



**NATIONAL CATTLEMEN'S BEEF ASSOCIATION**

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May 7, 2004

FSIS Docket Clerk  
Room 102, Cotton Annex  
300 12<sup>th</sup> Street SW  
Washington, DC 20250

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**Re: Docket No. 03-025IF: "Prohibition of the Use of Specified Risk Materials for Human Food and Requirements for the Disposition of Non-Ambulatory Disabled Cattle"**

Dear Docket Clerk:

On behalf of the National Cattlemen's Beef Association (NCBA) I want to express our appreciation for the opportunity to comment on the Food Safety and Inspection Service (FSIS) Docket No. 03-025IF: "Prohibition of the Use of Specified Risk Materials for Human Food and Requirements for the Disposition of Non-Ambulatory Disabled Cattle." Producer-directed and consumer-focused, the National Cattlemen's Beef Association is the trade association of America's cattle farmers and ranchers, and the marketing organization for the largest segment of the nation's food and fiber industry.

NCBA has worked to lead the U.S. beef industry since 1986 on preventative and proactive "firewalls" regarding Bovine Spongiform Encephalopathy (BSE). These firewalls protect animal health and public health. The finding of BSE in an imported cow from Canada in December 2003 has proven why it is so important that these firewalls be in place. NCBA commends the U.S. Department of Agriculture (USDA) for taking further actions to ensure additional protection for the public. We understand the urgency of these measures and support them being implemented as interim final rules. However, we urge FSIS to strongly consider all comments received and even to weigh the results of the enhanced surveillance program announced on March 15, 2004 to ensure these are the appropriate measures for the true risk presented here in the U.S.

**Specified Risk Materials**

NCBA supports the listing of the following as specified risk materials (SRM) from cattle 30 months of age and older: brain, skull, eyes, trigeminal ganglia, spinal cord and vertebral column (excluding the vertebrae of the tail, the transverse processes of the thoracic and lumbar vertebrae, and the wings of the sacrum), and dorsal root ganglia. NCBA also supports the listing of the distal ileum and tonsils from all cattle as SRMs.

NCBA strongly encourages FSIS to evaluate the science, international standards from the World Organization for Animal Health (OIE), and the risk of BSE in the U.S. on an on-going basis and make any necessary changes to this policy based upon that evaluation.

FSIS needs to continue to work with the government of Canada and Mexico to harmonize our regulations regarding BSE. This effort will streamline and facilitate trade of beef and beef products in North America and also set an example for the world of the scientific process that can be implemented to safely trade beef and beef products.

### **Distal Ileum**

NCBA agrees that the distal ileum is a SRM and should be removed from all cattle. However, NCBA disagrees with the proposal to require the removal of “small intestine” from all cattle in order to ensure removal of the distal ileum. NCBA questions the FSIS decision to remove the entire “small intestine” rather than only the distal ileum which is known by scientific evidence to be a material of risk.

The BSE agent has been documented to have been found in certain lymph-reticular system tissues called the Peyer’s patches, which are concentrated in the distal ileum of the small intestine (Wells et al., 1994). Current research indicates that the infective agent is not found in other gastro-intestinal tissues other than the distal ileum (Wells et al., 1998). Specifically, research has shown that the infective agent is not present in the duodenum and the jejunum portions of the small intestine even when the agent is found in the ileum (Terry et al., 2003). Additionally, the infective agent for BSE has only been found in the distal ileum of cattle which were inoculated with the BSE infective agent. Due to the increased amount of infective agent the animals were exposed to, the agent has not been reported to have been found in animals which have succumbed to the disease naturally (Wells et al., 1998; Terry et al., 2003).

Protocols were in place to remove the distal ileum prior to December 23, 2003. Therefore, NCBA recommends that FSIS delete from the regulation the statement “to ensure effective removal of the distal ileum, the establishment shall remove the entire small intestine.” In fact, NCBA sent a letter in conjunction with the American Meat Institute, Canadian Cattlemen’s Association, and the Canadian Meat Council to USDA Secretary Veneman and Canadian Agriculture Minister Speller, urging harmonization regarding the policy and regulation of the distal ileum, urging that a protocol be adopted by both countries to ensure removal of just the distal ileum.

NCBA urges FSIS to adopt a protocol that is similar to a protocol developed and submitted to FSIS by the U.S. Meat Export Federation. Companies that can demonstrate their ability to adhere to the protocol should be allowed to follow such a protocol.

### **Verification of Age**

FSIS has proposed two methods for determining the age of cattle in order to ensure proper removal of the SRMs: documentation or the use of dentition. FSIS is using the standard of determining whether at least one of the 2<sup>nd</sup> set of permanent incisors has erupted, saying that the permanent incisors erupt from 24 through 30 months of age. This standard is based upon research conducted in the 1950’s. NCBA, on behalf of the Cattlemen’s Beef Board has conducted research to determine if that is the appropriate standard for today’s cattle. The results are presented here:

The objective of the study was to determine the efficacy of identifying cattle that are 30 months of age or older using dentition and (or) skeletal ossification. Cattle (n = 6,039) for which ages could be documented (actual birth dates or the earliest month of birth within a documented calving season) were identified and followed through harvest. The data collection period spanned a period of two months, beginning January 26, 2004 and ending March 26, 2004. Texas Tech University and Colorado State University personnel collected dentition data at harvest using guidelines prescribed by FSIS. USDA Meat Grading personnel (graders or grading supervisors) recorded skeletal and lean maturity scores when the carcasses were presented for grading.

The cattle sampled ranged from 15 to 37 months of age. The distribution of ages for cattle included in the dataset was as follows: 14 to 17 months – 19.1 percent; 18 to 23 months – 28.0 percent; 24 to 29 months – 51.5 percent; and 30 to 37 months – 1.4 percent. Efforts to identify a greater number of cattle over 30 months old for inclusion in the study were unsuccessful because there are so few cattle that are 30 months old or older in the U.S. fed beef population. Most cattle of the cattle 30 months of age and older are cull beef or dairy cows that are harvested at packing plants that specialize in processing of “non-fed” cattle (e.g., market cows and bulls) and this study focused on the U.S. fed beef population.

The study used the FSIS guideline for determining age using dentition. Data collected in the NCBA study suggest that the average age of eruption of the second set of permanent incisors occurs at 28.7 months (95% confidence limits: 27.7 months to 29.7 months). Of the 4,772 cattle in the study with ages of 18 to 29 months, use of FSIS dentition guidelines falsely classified 100 cattle (2.1% falsely rejected) as 30 months of age or older.

Of the 84 cattle in the study with ages of 30 months or older, use of FSIS dentition guidelines falsely classified 5 cattle (5.9% falsely accepted) as less than 30 months old. However, due to an inadequate sample of cattle 30 months old or older, data from the study cannot be used to provide a reliable estimate of the error rate among cattle  $\geq$  30 months old. Additional data needs to be collected in this age range before additional recommendations can be made.

Skeletal maturity (ossification) was not effective for identifying differences in chronological age among cattle in the study and even if it was effective, assessment of carcass maturity typically occurs too late in the harvesting/processing sequence to allow proper SRM controls to be used on the harvest floor to prevent cross-contamination.

Based upon this research and a lack of a standard method of documenting age, NCBA feels that FSIS dentition guideline is the next best alternative to determine age. NCBA will be adding to this research and if the data later shows that a new standard is appropriate, we will share the results with FSIS and urge a change in this policy.

NCBA is working with the industry to develop a standard document that can be used by producers to verify the age of cattle that will be accepted by slaughter establishments and FSIS.

We urge FSIS to keep the verification of age by either method, documentation or dentition, until a better system is developed and implemented.

### **Non-Ambulatory**

FSIS has a policy in place to prohibit non-ambulatory disabled cattle from entering the human food supply. This ban applies to all non-ambulatory disabled cattle, whether sold to a federally inspected establishment, state inspected establishment, or a custom-exempt slaughter operation. NCBA has policy to support such a ban of non-ambulatory disabled cattle from the commercial food supply.

Therefore, NCBA requests that FSIS institute a mechanism that allows cattle with injuries occurred in loading or transportation to be processed for personal consumption. These animals are not adulterated and could be certified by an accredited veterinarian that the animal is not sick. FSIS should remove the designation that these animals are adulterated and allow locker plants and custom slaughterers to harvest these animals and remove the SRMs, even for the animals under 30 months of age. Removing the SRMs will add another layer of protection as you eliminate any potential risk materials from being consumed by those who slaughtered the animal for personal consumption. FSIS should also evaluate a program, in conjunction with the Animal and Plant Health Inspection Service, that would allow non-ambulatory cattle 30 months of age and older that are injured during loading or transportation to be a part of the BSE surveillance program. If the animal tests negative, then the SRMs should be removed and the animal able to be processed for personal consumption. NCBA is urging FSIS to only remove the prohibition for animals that are injured during loading or transportation for personal consumption and not to remove the prohibition for animals that are obviously sick, showing neurological symptoms, or nerve paralysis.

### **Mechanically Separated Beef**

NCBA supports the FSIS proposal to ban the production of mechanically separated beef.

### **Economic Impact Assessment**

#### Verification of age

NCBA feels that the following analysis needs to be incorporated in the final economic assessment.

NCBA research indicates that roughly 0.4 percent of U.S. fed cattle slaughter has historically received discounts because of a “C” maturity grade (making the carcass ineligible for a prime, choice or select grade).

- 28.8 million head \* 0.4 percent = 115,200 head

Industry estimates indicate that the dentition method of age determination has increased the percentage of animals aged more than 30 months to 1-2 percent of fed cattle slaughter.

- 28.8 million head \* 1-2 percent = 288,000 to 576,000 head

Some packers are not grading these carcasses from animals 30 months of age and older. This leads to a price discount on these carcasses from “A” maturity to “no roll” estimated as at least \$13/cwt (carcass weight) discount from select grade carcasses (\$100/head) and \$21/cwt from a choice carcass (\$160/head).

Therefore, the cost impact of this rule ranges from 288,000 to 576,000 head (less 115,200 head) multiplied by a \$100 to \$160 per head cost suggests an annual industry impact of \$17.3 to \$92.2 million. Using the same levels of discounts but adding a 55 percent choice and 45 percent select component to the calculation would tighten this range to \$38.3 to \$76.6 million.

#### Non-ambulatory

NCBA feels there are additional items that need to be addressed regarding the economic impact of prohibiting non-ambulatory cattle from the human food supply. There are an estimated 195,000 head of cattle in this classification annually with an estimated 50,000 head of these animals being condemned and therefore not ever entering the marketplace for a net 145,000 head. An estimated value of these animals could be derived by taking the 2001-2003 average canner cow price of \$36.35/cwt multiplied by an estimated average cow weight of 1020 pounds for an average value of \$371 per head. Assuming the condemned animals have no value, the cost of this industry change (145,000 head at \$371 per head) would be \$53.8 million.

This does not take into account the considerable economic loss associated with an otherwise perfectly healthy fed steer that might have broken a bone (for example) and became non-ambulatory during transit. This rule would cause such an animal, currently worth (1150 lbs at \$87/cwt) \$1000.50, to be virtually worthless for no logical reason that pertains to human health. It is unknown how many of these types of animals are currently impacted by this rule.

#### Small Intestine

Virtually all of the bovine small intestine is marketed via export channels. Analysis by the U.S. Meat Export Federation of fluctuations in the price for small intestine before and after December 23, 2003 indicates a \$58 million decline in the value of that commodity as a result of the inability to export this product. This needs to be included in the final economic impact assessment.

#### General Comments on Economic Impact Assessment

It should be pointed out that nearly all of these costs will be reflected in lower live animal prices therefore the majority of these losses in revenue will come directly out of U.S. beef producers' pockets.

These costs do not include the millions of dollars this industry and the U.S. economy have forfeited over the past three months in terms of lost equity at the cow-calf, feedlot and processing sector. Also left out are the eventual losses associated with the estimated \$200 million in beef exports that was caught in transit and could not be offloaded after December 23, 2003. Even more significant are the losses in the futures market, lost productivity and efficiencies across the industry, and numerous other new regulatory and operational costs of doing business from the pasture to the plate as a result of the regulatory changes imposed by this single BSE positive cow.

#### **Sanitation of Equipment**

NCBA supports the policy put in place by FSIS that requires sanitation of equipment between carcasses or parts of carcasses when an establishment is slaughtering and processing animals both under 30 months of age and animals 30 months of age and older. While current cleaning and sanitizing procedures in place by establishments will not inactivate prions, it will reduce

cross contamination due to multiple risk mitigation measures in place. Requiring separate or dedicated equipment is not necessary if proper cleaning and sanitizing procedures are in place and documented.

**Conclusion**

NCBA commends USDA for taking further actions to protect public health. NCBA supports the development of regulations that prohibit SRMs from being included in the human food supply. We believe that protocols can be developed and implemented that would allow a portion of the small intestine to be processed safely for human consumption and urges FSIS adoption of such a protocol. NCBA also supports the decision to prohibit non-ambulatory cattle from the commercial food supply, however, we encourage FSIS to implement a system whereby animals injured while during loading or transportation, be allowed to be processed for personal consumption. Thank you for considering our comments.

Sincerely,

A handwritten signature in black ink that reads "Jan Lyons". The signature is written in a cursive, flowing style.

Jan Lyons  
President

## References

Terry, L. A., Marsh, S., Ryder, S. J., Hawkins, S. A. C., Wells, G. A. H., Spencer, Y. I., 2003; Detection of disease-specific PrP in the distal ileum of cattle exposed orally to the agent of bovine spongiform encephalopathy. *The Veterinary Record*; 152, pages 387-392

Wells, G.A.H, Dawson, M., Hawkins, S. A. C., Green, R. B., Dexter, I., Francis, M. E., Simmons, M. M., Austin, A. R., Horigan, M. W., 1994; Infectivity in the ileum of cattle challenged orally with bovine spongiform encephalopathy. *The Veterinary Record*; 135, pages 40-41

Wells, G. A. H., Hawkins, S. A. C., Green, R. B., Austin, A. R., Dexter, I., Spencer, Y. I., Chaplin, M. J., Stack, M. J., Dawson, M., 1998; Preliminary observations on the pathogenesis of experimental bovine spongiform encephalopathy (BSE): an update. *The Veterinary Record*; 142, pages 103-106



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300 12<sup>th</sup> Street SW  
Washington, DC 20250

**Re: Docket No. 03-038IF "Meat Produced by Advanced Meat/Bone Separation Machinery and Meat Recovery (AMR) Systems"**

Dear Docket Clerk:

On behalf of the National Cattlemen's Beef Association (NCBA) I want to express our appreciation for the opportunity to comment on the Food Safety and Inspection Service (FSIS) Docket No. 03-038IF "Meat Produced by Advanced Meat/Bone Separation Machinery and Meat Recovery (AMR) Systems." Producer-directed and consumer-focused, the National Cattlemen's Beef Association is the trade association of America's cattle farmers and ranchers, and the marketing organization for the largest segment of the nation's food and fiber industry.

NCBA supports this interim final rule and urges its adoption as a final rule. AMR is a process that when conducted following these regulations and proper industry practices, is safe.

Thank you for considering our comments.

Sincerely,

Jan Lyons  
President