

*United States Senate
Committee on Commerce, Science, and Transportation*

*Written Statement of Leo R. McDonnell, Jr.
Columbus, Montana*

Regarding

*Implications of the USDA's Proposed Rule on Importing Canadian Cattle and Beef from
Animals Older than 30 Months of Age*

on behalf of

Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America (R-CALF USA)

*Bismarck State College
February 21, 2007*

Chairman Inouye, Vice Chairman Stevens, members of the Committee, I am Leo McDonnell. My wife and I own and operate Midland Bull Test, which is a bull genetic evaluation center in Columbus, Montana, and we ranch in both Montana and North Dakota. Bulls from our test center have been sold in both the domestic and international market and we are cow/calf producers as well as seed stock producers. I am also proud to be a member of the Ranchers-Cattlemen Action Legal Fund – United Stockgrowers of America (R-CALF USA), an organization that I co-founded in the late 1990s. Our organization has worked tirelessly on behalf of the American cattle producer. Our focus has been on protecting and promoting the interests of independent cattle producers, and it is from that perspective that I speak to you today. I appreciate the opportunity to provide comments on this issue as it is very important to the cow-calf operators, backgrounders, stockers and feeders that constitute the heart of this country's cattle and beef industry.

Background

After the December 2003 detection in Washington State of a Canadian-born cow infected with bovine spongiform encephalopathy (BSE), over 50 export markets closed their borders to U.S. beef and in 2004, U.S. beef exports fell to a 19-year low.¹ While the U.S. has since struggled to negotiate even limited access for U.S. cattle and beef exports to foreign markets, the domestic market has been thrown open to a much broader range of imports from abroad, including imports from Canada where 10 native cases of BSE have so far been detected. As a result, the U.S. cattle industry experienced its third consecutive year of substantially reduced exports in 2006, with the U.S. running a significant trade deficit in cattle and beef estimated at \$2.7 billion. At the conclusion of 2006, U.S. beef exports remained at less than half their 2003 volume.²

Since late 2003, the U.S. border was closed to all but boneless Canadian beef derived from cattle less than 30 months of age – a product the World Organization for Animal Health (OIE) considers suitable for trade regardless of a country's disease status.³ However, in mid-2005, the USDA further opened the Canadian border to both imports of live cattle less than 30 months of age and an expanded scope of beef products from cattle less than 30 months of age.⁴

Within six months of the border's reopening to live cattle, domestic live cattle prices began to plummet. Fed cattle prices in the U.S. fell from \$96.50 per cwt. in December 2005 to

¹ Table 5, Total U.S. Beef and Veal Exports, Red Meat Yearbook (94006), U.S. Department of Agriculture, Economic Research Service, available at <http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1354>.

² See Cumulative U.S. Meat and Livestock Trade, Livestock and Meat Trade Data, Livestock, Dairy, and Poultry Outlook Tables, U.S. Department of Agriculture, Economic Research Service, available at <http://www.ers.usda.gov/Data/MeatTrade/Data/AnnualLivestockTable.xls>; see also Table 5, Total U.S. Beef and Veal Exports, Red Meat Yearbook (94006), U.S. Department of Agriculture, Economic Research Service, available at <http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1354>.

³ Terrestrial Animal Health Code – 2006, World Organization for Animal Health (OIE), at Article 2.3.13.1. (1)(g).

⁴ See Bovine Spongiform Encephalopathy, Minimal-Risk Regions and Importation of Commodities; Final Rule and Notice, Federal Register, Vol. 70, January 4, 2005, at 460-553.

\$79.10 per cwt. in May 2006, a decline of \$17.40 per cwt.⁵ Cattle producers who sold their fed cattle during this period suffered losses conservatively estimated by USDA within the range from \$4.08 per cwt. to \$12.93 per cwt., or \$49 to \$155 per head.⁶

R-CALF USA believes that USDA's existing BSE policies are contributing greatly to the ongoing losses experienced by U.S. cattle producers, and we seek the assistance of Congress to correct these existing policies. Notwithstanding the dire need to reverse *existing* BSE policies, the USDA's recently proposed OTM Rule assures that current problems will be made far worse for U.S. cattle producers.⁷ The OTM Rule would allow the importation of live Canadian cattle born after March 1, 1999, certain Canadian beef products immediately, and the full scope of Canadian beef products from cattle over 30 months of age at some point thereafter.

USDA's inability to fully restore lost export markets during the past three years, which has caused substantial harm to the U.S. cattle industry, is directly attributable to inappropriate BSE policies now in effect, and the proposed OTM Rule will only worsen the current situation for the following reasons:

- A. The proposed OTM Rule does not required Canada to implement the practices that other BSE-affected countries are using to successfully reduce the incidence of BSE and protect consumers.**

Canada Has a Weaker Feed Ban

Canada has a weaker feed ban than other BSE-affected countries, and, because the U.S. imports Canadian beef and cattle nonetheless, the United States continues to experience difficulty in both restoring lost markets and gaining new ones. Under current U.S. policies,

⁵ *Choice Beef Values and Spreads and the All-Fresh Retail Value*, USDA-Economic Research Service, available at <http://www.ers.usda.gov/Data/meatpricespreads/Data/beef.xls>, downloaded on December 19, 2006.

⁶ High Plains Cattle Feeding Simulator, United States Department of Agriculture, Economic Research Service, available at <http://www.ers.usda.gov/Publications/LDP/xlstables/High%20Plains%20Cattle%20Feeding%20Simulator%20Nov06%20R.xls>.

⁷ See Bovine Spongiform Encephalopathy; Minimal-Risk Regions; Importation of Live Bovines and Products Derived from Bovines; Proposed Rule, Federal Register, Vol. 72, No. 5, at 1102-1129, hereafter OTM Rule.

Canada is required to maintain only the most basic of feed bans - a feed ban determined by other BSE-affected countries to be insufficient to control the disease. The feed bans of the European Union (EU) and Japan, for example, are much more restrictive as they ban all ruminant material, including blood, from *all* animal feed. Canada bans only ruminant material, with the exception of blood, from *only* ruminant animal feed. While Canada has announced intentions to begin strengthening its feed ban in July 2007, the long incubation period of BSE (approximately 5 years)⁸ necessitates a lengthy period of disease surveillance following implementation just to determine if the improvement is successful.

Canada Has an Inferior BSE Testing Program

In addition, Canada has an inferior BSE surveillance program when compared to other BSE-affected countries, and, because the U.S. imports Canadian beef and cattle nonetheless, the United States continues to experience difficulty in both restoring lost markets and gaining new ones. Under current USDA policies, Canada is not required to test all high-risk cattle for purposes of determining the prevalence of the disease and to ensure that all symptomatic cattle are removed from both the human food chain and animal feed chain. In contrast, Japan tests all high-risk cattle and all cattle entering the human food chain. The EU tests all high-risk cattle over 24 months of age and all OTM cattle entering the human food chain.⁹

Canada, however, has only a voluntary BSE testing program and is testing fewer cattle than many BSE-affected countries with much smaller herd sizes.¹⁰ Despite Canada's detection

⁸ Federal Register, Vol. 70, No. 2, Final Rule, January 4, 2005, at 475.

⁹ See Report on the Monitoring and Testing of Ruminants for the Presence of Transmissible Spongiform Encephalopathy (TSE) in the EU in 2005, European Commission, ISSN-583X, at 5.

¹⁰ Table B5, Total Positive Cases Per Number of Cattle Tested or Present in the Adult Cattle Population (>24 months of age), Report on the Monitoring and Testing of Ruminants for the Presence of Transmissible Spongiform Encephalopathy (TSE) in the EU in 2005, European Commission, ISSN: 1725-583X, June 20, 2006, at 17. (France, with an adult cattle population of over 10 million cattle tested over 2.5 million head and detected 31 positive BSE cases in 2005; the Netherlands, with an adult cattle population of only 1.7 million cattle tested over 517,000 cattle and detected 3 positive BSE cases in 2005. In contrast, Canada with an adult cattle population of approximately 6

of BSE in younger cattle, including a 50-month old cow, Canada does not recognize the value of testing healthy cattle at slaughter. This stands in sharp contrast to the EU's experience, which caused the EU to begin testing all healthy slaughtered OTM cattle since 2001.¹¹ The EU detected 113 positive BSE cases in healthy slaughtered cattle in 2005.¹²

Canada Practices the Least Restrictive SRM Removal Policies

Canada practices the least restrictive specified risk material (SRM) removal policies when compared to other BSE-affected countries, and, because the U.S. imports Canadian cattle and beef nonetheless, the U.S. is experiencing difficulty in both restoring lost markets and gaining new ones. The proposed OTM Rule would subject Canadian cattle less than 8 years of age (cattle born after March 1, 1999) only to the same SRM removal policies adopted in the United States – a country unlike Canada that has detected only two *atypical* cases of BSE in cattle over 10 years of age. Thus, Canadian cattle less than 30 months of age will have only their tonsils and distal ileum removed, while only OTM cattle will be subject to the broader SRM removal requirements. However, the EU removes the broader list of SRMs from all cattle over 12 months of age and Japan removes the broader list of SRMs from cattle of all ages.

It is counterintuitive to expect that Canada's weaker feed ban, its inferior testing regime, and its less restrictive SRM removal policy are helping to restore consumer confidence in Canadian beef sold directly from Canada or Canadian beef sold from the United States. Current

million cattle tested fewer than 60,000 cattle and detected 2 positive BSE cases in 2005; in 2006, after again testing fewer than 60,000 cattle, Canada detected 5 positive BSE cases.)

¹¹ The TSE Roadmap, European Commission, Brussels, COM(2005 322 Final, July 15, 2005, at 7, 8: "The detection of BSE in healthy slaughtered cattle in 2000 indicated the need for active monitoring which was introduced in the whole community in the beginning of 2001. The active monitoring programme became fully operation in July 2001 and still includes: The testing of all risk animals over 24 months of age (fallen stock, emergency slaughtered animals and animals with clinical signs at ante-mortem inspection); The testing of all healthy slaughtered bovine animals above 30 months of age (a total of 10 million cattle per year)."

¹² Table B12, Testing on Healthy Slaughtered Bovine Animals, Report on the Monitoring and Testing of Ruminants for the Presence of Transmissible Spongiform Encephalopathy (TSE) in the EU in 2005, European Commission, ISSN: 1725-583X, June 20, 2006, at 26.

trade challenges clearly demonstrate this concern: South Korea, for example, which was the third largest U.S. beef importer in 2003,¹³ continues to demand that U.S. slaughter plants segregate U.S. cattle from Canadian cattle in their production lines to ensure that no Canadian beef is included in their U.S. beef imports;¹⁴ and, recent headlines from the ChinaDaily/Xinhua News Service stating “Beijing Confiscates Canadian Beef on Fear of Mad Cow Disease,” further exemplifies the trade challenges associated with Canadian beef.¹⁵ Because Canada’s feed ban is weaker, its BSE testing regime inferior, and its SRM removal policy less restrictive than those of other BSE-affected countries, which includes countries that import U.S. beef, the proposed OTM Rule will only worsen the unfavorable situation that already exists and should be withdrawn.

B. The proposed OTM Rule, like the USDA’s *existing* BSE import policy, does not comply with international BSE import standards established by the OIE.

The OTM Rule Does Not Comply with the OIE’s SRM Standards

The OIE has in the past and continues today to recommend that SRMs from cattle originating in a BSE-affected country not be imported for the preparation of animal feed or for the preparation of fertilizer.¹⁶ Current U.S. BSE policies ignore this recommendation and SRMs removed from live Canadian cattle currently entering the U.S. are free to enter the U.S. non-ruminant animal feed system as well as fertilizer production.¹⁷ While this failure to follow OIE recommendations is most likely already contributing to the ongoing difficulty in restoring lost

¹³ See Cumulative U.S. Livestock and Meat Trade, Livestock, Dairy, and Poultry Outlook Report, U.S. Department of Agriculture, Economic Research Service, March 23, 2004, available at <http://usda.mannlib.cornell.edu/usda/ers/LDP-M//2000s/2004/LDP-M-03-23-2004.pdf>.

¹⁴ Use of Cattle Legally Imported from Canada Within the EV Program for the Republic of Korea, U.S. Department of Agriculture, Agricultural Marketing Service, August 29, 2006, available at <http://www.ams.usda.gov/lsg/arc/KoreaCanadianCattle.pdf>.

¹⁵ Beijing Confiscates Canadian Beef on Fear of Mad Cow Disease, China Daily/Xinhua News Service, Sunday – February 18, 2007.

¹⁶ Terrestrial Animal Health Code – 2006, Article 2.3.13.13 (1), (2), (3).

¹⁷ See Importation of Certain Commodities from BSE Minimal-Risk Regions (Canada), Environmental Assessment, October 27, 2006, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, at 7. (Both FSIS and FDA have implemented regulations that prohibit the use of SRMs in human food and other products, including dietary supplements and cosmetics.)

beef markets and gaining new ones, the proposed OTM Rule would significantly aggravate this failure.

The proposed OTM Rule, because it would allow the importation of animals from a BSE-affected country with an unknown prevalence of BSE, would necessarily allow the importation of the entire list of SRM's contained in each animal. Until and unless the U.S. begins to follow international standards by expressly banning SRMs originating in Canadian cattle from the preparation of all animal feed and fertilizer, the USDA is not in compliance with OIE standards, and its demands to the international community to follow international standards will not be taken seriously.

The OTM Rule Does Not Comply With the OIE's Feed Ban Standards

Canada has so far confirmed four BSE cases born after the implementation of its 1997 feed ban, with three cases born years after (one in 1998, two in 2000, and one in 2002).¹⁸ A recent Dow Jones Newswires report regarding Canada's 10th case of BSE in a native animal, which was confirmed on February 7, 2007, suggests that this latest case was also born after the feed ban (in the year 2000).¹⁹ This would make a total of five positive BSE cases, *or half of all native Canadian cases*, born after the implementation of the Canadian feed ban. Whether there are 4 or 5 positive cases among Canada's 10 native cases that were born after the implementation of the Canadian feed ban, it is clear that the empirical evidence available to this Committee shows several truths:

1. Canada's known BSE prevalence has increased since 2003.
2. Canada's 1997 feed ban was not effective in preventing the spread of BSE.

¹⁸ See Completed Investigations, Canadian Food Inspection Agency, available at <http://www.inspection.gc.ca/english/anima/heasan/disemala/bseesb/comenqe.shtml>.

¹⁹ CFIA: Latest Canadian BSE Case Likely Born in 2000, Dow Jones Newswires, CattleNetwork Today, February 8, 2007.

3. Canada's system of BSE control measures and "interlocking safeguards" have not succeeded in preventing or eliminating its BSE problem. This shows that USDA's reliance on such systems to protect the United States against imported BSE is unwise: they simply do not work well enough to accomplish this goal.
4. Canada's BSE problem is ongoing. It is not confined to a few old cattle infected before the control measures were implemented (one of USDA's optimistic assumptions in re-opening the border in 2005). The data show that Canada's BSE problem persists and shows no immediate signs of diminishing.
5. Canada's prevalence rate of BSE is large enough so that there is close to 100% probability that continuing to import cattle from Canada will result in some BSE-infected cattle being imported into the United States.

These facts show that the USDA's proposal to allow OTM cattle, replete with the entire list of SRMs and the entire scope of bovine products from animals up to 8 years of age, into the United States is inconsistent with the OIE's international BSE import standards. The OIE makes clear that beef from cattle originating in a BSE-affected country that does not have an effectively enforced feed ban, i.e., a feed ban that does not reduce the prevalence of the disease, is to be derived only from cattle that have the entire, expanded list of SRMs removed if the cattle are over 12 months of age. Because the proposed OTM Rule would require the removal of the entire, expanded list of SRMs only in animals over twice this 12-month age limit, i.e., at 30 months of age, the OTM Rule does not comply with OIE standards.²⁰

Moreover, the OIE specifically states that cattle selected for export from a BSE-affected country should be born at least two years after the country's feed ban was effectively enforced

²⁰ Terrestrial Animal Health Code – 2006, OIE, Article 2.3.13.11. (2)(a).

(for a country like Canada with an undetermined BSE risk)²¹, or at least born after the date that the feed ban was effectively enforced (for a country unlike Canada with a controlled BSE risk).²² The USDA's proposed OTM Rule that would allow the importation of Canadian cattle born after March 1, 1999, despite multiple cases of BSE detected in cattle born long after that date, clearly violates this OIE standard, regardless of whether Canada is considered a controlled or undetermined risk.

The OTM Rule Is Inconsistent with OIE Testing Requirements

The USDA proposed OTM Rule is further inconsistent with OIE testing standards. Canada does not perform, and the OTM Rule would not require, sufficient testing of Canadian cattle to meet even minimal OIE testing standards. As a minimum, the OIE testing standards require a country like Canada to test 187,000 consecutive targeted cattle (with a BSE risk equal to that in the "Casualty slaughter, age between 4 and 7 years" subpopulation in Table 2), and be found BSE-free to be confident that the BSE prevalence is not more than 1 in 100,000.²³ However, Canada has tested only 143,528 total cattle during the combined years of 2004, 2005, 2006, and including up through February 12, 2007, with 8 positive BSE cases detected during this period.²⁴ While this empirical evidence shows that Canada's BSE prevalence is much greater than 1 in 100,000, Canada must increase its BSE testing significantly before any accurate estimation of the true magnitude of Canada's BSE problem can be made either by the U.S. or by international beef importers. Until this is done, the U.S. should not consider any relaxation of current BSE import restrictions, and the proposed OTM Rule should be withdrawn.

²¹ See *Terrestrial Animal Health Code – 2006, OIE*, at Article 2.3.13.8.

²² See *Id.* at Article 2.3.13.7.

²³ See *Surveillance for Bovine Spongiform Encephalopathy*, *Terrestrial Animal Health Code – OIE – 2006*, Appendix 3.8.4.1, Tables 1 and 2.

²⁴ See BSE Enhanced Surveillance Program, Canadian Food Inspection Agency, available at <http://www.inspection.gc.ca/english/anima/heasan/disemala/bseesb/surv/surve.shtml#num>.

Standing in stark contrast to Canada, the U.S. has tested approximately 800,000 cattle since June 1, 2004, and has detected only two *atypical* cases of BSE, both in cattle over 10 years of age.²⁵ Given the distinct difference between the BSE risk profile of Canada, when compared to the United States, the effect of *existing* BSE policies, which would be further aggravated by the OTM Rule, is to unjustly burden the U.S. cattle industry with the stigma of Canada's more serious BSE problem.

It is counterintuitive to expect that the OTM Rule that violates the OIE's SRM standards, that does not comply with the OIE's feed ban standards, and that is inconsistent with the OIE's BSE testing standards would help to restore consumer confidence in Canadian beef sold directly from Canada or Canadian beef sold from the United States. Because the proposed OTM Rule would be inconsistent with the OIE's SRM standards, feed ban standards, and testing standards, the proposed OTM Rule would only worsen the unfavorable situation that already exists and should be immediately withdrawn.

C. As reflected by the OTM Rule, the U.S. does not have a coherent, comprehensive strategy for resuming beef exports, building new markets, fully protecting animal health, and supporting consumer confidence in the safety of U.S. beef.

R-CALF USA recommends that Congress issue a formal directive to the USDA to ensure that the U.S. develops an aggressive, coherent, and comprehensive BSE strategy for resuming beef exports, building new markets, fully protecting animal health, and supporting consumer confidence in the safety of U.S. beef. The Animal Health Protection Act empowers the Secretary of Agriculture to take action to prevent "the introduction into or dissemination within the United States" of animal diseases from other countries. Until recently, USDA policy had recognized

²⁵ BSE Testing Results, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, September 1, 2006, available at http://www.aphis.usda.gov/lpa/issues/bse_testing/test_results.html; See also BSE Ongoing Surveillance Program, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, available at http://www.aphis.usda.gov/newsroom/hot_issues/bse/surveillance/ongoing_surv_results.shtml.

that: "Preventing the introduction of BSE into the United States is critical."²⁶ But USDA has now abandoned the congressional mandate to prevent the introduction of a devastating disease, BSE, and proposes to rely only on measures to mitigate the dissemination of the disease once it has entered the United States. R-CALF USA believes that Congress must now intervene to ensure this important congressional mandate is followed and offers the following 7 principles for Congress' consideration:

- 1. The U.S. should not give additional access to the U.S. market to imports from countries known to have BSE until the U.S. fully regains the share of the global export market it has lost since 2003. Before opening the border further to Canada or other BSE-affected countries, the U.S. must get assurances from other countries that export markets will not be lost if additional BSE cases are found in Canada or if the U.S. finds a Canadian case here.**

Allowing OTM Canadian cattle and beef into the U.S. will further harm the United States' ability to fully restore lost export markets. After three years of allowing Canada – a country where BSE is known to have circulated years after implementation of a feed ban – to have access to the U.S. market, the U.S. share of the global beef market has fallen from 18 percent in 2003 to an estimated 7 percent in 2006.²⁷ The export markets that have reopened have imposed stricter conditions on U.S. beef exports than what the U.S. requires on Canadian imports, and several export markets continue to ban U.S. exports that contain beef from Canadian cattle.

- 2. The U.S. should not further relax its already lenient import standards until it can be scientifically documented that BSE is no longer circulating in Canadian feed or in OTM Canadian cattle and there is international acceptance for such a conclusion.**

²⁶ See, e.g., Federal Register, Vol. 62, December 16, 1997, at 65,747, 65748.

²⁷ *Livestock and Poultry: World Markets and Trade*, U.S. Department of Agriculture, Foreign Agricultural Service, Circular Series, DL&P 2-06, October 2006, available at <http://www.fas.usda.gov/dlp/circular/2006/2006%20Annual/Livestock&Poultry.pdf>

The full magnitude of Canada's BSE epidemic is still unfolding, but it is already much greater than what USDA has asserted and assumed. BSE has now been detected in 10 Canadian-born cattle. If media reports that indicate the latest case was born in 2000 are correct, then half of Canada's known cases were born after Canada implemented its feed ban. This evidence demonstrates that Canada's feed ban was not effective in preventing the spread of BSE in either its feed system or cattle herd.

3. The U.S. should not allow the importation of OTM cattle or beef, which are known to be of higher risk for transmitting BSE, particularly now that the disease is known to have been circulating in animals born years after the Canadian feed ban.

Cattle over 30 months of age that originate in a BSE-affected country have an inherently higher risk for transmitting BSE. As recently as January 2005, the USDA stated that the two most important factors in determining risk were the age of the cattle and the effect of the feed ban. Now that the feed ban is known to be ineffective, the 30-month age limit remains as the most important factor in minimizing the risk of introducing BSE into the U.S. from Canada.

4. The U.S. should not allow imports of OTM cattle or beef from Canada until both the U.S. and Canada have significantly strengthened their respective feed bans and sufficient time has lapsed to ascertain the effectiveness of any feed ban improvements. Given the known breeches in Canada's feed ban, Canada must significantly ramp-up its BSE testing so that the effectiveness of its feed ban can be more accurately monitored.

As previously recognized by the Food and Drug Administration, and as recognized by international BSE experts, current BSE mitigation measures are inadequate to address the increased risk associated with OTM cattle and beef from Canada. The Food and Drug Administration, the Canadian Food Inspection Service, and international BSE experts all have acknowledged the need to strengthen the feed bans implemented in both the U.S. and Canada to

prevent the spread of BSE. However, neither country has yet implemented improvements to their respective feed bans.

- 5. The U.S. should not allow OTM Canadian cattle or beef into the U.S. until it additionally obtains firm assurances from all U.S. beef export markets and the OIE that the United States' BSE risk profile would not be downgraded to Canada's level if Canadian OTM cattle and beef are allowed into the U.S. market and available for export.**

Allowing OTM Canadian cattle and beef into the United States will immediately harm the United States' international disease risk profile. The United States has a more favorable BSE risk profile than Canada. Canada cannot possibly meet the OIE standard for a country with a negligible BSE risk, which requires that the youngest BSE case must be born more than 11 years ago.²⁸ However, because the U.S. has only detected BSE in two native animals, both born well before the feed ban and the youngest of which was estimated to be 10 years of age on February 28, 2006, the U.S. will likely meet the international standard to be considered a negligible BSE risk country if it does not mix Canadian cattle and beef with U.S. cattle and beef.

- 6. The U.S. should not allow OTM Canadian cattle or beef into the U.S. until the U.S. additionally implements country-of-origin labeling to mitigate the financial harm that will inevitably befall U.S. cattle producers and that will likely be more severe than what USDA will predict.**

The financial losses to U.S. cattle producers will likely be severe if the United States allows OTM Canadian cattle and beef into the U.S. market while most export markets remain closed. The USDA grossly underestimated the negative financial impact that actually occurred to U.S. cattle producers following the 2005 resumption of Canadian cattle imports. The USDA underestimated the price decline that U.S. producers experienced in the domestic fed cattle market by a factor of nearly three. Domestic fed cattle prices, which USDA predicted would fall

²⁸ Terrestrial Animal Health Code – 2006, OIE, Article 2.3.13.3. (3)(b).

by as much as \$6.05 per cwt.,²⁹ actually fell by \$17.40 per cwt. during the 5-month period from December 2005 through May 2006. Mandatory country-of-origin labeling must be implemented in the United States so both domestic and international consumers can differentiate beef produced exclusively from U.S. cattle from beef produced from Canadian cattle, before any further relaxation of current U.S. import standards is even considered.

7. The U.S. should not relax its standards on imports from Canada without an evaluation of the health and safety risks and economic impact of OTM beef and without evaluations that combine OTM cattle and beef imports.

The risks from OTM beef imports were not properly evaluated in either the 2003 or 2004 risk analyses, and the 2005 delay on OTM beef imports posted in the Federal Register does not include a risk analysis based on the new findings of multiple cattle with BSE born after Canada's ban on meat and bone meal. Also, there is concern that the risk analysis of OTM beef and OTM cattle, when combined, will be much higher than separate analyses. That would also be the case if OTM beef and cattle are combined in an economic impact analysis.

Conclusion

For the reasons described above, the USDA's proposed OTM Rule is premature and should be immediately withdrawn. It is inconsistent with the applied practices in other BSE-affected countries; it is inconsistent with OIE standards; and it does not contribute to any cohesive, comprehensive U.S. strategy to restore lost markets, build new markets, fully protect animal health, and support consumer confidence in the safety of U.S. beef.

R-CALF USA respectfully requests that Congress take steps to cause the immediate withdrawal of the OTM Rule as well as steps to ensure the immediate development of a

²⁹ Economic Analysis Final Rule, Bovine Spongiform Encephalopathy: Minimal Risk Regions and Importation of Commodities, U.S. Department of Agriculture, Animal and Plant Health Inspection Services, December 20, 2004, at 24.

comprehensive BSE protection strategy and enforcement of the congressional mandate to prevent the introduction of BSE into the United States.

I sincerely appreciate this opportunity to share R-CALF USA's views with you on this important issue and I would be happy to answer any questions that you may have.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Leo R. McDonnell, Jr.", written in a cursive style.

Leo R. McDonnell, Jr.

R-CALF USA Founder and Past President