officials.

We learned, for example, that while FDA inspects less than 1% of all imported foods, only a small fraction of that is actually tested for contaminants. FDA requires only that a private laboratory test the suspect food for possible contamination. These private labs and their testing are not subject to Federal oversight. FDA field personnel were highly critical of private laboratory testing, which they described as "shoddy" and even "scary."

Another significant finding by staff investigators confirmed a concern that Chairman Dingell and I share regarding the use of carbon monoxide to make meat and seafood appear fresh. I have repeatedly requested, to no avail, that FDA or HHS rescind the ruling that carbon monoxide can be used to treat meat, poultry, and seafood to make them look fresh, regardless of age or condition. In San Francisco, Subcommittee investigators discovered large numbers of seafood imports, from Asia and
elsewhere, arriving in airtight packages containing carbon
monoxide. When tested, fully 20 percent had to be refused because of contamination or decomposition. In other words, this was rotten seafood made to look "fresh" with the use of carbon monoxide.

Our investigation also confirmed that FDA's food safety program is woefully understaffed—entry reviewers, investigators, and compliance officers simply cannot keep up with the flood of imported food. We confirmed that FDA's ill-conceived decision to close seven of its 13 laboratories would likely expose Americans to even more danger from unsafe food, particularly imports. We also
learned from FDA staff that importers have found ways to circumvent even this minimal FDA authority altogether by importing through ports with no FDA testing facilities.

FDA field personnel who answered our questions in a forthright and cooperative manner were invaluable to our investigation. However, several FDA employees were fearful of retaliation and requested not to testify today, despite Commissioner von Eschenbach's promises of zero tolerance for retaliation against whistleblowers. This Subcommittee has heard far too many reports of FDA retaliation against employees who criticize the Agency. We did not wish to risk the careers of FDA field staff who talked to our investigators, so our first panel will be Committee staff testifying about their investigation.

Our second panel will consist of two expert witnesses
and four FDA officials from labs that the Administration plans to shut down. They have shown tremendous courage by agreeing to testify today.

The last panel will be comprised of four officials from FDA Headquarters including Dr. Andrew von Eschenbach, who will provide the Administration's testimony regarding the efforts of FDA to protect Americans from unsafe food.

The globalization of the American economy has resulted in a dramatic increase in the volume of imported food. Last year, China alone exported to the U.S. $2.3 billion worth of agricultural products (not including seafood) compared with $133 million in 1980. However, while food imports grew exponentially, FDA food inspections dropped from 50,000 in 1972 to 5000 in 2006—a 90 percent reduction. Is it any wonder that one out of four Americans suffer a food-borne illness every year?

There is little question that our Federal food safety system is in need of broad-based reform to reduce risks to public health, national security, and the economy. Today's hearing will explore these risks in an effort to pave the way for reform.