

**Committee on Energy and Commerce  
Subcommittee on Oversight and Investigations  
Hearing on “The Role and Performance of  
FDA in Ensuring Food Safety”  
Rep. Bart Stupak, Chairman**

**Opening Statement  
May 6, 2010**

Today’s hearing entitled “The Role and Performance of FDA in Ensuring Food Safety” will mark the twelfth hearing of the Oversight and Investigations Subcommittee since January 2007 regarding food safety issues. We have examined an E. coli outbreak traced to tainted spinach, melamine-contaminated pet food, and the industry practice of intentional exposure of meat and seafood to carbon monoxide, among other inquiries.

During this Congress, the Subcommittee has held hearings on a Salmonella outbreak associated with peanut products manufactured by the Peanut Corporation of America, the actions and obligations of food manufacturers and retailers that purchase tainted food products, and the safety of bottled water.

Today, we continue our oversight of FDA’s role and performance in our food safety system by considering two reports. The first is a Government and Accountability Office (GAO) report entitled, “*Food Safety: Agencies Need to Address Gaps in Enforcement and Collaboration to Enhance Safety of Imported Food.*” GAO found that despite the efforts and actions of the three federal agencies that share jurisdiction over imported food – U.S. Customs and Border Protection (CBP), the U.S. Department of Agriculture’s

Food Safety and Inspection Service (FSIS), and the U.S. Food and Drug Administration – there are four gaps in enforcement and collaboration that could allow high-risk foods to enter domestic commerce without assurance that products are safe. Specifically, GAO found:

- The three agencies fail to collaborate and share food related data effectively;
- FDA’s authority to ensure importer compliance is limited;
- The agencies lack the ability to assign unique identification numbers for importing firms; and
- CBP faces challenges managing in-bound shipments.

The second report, “*FDA Inspections of Domestic Food Facilities*,” was issued by the Department of Health and Human Services, Office of the Inspector General (OIG). This report identifies a number of challenges confronting FDA in safeguarding domestically-produced food. OIG found that, on average, FDA inspects only 24 percent of domestic food facilities annually and that the number of inspections declined from 2004 to 2008. The report also found that FDA has not inspected 56 percent of the food facilities under its jurisdiction during the past five years.

The Inspector General found that “when violations were identified, FDA did not routinely take swift and effective action to ensure that these violations were remedied.” Additionally, the report found that some companies had violations at their facilities significant enough to warrant regulatory action refused to grant FDA inspectors access to their official records.

I am interested in learning more about these two reports and what proactive steps both GAO and HHS's Inspector General believe FDA should be taking to ensure the safety of our nation's food supply. I am also interested in hearing from FDA on the recent steps it has taken to reinvigorate its focus on food safety and to improve and enhance food safety oversight.

The work of this Subcommittee, coupled with the work of the Health Subcommittee and the full Committee, on food safety culminated in the introduction of H.R. 2749, the Food Safety Enhancement Act, which passed the U.S. House of Representatives on July 30, 2009.

The provisions contained in H.R. 2749 would address several concerns raised by GAO. For example, Section 204 of the bill requires all food importers to register with FDA annually, comply with good importer practices, and pay a registration fee of \$500 in order to ship food to the United States. Section 206 requires that registered facilities have a unique facility identifier or they will not be allowed to import food into the country.

I am interested in hearing from our witnesses about how H.R. 2749 could help address the concerns raised in the two reports before us today.

Our witnesses today include the authors of the two reports: Lisa Shames is the Director of Agriculture and Food Safety at the Government Accountability Office. Jodi Nudelman is the Regional Inspector General for Evaluation and Inspections for Region II at the U.S. Department of Health and Human Services, Office of the Inspector General.

Joining them on the panel will be Mike Taylor, FDA Deputy Commissioner for Foods and Steve Solomon, Deputy Associate Commissioner for Compliance Policy, from the Food and Drug Administration.

The members of this Subcommittee were among the first to sound the alarm on the weaknesses in our food safety system. I look forward to hearing from our witnesses today about progress that has been made since we began pushing for reform more than three years ago and about the weaknesses that will remain until an effective food safety bill is enacted into law.

We are fortunate that today's hearing was prompted by the HHS and GAO reports rather than another widespread food contamination outbreak like we saw with spinach in 2007, peppers in 2008 and peanut butter in 2009. But make no mistake: Without legislative action it is not a matter of *if* but *when* more lives will be put at risk by another outbreak. We cannot put off action any longer.