



Fighting for the U.S. Cattle Producer!

R-CALF United Stockgrowers of America
P.O. Box 30715
Billings, MT 59107
Fax: 406-252-3176
Phone: 406-252-2516
Website: www.r-calfusa.com
E-mail: r-calfusa@r-calfusa.com

Fact Sheet on USDA's Over-30-Month (OTM) Rule November 20, 2008

On July 3, 2008, the court in *R-CALF USA et al. v. USDA* ordered USDA to redo its rule that allows imports of over-30-month (OTM) beef from Canada; to consider public comments; and to revise, as the agency deems necessary, the first OTM Rule, originally implemented Nov. 19, 2007 (OTM Rule I), which allows the importation of OTM beef from cattle of any age and OTM cattle born after March 1, 1999, from Canada. USDA's new rulemaking – OTM Rule II – began Sept. 18, 2008, and the public comment period closed on Nov. 17, 2008.

The court ordered this new rulemaking on the grounds that USDA did not evaluate the health risks to humans from consuming OTM Canadian beef, particularly beef from OTM Canadian cattle not subject to an effective feed ban. USDA's OTM Rule II provided no new information regarding the health risks of OTM cattle, but, instead, essentially restated the same arguments the agency previously presented to the court prior to the court's decision.

R-CALF USA and others submitted comprehensive comments to USDA on OTM Rule II. Included in those comments are letters submitted by Food & Water Watch from 4,293 individual consumers requesting that the U.S. prohibit the importation of OTM cattle and OTM beef from Canada.

In its 27-page comment, R-CALF USA raised the following major concerns regarding OTM Rules I and II (collectively, "OTM Rules"):

- Because USDA predicts the U.S. will import between 19 and 105 BSE-infected cattle from Canada, resulting in the infection of between 2 to 75 U.S.-born cattle over the next 20 years, the OTM Rules violate Congress' mandate contained in the Animal Health Protection Act to *prevent the introduction and dissemination* of BSE and other foreign animal diseases.
- USDA *did not* conduct an analysis of the risk to humans from consuming OTM beef derived from Canadian cattle born before Canada implemented an effective feed ban.
- USDA admits that the risk of BSE infection is greater in cattle that were not subject to an effective feed ban, yet the agency allows imports of Canadian beef from cattle that were not subject to an effective feed ban.
- Evidence now shows that the highest number of reported BSE cases in Canada occurred *after* 1999, the year that USDA *claims* the Canadian feed ban became effective. Of the 16 cases of BSE detected in native Canadian cattle, more than half (9) the cases were born after 1999,

and these 9 cases of BSE-infected cattle could easily have been exported to the U.S. prior to exhibiting clinical symptoms under OTM Rule I, (implemented Nov. 19, 2007).

- USDA inappropriately applied the results of updated U.S. risk studies, that incorporate U.S.-specific risks, to Canada's circumstances despite the fact that Canada's risk profile is much higher. The Centers for Disease Control and Prevention (CDC) estimated that Canada's BSE prevalence is 18-fold to 48-fold higher than in the United States. As a result, USDA effectively hides the fact that the removal of SRMs (specified risk materials) is less effective on Canadian cattle than on U.S. cattle.
- USDA has not assessed the risk of known and significant non-compliance with BSE mitigation measures in either the U.S. or Canada. For example, a 2008 OIG (Office of Inspector General) report revealed that USDA's "import controls are not sufficient to prevent, detect, or address the entry of animals that do not meet import requirements." The OIG further found that violations "were not isolated occurrences." This is significant because USDA's reliance on the effectiveness of SRM removal to protect human health depends on perfect compliance.
- USDA improperly dismisses the discoveries of BSE in peripheral cattle nerves and recommends no mitigation measures for OTM Canadian cattle because it believes the tests that identified infectivity in these tissues were too sensitive. However, the World Health Organization (WHO) cautions it is unknown whether tissues that contain small amounts of infectivity would transmit infections to humans.
- USDA refuses to acknowledge that the United States' most important export markets (Japan, Korea, and Mexico) require far stricter mitigations for U.S. and Canadian cattle and beef than the overly lax measures the U.S. imposes on Canadian cattle and beef. This inconsistency has, and continues to, cost the U.S. cattle industry billions of dollars each year.

The foregoing demonstrates that USDA is irresponsibly and, we believe, unlawfully exposing the United States to a very likely and very dangerous risk of introducing BSE, a risk that will likely cause BSE-infection in either or both U.S. cattle and U.S. consumers.

R-CALF USA respectfully implores the new Congress and the new Administration to take immediate action to fully rescind USDA's OTM Rule.