

# CALIFORNIA CATTLEMEN'S ASSOCIATION

1221 H STREET • SACRAMENTO, CALIFORNIA • 95814-1910

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PHONE: (916) 444-0845  
FAX: (916) 444-2194  
www.calcattlemen.org

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Docket Clerk

U.S. Department of Agriculture Food Safety and Inspection Service  
300 12th Street, SW, Room 102 Cotton Annex  
Washington, DC 20250

**RE: Comments of the California Cattlemen's Association on 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**

To Whom It May Concern:

The California Cattlemen's Association (CCA) appreciates the opportunity to comment on the interim final rule [Docket No. 03-025IF] amending 9 CFR Parts 309, 310, 311, 318, and 319 to designate the brain, skull, eyes, trigeminal ganglia, spinal cord, vertebral column, and dorsal root ganglia of cattle 30 months of age and older, and the tonsils and distal ileum of the small intestine of all cattle, as specified risk materials, and requiring all non-ambulatory cattle presented for slaughter to be condemned. CCA is a non-profit trade association representing California's \$1.35 billion beef cattle industry in legislative and regulatory affairs. California's beef cattle industry is committed to maintaining the health of animals under our care and the safety of the U.S. food supply.

In general, CCA supports the interim final rule and other actions taken by USDA subsequent to the December 23, 2003 finding of BSE in an imported dairy cow in Washington State. However, we have a few questions and concerns pertaining to specific provisions of this interim final rule, as follows:

## Non-Ambulatory Disabled Cattle

In the interim final rule, FSIS determines that carcasses of non-ambulatory disabled cattle are unfit for human food under Title 1, Section 1(m)(3) of the Federal Meat Inspection Act, which applies the term 'adulterated' to any carcass, part thereof, meat or meat food product if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food. Because of this 'adulterated' classification, the interim final rule mandates that all non-ambulatory disabled cattle presented for slaughter should be condemned and excluded from the human food supply, regardless of the reason for their non-ambulatory status or when they became non-ambulatory.



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LIVERMORE

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TREASURER  
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COALINGA

Since the publication of this interim final rule, many beef cattle producers in California have expressed concern that the application of the 'adulterated' classification to animals suffering from musculoskeletal injuries (i.e. broken leg, dislocated hip) has precluded producers from custom or on-farm slaughter of these animals for personal consumption. Clearly, livestock which become injured on the farm or ranch and are not suffering from disease do not "consist in whole or in part of any filthy, putrid, or decomposed substance or [are] for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food," and therefore do not meet the 'adulterated' standard set by Title 1, Section 1(m)(3) of the Federal Meat Inspection Act.

In addition, classifying these animals as 'adulterated' may be counterproductive in terms of food safety. Given that livestock injured on the farm or ranch are likely to be either market-ready within a year or valuable breeding animals, producers will be reluctant to incur the income lost as a result of the incapacitation of the animal and not mitigate the loss by consuming the animal themselves. Because these same producers are now denied access to appropriately trained slaughtering and processing professionals for on-farm or custom slaughter for non-ambulatory livestock not suffering from disease, they may attempt to undertake these tasks themselves, thus putting them and their families at risk of foodborne pathogens and other legitimate food safety concerns.

Therefore, CCA strongly encourages FSIS to include within the final rule an exemption within § 309.2(b) for on-farm and custom slaughter of non-ambulatory cattle not suffering from disease for personal consumption only. FSIS may also consider working with APHIS and state animal health agencies to include some of these animals in the APHIS targeted BSE surveillance program.

### **Specified Risk Materials**

CCA supports the designation of the brain, skull, eyes, trigeminal ganglia, spinal cord, 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 of cattle 30 months of age and older, as well as the tonsils and distal ileum of all cattle as specified risk materials unfit for human consumption under Section 1(m)(3) of the Federal Meat Inspection Act.

CCA encourages FSIS to continuously evaluate scientific findings as they are published, international standards established by the Office International des Epizooties, as well as information received from APHIS's targeted BSE surveillance program and make changes to specified risk material definitions based upon these evaluations.

### **Verification of the Age of Cattle**

The interim final rule states that if meatpackers have access to accurate and reliable records which document the age of cattle slaughtered in the facility, FSIS inspection program personnel will utilize these records to verify ages of cattle. The interim final rule

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also states that FSIS program personnel will verify age of cattle via dental examination if the meatpacker does not provide accurate and reliable records which document the age of cattle slaughtered in the facility, or if inspection program personnel have any reason to question the age of the animals.

Because of the diverse recordkeeping methods utilized by producers to document the ages of cattle, very few meatpackers are currently accepting these records to verify ages of cattle and are instead relying upon dental examination. It is clear that dental examination is an unreliable indicator of age in many instances, as dentition will vary from herd-to-herd and animal-to-animal due to genetics, diet, and the varied geographical locations in which animals are raised. Moreover, the standard eruption times for deciduous and permanent teeth used for these dental examinations were established nearly 50 years ago and are likely outdated. For these reasons, CCA strongly supports research being conducted by the National Cattlemen's Beef Association, on behalf of the Cattlemen's Beef Board, to determine the validity of dentition indicators being used to determine ages of cattle. CCA encourages FSIS to carefully consider the results of this research and to make policy modifications as appropriate.

Because of the unreliability of dental examination as a method of determining age, and the discounts being incurred by producers for animals deemed over 30 months of age, CCA strongly encourages FSIS, within the final rule, to provide guidance regarding standardized records which may be kept by producers, and shall be accepted by meatpackers, to verify the ages of cattle.

### **General Comments**

On March 15, 2004 Secretary of Agriculture Ann Veneman announced that USDA would immediately work to implement a one-time enhanced surveillance program for BSE, targeting high-risk cattle populations as well as a sampling of healthy animals over 30 months of age. The goal of this program is to test as many animals in the targeted high-risk population (estimated at 446,000 annually) as possible in a 12-18 month period. Statistical modeling indicates that should USDA be able to collect 268,000 samples during this timeframe, this level of testing would allow the agency to detect BSE with a 99 percent degree of confidence if the prevalence of the disease is just one case within 10 million adult cattle. Clearly, this enhanced surveillance program will determine once and for all whether BSE is prevalent at any level within the U.S, which is unlikely due to the longstanding and extensive firewalls against the introduction and spread of BSE within the U.S. The timing of this enhanced surveillance is also significant – upon completion, it will be extremely unlikely that any cattle will remain in the beef production chain that existed prior to the implementation of the ruminant meat and bone meal feed ban in August 1997.

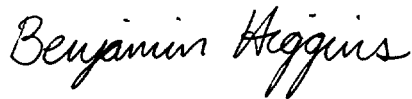
Given the significant costs imposed to the U.S. beef cattle industry by the requirements contained within this interim final rule, CCA requests that upon completion of the current 12-18 month expanded BSE testing program, FSIS should thoroughly evaluate the

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scientific and economic efficiency of these regulations, and propose regulatory changes as deemed appropriate. More specifically, should no additional cases of BSE be found within the U.S., FSIS should evaluate whether the removal of specified risk materials from cattle greater than 30 months of age is warranted given the near-zero risk posed to the public and the high costs imposed to producers of this regulation.

Thank you for the opportunity to comment on this important interim final rule. CCA sincerely appreciates FSIS efforts to protect the safety of our food supply. Should you have any questions or concerns regarding these comments, please do not hesitate to contact me.

Sincerely,



Benjamin L. Higgins  
Executive Vice President

cc: The Honorable Dianne Feinstein  
The Honorable Joe Baca  
The Honorable Dennis Cardoza  
The Honorable Cal Dooley  
The Honorable Devin Nunes  
The Honorable Doug Ose  
The Honorable Richard Pombo  
The Honorable Mike Thompson  
A.G. Kawamura, Secretary, California Department of Food and Agriculture  
Chandler Keys, National Cattlemen's Beef Association