

**Consumer Federation of America – Consumers Union
Food & Water Watch – Government Accountability Project
National Consumers League – Safe Tables Our Priority**

January 18, 2007

Dear Senator:

We write to urge Congress to institute a ban on the use of carbon monoxide in a modified atmosphere packaging (MAP) process for case-ready fresh meat. In January 2006, consumer groups sent a letter to the Food and Drug Administration (FDA) and the Department of Agriculture (USDA) requesting the FDA and the USDA to re-visit their acceptance of carbon monoxide usage in case-ready meats as a GRAS (generally recognized as safe) substance. This request was made for several reasons: (1) the science behind the decision is questionable; (2) the decision was made without the benefit of public dialogue and input; (3) this process has already been banned in Europe; and (4) there is concern by the American public that the meat that they purchase could look fresher and safer than it actually is. However, despite repeated calls from members of Congress and consumer groups, the agencies have not acted.

The addition of carbon monoxide utilized in the MAP processing of fresh meat produces a new, bright red color in the meat, which then masks the natural browning of the meat that would occur over time. This could induce consumers to buy and use meat products that are not as fresh as they appear. Furthermore, case ready packages of meat processed with carbon monoxide are not at this time required to have labeling informing consumers that such a process was used.

Even USDA has acknowledged the risk of misrepresentation to consumers by noting that the use of carbon monoxide “with case ready fresh cuts of meat and ground beef could potentially mislead consumers into believing that they are purchasing a product that is fresher or of greater value than it actually is and may increase the potential for masking spoilage.”^[1] This is precisely the situation Congress, by law, intended to proscribe in establishing the adulteration and misbranding provisions of the Federal Food, Drug and Cosmetic Act (FDCA) and the Federal Meat Inspection Act (FMIA) in the early 1900s.

As a result of recent foodborne illness outbreaks which sickened hundreds and caused several deaths, consumers are becoming increasingly concerned about the federal government’s ability to protect them from contaminated food. Consumers want more disclosure about food-processing practices, not obfuscation, as is occurring with meat utilizing a MAP process.

The use of carbon monoxide in the MAP processing of fresh meat means that consumers have no way of judging the freshness of the meat, which *Consumer Reports* found could be spoiled even before the labeled “use-by or freeze-by” date^[2]. Proponents of carbon

monoxide disingenuously point to smell as a telltale sign of spoilage but consumers can't use smell with sealed packages before the point of purchase. They have to wait until they have purchased the meat and taken it home to open the package and be able to smell it.

Those with impaired senses of smell may have difficulty in detecting "off" odors. In addition, those at greatest risk of contracting the most serious forms of foodborne illness, such as the elderly, may have difficulty reading the stamped dates on the packages.

The Consumer Federation of America sponsored a national survey that demonstrated overwhelming opposition from consumers to the use of carbon monoxide in meat^[3]. When asked whether the practice of treating red meat with carbon monoxide is deceptive or not, 78 percent of consumers surveyed said the practice is deceptive. In that same survey 68 percent of consumers said they would strongly support a mandatory labeling law for carbon monoxide-treated meat.

In addition, industry insistence that consumers rely on "use-by" or "freeze-by" dates to determine the freshness of the meat is not valid. Conventionally packaged (on-site) meat and ground beef generally has a shelf life of approximately four to five days, at which time the meat turns brown and is either discounted or discarded. Meat that arrives in store in a "case-ready" condition in typical packaging (packaging that has not used CO or the MAP process) has a shelf life of 10 to 12 days, before the meat changes color. Contrast these shelf lives with the 28-day shelf life granted by USDA for ground beef that is packaged under a MAP process utilizing carbon monoxide. Even after that period of time, the artificially bright red color persists, lessening the likelihood that consumers will check the "use-by or freeze-by" date.

The findings of two studies, one by *Consumer Reports*^[4] and one sponsored by Kalsec and conducted by S&J laboratories^[5], raised serious concerns that some carbon monoxide-treated meat on store shelves and available to consumers may be spoiled prior to the use-by date stamped on the package. Additionally, a study conducted at Texas Tech^[6] and submitted to the FDA by supporters of CO-meat seemed to corroborate these findings – that CO-treated meat may be spoiled prior to the use-by date on the label.

The question now becomes, "Are the agencies acting in the best interests of consumers?" If you believe as we do that they are not, then it is incumbent upon Congress to act.

As a result of the agencies' acceptance of this process and unwillingness to revisit their decision based on new information provided to them over the course of this past year, the onus is now on consumers to determine *for themselves* if the meat they are buying is fresh, not presented to them in a deceptive manner, or potentially unsafe. Unfortunately, consumers have been put in this position without the information or tools to make these determinations – such as clear labeling that indicates the use and purpose of carbon monoxide, and communications programs to inform consumers not to use color to judge the freshness and quality of meat, as they usually do. As a result, consumers have no indication that the color of this meat is the result of the addition of carbon monoxide to the packaging and are denied the opportunity to make informed purchasing decisions.

This practice therefore can deceive the consumer into believing that meat is fresh when it may be spoiled or that it is of higher quality than it appears.

We respectfully urge the 110th Congress to take this matter up by instituting an immediate ban on the use of carbon monoxide in a MAP process for case-ready fresh meat. This meat is sitting, unlabeled, on grocery store shelves now and no action by FDA or USDA to reconsider its GRAS decision seems to be forthcoming, despite the numerous concerns raised above.

Sincerely,

Chris Waldrop
Consumer Federation of America

Jean Halloran
Consumers Union

Wenonah Hauter
Food & Water Watch

Jacqueline Ostfeld
Government Accountability Project

Linda Golodner
National Consumers League

Nancy Donley
S.T.O.P.—Safe Tables Our Priority

[1] Letter from Robert C. Post, Ph.D., Director, Labeling and Consumer Protection Staff, to Dr. Lane Highbarger, Office of Food Additive Safety, CFSAN, FDA, April 28, 2004

[2] “Seeing red: Spoiled meat may look fresh,” *Consumer Reports*, July 2006, p 51.

[3] Consumer Federation of America press release, “Most Consumers Are Concerned About Practice of Adding Carbon Monoxide to Meat, New Survey Finds,” September 25, 2006, http://www.consumerfed.org/pdfs/CO_Meat_Consumer_Press_Release_9.25.06.pdf

[4] “Seeing red: Spoiled meat may look fresh,” *Consumer Reports*, July 2006, p 51.

[5] Attachment A to comments submitted by Kalsec, Inc. to FDA Docket No. 2005P-0459, Citizen Petition Requesting FDA to Enforce Ban on Carbon Monoxide in Case-Ready Fresh Meat Packaging, June 14, 2006, <http://www.fda.gov/ohrms/dockets/dockets/05p0459/05p-0459-sup0001-32-Tab-C-Appendix-01-Lin-vol5.pdf>.

[6] Attachment 4 to comments submitted by Hogan & Hartson LLP on behalf of Precept Foods, LLC to FDA Docket No. 2005P-0459, Citizen Petition Requesting FDA to Enforce Ban on Carbon Monoxide in

Case-Ready Fresh Meat Packaging, August 17, 2006,
<http://www.fda.gov/ohrms/dockets/dockets/05p0459/05p-0459-c000008-05-Tab-04-Brooks-vol2.pdf>.