

Why the United States Should Immediately Cancel its Proposed Rule Establishing a BSE Minimal-Risk Region, Adding Canada to that Region, and Re-opening the Canadian Border to Live Cattle and Beef. And Further, Why the United States Should Immediately Retract the USDA Decision to Allow Boxed Beef into the United States from Canada

Talking Points

1. ***Imports of Canadian cattle and beef represent an increased and unnecessary risk to the health and safety of the United States cattle herd, domestic and international beef consumers, and the economic viability of the United States cattle industry.***
 - a. Although Canada has implemented many of the risk mitigation measures adopted by the BSE-infected United Kingdom and European Union, it no longer meets the World Organization for Animal Health's (Office International des Epizooties (OIE)) classification as a "BSE Provisionally Free Country or Zone." The United States, however, does meet the OIE's BSE provisionally free classification. Based on the OIE's scientifically established and internationally accepted disease standards, native Canadian cattle and beef products inherently represent a greater risk for BSE than cattle and beef native to the United States.
 - i. According to the OIE's risk classification scheme, the increased risk inherent to Canadian cattle and beef will remain for a seven-year period following Canada's last reported BSE case.
 - b. Canada has not adopted the same BSE risk mitigation measures as adopted by the United States and continues to feed animal by-products deemed unsafe by the United States.
 - i. Canada has not prohibited downer or non-ambulatory animals from the entire human food chain as has the United States. Canada only prohibits such cattle if they are destined for export.
 - ii. While the United States has banned blood from cattle feed, Canada continues to allow the feeding of mammalian blood to ruminant animals.¹
 - iii. Canada's feed ban exempts "rendered animal fat from all species" from its list of prohibited feeds.² The United States' feed ban does not include this exemption.³
 - iv. Canada has not adopted surveillance standards that are as rigorous as the United States, despite the fact that Canada has been diagnosed with BSE infectivity. While the United States is preparing to test approximately

¹ Canadian Food Inspection Agency's (CFIA) Feed Ban, Canadian Food Inspection Agency, Animal Products, Animal Health and Production Division, available at <http://www.inspection.gc.ca/english/anima/feebet/rumin/ruminfse.shtml>, downloaded March 10, 2004.

² Canada: A Minimal BSE Risk Country, Canadian Food Inspection Agency, Animal Products, Animal Health and Production Division, October 2003.

³ 21 CFR 589.2000, Animal Proteins Prohibited in Ruminant Feed, at 541.

268,500 head of cattle over the next 12 to 18 months, Canada is proposing to test only 8000 head over the next year.

- c. Too little is known about how BSE is spread, how to contain it, and what protocols are needed to prevent its introduction into the food chain.
 - i. The USDA's continual modifications to its BSE risk mitigation program reveal a high level of uncertainty and a lack of scientific consensus regarding what precautions are commensurate with the BSE risk.
 - ii. In October 2003, the USDA stated in its BSE risk analysis that it cannot be stated with certainty that contaminated feed is the only pathway for a BSE infection⁴
 - iii. As recently as February 13, 2004, the USDA's own BSE Advisory Committee cautioned the USDA not to make BSE-related regulatory decisions until a more thorough scientific risk assessment is completed.⁵
 - iv. The December 23, 2003 case of BSE in a Canadian cow exported to Washington State revealed how quickly a single, contaminated carcass could spread to seven states and how ill-prepared the United States was in preventing the carcasses introduction into the food chain.
- d. Canada has offered no scientific proof that it has either contained or eradicated BSE from its cattle herd and the United States has no scientific evidence with which to establish the prevalence of the disease in Canada.
 - i. After the discover of two BSE infected cows originating in Canada within a seven-month period, the updated, October 31, 2003 Harvard Risk assessment stated that it did not calculate the probability of introducing BSE from either Canadian live cattle or feed because of the "absence of strong evidence about the prevalence of BSE in the Canadian herd."⁶
 - ii. The two BSE cases originating in Canada were discovered within a seven-month period while under a very relaxed surveillance regime: the United States tested only 20,000 animals in 2003⁷ and Canada tested only 3377 animals the year preceding its first native BSE case.⁸

⁴ Risk Analysis: BSE Risk from Importation of Designated Ruminants and Ruminant Products from Canada into the United States, Animal and Plant Health Inspection Service (APHIS), October 2003, at 16.

⁵ Report of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases, Measures Relating to Bovine Spongiform Encephalopathy in the United States, February 13, 2004, at 2.

⁶ Evaluation of the Potential Spread of BSE in Cattle and Possible Human Exposure Following Introduction of Infectivity into the United States from Canada, Joshua T. Cohen and George M. Gray, Harvard Center for Risk Analysis, Harvard School of Public Health, October 31, 2003, at 2.

⁷ Bovine Spongiform Encephalopathy (BSE) Q & A's, United States Department of Agriculture-Animal and Plant Health Inspection Service, available at http://www.aphis.usda.gov/lpa/issues/bse/bse_q&a.html, downloaded on March 31, 2004.

⁸ Questions and Answers about BSE and the Investigation of a BSE case in Western Canada, Canadian Food Inspection Agency, available at <http://www.inspection.gc.ca/english/anima/heasan/disemala/bseesb/bsefaqe.shtml>, downloaded March 31, 2004.

- e. The only BSE prevention strategy that has been scientifically validated by independent scientific experts is the United State’s longstanding and two-prong prevention strategy of 1) banning ruminant-to-ruminant feeding and 2) prohibiting beef and cattle imports from countries known to have BSE. And yet, the USDA is proposing to abandon item 2.
 - i. The Harvard risk assessment stated: “Measures in the U.S. that are most effective at reducing the spread of BSE include the ban on the import of live ruminants and ruminant meat and bone meal from the UK (since 1989) and all of Europe (since 1997) by USDA/APHIS, and the feed ban instituted by the Food and Drug Administration in 1997 to prevent recycling of potentially infectious cattle tissues.⁹ [Note: At the time of this scientific evaluation, there were no cases of BSE reported outside of Europe.]”
2. *The proposed rule is contrary to the scientifically established and internationally accepted disease standards set by the World Organization for Animal Health (Office International des Epizooties (OIE)) and relied upon by over 160 World Trade Organization member countries to determine the BSE risk associated with trading with various countries.*
- a. Because Canada has had at least one case of BSE within the previous seven years and because Canada’s feed ban has not been in place for at least eight years, Canada can only meet the OIE’s standard for a country with a moderate BSE risk, the fourth highest risk classification within the OIE’s five risk categories.
 - b. USDA’s proposed designation of Canada as a BSE Minimal-Risk Region does not meet the OIE’s science-based standard for a “Country or Zone with a Minimal BSE Risk.”
 - i. Because the proposed rule deviates substantially from internationally accepted BSE standards, the United States will be viewed by its export customers as having manufactured its own science.
 - ii. Because other cattle and beef importing countries will not recognize the manufactured, minimal-risk region, and will continue evaluating Canada based on the internationally accepted OIE standards, the United States could become the dumping ground for commodities rejected by other countries.
3. *The proposed rule is contrary to the United States time-honored disease prevention strategies of prevention/avoidance and containment.*

⁹ Evaluation of the Potential for Bovine Spongiform Encephalopathy in the United States, Harvard Center for Risk Analysis, Harvard School of Public Health, November 26, 2001, at i.

- a. The United States most effective disease management strategy has been to contain a disease outbreak within a specific geographical region. Opening the border before Canada contains or eradicates BSE from its herd is a contradiction of the United State’s historically successful disease management strategy.
 - b. The proposed rule constitutes a weakening of the United States defense against the introduction of BSE, at a time when the threat of BSE is greatest because of its immediate proximity to our border.
 - c. The Proposed rule constitutes a weakening of the very United States disease prevention strategy that has been scientifically validated as one of the United States most effective prevention strategies.
 - d. The proposed rule constitutes a weakening of the very policy the USDA highlighted and touted to U.S. consumers to assure them that the United States is robust against the introduction and spread of BSE. The proposed rule constitutes a major change in the United States disease prevention strategy without providing any scientifically accepted or internationally accepted substitute strategy. Instead the United States appears to be changing the rules for its own convenience without regard to the health and safety of the U.S. cattle industry and its customers.
 - e. The proposed rule constitutes a departure from the core mission of USDA-APHIS to protect the United State’s borders from foreign animal diseases.
 - f. The proposed rule appears to be in furtherance of a free trade philosophy that has overridden APHIS and USDA responsibilities for protecting the United States cattle industry from foreign animal diseases.
4. ***The proposed rule intrinsically ties the future of the United States cattle industry to the health of the Canadian cattle herd by saddling the United States cattle industry with Canada’s known disease problem.***
- a. The underlying rational for the proposed rule is the Harvard risk assessment that assumes the introduction of BSE into the United States. The responsibility of APHIS, however, is to protect the United States herd from the introduction of BSE rather than to assume, without scientific evidence, that the disease is prevalent within the domestic herd.
 - b. The proposed rule ignores the high-risk cattle population in the United States comprised of cattle imported from Canada, a country known to be infected with BSE, during the past decade. The rule puts the United States cattle herd at risk of a “mistaken identity” should another imported Canadian cow be diagnosed with BSE.

5. *The proposed rule does not adequately assess the negative economic impacts to the United States cattle industry.*

- a. The economic analysis contained in the proposed rule does not consider the potential impacts associated with Canada's cattle/beef countervailing practices, dumping practices, or import surges which are likely to result from relaxing Canada's health related trade restrictions.
- b. The proposed rule ignores the potential economic impact should Canada discover additional cases of BSE while the United States is known to be importing Canadian beef and cattle.
- c. The United States cattle industry recently experienced a significant cattle price increase following the May 20, 2003 Canadian border closure (representing a reduction of about 9 percent of total beef supplies). Interestingly, when the United States was shut-out of the world's export markets on December 23, 2003 (also representing about 9 percent of total beef supplies) there was not a correspondingly significant decrease in live cattle prices. This phenomenon suggests that for an import sensitive industry like the live cattle industry, the damage from increased imports may be far greater than the benefit of increased exports. The USDA should recalculate the negative economic impacts to producers based on this presently available and real-world economic model.