



**TENNESSEE FARM BUREAU FEDERATION**

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Division of Dockets Management (HFA-305)  
Food and Drug Administration  
5630 Fishers Lane, Room 1061  
Rockville, Maryland 20852

**Re: Docket No. 2002N-0273, Proposed Rule – Substances Prohibited from use in Animal Food or Feed**

The Tennessee Farm Bureau Federation appreciates the opportunity to provide comments regarding FDA's Docket No. 2002N-0273, Proposed Rule for Substances Prohibited from use in Animal Food or Feed. The Tennessee Farm Bureau is a general farm organization representing the interests of livestock and poultry producers across the state of Tennessee.

The Tennessee Farm Bureau is a strong advocate for safeguards to protect the US meat supply from Bovine Spongiform Encephalopathy (BSE). Cattle represent approximately 20% of cash receipts for all of Tennessee agriculture. A disease of this nature is a major threat not only to the health of the state's livestock herds but to consumer markets of which our membership depends on for income. We applaud FDA for measures already in place to protect our feed industry, our cattle industry and the public in general.

We are supportive of the USDA APHIS BSE surveillance program. We believe this program has provided a swift and adequate response to the few cases of BSE discovered in the US. This uniform approach has allowed USDA to implement an efficient, targeted and effective system for dealing with the disease threat of BSE. This program is not a burden to livestock producers and that is important. Within this massive, worldwide approach to prevent BSE outbreaks, livestock producers have suffered enough from price volatility and public fears regarding the safety of our food supply. Any added costs could be detrimental to our producers.

Tennessee producers have embraced the national Animal Identification Program. Producers have realized the benefits of this program and advantages of traceability during any disease outbreak or contamination. Farmers appreciate the phased in approach to this program with time to make needed arrangements and changes to their operation in order to comply with the requirements. This program was also partially developed on the local, state level. Working with our state department of agriculture, we have been able to evolve through some of the difficulties with this program and

implement an efficient system that is practical for a majority of the operations. We believe the animal identification program will also be a significant deterrent to a BSE outbreak in the US.

This organization is committed to help remove the threat of BSE in this country however, we cannot support FDA's proposed rule in its current form. We believe this rule is not scientifically based and will cause an extreme burden on Tennessee producers who cannot properly dispose of dead stock.

Tennessee cattle and dairy producers depend on the rendering industry to dispose of dead stock. We believe that by prohibiting certain risk material and entire carcasses not inspected and passed for human consumption will significantly impact, if not remove, the rendering industry's ability to provide services to producers in Tennessee.

We refer back to the 2002 Sparks Companies study already acknowledged by FDA in the 2002 Advanced Notice of Proposed Rulemaking (ANPRM). We do not want to restate the findings of this study. However, we do want to reiterate that the conclusions of this study describe the dilemma Tennessee farmers will be faced with if this proposed rule is in place.

Incineration is not a viable option for producers. The state of Tennessee has taken extreme measures over the past few years to decrease air emissions. There are very burdensome permit requirements for the operation of incinerators. Our regulatory structure for incinerators is designed mostly for commercial use. Farmers would not use incinerators for dead stock in Tennessee. In the past, producers have used an open burning method for disposing of dead stock. This method is also prohibited in Tennessee. Current regulations prohibit any form of open burning unless it is vegetative material grown on the property.

Burial of dead stock has its obstacles both logistically and environmentally in Tennessee. Most cattle producers do not have the equipment or resources to properly bury dead stock. Burying dead stock with four feet of soil would require excavation machinery. A general range for the cost of this machinery would be \$30 to \$50 per hour of usage with a four hour minimum charge. Also, much of Tennessee contains karst topography. We do not know the environmental impact to ground and surface water in regions of the state with this type of topography if animals currently being taken by renderers are placed underground to decay.

Composting is not used in the cattle industry in Tennessee and we are not familiar with any proven and efficient methods for composting dead cattle. Again, this is a method that would require an extra amount of financial resources, equipment and structures. Also, composting is a process that requires ongoing attention over a period of time. The

death of one animal could require time and effort by the farmer to maintain the composting process over a six month or longer period. Composting means a farmer would have to “spend time” with the dead animals just as he/she does with the live animals. Composting does not prove to destroy the prion that causes BSE. If a cattle producer uses the same equipment to manage the compost process that he/she also uses to feed cattle, is this not also a risk for contamination?

We cannot consider landfills an option in Tennessee because of the uncertainty as to whether landfills will take dead stock. Following the confirmation of the one case of BSE in Washington state, several landfill management companies refused to take dead stock because of their concern for liability and the unknowns surrounding this disease. Even though we disagreed with their actions, it is their prerogative to accept or not accept dead stock. At the time, this posed a major problem for producers, especially dairy producers, who utilized landfills. Because landfills have restricted dead stock in the past, we cannot consider landfills a viable, long-term or consistent source for disposing of dead stock.

Tennessee farmers are currently facing urbanization and an increasing population. One of the major benefits for producers located around populated areas is the timely and efficient removal of dead stock by a rendering plant. Producers in these areas cannot allow their animals to decay on top of the ground because of nuisance liability along with the numerous health effects.

We do not know at this point all of the complexities Tennessee producers would face without services of the rendering industry. With all of this uncertainty, FDA has not provided an adequate benefit to constitute the cost and damage to Tennessee producers as a result of this proposed rule. Further removing a very low or almost nonexistent risk of contamination is not feasible given the implications to Tennessee cattle producers.

FDA did not place much credence in past ANPRM comments from affected industries as to whether these industries would continue providing removal of dead stock. As an added argument, we would refer you to a 2004 study by Informa Economics titled “An Economic and Environmental Assessment of Eliminating Specified Risk Materials and Cattle Mortalities from Existing Markets.” This study provides very sound reasoning why it would not be economically feasible for the rendering industry to continue taking dead stock. Even though FDA did not include all specified risk materials in this proposed rule, we believe the effects will still remain the same. It will not be economically feasible for renderers operating in Tennessee to continue taking dead stock regardless of collection fees. This study quantifies those impacts and we would encourage FDA to consider the findings of this study. The conclusions reached by FDA as outlined in this proposed rule do not match the findings of this study.

We support sound science as a solution for this issue. Even throughout the preamble and background within the proposed rule, FDA could not make a sound scientific argument for this action. The Harvard-Tuskegee Study indicated that measures already in place make the US "robust against the spread of BSE." Also quoted from within the proposed rule, "...if introduction of BSE had occurred via importation of live animals from the United Kingdom before 1989, mitigation measures already in place would have minimized exposure and begun to eliminate the disease from the cattle population even assuming less than compliance with the [current] feed ban." We realize the study also recommended practices to further decrease the already low risk, however this study was produced approximately four years ago. The population of possible infected cattle from importation has decreased even more since the release of this study and still no major outbreak of BSE has occurred even without this proposed rule.

The current ruminant to ruminant feed rule (21 CFR 589.2000) provides the necessary precautions to prevent a disease outbreak. We disagree with FDA's characterization of this proposed rule being a secondary level of protection to address failures in compliance with the existing feed rule. First of all, compliance with the 1997 ruminant feed rule is extremely high. We believe FDA's own data regarding inspection violations of the 1997 ruminant feed rule is an amazing testament to the success of this rule given the enormity of the feed industry in the US. We should not expect a 100% compliance of any rule but a 0.4 percent violation of inspections is extremely close. A secondary precaution to reinforce the 1997 ruminant feed rule is unwarranted. Second, FDA must consider other precautions that are being taken in regard to BSE. We believe this proposed rule is not merely a secondary precaution but a burdensome precaution among a long list of actions already being taken by several agencies to abate the low risk of a BSE outbreak.

Tennessee producers believe this rule places a burden on the cattle industry to achieve very little benefit for the public. We believe this action is more to calm public fears than it is a strategic defense against BSE. Should farmers bear this burden for the sake of public relations? We are satisfied that current measures already in place adequately safeguard this nation from the threat of a BSE disease outbreak. We ask FDA to consider our comments as well as those of the rendering industry as the agency moves forward on this issue.

For questions or clarifications regarding these comments, please contact the Tennessee Farm Bureau Federation Public Affairs Department.

Sincerely,



Flavius A. Barker  
President

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