

**Position Brief**  
**on**  
**USDA's Justification of 30-Month Rule in Final Rule**

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The Final Rule restricts the importation of Canadian cattle to cattle less than 30 months of age. However, beef from cattle of any age slaughtered in Canada can be exported to the United States. The following discussion attempts to identify USDA's justification for holding Canadian cattle to a higher import standard than Canadian beef.

USDA claims the risk of introducing BSE into the U.S. would not be reduced to any known degree if the U.S. were to 1) restrict beef from cattle less than 30 months of age, or 2) prohibit live cattle imports. [70 Fed. Reg. 541, 542 \(January 4, 2005\)](#). This is based in relation to the status quo (currently boneless beef from cattle under 30 months of age is imported into the U.S.).

Specifically, with respect to the alternative of restricting beef less than 30 months of age, USDA states, "There would be no known reduction in risk of BSE introduction under this alternative. Removal of SRMs at slaughter and other required risk mitigating measures of the rule will ensure that beef entering from Canada satisfies animal health criteria the same as or equivalent to those required in the United States." [Id. 541](#). (Tellingly, Canada only allows imports from the U.S. of beef from cattle under 30 months of age.)

USDA's discussion suggests there is no change in BSE risk from expanding current imports to include beef from cattle over 30 months, nor is there a change from expanding current imports to include cattle less than 30 months of age. However, USDA did not consider as an alternative to the Final Rule whether there would be an increased risk if cattle over 30 months of age were to be allowed into the United States. USDA intends to issue a supplemental rulemaking to consider whether cattle over 30 months of age should be imported. [Id. 483](#).

USDA's fundamental rationale is that it views cattle less than 30 months of age as harboring no risk because they would be born after the implementation of a feed ban and because infectivity has not been detected in most tissues in cattle until at least 32 months post exposure. [Id.](#) USDA dismisses the risk from cattle between 20 months to 30 months of age by claiming that all the younger cases of BSE originated in countries with significant levels of BSE and that cattle must receive a relatively large infectious dose in order to accelerate the BSE incubation period sufficient to induce infection before 30 months. [Id. 512](#).

USDA views beef produced from cattle of any age to be safe from BSE because all cattle over 30 months of age are subject to SRM removal and other safeguards (e.g., banning of downer cattle) that effectively mitigate risk even if a BSE-infected animal enters the food chain. [Id. 494](#).

USDA does acknowledge a justification for prohibiting older Canadian cattle from entering the United States. USDA states it is to “protect the United States from the introduction of BSE from minimal-risk regions such as Canada.” (516) USDA further states, “Even if BSE-infected cattle do remain in Canada, they are likely to be older animals that were exposed before Canada’s feed ban in 1997. Because this rule requires that imported animals be less than 30 months old, such animals could not legally enter the United States under this rule. Even if an infected cow did enter the United States, the Harvard- Tuskegee Study indicates it would be unlikely to lead to the spread of BSE in cattle or to human exposure to the BSE agent.” *Id.* 514.

From a risk management standpoint, USDA justifies the 30-month restriction on cattle based on its desire to protect against the introduction of BSE into the United States (*Id.* 516), presumably to meet conditions set forth in USDA’s 2003 report to Congress in which USDA explained that the United State’s first line of defense was to “prevent the agent of BSE from entering the United States and infecting U.S. cattle.” *See R-CALF USA’s December 9, 2004 Comments, at 16.* USDA, therefore, acknowledges that older Canadian cattle born before the Canadian feed ban could transmit the BSE disease.

There may also be an economic justification for USDA’s restriction. USDA explains that that 30-month restriction on cattle will result in a large increase in older cow slaughter in Canada for the export of processing beef to the United States. *70 Fed. Reg. 537.* This would expedite the purging of the backlog of older, higher-risk cattle presently in Canada, with a population estimated at 460,000 head. *Id.* 538. USDA states, “Allowing the United States to import Canadian beef from cattle slaughtered at more than 30 months of age would enable Canada to produce and sell much larger quantities of processing beef without fearing the significant price collapse that would likely occur if the entire additional product were only for the Canadian market.” *Id.* 537. Though the stated benefit of USDA’s action appears to flow to Canada, it is an economic justification nonetheless.

Embodied in the paragraph above is another policy-based justification: to expedite the purging of higher-risk cattle from Canada (through sales of cow meat to the U.S.) while simultaneously claiming to protect the U.S. by not allowing higher-risk cattle into the United States.

The following USDA statement provides even stronger evidence that USDA is motivated more by a desire to alleviate Canada’s economic problem:

Requiring that beef come only from cattle slaughtered at less than 30 months of age would continue the prohibition on Canadian cows and bulls as source animals [for BSE infection], and eliminate effects of the rule for beef [I presume this means the favorable economic effects created by opening the U.S. market]. Continuing to limit imports from Canada to veal from calves and beef from steers and heifers [under 30 months] would cause Canada’s cow and bull inventories to continue to grow and exert downward pressure on Canada’s cow prices, which are already well below U.S. price levels. Canadian suppliers would be prevented from participating in the current high-demand market in the United States for processing beef, and U.S. processors would not benefit from the additional source of supply during a time when U.S. cow slaughter is cyclically low. *Id.* 541.

Finally, USDA may have an additional economic/policy justification depending on the estimated impact to U.S. producers if the Final Rule had allowed cattle over 30 months of age. In other words, the negative economic impact caused by the Final Rule is already significant enough to generate concern. Perhaps USDA was trying to avoid, at least temporarily, a projected negative impact that would more certainly jeopardize implementation of the Final Rule.