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FSIS Docket Clerk
Docket No. 03-025IF
Room 102, Cotton Annex
300 12th and C Street, SW
Washington, DC 20250-3700

April 9, 2004

Please find the enclosed comments from Food Animal Concerns Trust on the interim final rule *Prohibition of the Use of Specified Risk Materials for Human Food and Requirements for the Disposition of Non-Ambulatory Disabled Cattle*. We appreciate the opportunity to comment on this important matter.

Sincerely,



Steven Roach
Food Safety Program Manager

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Docket No. 03-025IF
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300 12th and C Street, SW
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Comments from Food Animal Concerns Trust (FACT) in response to
the United States Department of Agriculture's (USDA) Interim Final Rule
Prohibition of the Use of Specified Risk Materials for Human Food
and Requirements for the Disposition of Non-Ambulatory Disabled Cattle

Comments submitted by
Richard Wood, Executive Director and Steven Roach, Food Safety Program Manager

April 9, 2004

Food Animal Concerns Trust (FACT) is a non-profit organization that advocates better farming practices to improve the safety of meat, milk, and eggs. Since Bovine Spongiform Encephalopathy (BSE) was first recognized in the mid 1980s, FACT has worked diligently with Federal regulatory agencies to develop an appropriate response to the threat to human and animal health presented by this fatal degenerative disease.

FACT strongly supports the actions taken by the United States Department of Agriculture (USDA) in the interim final rule, *Prohibition of the Use of Specified Risk Materials for Human Food and Requirements for the Disposition of Non-Ambulatory Disabled Cattle*, and welcomes this opportunity to provide comments on the interim rule. While FACT long hoped that the steps we had taken prior to the detection of the case of the cow with BSE would be adequate to protect the public health, we now know that more needs to be done. FACT believes that the steps proposed and implemented by the USDA so far are a good start, but we feel that more needs to be done. This is especially necessary given the

uncertainty of the prevalence of the disease both in the U.S. and Canada and also recent evidence that there may be different strains of the disease that have unique characteristics (Casalone et al, 2004).

FACT strongly supports the exclusion of all non-ambulatory disabled cattle from the human food supply. This action is consistent with the recommendations of the Harvard Risk Assessment, the Secretary's Foreign Animal and Poultry Disease Advisory Committee's Subcommittee on the United States' Response to the Detection of a Case of BSE (the Secretary's subcommittee), and the available scientific evidence. FACT supports the term, "non-ambulatory disabled livestock", as defined and used in the interim final rule. Because of the difficulty of detecting BSE in cattle that are non-ambulatory for any reason, FACT strongly objects to alternative definitions of "non-ambulatory" that exclude some animals that cannot rise from recumbent position.

While these comments are directed towards the Food Safety and Inspection Service (FSIS), FACT believes that the non-ambulatory ban requires a broader response from the USDA especially in regard to the surveillance and disposal of cattle excluded from slaughter by the ban. FACT acknowledges that USDA through the Animal and Plant Health Inspection Service (APHIS) is taking action in this regard. FACT strongly recommends that USDA require licensing of all entities including farms and ranches that dispose of cattle. Currently, as noted in the 2002 FSIS Current Thinking Paper, FSIS has some authority over registering and record keeping of handlers of dead, dying, disabled, or diseased livestock (4D). The USDA should explore the possibility of extending this

authority to the disposal of these livestock as well. Surveillance for BSE will only be effective if the surveillance program is able to capture a significant portion of these 4D animals. Registration, licensing, and record keeping requirements for disposal of 4D livestock would make this capture much more likely, and would also help prevent environmental and other problems related to livestock disposal.

FACT supports the banning of Specified Risk Materials (SRMs) from human food, but believes that the FSIS should follow the recommendation of the Secretary's subcommittee that materials from cattle 12 months and older be considered SRMs instead of the higher cut off age of thirty months as in the interim final rule. The USDA has responded to the Secretary's subcommittee arguing that the cut off age will be reevaluated based on surveillance and that the Secretary's subcommittee agreed that this "is a reasonable compromise." FACT believes that it is wrong to compromise on protecting human health. Instead FSIS should wait until better surveillance data is available before accepting the higher age.

In addition, the high proportion (22 percent) of cattle under thirty months old detected with BSE in Japan noted in the interim final rule supports the lower cut off age for SRMs. While these young BSE cases in Japan may indicate a massive dose of infective material was fed to the infected cattle, it is also possible that this high proportion of young cattle results from other factors such as BSE strain differences, unrecognized management factors, or genetic differences in Japanese cattle. Until this is better understood, FSIS

should ban from human food as SRMs the highest risk tissues from all cattle over twelve months of age.

Beyond banning SRMs from human food, FSIS should require that the removal of these materials at slaughter and in processing be addressed by plants Hazard Analysis and Critical Control Point Plans. This should include both monitoring and verification.

Research has shown that there is a significant risk for carcass contamination during the splitting process (United Kingdom Food Standards Agency, 2003). Because of this risk, FSIS should create a regulatory sampling program to verify that edible portions are not contaminated by central nervous system (CNS) tissue from cattle over 12 months of age. This could be similar to the testing program currently required for plants using advanced meat recovery. These additional steps are necessary to ensure that significant amount of CNS tissue are not inadvertently entering the human food supply.

FACT supports the banning of mechanically separated beef from human food as included in the interim rule.

As an additional step to prevent human exposure to the BSE agent, FACT recommends that all cattle above thirty months be tested for BSE before allowing them to be used for human consumption. As noted in the interim final rule, the data from Europe clearly indicates the non-ambulatory and other suspect cattle are at greater risk to have BSE than the overall cattle population. While this is true and we support the ban on non-

ambulatory animals because of this fact, it is also true that in European countries where all adult cattle are tested at slaughter from 25% to 54% of detected cases are from healthy animals(European Commission, 2003). This occurs because while the prevalence is lower in the healthy population, the healthy population is much larger than that of the suspect population. Testing these cattle would also help address the obvious disincentive for cattle producers to supply animals they consider at risk for BSE to the USDA for surveillance.

In conclusion, FACT supports the steps taken by the FSIS in the interim final rule. FACT does not believe these steps alone are adequate to prevent human exposure to the BSE agent, and we recommend that several additional steps be taken. Specifically, FSIS should lower the age of cattle considered the source of SRMs to twelve months, create a regulatory inspection program for CNS tissue in edible meats, and require BSE testing for all cattle over thirty months.

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