



National Milk Producers Federation

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March 12, 2007

Docket No. APHIS 2006-0041
Regulatory Analysis and Development
PPD, APHIS, Station 3A-03.8
4700 River Road Unit 118
Riverdale, MD 20737-1238

**RE: Docket No. APHIS 2006-0041 Bovine Spongiform Encephalopathy;
Minimal-Risk Regions; Importation of Live Bovines and Products Derived From
Bovines; Proposed Rule**

To Whom It May Concern:

The National Milk Producers Federation (NMPF) is submitting the following comments to the United States Department of Agriculture's (USDA) Proposed Rule entitled Bovine Spongiform Encephalopathy; Minimal-Risk Regions; Importation of Live Bovines and Products Derived From Bovines; Docket Number APHIS 2006-0041. The National Milk Producers Federation, based in Arlington, VA, develops and carries out policies that advance the well being of dairy producers and the cooperatives they own. The members of NMPF's 32 cooperatives produce the majority of the U.S. milk supply, making NMPF the voice of nearly 50,000 dairy producers on Capitol Hill and with government agencies.

NMPF is greatly concerned that if the rule as currently proposed is promulgated, it will permit bred dairy heifers from Canada under 30 months of age and replacement dairy breeding animals over 30 months of age, born after March 1, 1999, to enter the U.S. without being required to go directly to slaughter. USDA estimates 46,800 head of dairy replacements will be imported to the U.S. annually from Canada once replacements are permitted.¹ Canadian cattle imported for breeding or herd replacement purposes may not show clinical symptoms of BSE infection for many years, allowing BSE to incubate in U.S. cattle herds. Once confirmed positive for BSE, export markets for U.S. producers will be lost and domestic demand undercut. The significant economic impact of importing a BSE positive animal from Canada

¹ Preliminary Regulatory Impact Analysis and Initial Regulatory Flexibility Analysis. USDA-APHIS October 27, 2006.

Jerry Kozak, President/Chief Executive Officer

Charles Beckendorf, Chairman

www.nmpf.org

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Upstate Niagara Cooperative, Inc.
Zia Milk Producers

will be borne by U.S. producers. In fact, U.S. producers are still suffering lingering economic impacts from the confirmed Canadian-born BSE case in Washington State.²

The National Milk Producers Federation opposes the importation of cattle from Canada for breeding or herd replacement purposes. The National Milk Producers Federation does not oppose importation of cattle from Canada that are required to go directly to slaughter. USDA should proceed with the portion of the proposed rule which addresses products and animals going directly to slaughter, but should not allow importation of live animals from Canada that could reside in the U.S. cattle population.

NMPF's opposition to the importation of cattle from Canada for breeding or herd replacement purposes at this time is supported by (1) the apparent ineffectiveness of the Canadian feed ban implementation, (2) the prevalence of BSE in Canada and the fact that Canada continues to identify BSE positive animals, thus making it a region in which BSE is known to exist, (3) the implications of importing BSE infected animals from Canada, (4) the difficulties with identifying and tracing Canadian cattle once imported into the U.S., and (5) USDA's incomplete economic analysis.

CANADIAN FEED BAN IMPLEMENTATION

On August 4, 1997, Canada issued regulations prohibiting the use of mammalian protein in ruminant feeds. Feed manufacturers were given a grace period until September 3, 1997 to use or distribute feed already produced and livestock producers were given until October 3, 1997 to use feed manufactured and purchased before the feed ban. However feed tracing associated with an investigation into one of the Canadian BSE cases indicated that banned feed may have been available for at least several months beyond implementation of the feed ban.³

According to the World Organization for Animal Health (OIE) Terrestrial Animal Health Code⁴ among the requirements for a country to be a Negligible BSE Risk region, every indigenous BSE case must be born more than 11 years ago. Because the most recent (by birth date) indigenous BSE case confirmed in Canada was born on April 22, 2002, Canada does not qualify as an OIE recognized Negligible BSE Risk region. Canada may be aptly recognized as a Controlled BSE Risk region because it cannot be demonstrated that controls over the feeding of meat-and-bone meal and greaves derived from ruminants to ruminants have been in place for 8 years. In contrast, the U.S. may qualify as a Negligible BSE Risk region because of demonstrated feed controls in place for 8 years and no indigenous BSE cases from

² The first case of BSE reported in the U.S. was confirmed on December 25, 2003 in Washington State. The 6 ½ year old dairy cow was born April 9, 1997 in Alberta, Canada and imported to the U.S. The animal was born 4 months prior to the 1997 Canadian Feed Ban and according to the Canadian Feed Inspection Agency likely contracted BSE from consuming meat and bone meal prior to the feed ban.

³ USDA. 2005. U.S. Department of Agriculture's Summary of the Epidemiological Findings of North American Bovine Spongiform Encephalopathy Positive Cattle. April 29.

⁴ Chapter 2.3.13 Bovine Spongiform Encephalopathy (http://www.oie.int/eng/Normes/mcode/en_chapitre_2.3.13.htm#rubrique_encephalopathie_spongiforme_bovine) Accessed February 27, 2007.

animals born within the past 11 years. That status may be placed at risk if this proposed rule is finalized.

USDA, in the proposal, asserts that the effective implementation date of the 1997 Canadian feed ban is March 1, 1999. USDA based this decision on the amount of time that feed will cycle through the system, given the management practices in the country. This ignores the fact that effective enforcement must also occur. Canada has only recently (between 2000 and 2002) implemented inspections of feed and rendering facilities. In addition, the rules to ban all specified risk materials (SRM) from all animal feeds are not effective until July 2007. The potential for cross contamination of non-bovine feeds with bovine feed still exists and must be considered, particularly in light of the continued BSE positive cases in Canada.

Too many cases of BSE reported by Canada suggest that an effective implementation date has not yet been achieved. Six BSE positive animals identified in Canada were born after the Canadian feed ban went into effect on August 4, 1997. Four BSE positive animals identified in Canada were born after the March 1, 1999 USDA-determined date of effective enforcement of the Canadian feed ban.

- BSE case confirmed on January 11, 2005 – 7 year old Charolais beef cow born March 21, 1998⁵
- BSE case confirmed on January 22, 2006 – 6 year old Holstein-Hereford cross cow born April 15, 2000⁶
- BSE case confirmed on April 16, 2006 – 6 year old Holstein cow born April 29, 2000⁷
- BSE case confirmed on July 13, 2006 – 50 month old purebred dairy animal born April 22, 2002⁸
- BSE case confirmed on August 23, 2006 – 8 to 10 year old Charolais crossbred beef cow born between 1996 and 1998⁹
- BSE case confirmed on February 7, 2007 – 6 ½ year old mature bull born in 2000¹⁰

Of the five cases where investigations have been completed, the reported cause of BSE infectivity centered on ruminant meat and bone meal used in non-ruminant feeds cross contaminating ruminant feeds either during processing at the feed mill or during transport. An effective feed ban must ensure that such cross-contamination does not occur. Given that four animals were born after the USDA stated effective date (March

⁵ CFIA. 2006. Report on the Investigation of the fourth case of Bovine Spongiform Encephalopathy (BSE) in Alberta, Canada. (<http://www.inspection.gc.ca/english/anima/heasan/disemala/bseesb/ab2006/4investe.shtml>) Accessed February 27, 2007.

⁶ CFIA. 2006. Report on the Investigation of the fifth case of Bovine Spongiform Encephalopathy (BSE) in Canada. (<http://www.inspection.gc.ca/english/anima/heasan/disemala/bseesb/bccb2006/5investe.shtml>) Accessed February 27, 2007.

⁷ CFIA. 2006. Report on the Investigation of the sixth case of Bovine Spongiform Encephalopathy (BSE) in Canada. (<http://www.inspection.gc.ca/english/anima/heasan/disemala/bseesb/mb2006/6investe.shtml>) Accessed February 27, 2007.

⁸ CFIA. 2006. Report on the Investigation of the seventh case of Bovine Spongiform Encephalopathy (BSE) in Canada. (<http://www.inspection.gc.ca/english/anima/heasan/disemala/bseesb/ab2006/7investe.shtml>) Accessed February 27, 2007.

⁹ CFIA. 2006. Report on the Investigation of the eighth case of Bovine Spongiform Encephalopathy (BSE) in Canada. (<http://www.inspection.gc.ca/english/anima/heasan/disemala/bseesb/ab2006/8investe.shtml>) Accessed February 27, 2007.

¹⁰ CFIA. 2007. Update Case 9. (<http://www.inspection.gc.ca/english/anima/heasan/disemala/bseesb/situatione.shtml>) Accessed March 7, 2007.

1, 1999) of the Canadian feed ban, great care must be given to the analysis of these animals in the risk assessment.

However rather than thoroughly examining these cases, USDA dismisses these cases as “not unexpected, nor do we consider such diagnoses in any way to undercut our conclusions that March 1, 1999, can be considered the date of effective enforcement of the feed ban in Canada.”¹¹ USDA considers these four cases as isolated incidents that “are not epidemiologically significant and do not contribute to the further spread of BSE.”

Isolated implies a solitary or separated condition, which can not be said of the BSE cases recently confirmed in Canada. NMPF does not consider four of the last six confirmed cases (67%) born after March 1, 1999, to be isolated incidents. The cases are further linked by a trend in geographic location, with the last three cases from the Alberta province. As clinical signs of BSE do not manifest until cattle are mature combined with the recent BSE cases, it is clear that the enforcement of the 1997 Canadian feed ban does not appear to be effective in preventing the spread of BSE in Canada. In fact, the lack of effective implementation and monitoring in Canada is direct evidence of how one of the primary criteria for determining minimal risk regions is not met. Canada is clearly still a region in which BSE is known to exist. USDA has previously reopened and extended comment periods for proposed rules based on Canadian bovines that were identified as BSE positive and we suggest that these cases warrant similar actions by USDA. The basis for USDA’s decision is an effective feed ban, but these cases are direct evidence that the feed ban is not effective.

PREVALENCE OF BSE IN CANADA

Under the enhanced BSE Surveillance Program, if BSE is present at all in the U.S., it does not exceed a presence of one per 10 million in the adult cattle population (99 percent confidence).¹² In contrast, USDA estimates the prevalence of BSE in Canada at 6.8 animals per every 10 million adult cattle based on data available through August 15, 2006 (95 percent confidence); more than 7 times the BSE prevalence in the U.S.¹³ With an effective feed ban, the prevalence will progressively decline as has been observed in England; however concerns over effective implementation of the Canadian feed ban, previously discussed, suggest that the assumption of declining BSE prevalence in Canada cannot be established at this time.

USDA states “the available surveillance data (in Canada) provides limited information about the trajectory of disease incidence over time”¹⁴ meaning that the BSE prevalence rate in Canada may be increasing, decreasing, or remaining static. In one analysis USDA assumed the Canadian feed ban was “at least as effective as the first

¹¹ 72 FR 1108

¹² APHIS. 2006. An estimate of the prevalence of BSE in the United States. July 2006.

¹³ 72 FR 1108

¹⁴ USDA Veterinary Services. 2006. Assessment of the bovine spongiform encephalopathy (BSE) risks associated with the importation of certain commodities from BSE minimal risk regions (Canada). Pp. 9 in Attachment 1. Estimation of BSE Prevalence in Canada. October 27.

five years of the initial UK feed ban.”¹⁵ Although USDA’s worst-case analysis includes a static BSE prevalence in Canada, because of lingering questions of the effectiveness of Canada’s feed ban it cannot be determined at this time if the BSE prevalence in Canada is increasing, static, or declining. USDA should have examined the possibility of an increasing prevalence for a thorough analysis.

IMPORTATION OF BSE ANIMALS FROM CANADA

Over a twenty-year period, USDA estimates importing cattle from Canada would result in 21 new BSE cases in the U.S. (mean Base Case scenario)¹⁶. Ninety percent of these new cases are expected in animals directly imported from Canada already infected with BSE. In contrast, the effectiveness of BSE risk mitigation measures that have been implemented in the U.S. and strategically enforced since August 1997 would minimize any native cases arising from importation of BSE infected animals from Canada. This is contrary to the level of enforcement that has occurred in Canada with nine officially identified cases reported to date, six animals born after the August 1997 Canadian feed ban (summarized in **Canadian Feed Ban Implementation**).

USDA estimates are based on a set of assumptions that include “the presumed prevalence of BSE in Canada.” Based on sensitivity analysis, USDA concludes “that the assumed Canadian BSE prevalence rate is **by far** [emphasis added] the most important source of uncertainty”¹⁷ in estimating BSE cases. As discussed earlier, due to the unknown status of effectiveness of the Canadian feed ban, the BSE prevalence in Canada could be increasing thus USDA estimates for importation of BSE infected animals may be low. At the 95th percentile confidence for model simulations of Canadian BSE prevalence (which NMPF views as a more appropriate confidence test), 180 new BSE cases occur over twenty years.¹⁸ Again, 90 percent of these new cases are expected in animals directly imported from Canada already infected with BSE. Under Harvard model predictions at 95th percentile confidence (for Canadian BSE prevalence)¹⁹ nearly 160 BSE infected animals from Canada could be imported over the next 20 years (with an additional 20 secondary cases); almost all new cases of BSE expected in the U.S. will be from BSE infected cattle directly imported from Canada. Any U.S. born cases will be the result of importing breeding animals. In fact, Harvard model analysis approximates that 2 to 20 (95 percentile confidence) U.S. animals would be infected due to importations of infected Canadian bovines. In addition, USDA specifically states that “younger cattle are more susceptible to BSE and require less BSE-contaminated feed to become infected.” Since it is likely that these younger cattle will be the ones imported for breeding or replacement purposes, the chance of introducing BSE into the U.S. from Canada is magnified.

¹⁵ IBID.

¹⁶ Joshua T. Cohen. 2006. Harvard model of bovine spongiform encephalopathy implications of importing cattle over 30 months of age from Canada. Pp. 26. Tufts New England Medical Center. October 27.

¹⁷ IBID

¹⁸ IBID

¹⁹ IBID

USDA acknowledges in the proposed rule that “even in countries with an effective feed ban in place, BSE has occurred in cattle born after a feed ban was implemented” and that “no regulatory effort can ensure 100 percent compliance.”²⁰ If we are to assume that this applies to the U.S. regulatory system as well, then it is clear that any imported BSE-positive animal that is allowed to enter the U.S. has the potential to spread BSE if the animal is allowed to reside in the U.S. herd. This could have disastrous impacts on export markets.

USDA has the responsibility to prevent the introduction of animal diseases under the Animal Health Protection Act and should not allow animals that will reside in the U.S. that could be BSE positive. NMPF agrees that a series of mitigations are in place, but contends that these are different when it comes to animals imported for breeding purposes versus those going directly to slaughter. While 100 percent compliance cannot be ensured, avoidance can be guaranteed by not allowing animals into the U.S. in the first place.

NMPF does not support USDA’s alternative to the proposed rule which would allow for resumption of live bovine imports without restriction by date of birth. All of the reasons cited apply to all bovines imported for breeding or herd replacement purposes.

IDENTIFICATION AND TRACING OF CANADIAN CATTLE IN THE U.S.

Current regulations under 9 CFR 93.436(b) (3) require that cattle imported from a BSE minimal-risk region which do not proceed directly to slaughter must be permanently identified to allow for traceback to the animal’s premise of origin. Recently it has been reported that USDA has launched an investigation into Canadian cattle, purportedly under 30-months of age for direct slaughter, entering the U.S. without government-required health certificates or identification tags.²¹ Beyond confirming health status, health certificates are important in confirming cattle are under 30-months of age. NMPF can envision increased irregularities with animals over 30-months destined for slaughter and animals born March 1, 1999 or later imported for breeding or herd replacement purposes. Certainly, before this proposal can be finalized USDA needs to be in command of current import requirements.

Traceback functionality should be consistent with goals of the National Animal Identification System requiring 48 hours to identify cohorts that would be subject to investigation after a BSE animal is identified. Detection of a single positive BSE animal within a U.S. commercial or breeding herd subjects that entire herd (all herdmates and offspring of the positively confirmed animal) to potential quarantine, testing and further tracing to the herd or herds of origin. This rigorous follow-up regulatory action results in a great deal of adverse publicity for the entire cattle industry and greatly jeopardizes export sales and markets for beef, and potentially

²⁰ 72 FR 1108

²¹ Canadian Cattle Slip Past USDA Safeguards Critics fear problems could lead to mad cow (Chicago Tribune) By Stephen J. Hedges. February 19, 2007.

dairy products if the associated animal is a dairy cow. If this occurs within the U.S., it is highly probable, as demonstrated from previous BSE investigations in both the U.S. and Canada, that not all herdmates and offspring can be readily identified and traced. NMPF agrees that the permanent identification of imported animals is necessary to allow for initial identification of an animal's country of export. However, if imported animals are allowed to reside in the U.S. herd and reproduce, then the permanent identification does not enhance the ability to trace herdmates and offspring if the animal is later diagnosed with BSE. Difficulty with the timely traceback of an eventual imported BSE animal jeopardizes the good will and public confidence in both milk and beef.

NMPF agrees with USDA's proposal to continue the requirement to seal the means of conveyance transporting bovines from Canada for immediate slaughter. Because of the lack of testing for diseases such as tuberculosis and brucellosis, these animals should be only permitted to proceed directly to slaughter with the necessary controls to prevent the introduction of these diseases into the U.S. NMPF believes that USDA should also apply these protections with regard to the potential for these animals, if allowed to reside in the U.S. herd, to introduce or spread BSE. Because of the lack of a BSE test for live animals, the only live animals that should be permitted into the U.S. are those that proceed directly to slaughter.

ECONOMIC IMPACTS TO THE DAIRY INDUSTRY

The economic impacts of this proposed rule are many and varied including impacts on the beef industry associated with the availability of Canadian cull cattle, a complex of impacts on the beef and dairy industry associated with the availability of Canadian breeding animals, and a wide range of potential negative impacts of the discovery of U.S. cases of BSE in both Canadian- and U.S.-born cattle. As detailed in the following, NMPF believes that none of these have been adequately examined by USDA.

Modeled Impacts – USDA has modeled only the first of these in any form – the market for cull cattle for slaughter, feeder cattle, fed cattle, and fed beef – and did so in great detail. Unfortunately, this type of “welfare” analysis is invalid because it relies upon the unscientific concept of interpersonal utility comparison.

This particular analysis is further invalidated by its assumption that import numbers will be exogenous, rather than determined within the context of a dynamic North American livestock market. It overstates consumer benefits associated with the availability of cull cattle for slaughter in the U.S., because it does not adequately account for substitution among the modeled products in both the U.S. and Canada. The previous opening of the U.S. border to animals under 30 months of age for slaughter simply led to a reallocation of Canadian beef animals to maximize access to export markets. The reverse reallocation following a proposed opening to older

animals means that the rule will not produce benefits of the magnitude estimated by USDA.

Furthermore, the so-called multi-sector analysis estimates only effects associated with the cull cattle imports, not any of the impacts associated with imports of breeding animals. Finally, the positive impact on small dairy farms presented in the analysis is only associated with the cull cattle market and is presented entirely out of context of other losses associated with opening the market for breeding cattle.

Commodities Not Modeled – USDA has not modeled the economic impact of importing breeding cattle because, in effect, it is too complicated for their analysis. According to USDA, “Demand for these animals, like the demand for breeding cattle generally, would derive from management decisions based on herd composition and expected future net returns, with price variations influencing secondarily the quantity of breeding cattle purchased.”²² This effectively claims that the demand for breeding cattle is exogenous because it is too hard to model.

In fact, cattle for slaughter are simply a raw input to the meat industry; but breeding cattle are a capital investment, with more substantial economic impacts per head, and over a longer term. That the USDA analysis disregards breeding cattle as “small in comparison to projected cattle imports from Canada overall (4 percent)”²³ is disturbing in its failure to make this distinction. Furthermore, USDA should have made the effort to incorporate “expected future net returns,” as well as impacts on milk prices into an analysis of breeding cattle imports. A proper analysis would have modeled impacts on the milk market, and resulting impacts on producer incomes and the price of milk cows.

The “Preliminary Regulatory Impact Analysis and Initial Regulatory Flexibility Analysis” (“Preliminary Analysis”) indicates that dairy cattle are expected to represent some 86% of the projected breeding cattle imports from Canada. Given that breeding cattle are the animals at greatest risk of manifesting BSE, and given the very high share of breeding cattle imports that are expected to be dairy replacements, the dairy industry would appear likely to receive the great majority of the BSE cases projected in the Harvard Model study.²⁴ What this number makes clear is that dairy industry’s very substantial risk from the import of breeding cattle deserves independent consideration by USDA in the development of this rule.

The “Preliminary Regulatory Impact Analysis and Initial Regulatory Flexibility Analysis” (“Preliminary Analysis”) also indicates that dairy cattle are expected to represent “only” 1.1% of the annual U.S. dairy heifer crop.²⁵ This 1.1% is dismissed as

²² 72 FR 1120

²³ IBID

²⁴ Joshua T. Cohen. 2006. Harvard model of bovine spongiform encephalopathy implications of importing cattle over 30 months of age from Canada. Pp. 26. Tufts New England Medical Center. October 27.

²⁵ The Preliminary Analysis projects U.S. imports of 46,800 head of Canadian dairy replacements, and indicates that the U.S. replacement supply is 4.1 million per year. According to NMPF’s calculation, 46,800 is 1.1% of 4.1 million and the historical figure of 44,500 rounds to the same 1.1%. From the same numbers, the Preliminary Analysis seems to arrive at the figure of 0.8%. (pp. 38-39)

“small”, but any rudimentary analysis of the U.S. dairy and milk cow markets would demonstrate that this is anything but small. A short-term change in the milking herd of 1% can change milk prices by 10% or more. This impact deserves substantial analysis, not a curt dismissal.

Furthermore, milk cow values can be quite responsive to similar changes in supply (due largely to the “expected future net returns” resulting from associated changes in the milk price). Much of a dairy farmer’s assets are in the form of dairy cows, and a 1% increase in the available dairy replacements can substantially reduce his asset worth, as well as his future stream of revenue.

Costs of BSE – Inexplicably, the economic impact analysis assumes no cost associated with the projected importation of up to 160 BSE infected cattle head into the U.S. (95th percentile confidence)²⁶ over 20 years or the projected 2-20 U.S.-born infected cattle. The reaction of the beef markets to the first U.S. case of BSE – despite its Canadian origin – demonstrates the very substantial potential costs to the beef and dairy industries of introducing even a limited number of infected animals into the U.S. herd. The existence of 21-180 cases of BSE-infected animals could substantially undercut demand for beef, as it has done in Europe, or dairy, if the public begins to identify BSE with the older dairy breeding stock that are most at risk of manifesting the disease. This deserves analysis.

Perhaps more importantly, this analysis takes no account of the small but real risk of a catastrophic outcome: an amplification of the disease in the U.S. herd. Such risks are generally underappreciated in such analyses, but it is just such risks that have been the issue throughout the USDA’s response to the BSE issue.²⁷ The Harvard model has defined many risks that have traditionally been considered uncertainties and not modeled. They could similarly define the risk of a further, disastrous mutation of the infectious agent to the greater detriment of human or animal health, and consider the potential costs and their expected value, given a set of probabilities. USDA’s general failure to consider the impacts upon beef and dairy producers of the risks associated with BSE itself is an unconscionable shortcoming of USDA’s analysis, and demands remedy.

Without a doubt, the impact of this rule on U.S. dairy farmers will be negative. NMPF cannot attempt to generate a parallel economic analysis prior to the March 12 comment deadline, and should not have to. Executive Order 12866 reads in part, “In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider.” With this thoroughly incomplete economic impact analysis, USDA has thoroughly failed to meet its obligations under Executive Order 12866 and the Regulatory Flexibility Act.

²⁶ Joshua T. Cohen. 2006. Harvard model of bovine spongiform encephalopathy implications of importing cattle over 30 months of age from Canada. Pp. 26. Tufts New England Medical Center. October 27.

²⁷ See Richard A. Posner, *Catastrophe: Risk and Response*, Oxford University Press: Oxford, 2004.

CONCLUSIONS

The enforcement of the 1997 Canadian feed ban does not appear to be effective in preventing the spread of BSE in Canada so it cannot be ascertained at this time if the BSE prevalence in Canada is increasing, static, or declining. Because the trajectory of BSE prevalence in Canada cannot be determined, USDA should have examined the possibility of an increasing prevalence for a thorough analysis.

Even under USDA's own model predictions (which as previously stated NMPF views as incomplete), 21-180 new BSE infected animals (95th percentile confidence)²⁸ will be identified due to importation of cattle from Canada over the next 20 years. Difficulty in the timely traceback of any of these additional BSE cases caused by importing animals from Canada will jeopardize the good will and public confidence in both milk and beef.

NMPF believes USDA has failed to meet its obligations under Executive Order 12866 and the Regulatory Flexibility Act in its economic analysis of these proposed regulations. USDA has not performed required analyses on imported dairy replacement animals. The economic impact analysis also assumes no cost associated with the 21-180 new BSE infected animals in the U.S. over 20 years due, or a low probability catastrophic outcome.

For these reasons the NMPF opposes the importation of cattle from Canada for breeding or herd replacement purposes. Under the Animal Health Protection Act, the Secretary of Agriculture may prohibit the importation of any animal or article if the Secretary determines that the prohibition is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock. NMPF believes that the BSE situation in Canada is such that an animal could be imported into the U.S. and, if allowed to reside amongst the U.S. dairy herd, introduce or disseminate BSE in the U.S. This is evident by the number of cases of BSE from animals born after the USDA determined date of effective enforcement of their feed ban. It is also clearly supported in the Harvard Risk Analysis.

NMPF does not oppose importation of cattle from Canada that are required to go directly to slaughter. USDA should proceed with the portion of the proposed rule which addresses products and animals going directly to slaughter, but should not allow importation of live animals from Canada that could reside in the U.S. cattle population.

²⁸ Joshua T. Cohen. 2006. Harvard model of bovine spongiform encephalopathy implications of importing cattle over 30 months of age from Canada. Pp. 26. Tufts New England Medical Center. October 27.

Thank you for the opportunity to submit these comments. Please contact NMPF if you have any questions or require any clarification on these comments.

Sincerely,

A handwritten signature in cursive script that reads "Jerry Kozak". The signature is written in a dark ink and is positioned below the word "Sincerely,".

Jerry Kozak
President/Chief Executive Officer
National Milk Producers Federation