SOUTHWEST MEAT ASSOCIATION

TEXAS - ARKANSAS - OKLAHOMA - LOUISIANA - NEW MEXICO

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May 3, 2004

03-025IF
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Joe Harris

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

RE: Comments on Docket No. 03-025IF – Interim Final Rule: Prohibition of the Use of Specified Risk Materials for Human Food and Requirements for the Disposition of Non-Ambulatory Disabled Cattle

The Southwest Meat Association (SMA) represents meat packers and processors primarily in Texas, Oklahoma, Arkansas, Louisiana and New Mexico. Many of our members are directly impacted by this Interim Final Rule and are pleased to submit these comments. Members of SMA are generally supportive of the aggressive steps taken by the U.S. Department of Agriculture in the wake of finding a BSE-positive cow in Washington on December 23, 2003.

Relative to this Interim Final Rule, SMA members support the efforts to remove specified risk materials (SRMs) from the food supply. Our comments on the specific requirements of the rule follow.

Regarding the condemnation of all non-ambulatory livestock, we believe FSIS has implemented a new rule with little scientific evidence to support such action. There are several reasons for our position on this issue. First, the finding of a single positive cow in the Pacific Northwest does not substantially increase the overall likelihood that any other cow is positive as compared to the likelihood before December 23rd.

Second, the vast majority of non-ambulatory livestock show no signs of neurological disease. In fact, in many cases their non-ambulatory status is the result of a readily identifiable acute injury. These animals pose no greater risk to the food supply than otherwise normal, healthy animals. The agency has acknowledged as much with its policy of allowing animals that become injured after antemortem inspection to continue into the food supply. We see no difference between an animal that becomes injured on the truck and one that becomes injured on its way into the stunning area of the plant.

Third, by automatically condemning all non-ambulatory cattle, FSIS is reducing the likelihood that livestock producers will present these animals to federal veterinarians for evaluation. As the Department's stated goal is to test as many "targeted" cattle as possible, failure by producers to bring those animals to inspected establishments will undermine that effort. Furthermore, it is those federal veterinarians that serve as an important line of defense to protect against other, more highly contagious, livestock diseases.

Fourth, and perhaps most significant, is the fact that this Interim Final Rule requires the segregation and disposal of all specified risk materials. By definition, these are the materials that have been shown to contain the BSE agent (in BSE-positive animals). Establishments are required to have written programs and procedures in place to accomplish this segregation/disposal and maintain records to document that those procedures are being followed. The Department has made it very clear on numerous occasions that, even in the case of a BSE-positive animal, all tissues except the designated SRMs are safe for consumption. Thus, we can see no justification for the routine condemnation of non-ambulatory disabled animals. For the reasons outlined above, we encourage FSIS to reconsider this policy and more clearly define which animals it considers to pose an increased risk for BSE.

Regarding the requirement that all establishments develop and maintain procedures for the segregation and removal of SRMs, we support the concept and generally agree with the specific tissues that have been defined as SRMs. While this Interim Final Rule defines the distal ileum of the small intestine as an SRM, FSIS has required the removal and disposal of the entire small intestine, regardless of animal age. This determination has been made in light of findings that show the distal ileum to contain the BSE agent in positive animals. While we do not take issue with the definition of the distal ileum as an SRM, we do request that FSIS work with experts in bovine anatomy to more clearly define exactly which part of the small intestine is the distal ileum and stop requiring the disposal of the entire small intestine. For years now the specifications for certain export customers have addressed this issue by requiring the removal of the first 80 inches (2 meters) of small intestine from the juncture with the large intestine.

In this Interim Final Rule FSIS also has identified the vertebral column (excepting the transverse processes, wings of the sacrum and caudal vertebrae) of cattle over 30 months old to be an SRM, thus requiring its segregation/disposal. The stated basis for doing this was that the vertebral bones contain the spinal cord and dorsal root ganglia. We contend that these vertebral bones should not be considered SRMs in whole muscle products from the rib and loin. All establishments either already have or easily could have procedures in place for the thorough removal of the spinal cord and sheath from the vertebrae of beef carcasses. Remaining dorsal root ganglia are contained within these vertebrae and are not likely to be consumed by humans unless those vertebrae are processed using advanced meat recovery (AMR) technology (Note: These vertebrae are now prohibited from being used in AMR systems via separate rulemaking). Since the spinal cord and sheath have been removed and the dorsal root ganglia are contained within these vertebrae, we

believe that allowing them to remain in traditional cuts, like T-bone steaks, does not expose the consuming public to any additional risk of exposure to the BSE agent.

This Interim Final Rule requires all affected establishments to address the segregation and disposal of SRMs in their "HACCP plans, Sanitation Standard Operating Procedures, or other pre-requisite program." Furthermore, although not specifically required by the rule itself, the agency's position has been that in order to comply with the rule, an establishment must address SRMs in its hazard analysis. As a general matter, there is not uniform agreement that these tissues actually meet the definition of a food safety hazard. Furthermore, there now is an absolute FSIS requirement that these specifically defined SRMs be removed and disposed of, regardless of the findings in an establishment's hazard analysis. By declaring these items unfit for consumption, the agency essentially has rendered moot any consideration by establishments as to whether they constitute a food safety hazard in that facility. In light of the agency's findings, we believe it to be somewhat redundant for the establishment to address SRMs in its hazard analysis. This is especially true for beef products purchased from other inspected establishments. By FSIS rule, products coming from inspected establishments cannot contain SRMs. In practice[1], FSIS personnel have, using this Interim Final Rule and its related notices and/or directives as their justification, required establishments to receive, in writing, notification from suppliers (other inspected establishments) that the products being received do not contain SRMs, which, if present, would render those products adulterated. We believe that the requirement for removal of SRMs from beef products at the slaughter or fabrication facility should be inherently documented by the mark of inspection under which those products are shipped. Receiving establishments should not be required to solicit additional "certification letters" from the shipping establishment as documentation of compliance with the regulatory requirements.

We appreciate the opportunity to submit these comments, and we look forward to continued cooperation with FSIS to ensure the safety and wholesomeness of meat and meat products.

Respectfully submitted,

Joe Harris

Joe Harris, Ph.D.
Executive Director

[1] We realize that it is uncommon to address implementation issues in commenting on a Final Rule; however, in this case we have the benefit of having already been through the implementation before the deadline for commenting. Thus, it is impossible to separate the provisions contained in the rule from the actual field implementation of those provisions.