ONE HUNDRED TENTH CONGRESS

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

JOHN D. DINGELL, MICHIGAN
CHAIRMAN

July 31, 2007

The Honorable Andrew C. von Eschenbach, M.D.
Commissioner
Food and Drug Administration
Department of Health and Human Services
5600 Fishers Lane
Rockville, MD 20857

Dear Dr. von Eschenbach:

Pursuant to Rules X and XI of the Rules of the U.S. House of Representatives, the Committee on Energy and Commerce and the Subcommittee on Oversight and Investigations are conducting an investigation into the adequacy of the efforts of the Food and Drug Administration (FDA) to protect the safety of the Nation's food supply.

Committee staff has reviewed the documents delivered to date regarding the Agency's proposed reorganization. In our view, the Agency has yet failed to produce a credible rationale for the laboratory closings, and we are compelled to ask whether the underlying purpose of the proposed lab closings is to accelerate the privatization of this vital Government function. We find it inconceivable that the FDA would contract out a critical program to importers, particularly in light of numerous recent incidences of harmful foods exported from other countries.

The Committee recently learned of a private laboratory test proposal entitled, "New York District and Los Angeles District Import Pilot Test: Enhanced Application of Accredited Private Laboratory Testing Associated with Import Product Surveillance Sampling." This pilot test proposal has been created by the National Coalition of Food Importing Associations. The objective of the pilot test is "to evaluate the use of private independent laboratory testing, as an alternative to FDA testing, for surveillance coverage of FDA regulated food entries." We are very concerned about the consequences of FDA contracting out surveillance sampling, as well as other FDA food sampling, to private laboratories.

In order to assist the Committee in its investigation of the adequacy of the efforts of the FDA to protect the safety of the Nation's food supply, we request that you respond to the following questions:

1. Is this proposal the FDA's plan to replace the work currently being performed by the Office of Regulatory Affairs laboratories that are slated for closure?

2. Is this proposal part of the Administration's plan to contract out vital Government functions such as currently being done under the Detention Without Physical Examination Import Alert rules?

3. Was anyone in the Department of Health and Human Services, the Office of Management and Budget, or elsewhere in the Administration involved in suggesting or directing that FDA consider this pilot program or any other plan involving the contracting out of laboratory functions?

Please provide all records relating to plans or decisions to contract out laboratory testing of samples to private laboratories. This includes, but is not limited to, all records relating to the pilot test proposal cited above.

We request you supply all requested information no later than the close of business two weeks from the date of this letter. 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. If you have any questions relating to this request, please 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

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

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