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**National Joint Council of
Food Inspection Locals**

American Federation of Government Employees
Affiliated with the AFL/CIO



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VIA FACSIMILE
U.S. MAIL

Mr. William Smith
Assistant Administrator for
Field Operations
1400 Independence Ave. SW
Washington, D.C. 20250

December 8, 2004

Dear Mr. Smith:

As Chairman of the National Joint Council of Food Inspection Locals, I am writing to inform you of some concerns we have about FSIS's new BSE related Inspection procedures. These regulations have now been in place for almost a year, yet we are hearing from Inspectors that policies governing in-plant Inspection procedures are not enabling Inspectors to ensure that the new regulations are being met. Specifically, under current policies Inspectors do not have needed authorities to prevent "materials that could prevent a significant risk to human health, termed "specified risk materials" or "SRMs" from entering the human food chain. Additionally, Inspectors are prevented from ensuring that USDA Inspected products meet some export requirements of foreign countries that pertain to BSE.

As you know, according to the new regulations, the tonsils and distal ileum of all cattle and the brain, skull, eyes and trigeminal ganglia, spinal cord, vertebral column and dorsal root ganglia of cattle 30 months of age and older are considered inedible and are "not to be used for human food." USDA had made clear that removal of SRMs is critical to the protections of public health and the department has continuously relied on it to ensure continued consumer confidence in US beef products.

Soon after the USDA announced the new regulations in January of this year, the department assembled an international scientific review panel to review the department's actions pertaining to BSE. In February 2004, the panel said "the removal of the specified risk materials from the animals from the food supply was the single most important action [USDA] took to protect public health in our human population." FSIS Undersecretary for Food Safety, Elsa Murano, repeated this statement to Congress in March 2004 when testifying before the House Agriculture Appropriation Subcommittee about FSIS's 2005 budget request. USDA Secretary Veneman and Jim Hodges, President

of the American Meat Institute Foundation, both reiterated the same statement to the House Government Reform Committee on July 14, 2004. In the past ten months, the statement has been repeated countless times by government and industry personnel and figured in numerous media articles. Only three weeks ago, Andrea Morgan, Associate Deputy Administrator of APHIS, cited the removal of SRMs as the basis for USDA's continued confidence in the food supply, despite the recent inconclusive BSE test results.

It is against this backdrop that we consider reports from our frontline Inspectors that:

1. plant employees are not correctly identifying and marking all heads and carcasses of animals over 30 months old. Therefore, plant employees and government personnel further down the line are unaware that numerous parts should be removed as SRMs and these high risk materials are entering the food supply.
2. on line Inspectors are not authorized to take actions when they see plant employees sending products that do not meet export requirements past the point on the line where they can be identified and removed.

Whether certain carcass parts from a particular animal are SRMs depends on the age of the animal. If the animal is over 30 months, certain parts including the brain and skull must be removed; if the animal is under 30 months, those same parts can proceed into the human food chain. Under the current regulations, the plant is responsible to prevent SRMs from entering the food supply and therefore, must determine the age of animals that it is processing. The Agency allows plants to use dentition to make this determination. In these plants, an employee is assigned to make the age determination early in the slaughter process and to mark the heads and carcasses of the older animals. Consequently, all plant employees and government Inspectors further down the line are dependant on the plant employee to know which parts must be removed as SRMs. FSIS has not established any qualifications or training requirements for plant employees who perform this function. In accordance with FSIS Notice 9-04, off line Inspectors periodically verify that the plant is correctly making these age determinations. In Large plants, this might involve a government check of as little as 2% to 3% of the animals slaughtered.

Despite the fact that they are not instructed to do so, some on-line Inspectors have also occasionally examined the heads to check if the age determinations are being made correctly. They have done this in the regular course of their other head inspection activities. At several different plants, on-line inspectors have discovered that plant employees had not identified animals, which were over 30 months old and the carcass was proceeding down the line unmarked. In these cases, the on-line Inspectors took action. We are concerned, however, that since on-line Inspectors are not instructed to perform this examination, most will not do so, therefore, most age determinations will not be reviewed by the government. Additionally, since so many on-line Inspectors are recent

hires, these new employees will be even less likely to perform this check. Inevitably the majority of 30+ animals missed by plant employees will continue down the line and SRMs will enter the food supply.

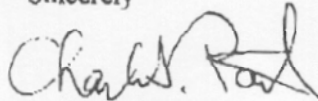
On-line Inspectors at the head inspection station should be instructed to review all age determinations made by plant employees based on dentition. Correct removal of SRMs by plant employees and government actions to ensure public health both depend on correct age determinations. Verification by off-line Inspectors has proven to be insufficient to ensure that SRMs do not proceed down the line unidentified. On-line Inspectors can easily perform this check while performing all other head inspection activities. Finally, the significance of SRMs to public health and public confidence is equal to that of fecal contamination, for which on-line Inspectors check each and every carcass; therefore requiring only off-line verification for SRMs is inappropriate. The Union feels as though plants that use dentition to determine the age of cattle, on-line Inspectors should be instructed to examine each head to ensure that plant determinations are correct and to ensure that the head and corresponding carcass are correctly marked.

Export requirements:

The Union has also been informed by frontline Inspectors that they have been told not to intervene when they see that the export requirements of Mexico are not being met. Mexico prohibits kidneys from animals over 30 months for human food while these are allowed into the domestic food supply. On-line Inspectors have periodically seen plant employees send offal from 30+ animals down the same chute as offal from the young animals when they knew the plant was packing for Mexico. These products were indistinguishable and therefore, they were inevitably exported. On at least two separate occasions when Inspectors consulted their supervisors, they were told that it is not their concern and that is the plant's responsibility to see that those export requirements, which exceed domestic requirements are met. The Union feels as though Inspectors should be authorized and responsible to enforce the export requirements of foreign countries, furthermore, instructions should be given in writing to Inspectors, that all export requirements should be adhered to and enable the Inspector to take action regarding any violation of said countries requirements.

The Union is very concerned about the issues as described above and would like a response from this Agency regarding the requested actions by December 17, 2004.

Sincerely



Charles S. Painter
NJC Chairman