

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 2004D-0438]

#### **Guidance for Industry: Use of Material from Bovine Spongiform Encephalopathy-Positive Cattle in Animal Feed; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

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**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry (#174) entitled “Use of Material from BSE-Positive Cattle in Animal Feed.” This guidance document describes FDA’s current thinking regarding the use in all animal feed of all material from cattle that test positive for BSE (bovine spongiform encephalopathy).

**DATES:** Submit written or electronic comments on agency guidances at any time.

**ADDRESSES:** Submit written comments to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments on the guidance via the Internet at <http://www.fda.gov/dockets/ecomments>. Comments should be identified with the full title of the guidance and the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the document.

Submit written requests for single copies of the guidance to the Communications Staff (HFV-12), Center for Veterinary Medicine, Food and

Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests.

**FOR FURTHER INFORMATION CONTACT:** Burt Pritchett, Center for Veterinary Medicine (HFV-222), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240-453-6860, e-mail: *burt.pritchett@fda.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

BSE belongs to a family of animal and human diseases called transmissible spongiform encephalopathies (TSEs). These include BSE or “mad cow” disease in cattle; scrapie in sheep and goats; and classical and variant Creutzfeldt-Jakob diseases (CJD and vCJD) in humans. There is no known treatment for these diseases, and there is no vaccine to prevent them. In addition, although validated postmortem diagnostic tests are available, there are no validated diagnostic tests for BSE or other TSEs that can be used to test for the disease in live animals or humans.

Under FDA’s BSE feed regulation (21 CFR 589.2000) any protein-containing portion of mammalian animals is prohibited for use in feed for ruminant animals with the exception of certain products. FDA took this action to minimize the potential for any undetected BSE infectivity in animal feed to spread to ruminants via their feed. This guidance document describes FDA’s recommendations regarding the use in all animal feed of all material from cattle that test positive for BSE.

**II. Paperwork Reduction Act of 1995**

FDA concludes that this guidance contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

### III. Significance of Guidance

This level 1 guidance is being issued consistent with FDA's good guidance practices (GGPs) regulation in § 10.115(21 CFR 10.115). It is being implemented immediately without prior public comment, under § 10.115(g)(2), because FDA believes that, in light of the increased BSE testing activities by the U.S. Department of Agriculture, it is of public health importance to clarify that cattle that test positive for BSE are adulterated and are not to be used in any animal feed.

This guidance represents the agency's current thinking on the topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternate method may be used as long as it satisfies the requirements of applicable statutes and regulations.

### IV. Comments

As with all of FDA's guidance, the public is encouraged to submit written or electronic comments with new data or other new information pertinent to this guidance. FDA periodically will review the comments in the docket and, where appropriate, will amend the guidance. The public will be notified of any such amendments through a document in the **Federal Register**.

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

**V. Electronic Access**

Copies of this guidance document may be obtained from the Center for Veterinary Medicine home page (<http://www.fda.gov/cvm>) and from the Division of Dockets Management Web site (<http://www.fda.gov/ohrms/dockets/default.htm>).

Dated: September 24, 2004.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

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