

Division of Dockets Management (HFA-305)
Food and Drug Administration
5630 Fishers Lane, Rm 1061
Rockville, MD 20850

RE: [Docket No. 2002N-0273] (formerly Docket No. 02N-0273) RIN 0910-AF46
(regarding potential amendments to 21 CFR Part 589), Substances Prohibited From Use
in Animal Food & Feed.

The National Association of State Departments of Agriculture (NASDA) is a nonprofit, nonpartisan association of public officials comprised of the Commissioners, Secretaries and Directors of the fifty states and four territories (Puerto Rico, Guam, American Samoa and the Virgin Islands). NASDA represents its members in the development, implementation and communication of sound public policy and programs, which support and promote the American agricultural industry, while protecting consumers and the environment. NASDA is providing comments on the proposed rulemaking, Substances Prohibited From Use in Animal Food & Feed [Docket No. 2002N-0273] (formerly Docket No. 02N-0273) RIN 0910-AF46 (regarding potential amendments to 21 CFR Part 589).

NASDA appreciates the efforts made by FDA to institute firewalls to protect against the entry of BSE into the country and, in those instances where it may enter, to limit the possibility that it may infect any other cattle. FDA's feed ban, which went into effect in 1997, is an important part of the existing firewalls. NASDA concurs that some additional actions may need to be taken to further strengthen the feed ban; however, we believe that FDA should conduct risk assessments (including risk/benefit and cost/benefit analysis) to determine which actions are justified and best suited to provide an appropriate degree of increased protection of public and animal health.

More to the point, the NASDA's BSE policy, amended in September 2005, supports a national policy, which assures that the U. S. actions are supported by the best available science—a policy that embraces research as a method to advance current knowledge and understanding, is based on risk analysis, is able to assure the consuming public that the beef supply and animal feed is safe because of the actions taken by U. S. public agencies and is fair to the greater U. S. beef industry.

Within this context, NASDA supports (in part):

- Development of a feed ban that is based on the best available science and that is enforceable.
- Risk assessment – determine options for proper actions based on risk assessment.
- Increased research – especially to develop an *in vitro* testing procedure that is rapid, accurate, and cost efficient, **further analysis of other possible methods of transmission of the disease in cattle (e. g., blood/tissue)**, other possible avenues of transmission to humans, **disposal options for SRM, infectivity of tissue from animals under 30 months of age, develop and implement effective methods for inactivation of transmissible spongiform**

encephalopathy (TSE) agents, further determination of pathways by which the agent causes the disease (emphasis added).

- Harmonization of all animal health standards.
- NASDA realizes there is no such thing as a no cost policy – if the U. S. needs to take actions to assure eradication in a reasonable timeframe, NASDA believes that affected sectors of the industry (e.g., renderers, perhaps others) should be assisted to assure compliance is reached as reasonably as possible.

NASDA supports the FDA's efforts to find the proper balance between human and animal health safeguards and over-regulation. The U. S. policy, supported by NASDA in principle, suggesting the need for harmonized standards with our trading partners, speaks in favor of additional restrictions on feed ingredients, i. e., consistent perhaps at least with the Canadian actions taken to reduce the risk of feed contributing to the presence of BSE in cattle. Further, however, testing, conducted under the Department of Agriculture's BSE enhanced surveillance program, would indicate that a minimal, perhaps negligible, risk to humans or animals exists under the current firewall protections in place. Current assessment by the Government Accountability Office, however, would indicate that some improvements can be made in enforcement procedures for the current feed ban that would enhance the protections provided. In addition, the potential impact on the rendering industry merits particular attention. In the past, renderers have provided a low cost means of assuring cattle are properly disposed of. Enacting further regulations that may increase the potential for environmental damages and/or unregulated disposal of carcasses may temper the benefits achieved by further prohibitions on substances that can be used for animal food or feed.

The task before FDA is a substantial one; one, in fact, that is not easily obtained. NASDA, through its state departments of agriculture, is committed to working with FDA to find a proper balance in assuring the safety of the food and feed supply in the U. S and the longer-term viability of the greater U. S. beef industry.

Sincerely,

J. Carlton Courter III
President, NASDA

And Commissioner, Virginia Department of Agriculture & Consumer Services