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Docket No. APHIS—2005—0096
Regulatory Analysis and Development, PPD
APHIS
Station 3A-03.8
4700 River Road Unit 118
Riverdale, MD 20737-1238

Via Electronic Portal at: <http://www.regulations.gov>

Re: Comments of R-CALF USA on Proposed Change in Disease Status of Patagonia South Region of Argentina, Docket No. APHIS—2005—0096

The Ranchers-Cattlemen Action Legal Fund – United Stockgrowers of America (R-CALF USA) appreciates this opportunity to submit its views regarding the proposed change in the disease status of the Patagonia South region of Argentina with regard to rinderpest and foot-and-mouth disease. These comments are submitted in response to the Department’s request for comment on the proposed rule published at 72 Fed. Reg. 475 (Jan. 5, 2007). R-CALF USA is a non-profit cattle-producer association that represents over 15,000 U.S. cattle producers in 47 states across the nation. R-CALF USA’s mission is to represent the U.S. cattle industry in trade and marketing issues to ensure the continued profitability and viability of independent U.S. cattle producers. R-CALF USA’s membership consists primarily of cow-calf operators, cattle backgrounders, and feedlot owners. Various main street businesses are associate members of R-CALF USA.

R-CALF USA is deeply concerned that the proposed rule could increase the risk of introduction of foot-and-mouth disease (“FMD”) to the U.S. cattle herd. This proposed rule would set an important precedent by applying U.S. import standards for FMD-free zones to a sub-national region within a country for the first time.¹ If the Patagonia South rule is finalized, it could pave the way for recognizing other sub-national zones that have been recognized by the World Organization for Animal Health (“OIE”) as FMD-free without vaccination, including regions with significant cattle and beef production in Colombia and Peru.² Recognition of the Patagonia South region as FMD-free would be a test case for the efficacy of current U.S. import

¹ The list of regions currently recognized by APHIS as FMD-free includes only nations and territories – no sub-regions within national boundaries are included. See 9 C.F.R. § 94.1(a)(2).

² See OIE list of FMD-free zones without vaccination, available on-line at http://www.oie.int/eng/info/en_fmd.htm?e1d6.

safeguards as applied to a zone within a country that is separated from zones that do not enjoy the same disease status only by sub-national boundaries and not by national borders.

Given the extremely high potential costs of the introduction of FMD to the United States and the fact that U.S. import safeguards for FMD have not been tested with respect to a sub-region within a country, R-CALF USA is concerned that the recognition of any sub-national region as FMD-free poses unacceptable risks to the U.S. cattle herd and U.S. ranchers. In this case, it is also clear that a more current and comprehensive analysis of the risks posed by imports from the Patagonia South in particular is required before the proposal to recognize the region as FMD-free can be assessed adequately. The risk analysis upon which the proposed rule is based was completed in June of 2005, eight months before the most recent outbreak of FMD in Argentina, which occurred north of the Patagonia South region in February of 2006.³ R-CALF USA believes that this outdated risk analysis cannot provide an adequate basis for assessing the full scope of the risks posed by importing meat from Patagonia South. In addition, R-CALF USA is concerned that the risk analysis fails to examine in detail the differences between the eligibility criteria that apply to FMD-free countries and FMD-free zones under OIE rules.

For all of these reasons, R-CALF USA respectfully requests that the Department withdraw the proposed rule.

I. The Potential Costs of the Proposed Rule Are Substantial

As the risk analysis performed regarding the proposed rule states, “The consequences of an FMD outbreak in the U.S. would be extremely high.”⁴ FMD is one of the most contagious animal diseases, and it can spread from one susceptible species to another through a broad variety of vectors.⁵ Thus, even if little or no beef were to be exported from Patagonia South under the proposed rule, the import of any FMD-contaminated meat from the region could result in transmission through feed or other means to the U.S. cattle herd. The disease causes high mortality rates in young animals and significant losses in the production capacity of older animals.⁶ Thus, the introduction of FMD to the United States through meat imports could result in a rapid and devastating outbreak in the domestic herd.

The risk analysis estimates that the economic costs of an FMD outbreak in the United States could range from \$40 billion to \$47 billion over a fifteen-year period, depending on the methods of control and eradication adopted in response.⁷ A large portion of these costs are

³ USDA, *Risk Analysis: Risk of Exporting Foot-and-Mouth Disease (FMD) in FMD-Susceptible Species from Argentina, South of the 42° Parallel (Patagonia South), to the United States*, Veterinary Services, National Center for Import and Export, Regionalization Evaluation Services (June 2005) (hereinafter “*USDA Risk Analysis*”). See also OIE list of zones with suspended FMD-free with vaccination status, available on-line at http://www.oie.int/eng/info/en_fmd.htm?e1d6.

⁴ *USDA Risk Analysis* at 75.

⁵ See OIE Disease Card for Foot and Mouth Disease, available on-line at http://www.oie.int/eng/maladies/fiches/a_A010.htm.

⁶ See *Id.*; *USDA Risk Analysis* at 72.

⁷ These figures are in 2007 dollars, adjusted using the Consumer Price Index from the 1976 dollars included in the original study. It is worth noting that the risk assessment only adjusts the figures to 2001 dollars, resulting in lower estimated losses of \$34 billion to \$40 billion. *USDA Risk Analysis* at 74. CPI inflator available from the Bureau of Labor Statistics at <http://data.bls.gov/cgi-bin/cpicalc.pl>.

expected to result from the loss of important export markets for cattle and beef producers as well as swine and pork producers.⁸ The risk analysis cites a 2002 study that found that an FMD outbreak in the U.S. would slash gross revenue in the cattle and beef sectors by 17 and 20 percent, respectively.⁹ These very high costs would severely harm domestic cattle producers, who would face disappearing markets, depressed prices, the loss of animals to disease, and the costs of substantial control and eradication measures related to FMD.

In addition to the loss of export markets that would result from the introduction of FMD to the United States, the Department should also take into account the possibility that trading partners may refuse to accept imports of U.S. meat products simply because of the increased risk associated with opening to imports from Argentina, even if the disease is not found in the U.S. For example, when FMD was discovered in the northern region of Argentina in February of 2006 and that sub-region lost its OIE-recognized status, many trading partners stopped importing all beef from Argentina, not just beef from the northern region that was affected.¹⁰ The U.S. is now proposing to start importing from Patagonia South before the northern region has regained its own status as FMD-free with vaccination.¹¹

Argentina is currently applying for reinstatement of the FMD-free status of its northern region, and U.S. agreement to import from the Patagonia South before that process is completed may put the U.S. at odds with its trading partners. This would only further complicate efforts to open key foreign markets to U.S. beef exports. In fact, even before the most recent outbreak, a number of important U.S. trading partners either imported no beef from Argentina or only imported boneless beef. For example, Japan imported no beef from Argentina in 2005, and Korea only imported 84 MT of boneless beef.¹² Given that the U.S. already runs a multi-billion dollar trade deficit in cattle and beef due to the closure of foreign markets after the discovery of a Canadian animal with bovine spongiform encephalopathy in the state of Washington in 2003, U.S. cattle producers cannot afford to pursue further unilateral market opening that will give our trading partners yet one more excuse to refuse exports of U.S. beef. It is therefore essential that the U.S. evaluate the impact that liberalizing trade with the Patagonia South region may have on our own ability to export cattle and beef before pursuing the proposed policy.

II. The Risks of Importing Meat from Patagonia South Merit Further Analysis

Given the enormous potential costs of an FMD outbreak in the U.S., it is essential that any change in import regulations that may increase the risks of FMD introduction be analyzed thoroughly and carefully, based on the most current information available. Unfortunately, the risk analysis which forms the basis for the proposed rule allowing imports from Patagonia South

⁸ *USDA Risk Analysis* at 75.

⁹ *Id.*

¹⁰ Marcela Valente, "Beef Exporters' Optimism Dashed by FMD Outbreak," *Interpress Service* (Feb. 10, 2006), available on-line at <http://www.ipsnews.net/news.asp?idnews=32124>.

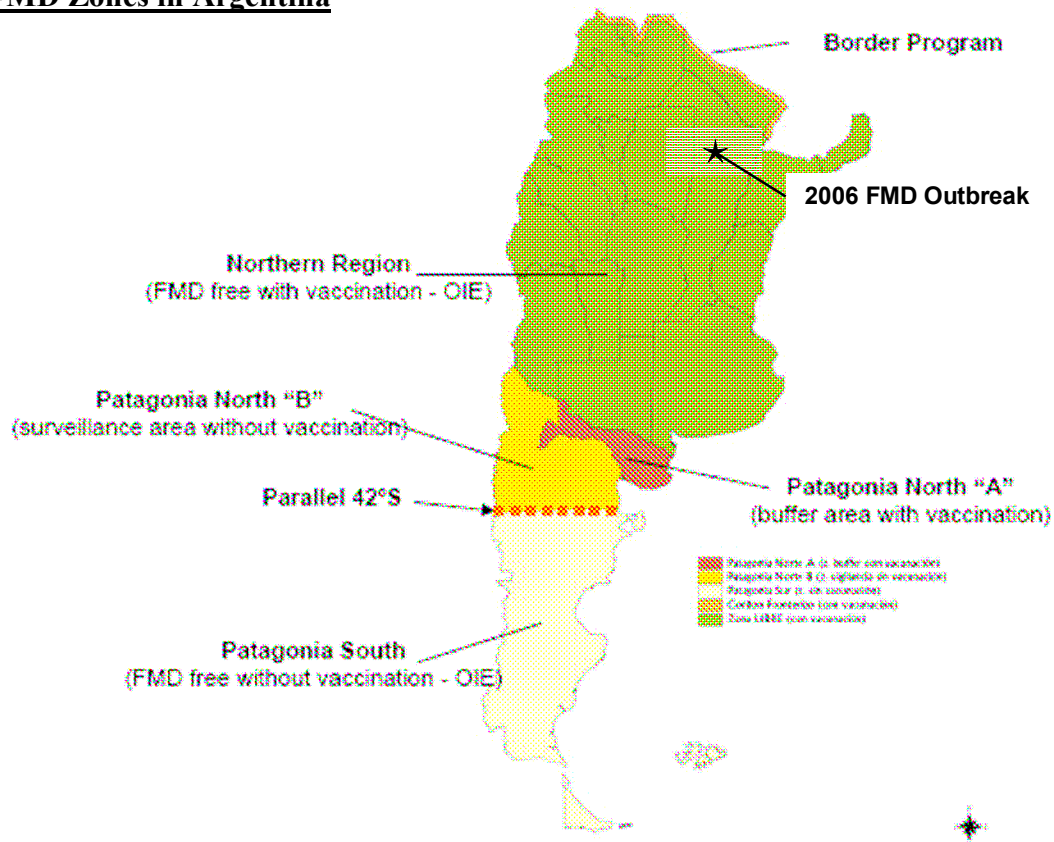
¹¹ See OIE list of zones with suspended FMD-free with vaccination status, available on-line at http://www.oie.int/eng/info/en_fmd.htm?e1d6. See also Government of Argentina, Application for Restitution of FMD-Free with Vaccination Zone Status, available in Spanish on-line at <http://www.senasa.gov.ar/contenido.php?to=n&in=1&io=5030> (hereinafter "Argentina Application").

¹² FAOSTAT, TradeSTAT Database, available on-line at <http://faostat.fao.org>.

cannot perform this function, since it is a year-and-a-half old and predates the most recent outbreak of FMD in Argentina.

Argentina is divided into two different FMD zones, with two intermediate areas in between these zones. The northern region was considered FMD-free with vaccination by the OIE until February of 2006, when the region experienced the first FMD outbreak in Argentina since 2003.¹³ The region south of the 42° parallel (Patagonia South) is recognized as FMD-free without vaccination by the OIE. In between these two regions are two intermediate areas – Patagonia North A, a buffer area with vaccination, and Patagonia North B, an area of surveillance without vaccination.

FMD Zones in Argentina¹⁴



The 2005 risk analysis included an assessment of the adjacent regions to Patagonia South and the control of animal movement and meat imports across national borders and sub-national boundaries in Argentina. Examination of these risk factors is a required element of any risk assessment related to FMD under U.S. regulations.¹⁵ The FMD outbreak in 2006 calls into

¹³ See OIE list of zones with suspended FMD-free with vaccination status, available on-line at http://www.oie.int/eng/info/en_fmd.htm?e1d6. See also FAO, Global Livestock Production and Health Atlas, available on-line at <http://www.fao.org/ag/aga/glypha/index.jsp>.

¹⁴ Excerpted from the *USDA Risk Analysis* at 7.

¹⁵ See 9 C.F.R. § 92.2. See also *USDA Risk Analysis* at 9.

question some conclusions reached by the Department in analyzing these required risk factors. For example, the risk analysis states that:

Most of the Argentine border is adequately protected by effective natural barriers to reduce the unrestricted flow of animals and animal products from areas of higher risk. In those areas where natural barriers do not exist, government control measures compensate.¹⁶

In addition, the risk analysis concludes that Argentina's control of legal commercial imports is "adequate" and that it has the legal framework, border coverage and staffing to monitor the influx of animals and products from higher risk regions.¹⁷ This conclusion was reached despite the fact that it was "not possible to estimate the amount and frequency of unauthorized crossings."¹⁸

This conclusion that Argentina's border controls are "adequate" should be re-evaluated in light of the most recent FMD outbreak. The outbreak occurred in the province of Corrientes, in an establishment located 25 kilometers from the Paraguayan border.¹⁹ The Argentine government concluded that, while it could not come to a definitive conclusion regarding the origin of the FMD virus, "entry from abroad appears to be the most probable cause."²⁰ The fact that control of an external national border may not have been sufficient to prevent the most recent outbreak must be taken into account when evaluating the risk that domestic controls of internal borders may also be insufficient to prevent to introduction of FMD to the Patagonia South region.

III. The Proposed Web of Safeguards for Meat Imported from Patagonia South Appears Weaker than that for Imports from FMD-Free Countries

The proposed rule would subject meat imported from Patagonia South to the same U.S. regulatory safeguards that apply to meat imported from those FMD-free countries that either import meat or livestock from non-FMD-free regions or have a common land border with such regions.²¹ These safeguards are designed to avoid the commingling of meat from animals from outside the FMD-free region with meat derived from animals from inside the FMD-free region.²²

These safeguards do not appear to account for the fact that there is a significant difference between the OIE criteria that apply to countries and the OIE criteria that apply to zones (sub-national regions) in order to qualify for designation as FMD-free without vaccination. In order to qualify under OIE rules as an FMD-free country where vaccination is not practiced, a

¹⁶ *USDA Risk Analysis* at 30.

¹⁷ *Id.* at 44.

¹⁸ *Id.* at 35.

¹⁹ *See* Argentina Application at 3.

²⁰ *See Id.* at 7 ("... *el ingreso desde el exterior parece ser la causa más probable.*").

²¹ *See* 9. C.F.R. § 94.11.

²² *See Id.* The rule requires a veterinary certificate to the effect that: 1) the slaughtering establishment is currently prohibited from receiving animals or meat from non-FMD-free regions; 2) the exported meat is derived from animals born and raised in an FMD-free region; and 3) the exported meat is stored and transported in a manner that precludes commingling.

country must demonstrate, among other things, that it has not imported any animals vaccinated against FMD since vaccination ceased within the country (*i.e.*, for at least 12 months).²³ A sub-national zone, however, may qualify as FMD-free without vaccination under OIE rules even if it allows the entry of vaccinated animals, as long as the vaccinated animals are imported directly for slaughter under a series of conditions.²⁴

Thus, OIE rules themselves provide an additional level of protection in the case of FMD-free countries that does not apply to FMD-free zones. U.S. rules are designed to ensure that there is no concurrent slaughter of animals from inside and outside FMD-free zones in plants that produce for export to the U.S. OIE rules for FMD-free countries add another layer of protection by ensuring that no vaccinated animals have been imported into the country for at least 12 months and are not imported as long as the country maintains its FMD-free status. But this layer of protection does not exist in the case of FMD-free zones, where OIE rules do permit the importation of vaccinated animals in limited circumstances. Though facilities slaughtering such animals are not allowed to engage in export under OIE rules, there does not appear to be a specific safeguard in place to ensure that a facility which has slaughtered animals from outside the zone in the past will not later become eligible to ship to the U.S. as long as there is no concurrent slaughter. This is of vital concern, given the highly contagious nature of the disease and its resiliency.²⁵ In addition, the entry of animals from outside the FMD-free region, even under tight controls, may in and of itself increase the risk of exposure and transmission. The risk analysis did not examine this difference between OIE standards for countries and for zones, and thus the extent to which this difference may increase risks in Patagonia South is not known.

IV. The Proposed Rule Should Be Withdrawn

R-CALF USA respectfully requests that the Department withdraw the proposed rule on meat imports from Patagonia South. First, the introduction of FMD to the United States would impose enormous costs totaling tens of billions of dollars on the U.S. livestock and meat industry, and thus any change to import standards relating to FMD must be undertaken with the greatest caution. Second, even if FMD is not introduced into the U.S. as a result of recognizing sub-national regions, the practice may create conflicts with trading partners and impede U.S. exports of livestock and meat products. Third, the risk assessment upon which the proposed rule is based is outdated and fails to take into account the fact that Argentina had its first outbreak of FMD since 2003 in February of 2006. The outbreak occurred only 25 kilometers from the Paraguayan border, and the Argentine government believes the most likely cause of the outbreak was the introduction of the FMD virus from abroad. Fourth, U.S. import safeguards for FMD have not been tested with respect to a sub-national zone within a country, and the proposed safeguards fail to account for the fact that OIE eligibility criteria for FMD-free zones are more lax than the criteria for FMD-free countries. The proposed regulatory safeguards do not appear to compensate for this discrepancy.

²³ See OIE, *Terrestrial Animal Health Code*, Art. 2.2.10.2(3). Available on-line at http://www.oie.int/eng/normes/en_mcode.htm?eld10.

²⁴ See *Id.* at Arts. 2.2.10. 4(2)(d); 2.2.10.8.

²⁵ For example, the FMD virus can survive for 15 weeks in feed and up to 103 days in wastewater, and it can be transmitted through contact with human clothing, rodents, tools, and transport vehicles. See *USDA Risk Analysis* at 81 – 82.

R-CALF USA is concerned that the recognition of sub-national regions as FMD-free poses unacceptable risks to the U.S. cattle herd and U.S. ranchers. In this case, given the recent FMD outbreak in the country, the failure of the risk analysis to take this outbreak into account, and the lack of compensating safeguards in proposed regulations to account for the differences in OIE rules regarding FMD-free zones, R-CALF urges that the proposed rule be withdrawn.

Thank you for your consideration of this important matter.

Sincerely,

A handwritten signature in black ink that reads "R. M. Thornsberry DVM". The signature is written in a cursive style with a large, stylized "R" and "M".

R. Max Thornsberry, DVM
President