Position Brief
on
Inadequate BSE Testing Policies in USDA Final Rule

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The OIE recommends that BSE-affected countries should establish surveillance programs commensurate with risk assessment outcomes. However, although USDA agreed that the Harvard Center for Risk Analysis (HCRA) model was not appropriate for modeling the situation in Canada (70 Fed. Reg. at 506), Canada relied upon the United States' HCRA model as the basis for its risk assessment (Id.), and this risk assessment did not address the specifics of Canada's data and situation. The OIE further recommended that countries target three separate subpopulations of cattle, including the population of cattle in which BSE is detectable by testing before any clinical signs appear, i.e., cattle subject to normal slaughter.[i] OIE states, "In countries not free from BSE, sampling at routine slaughter is a means of monitoring the progress of the epizootic and the efficacy of control measures applied."[ii]

USDA has acknowledged that current testing methods can detect positive cases of BSE two to three months before the animal begins to demonstrate clinical signs. (70 Fed. Reg. at 475.), thus enabling the detection of asymptomatic BSE-infected cattle before they enter the human food chain. R-CALF USA has requested in comments to APHIS that cattle subject to normal slaughter be tested for BSE. USDA's response to R-CALF USA's request was, "We understand the interest expressed by some commenters in testing certain cattle for slaughter. However, no live animal tests exist for BSE and the currently available postmortem tests, although useful for disease surveillance (i.e., in determining the rate of disease in the cattle population), are not appropriate as food safety indicators." (*Id*.) This nonsensical response, and corresponding lack of justification for refusing to test detectable cattle before they can enter the food supply makes the Final Rule arbitrary.

In fact, USDA's investigation of the one case of BSE found in the United States (in a cow raised in Canada) indicates that that cow did not have any outward signs of a neurological disorder and was killed for other reasons. That provides a real-world example of how testing all Canadian-origin cattle at time of slaughter would have identified a BSE-infected animal that Canada's current targeted approach would have missed.

The Final Rule does not require, nor is Canada testing cattle at routine slaughter. Canada's surveillance program targets only cattle believed to be at high-risk for BSE: dead, dying, diseased, and down cattle over 30 months of age and cattle showing neurological symptoms consistent with BSE. (*Id*. at 469) The Final Rule does not require any country seeking a minimal risk designation to test any more than the minimum number of cattle fitting only the OIE's subpopulation characteristics of high-risk cattle. USDA claims that if BSE is not detected in high-risk cattle, there is no benefit to testing other cattle populations (Id. at 484) and states that Canada tested 15,800 cattle in 2004, all with negative results for BSE. (Id.) This reasoning

might be appropriate if Canada were still determining *whether* BSE is present in its herd. It is not appropriate for testing and monitoring prevalence after four cases have been confirmed.

The statistical rationale needs to shift from testing for presence of BSE (hypothesis-testing) to quantitative estimation and monitoring of prevalence. For this purpose, OIE recommendations and international recommendations from countries experienced with BSE call for testing cattle at routine slaughter. For example, the EU continues to test *all* cattle over 30 months of age entering the food chain in addition to mandatory testing of animals over a certain age.[iii] Japan, tests *all* cattle entering their food chain.[iv] Switzerland tests all high-risk cattle over 30 months of age along with 7000 cattle entering the food chain under normal slaughter.[v] Israel requires testing of *all* slaughtered cattle over 30 months of age.[vi] Thus Canada's testing program falls far short in all respects to the testing programs of every other country in the world that is known to be affected by BSE (with the possible exception of Liechtenstein, for which information is unavailable).

Canada's BSE testing program does not meet the minimal testing recommendation of the OIE and is inferior to all testing programs of all countries affected with BSE. As a result, Canada is taking no steps to prevent asymptomatic BSE-diseased cattle from entering the human food chain, even though testing can detect this invariably fatal disease several months before cattle show any visible signs of the disease.[vii] USDA appears to be praising Canada's testing program on the grounds that it will help to detect BSE if there is any. But this is no longer a relevant issue: presence of BSE has already been established. Now a testing program for quantifying and monitoring the prevalence of BSE is needed. Canada's testing program is inadequate and inferior to all other BSE-affected countries for this purpose, which is the one that should matter for policy-making.

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[i] Terrestrial Animal Health Code, 12th edition – 2004, Office International des Epizooties, Appendix 3.8.4., Article 3.8.4.1.
[ii] *Id*, Article 3.8.4.3.
[iii] BSE-New State of Play, Activities of the European Union, Regulation (EC) No. 999/2001, available at: http://europa.eu.int/scadplus/leg/en/lvb/f83002.htm.
[iv] Final Report, Japan-United States BSE Working Group, July 22, 2004.
[v] Control Measures in Cattle, SFVO Control Measures, BVET, OVF, UFV, available at: http://www.bvet.admin.ch/tiergesundheit/00199/00200/00665/index.html?lang=en
[vi] Emergency Report, The Director General, OIE, June 6, 2002, available at: http://agri3.huji.ac.il/%7Eyakobson/bseEN/bseOIE020604EN.htm.
[vii] Federal Register, Vol. 70, No. 2, Tuesday, January 4, 2005, Rules and Regulations, at 475.