



May 1, 2012

Honorable Tom Vilsack, Secretary  
U.S. Department of Agriculture  
1400 Independence Ave., SW  
Washington, DC 20250

Dear Secretary Vilsack:

USDA's announcement last week that a fourth case of bovine spongiform encephalopathy (BSE) has been identified in the United States, in a dairy cow in Central California, is a warning flag that current safeguards against BSE are not adequate and USDA should take additional steps to protect the health of animals and of the beef-eating public.

Consumers Union, the policy and advocacy arm of Consumer Reports, is concerned that if additional steps are not taken now, this deadly disease could circulate and amplify within US cattle. USDA should conduct a full and complete investigation of this case, expand its surveillance program, and allow private companies to test as well.

**USDA should conduct a full and complete investigation of this new BSE case.**

USDA has confirmed to reporters that this case is an "L-type" atypical strain of BSE.<sup>1</sup> USDA therefore must be especially vigilant, because this may well not be a "spontaneous" case, but rather may well have been infected through feed, and may be particularly infectious in humans.

The L-type BSE strain has previously been identified in cattle in Europe<sup>2</sup> and in Canada.<sup>3</sup> This would suggest that the current case may have been contracted through feed, rather than be a new spontaneous occurrence.

Studies further suggest that the L-type BSE can infect humans, possibly even more easily than "classical" BSE. A study using humanized mice (mice genetically engineered to

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<sup>1</sup> Thompson, H. 2012. California BSE prion comes with a different twist. *Nature News Blog*, April 27. At: <http://blogs.nature.com/news/2012/04/california-bse-prion-comes-with-a-different-twist.html>

<sup>2</sup> Brown, P, McShane, LM, Zancusso, G and L Detwiler. 2006. On the question of sporadic or atypical bovine spongiform encephalopathy and Creutzfeldt-Jacob disease. *Emerging Infectious Diseases*, 12(12): 1816-1821. At: <http://wwwnc.cdc.gov/eid/article/12/12/pdfs/06-0965.pdf>

<sup>3</sup> Dudas, S et al. 2010. Molecular, Biochemical and Genetic Characteristics of BSE in Canada. *PLOS One*, At: <http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0010638>

have brain prions like humans) suggested that L-type BSE could infect humans.<sup>4</sup> Another study showed oral transmission to a primate.<sup>5</sup> The mouse study also found shorter incubation periods than for classical BSE, making it a more “virulent” strain.<sup>6</sup> The fact that L-type BSE has been found before in cattle makes it extremely important that USDA conduct a thorough and complete investigation of this case. Not just all offspring, but all cows that consumed the same feed as this cow, should be tested for BSE.

### **USDA should significantly increase its surveillance for BSE.**

Given the very small size of the current USDA surveillance program, it cannot be said with certainty whether this new case is an isolated one, or whether it is indicative of a much larger problem.

USDA tests approximately 40,000 dead or slaughtered cattle annually for BSE, only about .1 percent of the 35 million cattle slaughtered annually in the United States. This is far too small a sample to provide the nation with the assurance that our food supply is safe. In Europe and Japan, every animal over a certain age is tested at slaughter. In the U.S., having recently found one case of BSE in a program of just 40,000 tests annually, consumers need to know what the results would be from a larger test program in order to maintain their confidence in the U.S. beef supply.

Ideally USDA should test all cattle at slaughter over the age of 20 months for several years. At a minimum, USDA should test at least 350,000 annually, for at least three years, including all cows showing nervous system abnormalities, downers, and a random selection of cattle slaughtered at more than 30 months of age and cows sent to the renderers.

### **USDA should end its prohibition on private sector testing for BSE.**

To augment USDA testing, and to assure meat producers’ access to foreign markets, USDA should reverse its counterproductive policy of prohibiting private companies from testing for BSE at their own expense. In the past, a private company sought permission to test animals for BSE at their own facility, using the same test that USDA employs to detect BSE, in order to be able to export beef to Japan, which requires testing of all animals over 20 months at slaughter. However, USDA has prohibited sale of test kits for this purpose. In an era of limited governmental resources, when public-private partnerships are essential to assure safety, we urge USDA to reconsider this highly counterproductive and anti-competitive policy.

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<sup>4</sup> Kong, Q, et al. 2008. Evaluation of the human transmission risk of an atypical bovine spongiform encephalopathy prion strain. *Journal of Virology*, pp. 3697-3701.

<sup>5</sup> Mestre-Frances N et al. 2012. Oral transmission of L-type bovine spongiform encephalopathy in primate model. *Emerging Infectious Diseases*, 18(1): 142-145.

<sup>6</sup> Kong et al. Op cit.

USDA has argued that the rapid tests are “worthless” when used for a food safety purpose because their use could result in a false negative.<sup>7</sup> While we agree the rapid test kits can miss a case of BSE in the early stages of incubation, such test kits can catch the disease in later stages, before the animals show symptoms.<sup>8</sup> They are used to test animals at slaughter in Europe and Japan and have identified more than 1,000 otherwise undetected cases in Europe.<sup>9</sup> We urge USDA to allow private testing, with the caveat that any findings of a BSE positive animal would have to be immediately reported to the USDA. Although tested beef should not be labeled “BSE-free,” testing could in fact be incentivized by allowing companies who use such tests to label their products as “BSE-tested.”

We would appreciate having an opportunity to discuss these recommendations with you and your staff. Thank you for your consideration.

Sincerely,

Michael Hansen, PhD.  
Senior Scientist

Jean Halloran  
Director, Food Safety Initiatives

cc  
Margaret Hamburg, Commissioner  
U.S. Food and Drug Administration

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<sup>7</sup> US Court of Appeals. 2008. No. 07-5173 Creekstone Farms Premium Beef, LLC v Department of Agriculture and Edward T. Schafer, Secretary of Agriculture. At: [http://www.cadc.uscourts.gov/internet/opinions.nsf/0B772DCBE1FDE3D6852578000551AD4/\\$file/07-5173-1135720.pdf](http://www.cadc.uscourts.gov/internet/opinions.nsf/0B772DCBE1FDE3D6852578000551AD4/$file/07-5173-1135720.pdf)

<sup>8</sup> Hansen, M. and J Halloran. 2006. Letter to Honorable Edward Schafer. Secretary of Agriculture, dated June 12, 2008. At: <http://www.consumersunion.org/pdf/USDA-ltr-06-12-08.pdf>

<sup>9</sup> Pg. 3 in [http://ec.europa.eu/food/food/biosafety/bse/mthly\\_cml\\_reps\\_bse2001\\_en.pdf](http://ec.europa.eu/food/food/biosafety/bse/mthly_cml_reps_bse2001_en.pdf)