

March 8, 2004

Docket No. 03-080-1
Regulatory Analysis and Development, PPD
Animal and Plant Health Inspection Service
Station 3C71
4700 River Road Unit 118
Riverdale, MD 20737-1238

Dear Sir or Madam:

On behalf of Agri Beef Co. an Idaho based family owned company with operations in Idaho, Washington, Nevada and Kansas, we submit the following revised comments on the proposed rule to reopen the US – Canada border for live and feeder cattle.

The environment has indeed changed since this proposed rule was initially published. While our January comments expressed a concern that USDA was proceeding too quickly (for animal health, food safety and trade reasons), recent USDA policy decisions (e.g. downer ban, SRM removal, expanded feed ban, etc.) since the discovery of BSE in Washington state have addressed many of our concerns. The most effective step, in our opinion, was FDA's new policy that requires processing segregation lines between mammalian and non-mammalian lines. As a result, we are in complete support of USDA's proposed rule to reopen the border with Canada for the trade of feeder and fed cattle under 30 months of age, but offer the following additional comments for your consideration:

1). USDA must minimize the cost burden associated with segregation of live animals for U.S. producers and cattle feeders.

USDA's proposed rule requires Canadian cattle (less than 30months) to move directly from port to slaughter (under seal) or to a designated feedlot as a group. Importers of Canadian feeder cattle destined for a U.S. designated feedlot must also obtain, track, and record information pertaining to cattle origin and health and must also keep cattle segregated by origin (presumably for BEV programs for Japan). In other words, re-opening the border to import live and feeder cattle, as outlined, in the proposal creates an enormous burden for designated feedlots and slaughter facilities and needs to be changed.

The premise to change the requirements is based upon what appears to be consensus among N. America trading partners towards a common definition of "Specified Risk Materials" (SRM) and agreement on harmonization of production practices. Assuming this is true, there is no real need to maintain segregation integrity by origin for the purposes of SRM removal nor should there be a need to do this for the BEV program (since the BEV Programs for Japan have been suspended).

In removing the segregation requirement by origin, designated feeding facilities will not be required to establish "Canadian regions" within each facility, create "Canadian-only"

lots that sacrifice pen capacity, or construct separate hospital treatment facilities to handle Canadian cattle. Furthermore, performing activities such as: tracking of individual animal movements to ensure no commingling, redesigning transportation schedules to ensure segregation, and rescheduling slaughter times by origin should no longer be required. Thus many of the mitigating factors (especially segregation requirements) written into the proposed rule must be reconsidered and modified to eliminate any unnecessary requirement.

2). The proposed rule should also eliminate requirements that result in additional costs (segregation requirements under the BEV program) for slaughter facilities.

{Again, the premise to change the requirements is based upon what appears to be consensus among N. America trading partners towards a common definition of "Specified Risk Materials" (SRM) and agreement on harmonization of production practices}.

The costs include additional downtime and changeover time (between processing imported Canadian cattle versus others), increased quality control and regulatory inspection, and a doubling of sku inventory requirements (for "export only" sales under the BEV program for Japan). These costs will definitely place smaller Northern tier single-plants, like ours, at a disadvantage compared to those in other regions.

Furthermore, segregation requirements will put many northern tier feeding and slaughter facilities at a disadvantage to other regions of the country and will definitely place single slaughter plant facilities at a disadvantage to multi-plant companies. Multi-plant operations have greater economies of scale to take advantage of segregation requirements by dedicating plants to be "Canadian only" or by scheduling 100% Canadian slaughter for consecutive days, thereby minimizing costs associated with carcass sorting, shift changes, and inventory requirements.

3). USDA must continue to keep the border closed to Canadian boxed beef originating from cattle greater than 30 months of age until Canada has tested more cattle over 30 months (under its expanded BSE surveillance program) and has determined the actual BSE prevalence risk in Canada.

Although resuming trade for beef originating from cattle aged 30 months and older needs to occur sometime, we believe it is too premature to reopen the border for this product profile. Doing so, places unnecessary risk on the US beef industry.

Reasons why such a move is premature include: recent discovery of Canada's 2nd BSE case making a 3rd more likely, concerns of feed ban compliance, and the response of U.S. consumers when more BSE case(s) are discovered (and they learn that the U.S. has been importing 30 months and older beef products). As a result, we would suggest that the following occur before a reopening of trade for beef products 30 months of age and older:

- 1). Canada must implement feed regulations similar to FDA's recent policy regulation that requires segregated/dedicated feed manufacturing lines. Canada's

feed industry on average has much older, multiple-species type feed plants and have a higher probability to be a source of cross-contamination.

2). Canada must have sufficient time to implement its expanded surveillance program to truly ascertain the risks of another BSE finding. This risk level needs to be better understood before a border reopening.

3). Canada and the U.S. must develop a comprehensive joint-response plan in the event trade is resumed and another BSE infected cow was discovered? Would such an event include quarantining facilities, publicizing the age of the animal, and conducting trace forward and backward investigations? Would there be a product recall for beef that may have been associated with the BSE infected carcass (i.e. in the same kill lot, shift, day, etc.)?

USDA must do everything in its power to protect consumers and U.S. industry. We cannot afford another event (like the recent “downer” nightmare) where consumers are left wondering why USDA was not more protective.

4). Additional Concerns:

Although the proposed rule does not suggest a “staged opening”, we are adamantly opposed to the notion that fed cattle may be allowed before feeder cattle. First of all, science does not support this position. Fed cattle by definition have been fed feed ingredients and therefore are more susceptible to exposure of banned feed ingredients (as described above). If science should truly determine a staged opening then feeder cattle should be allowed for importation before fed cattle.

Secondly, allowing fed cattle to be imported before feeder cattle will put the U.S. feeding industry at a competitive disadvantage as the packing industry will leverage these additional supplies to lower fed prices and hence margins. Compounding this margin problem will be the feeding industry’s inability to participate in an increase of feeder cattle supplies from Canada. This margin pressure will be felt stronger on northern tier feed yards and will result in further loss of feedyard capacity, another “unintended” consequence.

Alternatively, we would suggest that USDA engage our trading partners in science-based discussions that would hopefully result in recognition and agreement that feeder cattle, especially those never exposed to manufactured feed ingredients, are indeed “minimal risk”. In doing so, feeder cattle would be deemed to be safe for export and additional regulations (like BEV or those contained in the proposed rule – i.e. segregation) would not be necessary. This would allow for a more gradual, “science-based” reopening of the border for livestock and would be less disruptive to our domestic and export markets. It would also position a later re-opening for fed cattle or cattle over 30 months of age without trade restrictions/barriers and unnecessary regulations (like BEV or those contained in the proposed rule).

Although the USDA has not requested comment on allowing cattle over 30 months of age to be imported into the United States we feel that this is an important issue that must be addressed. We strongly recommend that cattle over 30 months of age be prohibited from entering the United States cattle herd. This issue is closely tied to the current restriction of boxed beef from cattle over 30 months of age and follows the same arguments as discussed in Section 3 above.

Allowing beef or cattle greater than 30 months of age to enter this country would seriously jeopardize the integrity of the United States' beef segregation policies. Until the United States establishes an individual animal identification system we do not have the ability to track the movements of imported high-risk cattle in this country. This lack of identification, and consequential commingling, exposes the U.S. beef supply to unnecessary risks.

Most importantly until we establish the criteria for exporting beef to our largest trading customers we should not assume the perceived or real risk of imported 30 month of age cattle or meat. With the recent discussions USDA is having regarding specific processing plants testing 100% of their cattle for BSE in order to open up their trade, we would be jeopardizing the rest of the industry by allowing additional high risk product into our production system. Segregating Canadian and U.S product would be extremely expensive and in some cases virtually impossible.

Conclusion

We applaud USDA's leadership efforts to reopen the Canadian border but feel certain areas described above need further refinement to accommodate more recent policy changes and N. America harmonization. Such refinement (e.g. remove segregation requirements) should eliminate unnecessary regulatory compliance and operating costs on behalf of all industry participants.

Respectfully,

Robert Rebholtz, Jr.