



FOR IMMEDIATE RELEASE
January 14, 2004

Contact: Matthew Freeman
301-762-8980

CPR Raps USDA's Veneman for Mad Cow Regs

'New Regulations Riddled with Loopholes, Fail to Protect Consumers'

Washington, DC ---- Center for Progressive Regulation President Tom McGarity today called on Secretary of Agriculture Ann M. Veneman to go back to the drawing board with recent regulations issued by the department to protect the American consumer from Mad Cow and other beef-related illnesses.

On Thursday, January 8, the Department released a series of new regulations, following up on Veneman's December 30 declaration that "For more than a decade, the United States has had in place an aggressive surveillance, detection and response program for BSE. While we are confident that the United States has safeguards and firewalls needed to protect public health, these additional actions will further strengthen our protection systems." The Secretary's words and tone were consistent with what McGarity calls "the Administration's 'cheerleading for agri-business.'"

"Since the beginning," McGarity said in releasing his letter, "the Administration's approach to this problem has been to combat Mad Cow disease with public relations initiatives, assuring us that the Secretary was serving beef for Christmas, but taking no significant steps to improve the current testing regime. These new regulations were a missed opportunity for the Administration to get serious about tightening up food safety requirements. The regulations are so full of loopholes that they will do little to protect the American consumer."

McGarity is a professor of food safety law at the University of Texas Law School and President of the Center for Progressive Regulation. He voiced his specific objections about the regulations in a letter to Veneman, delivered Tuesday, January 13. The letter urges the Department to reconsider its trust-the-industry approach to regulating this vital matter of food safety.

CPR called for USDA to "promulgate a rule requiring that all cattle be tested for BSE prior to slaughter for human consumption and expand its . . . product holding guideline to include all BSE-tested cattle."

The new package of regulations contains two that are of little relevance, according to McGarity, writing:

“Both the [new] ban on air injection stunning and the ban on mechanically separated meat imposed no burden whatsoever on the cattle industry and will not enhance the safety of meat, because neither technology is currently used in the U.S. It seems disingenuous at best for USDA to claim credit for taking action that will have no impact one way or the other.”

Two of the remaining regulations announced by USDA are intended to ensure that certain parts of slaughtered cows (specific risk material or SRM) are not included in human food (eyes, brain matter, etc.). But these two regulations are marred by huge loopholes. Says McGarity in the letter:

The SRM regulation does not specify “the procedures and techniques that establishments must use to ensure that Special Risk Material . . . does not enter the food supply. Establishments are only required to come up with ‘written procedures’ for the ‘removal, segregation, and disposition of SRMs.’ The same is true for the rule governing Advanced Meat Recovery Systems (AMRS). USDA promises to ‘ensure the adequacy and effectiveness’ of each establishment’s procedures, but it does not say how it will do that. And the rules provide no legally enforceable way for USDA to fulfill its promise, in any event. In short, there are no requirements for how establishments must go about removing SRM from food. There is only a general prohibition on the use of SRM for human food and the aspiration that companies will at some point in the future come up with adequate individual plans to remove SRM from food. USDA does not specify any criteria for the plans that establishments must draft. The regulations do not even specify how companies should go about determining whether meat at the end of the production process contains SRMs. The establishments are free to do whatever they want. There is not even a deadline for preparing the plan.”

A second loophole permits the use of SRM from cattle less than 30 months old. Writes McGarity:

“The loophole for cattle less than 30 months old is not well supported. BSE [Mad Cow Disease] has been found in animals that were younger than 30 months old....While it may be true that younger cattle pose fewer risks, they are by no means risk-free. USDA does not explain why U.S. consumers should be intentionally subjected to such a high-consequence risk, even if the probability is low.

Finally, the rules create a final loophole for bone marrow, even though USDA has acknowledged that bone marrow was determined to be infective in one experiment. Nevertheless, writes McGarity,

“Bone marrow is not included in the definition of ‘specified risk material.’ The loophole for bone marrow is not well justified. USDA acknowledges that bone marrow was determined to be infective in one experiment, but it has elected not to include it as a Specified Risk Material. The only rationale provided is that the

‘findings were not conclusive.’ SRM Rule at 18. USDA should not await a ‘conclusive’ study before taking action to prevent exposing the U.S. population to a risk of BSE. The statute mandates a precautionary approach that does not require ‘conclusive’ demonstration that a meat food product will cause adverse health effects. It requires only that the meat contain a deleterious substance that ‘may render it injurious to health.’ 21 U.S.C. § 601(m)(1).”

In a recent op-ed published in the *Dallas Morning News*, available at <http://www.dallasnews.com/opinion/viewpoints/stories/010604dnedimcgarity.112f3267a.html>, McGarity called for a truly independent agency to oversee the food supply. He wrote:

“Unfortunately, consumers can't rest comfortably because both the Agriculture Department and FDA report directly to the White House and therefore are subject to political pressures from one of the Bush administration's favorite constituencies – the meat industry. Congress should lodge the rule-making and enforcement functions of the meat safety laws in an independent agency whose primary responsibility isn't ensuring the economic well-being of agribusiness. The new agency shouldn't be subject to the political control of the White House, and it shouldn't be overseen by the House and Senate agriculture committees.

Stringent food safety laws are critical to consumer confidence in the food supply, and they must be implemented and enforced by a strong federal regulator, not a cheerleader for the regulated industry.”

The complete text of McGarity’s letter is available on CPR’s website at www.progressiveregulation.org.

Founded in 2002, the Center for Progressive Regulation is a nonprofit research and educational organization of university-affiliated academics with expertise in the legal, economic, and scientific issues related to regulation of health, safety, and the environment. CPR supports regulatory action to protect health, safety, and the environment. Through research and commentary, CPR seeks to inform policy debates, critique anti-regulatory research, enhance public understanding of the issues, and open the regulatory process to public scrutiny. For a copy of McGarity’s letter, or to arrange interviews, contact Matthew Freeman at 301-762-8980, or at mfreeman@progressiveregulation.org. Visit CPR on the web at www.progressiveregulation.org.