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January 18, 2005

The Honorable Saxby Chambliss
Chairman
The Honorable Tom Harkin
Ranking Minority Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate

The Honorable Bob Goodlatte
Chairman
The Honorable Charles W. Stenholm
Ranking Minority Member
Committee on Agriculture
House of Representatives

Subject: *Department of Agriculture, Animal and Plant Health Inspection Service:
Bovine Spongiform Encephalopathy; Minimal-Risk Regions and Importation
of Commodities*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Agriculture (USDA), Animal and Plant Health Inspection Service, entitled “Bovine Spongiform Encephalopathy; Minimal-Risk Regions and Importation of Commodities” (RIN: 0579-AB73). We received the rule on January 5, 2005. It was published in the Federal Register as a final rule on January 4, 2005. 70 Fed. Reg. 460.

The final rule amends USDA regulations regarding the importation of animals and animal products to establish a category of regions that present a minimal risk of introducing bovine spongiform encephalopathy into the United States via live ruminants and ruminant products and byproducts. The final rule adds Canada to this category.

Enclosed is our assessment of the USDA’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that USDA complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Robert Robinson, Managing Director, Natural Resources and Environment. Mr. Robinson can be reached at (202) 512-3841.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Chief, Regulatory Analysis
and Development
Department of Agriculture

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF AGRICULTURE,
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
ENTITLED
"BOVINE SPONGIFORM ENCEPHALOPATHY; MINIMAL-RISK REGIONS
AND IMPORTATION OF COMMODITIES"
(RIN: 0579-AB73)

(i) Cost-benefit analysis

The USDA performed an economic analysis of the final rule. The analysis estimates that the present value of the net benefit of the rule for cattle and beef will range—in 2005 dollars—between \$66.3 million (7-percent discount rate) and \$74.6 million (3-percent discount rate). The cost of monitoring the movement of imported feeder cattle in 2005 is estimated to be between \$4.1 million and \$5.2 million.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The USDA prepared a Final Regulatory Flexibility Analysis that complies with the requirements of the Act and discusses the impact of the rule on various sectors of the cattle industry and alternatives that were considered to reduce the impact of the rule.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule does not contain either an intergovernmental or private sector mandate, as defined in title II, of more than \$100 million in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The final rule was issued using the notice and comment procedures found at 5 U.S.C. 553. On November 4, 2003, the USDA published a Notice of Proposed Rulemaking in the Federal Register. 68 Fed. Reg. 62386. During the comment period, an infected cow was discovered in Washington State and USDA extended the comment period until April 7, 2004. A total of 3,379 comments were received and are discussed in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule does not contain any new or modified information collections that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule is promulgated under the authority of the Animal Health Protection Act of 2002 (7 U.S.C. 8301 *et seq.*)

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.