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OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

3033

2007 HOUSE AGRICULTURE

HCR 3033

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No HCR 3033

House Agriculture Committee

Check here for Conference Committee

Hearing Date: 2-9-07

Recorder Job Number: 3296

Committee Clerk Signature

Edward D. Elger

Minutes:

Chairman Johnson: Opened the hearing for HCR 3033

Rep Froelich: Introduced the bill with an over all explanation urging Congress not to allow the importation of Canadian cattle over 30 months. He feels this is one of the most important legislation. It was reported yesterday, Canadians have not found another case of BSC. We all know what happened in the first case of BSC, because of this they have lost all of their foreign markets. USDA has been pushing strong to reopen the Canadian boarder. Not knowing all the technicalities of thee BSC, I have asked Susan Keller State Veterinarian to testify and answer some questions.

Rep. Belter: What is happening with USDA? Are we trying to get our markets open to other countries to these older cattle?

Dr Keller: Answered the question along with offering support for this Bill. She is also speaking for the Department of Ag. See attached testimony.

Rep Belter: What is USDA policy?

Dr Keller: There are negations daily with other countries. Some times they have interest only with animals that are 24 or 20 months old. Depending on strain they some times do not test all animals going into Canada. We are in negotiation with many issues with them. We had the

opportunity to have negotiations with Korea, but they than found bone chips and so we are in negotiations again.

Rep Belter: If US is asking other countries to take our animals of 30 months or more how can we not allow Canadian beef of 30 months or more?

Dr Keller: I am not real comfortable discussing that trade issue. There are many issues such as acceptable range and some of this I am not real comfortable with as we are more lenient with Canada.

Wade Moser: With the ND Stockmen's Association. We do support the HCR 3033 bill. We are concerned about trade more than anything else and how the countries will view it. I don't think we have gotten a fair message yet from any real trade partners or the OIE that set the standard that if we implement this new rule and if we do a case of BSC that arrives in this country because we import from Canada how will that be view by the trading partners. This is critical and devastated our industry in 03, for a short time. We are slowly getting our market back in a long, long process.

I do have one concern and it really is more of a clarification, on the resolution on line 10, it talks about transmitting BSC. I would rather have the wording be having been infected with instead of transmitted.

Rep Mueller: Asked how he would redo the wording on line 10

Wade Moser: Change to having been infected.

Rep Froelich: Informed that there was a comment period until March 12. Should this have been a bill instead of HCR

Keller: I am not sure I have never been asked. I do think that it may be more important than coming from our legislative body.

Rep Onstad: I do believe the correct procedure is that this does have to pass both houses.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HCR 3033**

House Agriculture Committee

Check here for Conference Committee

Hearing Date: **2—9--07**

Recorder Job Number: **3301**

Committee Clerk Signature

Edward D. Johnson

Minutes:

CHAIRMAN JOHNSON: NOW WE WILL GO TO 3033.

REPRESENTATIVE HEADLAND MADE A MOTION TO MOVE THE AMENDMENTS.

REPRESENTATIVE BRNDENBURG SECONDED THE MOTION.

CHAIRMAN JOHNSON: WE HAVE 3033 BEFORE US. WE WILL TAKE A VOICE VOTE. ALL THOSE IN FAVOR OF BILL SIGNIFY BY SAYING YES.

CHAIRWOMAN MADE A MOTION FOR A DO PASS AS AMENDED.

REPRESENTATIVE BELTER: SECONDED THE MOTION.

A VOICE VOTE WAS TAKEN THERE WERE 13 YES 0 NO 0 ABSENT,

REPRESENTATIVE FROELICH WILL CARRY THE BILL.

CHAIRMAN JOHNSON CLOSED ON HB 3033

PROPOSED AMENDMENTS TO HCR 3033
- ND Stockmen's Association (JTS)

Page 1, line 10, replace "transmitting" with "having been infected with"

Date: 2-8-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3033

House AGRICULTURE Committee

Check here for Conference Committee

Legislative Council Amendment Number W

Action Taken To MV Amend

Motion Made By Head Seconded By Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chairman			Tracy Boe		
Joyce Kingsbury Vice Chairman			Rodney J Froelich		
Wesley Belter			Phillip Mueller		
Mike Brandenburg			Kenton Onstad		
Mike Brandenburg			Ben Vig		
Craig Headland					
Brenda Heller					
John D Wall					
Gerry Uglem					

Total (Yes) 13 No 0

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-9-07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HRR 3033

House AGRICULTURE Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken To Pass As Amended

Motion Made By Rep Kingsbury Seconded By Rep Belter

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chairman			Tracy Boe		
Joyce Kingsbury Vice Chairman			Rodney J Froelich		
Wesley Belter			Phillip Mueller		
Mike Brandenburg			Kenton Onstad		
Mike Brandenburg			Ben Vig		
Craig Headland					
Brenda Heller					
John D Wall					
Gerry Uglem					

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep Froelich

If the vote is on an amendment, briefly indicate intent:

voice

REPORT OF STANDING COMMITTEE

HCR 3033: Agriculture Committee (Rep. D. Johnson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3033 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "transmitting" with "having been infected with"

Renumber accordingly

2007 SENATE AGRICULTURE

HCR 3033

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 3033

Senate Agriculture Committee

Check here for Conference Committee

Hearing Date: March 2, 2007

Recorder Job Number: 4261

Committee Clerk Signature

Cassie Kron

Minutes:

Sen. Flakoll opened the hearing on HCR 3033, a concurrent resolution urging congress not to allow the importation of Canadian cattle over 30 months of age.

Rep. Froelich, district 31, testified in favor of the bill. See attached testimony.

Sen. Klein- are the Canadian's shipping any beef?

Rep. Froelich- they can bring beef into this state under 30 months of age, they ship in boxed beef. The cattle that are over the 30 months are the ones that are more susceptible to disease and bringing that into the state.

Sen. Klein- are we the only trading partner that Canada has?

Rep. Froelich- I think that either Korea or Japan is taking some of their beef.

Wade Moser, ND Stockmen's association, testified on favor of the bill.

Wade Moser- We are here to support the resolution. In this 30 month and older we expect that we are going to be seeing a lot more trucks, you can expect that with trucking rates and slaughter facilities as soon as you cross the border they are going to be looking for that first market and so it is going to probably impact the northern tier states probably bigger then it would the southern ones. The estimate is around \$4 per hundred loss on slaughter cows, we think that is probably at the very low side because they are taking an average across the US

and it could impact our market from \$4-10. We do think that the USDA does need to back off on their proposal at this time and take a look at putting things in place to protect our industry. We need some assurances from our trading partners on the economic side. We would hope that you pass this resolution as quickly as possible.

Sen. Klein- what is the market like in Canada vs. what it is like here?

Wade Moser- the livestock industry in Canada has been devastated, their cattle numbers increased up there because they couldn't sell because they had no market.

Sen. Flakoll- how close do you think that we can get as far as measuring 30 months?

Wade Moser- that is another concern and I don't think that it is addressed properly in the rule how they are going to do that, it is almost on the certification of the producer and I don't know if that is reliable in some cases. They do have a national animal ID program up there however I think that it has some problems.

Susan Keller, State Veterinarian, testified in favor of the bill. See attached testimony.

Sen. Taylor- is the rule to allow over 30 months but under 8 years?

Susan Keller- they are saying now that all animals born March 1, 1999 would be able to come in, the biggest concern is how a veterinarian is going to check this.

Sen. Flakoll- do they have some type of tag that would help with the identification?

Susan Keller- some of them do, but they usually rely more on blood testing.

Mary Mitchell, Dakota Resource Council, testified in favor of the bill.

Mary Mitchell- We stand in support of this bill.

Testimony was also submitted by **Kayla Pulvermacher** with NDFU, see attached testimony.

No opposition to the bill.

Sen. Flakoll closed the hearing.

Sen. Taylor motioned for a Do Pass and was seconded by **Sen. Erbele**, roll call vote 1: 6 yea, 0 nay, 1 absent. **Sen. Taylor** was designated to carry the bill to the floor.

REPORT OF STANDING COMMITTEE (410)
March 2, 2007 1:28 p.m.

Module No: SR-40-4357
Carrier: Taylor
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HCR 3033, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HCR 3033 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HCR 3033

Roger Johnson
AGRICULTURE COMMISSIONER

Dr. Susan Keller
STATE VETERINARIAN

Dr. Beth Carlson
DEPUTY STATE VETERINARIAN

Nathan Boehm, Mandan
PRESIDENT
DAIRY CATTLE

Paula Swenson, Walcott
SECRETARY
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Dr. Charlie Stoltenow, Fargo
CONSULTING VETERINARIAN



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Dr. Kenneth Throlson, New Rockford
BISON

Shawn Schafer, Turtle Lake
NONTRADITIONAL LIVESTOCK

**Testimony of Susan J. Keller, DVM
State Veterinarian
House Concurrent Resolution 3033
House Agriculture Committee
Peace Garden Room
February 9, 2007**

Chairman Johnson and members of the House Agriculture Committee, I am State Veterinarian Susan Keller. I am here today on behalf of the North Dakota Department of Agriculture and the State Board of Animal Health in support of HCR 3033, which urges Congress to not allow the importation of Canadian Cattle over 30 months of age.

It is frustrating to witness USDA's continuing efforts to open the border to Canadian cattle and products, despite the known risks and the unknown prevalence of BSE in the Canadian cow herd. USDA acknowledges that cattle over 30 months of age are of even greater risk than younger age cattle we currently allow in under stringent movement restrictions that require animals to move in a sealed truck directly to slaughter. Canada now has 10 cases of BSE attributed to them, 6 within the last year, with the most recent case just reported this week. The following are the main areas of concern that need to be addressed before we should even consider further lifting of our import restrictions and requirements on Canadian cattle.

CANADA TAKING ADDITIONAL PRECAUTIONS:

While Canada is taking additional measures to decrease the potential amplification and spread of typical BSE, USDA has unilaterally ignored the fact that other countries do not approve of USDA's new BSE minimal risk status. This summer Canada will begin prohibiting the use of specified risk materials (SRMs) in both ruminant and nonruminant feed. The United States does not have that measure in place nor is it being initiated.

The Minimal Risk Rule 2 (MRR2), which is the proposed rule to allow Canadian cattle into the US that are over thirty months of age, acknowledges the risk of the SRMs in older age Canadian cattle, by declaring that the distal ileums of these older age animals not be able to enter the US, yet the same rule allows older age cattle to walk across the border with their distal ileums intact and no effort to completely remove them from all feed supplements, including those to nonruminants, as Canada is currently in the process of doing. How can this be logically be explained to producers and consumers, here and abroad?

And while USDA buries its head in the sand, Canada is stepping up to take necessary actions and to improve their ability to export and decrease the incidence of BSE in their national herd over time. USDA's overall lack of responsible actions with respect to BSE in Canada, has already decreased the status of the US cattle herd in the eyes of our trading partners.

FEED COHORTS and TYPES OF BSE:

Canada acknowledges that contaminated feed was the likely source of the infection and that additional feed cohorts are likely to be infected also. Yet higher risk, older age feed cohorts, will be allowed to come across the border. While Canada is in essence admitting they have a BSE problem, through USDA's regulatory actions, USDA appears to want to bring their problem into the US and make it ours, whether it currently is or not. We must remember that Canada's BSE

cases have all been identified as 'typical' BSE and the US's cases have all been identified as an 'atypical' form of BSE. What the pathogenic differences are between those two prion forms is still unknown.

IDENTIFICATION:

Furthermore, and most importantly, if over thirty month of age (OTM) cattle from Canada are allowed to come into the US, those animals must continue to be permanently identified with an official tag and a CAN brand and more efficiently segregated by USDA through the entire slaughtering process. Should positive cases of BSE be found in any Canadian animals that are processed in the US, it must not be to the detriment of the US cattle industry or our consumers.

The recent investigation of 7 head of Canadian animals slaughtered in a plant in Nebraska, dramatically points out the desperate need to improve animal identification and tracking capabilities in the US, by starting first and foremost at our ports and borders. USDA needs to start leading by example in all matters associated with animal health. Of primary importance, their concern should be their own current inability to quickly and accurately trace all animals that enter the United States and ultimately our food supply.

AGE:

The date of March 1, 1999, not only doesn't make scientific sense based on the 3 cases of BSE diagnosed after USDA recognizes Canada's feed ban as being 'effective', but it will also not be enforceable. It will be impossible to verify the true age of older Canadian cattle. In many cases, veterinarians will have to be willing to accept a producer's statement as the only source of verification on the age of their cattle. When dealing with a disease such as BSE, with serious health and economic implications, this is not an effective import requirement. Animals born

prior to March 1, 1999, will unknowingly even to the veterinarians signing certificates of veterinary inspection, be able to move into the US under this proposed rule.

BSE MINIMAL RISK STATUS:

BSE is not only an animal health concern, but also a public safety concern and that responsibility is being taken very lightly by our current policy makers. NASDA and Congress need to demand that USDA adhere to the most conservative policies with respect to BSE that the OIE guidelines allow for. The trend being established by USDA appears to be a much more lenient approach to animal health standards for the US. How can producers and consumers be assured that the 'Minimal Risk Status', created by the US, will not be assigned to other countries that have 19, 109 or even a greater number of cases of BSE?

SUMMARY:

The science surrounding prion diseases and especially BSE is still unfolding and the sensitivity of tests and detection limits are continually improving.

There must be more certainty and fewer 'assumptions' before rules are promulgated to allow more high risk cattle from Canada to enter the United States or the results could be devastating.

Opening the border to OTM age cattle in the manner proposed in the MRR2 can not be justified at this time and will only serve to increase the risk of BSE being introduced into the U.S. cattle herd. If the underlying goal is to force an equalization of the risk of BSE in the US to that of Canada's, then, unfortunately, this proposed rule will achieve that goal.

Chairman Johnson and committee members, for these reasons, I urge a 'do pass' vote on HCR 3033. I would be happy to answer any questions.

Mr. Chairman and Ag Committee Members,

For the record, I am Rod Froelich. I represent District 31 which includes all of Sioux County, all of Grant County, one half of Hettinger County and the largest part of Morton County which is comprised of 3,710,000 acres and approximately 130,500 beef cows.

Mr. Chairman, all it takes is a little common-sense to understand that opening the border to Canadian cattle over thirty months of age at this time is not a very wise option.

“Canada is still experiencing cases of BSE.”

It is not in the best interest of the consumers or the producers of livestock to contemplate such actions until Canada has installed preventive measures to stop the prevalence of BSE in their country.

Our Far East trading partners have severely restricted the importation of our livestock products, when in fact, that cause of their concern is created by our Canadian trading partners.

Senators, until we have assurance by our trading partners that our commerce will not be hindered, the United States is obligated to protect its consumers and its producers.

Representative Rod Froelich (D-31, Selfridge)

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To comment on USDA's Over Thirty Month rule

On January 9, 2007, USDA issued a proposed rule which would allow the importation of beef from Canadian animals over thirty months of age, and live Canadian animals born after March 1, 1999.

USDA is accepting public comments on its proposed rule until March 12, 2007.

There are two ways you can comment on USDA's proposal:

- **By Mail**—Send an original and three copies to:
Docket No. APHIS-2006-0041
Regulatory Analysis and Development, PPD
APHIS, Station 3A-03.8
4700 River Road, Unit 118
Riverdale, MD 20737-1238
- **On-Line**—To submit a comment using the Internet, go to the Federal eRulemaking website at <http://www.regulations.gov>; select "Animal and Plant Health Inspection Service" from the drop-down menu; then click on "Submit."

In the Docket ID column, select APHIS-2006-0041 to submit your comment.

Roger Johnson
AGRICULTURE COMMISSIONER

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STATE VETERINARIAN

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Dr. W.P. Tidball, Beach
VETERINARIAN

Dr. Kenneth Throlson, New Rockford
BISON

Shawn Schafer, Turtle Lake
NONTRADITIONAL LIVESTOCK

**Testimony of Susan J. Keller, DVM
State Veterinarian
House Concurrent Resolution 3033
Senate Agriculture Committee
Roosevelt Room
March 2, 2007**

Chairman Flakoll and members of the Senate Agriculture Committee, I am State Veterinarian Susan Keller. I am here today on behalf of the North Dakota Department of Agriculture and the State Board of Animal Health in support of HCR 3033, which urges Congress to not allow the importation of Canadian Cattle over 30 months of age. It is extremely frustrating to witness USDA's continuing efforts to open the border to Canadian cattle and products, despite known risks and the likely increasing prevalence of Bovine Spongiform Encephalopathy (BSE) in the Canadian cow herd. USDA acknowledges that cattle over 30 months of age are at even greater risk of having the disease than are their younger age cattle we currently allow in under stringent movement restrictions. Canadian animals currently entering the US are even required to be transported in a sealed truck and moved directly to a feedlot or directly to slaughter. Canada now has a total of 10 indigenous cases of BSE attributed to their country, 5 in 2006 and the 10th case reported early in 2007. A case identified in Canada in 1993, of European origin, must not be forgotten since their feed ban was not implemented until 1997. Before we should ever

consider further lifting our import restrictions and requirements on Canadian cattle, we must consider information that is critical to making the correct decision and only implement actions when it is proven to be prudent and safe to do so.

EFFECTIVE FEED BAN:

Canada has not fully demonstrated the effectiveness of their BSE feed ban. With the finding of 5 cases alone in 2006 and the most recent case of a positive bull (born ~2000) in 2007, how can producers be expected to believe that the effectiveness of the feed ban is being determined based on 'an abundance of caution', versus just an administrative decision that is not supported by the evidence of the cases born after their feed ban was declared to be effective on March 1, 1999.

CANADA TAKING ADDITIONAL PRECAUTIONS and OIE RECOMMENDATIONS:

While Canada is taking additional measures to decrease the potential amplification and spread of typical BSE, USDA has ignored the fact that other countries, by their actions, have shown that they do not approve of USDA's new BSE 'minimal risk status' which was created as a result of the finding of typical BSE in Canada. This summer Canada will begin additionally prohibiting the use of specified risk materials (SRMs) in not only ruminant feed but also nonruminant feed. They are taking additional precautions in recognition of the need to further address their BSE problem and to be in accordance with OIE guidelines. However, because of BSE's long incubation period, the success of this prohibition will be inconclusive for several years. The United States does not have this additional SRM restriction in place yet nor is it being initiated. The US has also not banned the feeding of poultry litter and plate waste, which Canada does prohibit. The misfeeding of nonruminant feed to ruminants has been stated to be a concern to both animal health officials in the US and CA.

The Minimal Risk Rule 2 (MRR2), which is the proposed rule to allow Canadian cattle over thirty months of age into the US, acknowledges the risk of the SRMs in older age Canadian cattle by declaring that the distal ileums of these older age animals cannot enter the United States. However, this same rule allows these older age, higher risk cattle to be trucked across the border with their distal ileums intact and makes no effort to completely remove them from all feed supplements, including those to nonruminants, as Canada will soon be doing. How can this be logically explained to producers, consumers, and trading partners?

The OIE Chapter 2.3.13 clearly states:

1. From ***cattle of any age*** originating from a country, zone or compartment defined in Articles 2.3.13.4. and 2.3.13.5., the following commodities, and any commodity contaminated by them, ***should not be traded for the preparation of food, feed, fertilizers, cosmetics, pharmaceuticals including biologicals, or medical devices: tonsils and distal ileum.*** Protein products, food, feed, fertilizers, cosmetics, pharmaceuticals or medical devices prepared using these commodities (unless covered by other Articles in this Chapter) should also not be traded.
2. From ***cattle that were at the time of slaughter over 30 months of age originating from a country, zone or compartment*** defined in Article 2.3.13.4., the following commodities, and any commodity contaminated by them, ***should not be traded for the preparation of food, feed, fertilizers, cosmetics, pharmaceuticals including biologicals, or medical devices: brains, eyes, spinal cord, skull and vertebral column.*** Protein products, food, feed, fertilizers, cosmetics, pharmaceuticals or medical devices prepared using these commodities (unless covered by other Articles in this Chapter) should also not be traded.

While USDA continues to try and interpret the OIE guidance as leniently as possible Canada is stepping up to take OIE recommended additional necessary actions to improve their ability to export and at the same time strive to eradicate BSE in their national herd as quickly as possible. USDA's overall lack of responsible actions with respect to BSE in Canada has decreased the status of the US cattle herd in the eyes of our trading partners. This proposed rule to allow animals of the highest risk in from Canada, will only serve to further compound trade barriers.

FEED COHORTS:

Canada acknowledges that contaminated feed was the likely source of the infection and that additional feed cohorts are likely to be infected as well. Yet higher risk, older age feed cohorts, will be allowed to come across the border. In addition, five Canadian BSE cases reportedly were born after the implementation of its 1997 feed ban, indicating that either the ban has not been effective in preventing BSE or there is a greater prevalence of BSE in their country than originally estimated. Canada may be dealing with a regional BSE problem, and they acknowledge contaminated feed is the most likely source of their cases. Either scenario increases the probability that infected cattle will be imported into the US.

TYPICAL or ATYPICAL BSE:

The type of BSE that Canada is dealing with versus the type found in the 2 US cases must not be dismissed as being an insignificant issue. As APHIS has acknowledged also, the science is rapidly unfolding with respect to prions and research that will tell us much more about the pathogenicity of prions is still ongoing. It is not correct to assume that the situation Canada is dealing with is the same scenario that the US may have since the types of BSE have been proven to be different.

IDENTIFICATION:

If/when Canadian cattle over thirty month of age (OTM) are allowed to come into the US, those animals must continue to be permanently identified with an official tag and a CAN brand and be more efficiently segregated by USDA through the entire slaughtering process. Should positive cases of BSE be found in any Canadian animals that are processed in the US, it must not be to the detriment of the US cattle industry or our consumers. The ability to track these animals all the way through the slaughtering process and then to have inventories reconcilable, is critical in order to avoid making the US livestock industry take credit for a Canadian origin case of BSE.

The recent investigation of seven head of Canadian animals slaughtered in a plant in Nebraska dramatically points out the desperate need to improve animal identification and tracking capabilities in the US, by starting first and foremost at our ports and borders. USDA needs to start leading by example in all matters associated with animal health. Of primary importance, their concern should be the current inability to quickly and accurately trace all animals that enter the United States and ultimately our food supply. USDA-APHIS spokespersons have recently stated that animal identification is not a food safety issue in itself, in their response to Canadian animals that entered Washington state and had identification errors on the accompanying international health certificates. We agreed that identification does not prevent the introduction of disease, but it is vital to the ability to deal with animal diseases (such as BSE) and mitigate damage to markets. If identification and the ability to manage that information is not critical, then why is USDA spending millions of dollars on the development of a voluntary NAIS program? Producers and animal health officials can not be expected to support the NAIS efforts on one hand, when USDA is saying that identification and traceability are not important on the other.

In the past USDA- APHIS traced animals from BSE infected countries such as the UK and restricted their movement until they moved to slaughter only and were then tested. Those actions were responsible and appropriate and served to help monitor the status of those animals upon slaughter. Why has APHIS abandoned effective and proven policies of the past in lieu of increasing the risk of disease introduction and market damage?

PRODUCT IDENTIFICATION

USDA should not implement this rule until it can assure domestic and foreign markets where the beef product originated. If another BSE positive cow from Canada enters the market, USDA can not guarantee that it would not be just as devastating to our domestic market as it has been to our export markets. We must have mandatory country of origin labeling fully implemented before USDA further weakens our standards on Canadian beef imports.

AGE

Saying that cattle born before March 1, 1999, cannot be imported not only doesn't make scientific sense based on the three cases of BSE diagnosed after USDA recognized Canada's feed ban as being 'effective', but it also will be unenforceable. It is nearly impossible to verify the actual age of older (Canadian) cattle. In many cases, veterinarians will have to be willing to accept producers' statements as the only source of verification on the age of their cattle. When dealing with a disease such as BSE, with serious health and economic implications, this is not an effective import requirement. Animals born prior to March 1, 1999, will unknowingly be able to move into the US under this proposed rule, even to the veterinarians who will be expected to compromise their veterinary accreditation by signing certificates of veterinary inspection.

BSE MINIMAL RISK STATUS:

BSE is not only an animal health concern, but it must not be forgotten that it is a public safety concern as well. The feed ban and all precautions taken associated with BSE have been to mitigate the risks to consumers as well. It is correct to say that firewalls, such as SRM removal and the feed ban are in place, but that does not mean that short cuts or negligence should be promoted or tolerated in other firewall areas that have been proven effective in the past.

Congress needs to demand that USDA adhere to the most conservative policies with respect to BSE that the OIE guidelines allow. The trend being established by USDA appears to be a much more lenient approach to animal health standards for the US. How can producers and consumers be assured that the 'Minimal Risk Status', created by the US, will not be assigned to other countries that have 19, 109 or even a greater number of cases of BSE? How can we be sure that other countries will agree with USDA's determination of minimal risk status? Shouldn't that be agreed upon before we weaken our position in the international community? The list of SRMS has continued to expand and the pathogenic routes of prions have continued to unfold over the past years. Likewise we are continuing to learn more about the infectious dose required to cause disease in humans and the length of incubation times of disease in humans based on the infectious dose. **We must know more before becoming careless for the sake of trade.**

FOREIGN MARKETS:

Although this rule is supposed to deal with the science of BSE and minimal risks of importing cattle over 30 month of age, one must look at the potential impact this rule will have on our beef exports to foreign countries. How other countries would perceive the risk of our animals and products under this proposed rule, must be considered. The United States must first restore and maintain the confidence of our foreign trading partners before we allow any additional high risk animals into the US market place from a country that has not met 'international standards of minimal risk', not just the USDA's definition of minimal risk. Japan and Korea have reduced

the amount of beef coming into their countries and continue to put up additional restrictions and road blocks. I believe this rule would make it even harder to regain their confidence and may result in the permanent loss of these markets. USDA's inability to fully regain these lost exports makes the compelling case that more stringent standards are needed rather than proposing to allow additional risks for our domestic and foreign markets. If we are to maintain current export markets and hopefully regain lost export markets, USDA should be looking to make its existing and future BSE import policies compliant with OIE international standards. USDA- APHIS also needs to immediately reconsider the need to allow testing of animals by slaughter plants that wish to provide that additional bit of information to their customers. It is true that there is currently no true 'food safety test' recognized by USDA, but if other countries wish to ask for animals to be tested as an additional precaution, why not? Dr. DeHaven pointed out at the Senate Field Hearing held February 21, 2007 on the MRR2, that animals may test brain positive on a BSE test up to ~3 months prior to being clinical. If countries wish to try and identify those animals and remove them from their food supply also, why should they not be able to make that decision for themselves?

SUMMARY:

We are sympathetic to what the BSE cases in Canada have done to damage their markets. It is ironic that because of that empathy, we understand the need to keep the US market viable, stable and healthy not only for US producers but for Canadian producers as well. Many Canadian producers currently utilize the US market by sending their under 30 month of age cattle and products to the US to help stabilize their situation. Damaging our market will not only hurt the US livestock industry, but also cause further loss of market access to Canadian producers as well.

As APHIS acknowledges, **the science surrounding prion diseases (especially BSE) is still rapidly unfolding**, and the sensitivity of tests and detection limits are continually improving. There must be more certainty and fewer 'assumptions' before rules are promulgated to allow more high risk cattle from Canada to enter the United States, or the results could be devastating as USDA-APHIS administration continues to gamble on what the public perception of additional cases of BSE in the US will be, if we further increase our risk by allowing OTM cattle in from Canada. And, this allowance is being made for a country that appears to have a regional BSE problem. **Opening the border to OTM age cattle in the manner proposed in the MRR2 simply cannot be justified at this time and is a premature decision not yet adequately supported by science, OIE guidance or trading partners.**

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HCR 3033

Senate Agriculture Committee

Chairman Flakoll and members of the Senate Agriculture Committee,

My name is Kayla Pulvermacher; I am here representing the members of North Dakota Farmers Union. I am here to testify in support of HCR 3033.

The USDA's proposed rules that allow for liberalized importation of Canadian beef/cattle do not address the issues of safety for our nation's producers. United States cattle producers continue to have no assurance that Canada has its BSE problem under control.

North Dakota Farmers Union believes livestock health is critical to production agriculture and our nation's ability to provide a safe food supply.

The testimony attached is a summary of the comments North Dakota Farmers Union Secretary Woody Barth gave at Senator Byron Dorgan's listening session earlier this month. The testimony highlights NDFU's policy on USDA's rule proposal.

We strongly urge a do pass on HCR 3033.

Thank you Chairman Flakoll and members of the committee. I will answer any questions at this time.

Summary of Comments
Elwood "Woody" Barth
Secretary of North Dakota Farmers Union

USDA's Proposal to Liberalize Beef/Cattle Imports from Canada

USDA is proposing to allow live cattle born after March 1, 1999 and certain ruminant products to be imported from Canada into the United States. North Dakota Farmers Union believes that livestock health is critical to production agriculture and our nation's ability to provide a safe food supply.

The following should be addressed prior to expanding beef/cattle trade with Canada:

- Canada can prove/verify their cattle herd and beef products are BSE-free
- Canada can prove/verify 100% compliance with the ruminant feed ban
- U.S. international beef export markets are firmly reestablished
- Mandatory Country-Of-Origin labeling is fully implemented
- Rapid-test technology is provided to all domestic slaughtering
- facilities to provided stability to the cattle market, and another layer of confidence for the American consuming public
- A guaranteed economic safety net for American producers if the importation of cattle and beef products from BSE-positive countries negatively impacts domestic profitability

NDFU believes that USDA should withdraw its proposed rule until the above conditions are met.