

July 23, 2003

FSIS Docket Clerk
U.S. Department of Agriculture
Food Safety and Inspection Service
Room 102, Cotton Annex
300 12th Street, S.W.
Washington, D.C. 20250-3700

01-034N-1
01-034N
Karen Smith
DeWaal
Karen L. Ebert

Re: Comments on Need to Complete New Registration Form and Importance of Compliance with Recordkeeping and Registration Requirements Under the Federal Meat and Poultry Products Inspection Regulations; 68 Fed. Reg. 37,730 (June 25, 2003); Docket No. 01-034N

The Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture has published an announcement of its intention to: (1) increase the enforcement of current recordkeeping requirements applicable to those persons who slaughter and process any livestock or poultry, as well as those who buy, sell, transport or import dead, dying, disabled or diseased (4-D) livestock, and (2) develop a new registration form for those required to register pursuant to the Federal Meat Inspection Act and the Poultry Products Inspection Act.¹ The purpose of these actions is to assure that FSIS has access to information that would be critical in conducting a traceback in the event that Bovine Spongiform Encephalopathy (BSE) were discovered in the United States.

On behalf of the Center for Science in the Public Interest (CSPI), we are writing to comment on FSIS's proposed actions. CSPI is a non-profit consumer advocacy and education

¹ 68 Fed. Reg. 37,730 (June 25, 2003).

organization that focuses primarily on food safety and nutrition issues and is supported principally by 800,000 subscribers to its *Nutrition Action Healthletter*.

1. Strengthened Enforcement Of The Recordkeeping Requirements And Improved Registration Will Help Ensure That FSIS Can Conduct An Adequate Traceback In The Event BSE Is Ever Discovered in U.S. Cattle

The discovery in May 2003 of a 6-year old cow in Alberta, Canada, that tested positive for BSE demonstrates why it is crucial for FSIS to have access to information adequate to conduct a thorough traceback and trace forward in the case of an animal or public health emergency. The infected cow had been slaughtered and the carcass sent for rendering six months before the test results were obtained. Once the positive was confirmed, the Canadian Food Inspection Agency (CFIA) initiated a comprehensive traceback investigation to determine the source of the cow's infection, including tracking the feed it had been given, its movement between herds, and whether it had produced any off-spring. At the same time, a trace-forward investigation was necessary to track the carcass from the slaughterhouse to the renderer and the feed mill, and ultimately to its use in dry pet food and poultry meal as well as its retail distribution across 1800 farm sites.²

While it does not appear that any part of the infected cow entered the human food chain, the United States, Mexico, Japan, Australia, and other countries temporarily stopped importing Canadian beef. Newspapers reported that the Canadian cattle industry remained "paralyzed" as

² Canadian Food Inspection Agency, *Narrative Background to Canada's Assessment of and Response to the BSE Occurrence in Alberta* (July 2003), at <http://www.inspection.gc.ca/english/anima/heasan/disemala/bseesb/evale.shtml>. It was determined that 10 Canadian feed mills received parts of the infected cow, and some of it was processed into dry dog food and chicken feed. See Kim Murphy, *Canada May Step Up its Livestock Controls*, Los Angeles Times (May 30, 2003).

cattle prices plummeted.³ Not only was the cattle industry paralyzed, the stock prices of beef processors and fast food chains selling beef products were affected as well.⁴

A recent report to the CFIA by an independent team has found that a significant factor affecting the scope of the Canadian investigation was the lack of a mandatory animal identification program in existence prior to 2001 and the absence of a traceability system dating back seven years.⁵ Strengthened enforcement of FSIS recordkeeping requirements and improved registration information will help assure that the agency has the necessary data to conduct a comprehensive traceback and trace forward as quickly as possible if BSE were to be discovered in this country.⁶

2. FSIS Should Require Additional Registration Information

FSIS has identified new information it will require on the registration form, including the form of the organization, the nature and type of the business, telephone number, e-mail address, and hours of operation. While the inclusion of this information represents an improvement over the current form, FSIS should consider requiring additional information, such as:

³ Clifford Krauss, *200 in Herd Found Free of Mad Cow*, *The New York Times* (May 27, 2003), at A4. See also Jim Cote, *Cattle Futures Fall by Limit on Mad-Cow Case in Canada*, *Wall Street Journal* (May 21, 2003), at C13.

⁴ Karen Talley, *McDonald's Falls on Mad-Cow Case*, *Wall Street Journal* (May 21, 2003), at C3.

⁵ U. Kihm et al., *Report on Actions Taken by Canada in Response to the Confirmation of an Indigenous Case of BSE* (26 June 2003) [hereinafter *Canadian BSE Report*], available at <<http://www.inspection.gc.ca/english/anim/heasan/disemala/bseesb/internate.shtml>>.

⁶ A background discussion released by the CFIA noted that “[t]he possibility of the U.S. being the origin of the index case or the source of contaminated feed remains among the multiple avenues of continuing study.” Canadian Food Inspection Agency, *Narrative Background to Canada's Assessment of and Response to the BSE Occurrence in Alberta* (July 2003), available at <<http://www.inspection.gc.ca/english/anim/heasan/disemala/bseesb/evale.shtml>>.

- the specific types of animals slaughtered and animal products processed, transported, rendered or otherwise handled by the registrant;
- whether the registrant operates on a seasonal basis and if so, the months of operation;
- whether the types of animals slaughtered, processed, or transported change depending on the season and, if so, the nature of the change; and
- name and telephone number of a contact person in the event of an emergency, particularly during non-working hours.

In addition to improving the registration requirements, FSIS also should re-examine the recordkeeping requirements at 9 C.F.R. § 320.1 to assure that the type and form of the records required to be kept would be sufficient for FSIS to conduct both a trace back and a trace forward in the event of a food emergency. FSIS also should work with the Animal and Plant Health Inspection Service (APHIS) to assure that the strongest possible cattle identification system is in place so that animals can be traced back to their source as quickly as possible.⁷

3. Additional Actions Are Needed by FSIS and APHIS to Protect The Public Health

While enhanced enforcement of recordkeeping requirements and improved registration information will assist FSIS in conducting traceback investigations, there are additional measures FSIS should take to assure that the public health is protected if BSE is ever discovered in the United States.⁸ Indeed, the Food and Agriculture Organization of the United Nations recently has

⁷ The Canadian investigation reinforced the “need for continuous investment, improvement and extension” of the cattle identification system implemented by Canada three years ago. *Canadian BSE Report*.

⁸ CSPI has repeatedly requested FSIS to take action adopting these measures, particularly a ban on the use of spinal columns and neck bones in AMR systems. See CSPI, Petition for Regulatory Action to Bar the Use of Spinal Cord and Columns and Other Potentially Infectious Tissue from Beef in the Human Food Supply, Docket No. 01-07 (August 9, 2001); CSPI, Comment on FSIS’s Current Thinking on Measures That Could Be Implemented to Minimize Human Exposure to Materials That Could Potentially Contain the Bovine Spongiform Encephalopathy Agent, Docket No. 01-027N (filed Apr. 1, 2002).

recommended that “[e]ven countries which have not found any cases of BSE should now consider adopting more stringent measures.”⁹ These additional measures should include:

- designation of certain tissues, including the brain and spinal cord, from all downer cattle and cattle over 24 months as Specified Risk Material (SRM). These materials are recognized as the most infective tissues in a cow that has BSE.¹⁰ In addition, downer cattle and cattle 24 months and older are at a higher risk to be incubating the disease.

The investigative team reporting on the Canadian BSE incident has found that “[i]mplementation of an SRM ban is the most critical and valuable central measure for public health protection and food safety. . . .”¹¹ For that reason, the investigative team recommended that “the timely and full national implementation of this measure should be a priority.”¹² On July 18, 2003, the CFIA announced a new measure that requires the brain and spinal cord in all cattle older than 30 months to be removed at slaughter.¹³

- banning vertebral columns and other potentially infectious tissues in advanced meat recovery (AMR) systems. FSIS’s 2002 Beef AMR Product Survey demonstrates that central nervous system (CNS) tissue in AMR-derived meat is still a major issue. That survey showed that approximately 35% of the finished AMR product samples had unacceptable nervous system

⁹ Food and Agriculture Organization of the United Nations, FOA Newsroom, *BSE case in Canada should not cause panic* (3 June 2003, Rome), available at <<http://www.fao.org/english/newsroom/news/2003/18603-en.html>>.

¹⁰ Tissue considered to be the most infective for the BSE agent are the brain, spinal cord, trigeminal ganglia, dorsal root ganglia, terminal ileum, eyes, and tonsils. *See Canadian BSE Report*.

¹¹ *Canadian BSE Report*, at p. 3

¹² *Canadian BSE Report*, at p. 3.

¹³ Press Release, Health Canada, *Government of Canada Announces New BSE Measure* (July 18, 2003), available at <<http://www.hc-sc.gov.ca/english/media/releases/2003/bse.htm>>.

tissue present and that almost 30% had spinal cord tissue detected.¹⁴ Moreover, of the 34 establishments surveyed, only 12% were able to consistently produce AMR beef products that did not contain spinal cord or dorsal root ganglia.¹⁵

Although FSIS has recently stepped up its sampling for spinal cord and other CNS tissue in meat derived from AMR systems, only a ban on the use of vertebral columns in these systems will ensure that CNS tissue does not enter the human food chain. Indeed, the Canadian investigative team has recommended that systems must be implemented to exclude raw materials containing potentially infectious tissues from AMR systems.¹⁶

Recently CSPI received a response to a letter it sent to Secretary Veneman again requesting FSIS to ban the use of spinal columns and neck bones in AMR and other systems that mechanically separate meat from bones. In that letter, OPPDE's Deputy Administrator stated that FSIS has been working closely with other agencies to consider "all options that would further ensure the safety of our food supply."¹⁷ We again encourage FSIS to take action on this important issue and ban potentially infective tissue from use in AMR and other systems that mechanically separate meat from bones.

CONCLUSION

Enhanced enforcement of the recordkeeping requirements and improved registration information are necessary steps in improving FSIS's ability to conduct a traceback and trace

¹⁴ FSIS, *Analysis of 2002 FSIS Bovine AMR Products Survey Results* (February 2003), at p. 2 [hereinafter FSIS, *2002 Beef AMR Survey Results*].

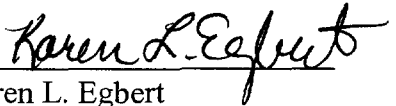
¹⁵ FSIS, *2002 Beef AMR Survey Results*, at pp. 2, 8.

¹⁶ *Canadian BSE Report*, at p. 3.

¹⁷ Letter to Karen Egbert, CSPI, from Philip S. Derfler, Deputy Administrator, Office of Policy and Program Development, USDA (July 1, 2003).

foward in the event of a food emergency, particularly if BSE is ever found in the United States. However, to truly protect the public health, there are additional steps that FSIS should and must take, including banning vertebral columns and other high risk tissues in AMR systems and designating high risk materials as SRM and prohibiting their use in the human food chain.

Respectfully submitted,


Karen L. Egbert
Senior Food Safety Attorney

Caroline Smith DeWaal
Director, Food Safety Program