

AMERICAN COUNCIL OF INDEPENDENT LABORATORIES  
POSITION PAPER  
ON  
UNFAIR GOVERNMENT COMPETITION IN BSE TESTING

**The American Council of Independent Laboratories believes strongly that private sector food testing laboratories have the capability to be of service to industry and government for BSE testing and should be provided the opportunity to do so.**

Background

In late December 2003, the U.S. Department of Agriculture (USDA) reported the first case of bovine spongiform encephalopathy (BSE) in the United States. A few weeks later, they announced that the diseased cow was brought into the U.S. from Canada and had been born before the implementation of Canadian and U.S. regulations that banned the use of ruminant protein products in ruminant feed. Cattle feed that contains material from BSE infected cattle is considered to be the infectious route through which other cattle can contract BSE.

No additional cases of BSE have been identified in the United States and USDA believes their program for prevention of BSE is working. They have taken other appropriate actions to further ensure protection of the U.S. public.

About 40 countries, however, most prominently Japan and South Korea, very quickly banned the importation of U.S. beef. The ban continues today for most countries. Negotiations between trade representatives of the United States and many of these countries have not resolved the conflict. Japan already had implemented mandatory testing of 100% of all cattle slaughtered in Japan. Most believe that Japan and many others are not likely to remove the ban on U.S. beef if it has not been tested for BSE.

Not surprisingly, those U.S. beef producers who export large volumes of meat are being hurt economically. Although they have been patient for several months as our trade representatives have worked to resolve the export impasse, reduced sales and margins coupled with undesirable employee layoffs have forced producers to consider alternate solutions.

Solutions

One solution apparently acceptable to Japanese regulators calls for the testing of all U.S. beef that would be imported for sale in Japan. Every slaughtered cow would be tested here. If American producers, using approved methods, could certify that their beef has tested negative for BSE, Japanese and supposedly S. Korean markets might be reopened.

BSE test methods include a reliable but complex and time-consuming histochemical procedure used only at the APHIS laboratory in Ames, Iowa. New immunoenzymatic kits have just been approved by USDA for use as a screening tool. The tests have proven to be highly specific and sensitive and offer the possibility of a much faster turn-around-time than the histochemical procedure. All presumptive positives obtained would be confirmed using the histochemical test by USDA at the Ames laboratory.

Until March 15, it appeared that USDA would do all of this testing on a targeted group of cattle that would represent a small fraction of the total cattle slaughtered annually in the U.S. But, because US producers cannot ship overseas and USDA planned to test only a small fraction of all US cattle, some producers have looked for alternate solutions to their problem. A few producers have proposed that they take on the testing role themselves or work through capable, third party laboratories. They wish to voluntarily test all cattle. USDA initially balked at the idea, but has since indicated they might be willing to staff USDA-operated on-site testing laboratories at meat processing plants where the producer would be willing to pay for the USDA testing service. USDA is also in the process of identifying the state and university laboratories that will be doing the BSE testing outlined in USDA's increased surveillance plan. There is no known intent, however, to include competent commercial laboratories in the solution.

ACIL Position

ACIL and its Microbiology and Analytical Chemistry Section Executive Committee believe that the exclusion of U.S. private food testing laboratories (or others with proven capabilities and suitable accreditations, e.g., ISO/IEC 17025 accreditation) is a clear example of unnecessary and unfair competition. The United States contains a wealth of food testing laboratories that have the Quality Control procedures, trained staff, experience, and credibility needed to provide able assistance and should be provided the opportunity to do so.

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