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On behalf of the
United States Cattlemen's Association

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INTRODUCTION

Mr. Chairman, Ranking Member Stabenow, and Members of the Committee, it is truly an honor to be invited here today as a representative of the U.S. livestock industry. I am Shane Eaton, one part of a whole family farming and ranching operation in Lindsay, Montana. I am a descendant of Francis Eaton, a passenger on the Mayflower in 1620, and my great grandfather homesteaded the land our current operation sits on in 1909. Through four generations, our family has maintained that land's productivity. Since 1965, we have focused on growing our herd of commercial cows and registered Charolais, along with managing feedlots in North Dakota, Nebraska, Colorado, and Wyoming to background our cattle and thousands of our customer's calves.

I am here today representing the United States Cattlemen's Association (USCA), where I serve as a member of the Marketing and Competition Committee. Based in Washington, DC, USCA was founded on the principle that a grassroots effort by U.S. cow-calf producers, feedlot operators, backgrounders, and livestock haulers can work positively and effectively with Congress and the Administration to reform U.S. agriculture policy and ensure a fair, competitive marketplace.

I am also actively engaged with my state cattlemen's association, serving as a Director of the Montana Stock Growers Association (MSGA). With a 135-year history, MSGA is the trusted voice of cattle ranchers, and advocate of cattle ranching for state and federal legislators and a true partner in efforts to preserve & advance Montana's cattle industry.

Across the United States, cattlemen and women are facing unprecedented challenges to their livelihood. As these threats rise, and cattle prices fall, more and more families have come to the realization that they simply cannot keep their bottom line "in the black" at the end of the year. Our concern lies not only in the ability of our nation to continue producing the highest-quality, safest food supply in the world, but also in the ability of our producers to feed themselves.

The U.S. cattle industry requires bold leadership by Congress to address the current inadequacies in the marketplace. We offer the following for consideration by this Committee.

BACKGROUND

The 2017 Census of Agriculture, released in April 2019, raised alarms for those concerned with the future of U.S. agriculture. For starters, the net cash farm income of producers fell from $37,241 in 2012 to $32,217 in 2017. More so, over 56 percent of all American farms and ranches reported a negative net cash farm income in 2017. The current state of the farm economy has contributed to a 3 percent decrease in total farms and ranches and an increase in the average age of the American farmer and rancher to 57.5 years old, as more and more individuals choose to go make a more lucrative living in the cities.

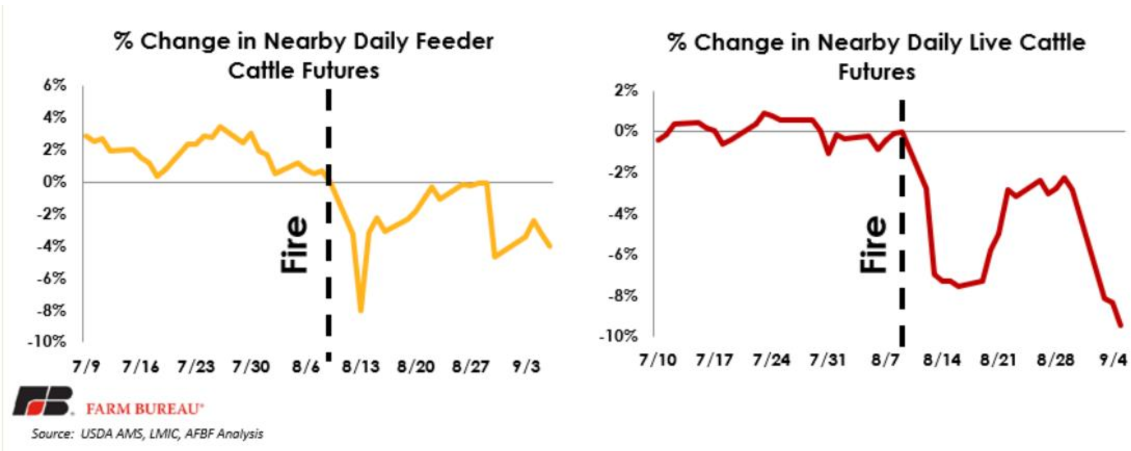
The declining farm economy threatens the ability of U.S. producers to cultivate a safe, affordable, and abundant food supply. Solutions are available to reverse this trend, but they will require bold and immediate action by Congressional leaders.

MARKETING AND COMPETITION REFORM

On August 9, 2019, a fire broke out at one of the largest beef packing plants in the U.S. The Finney County Beef Plant in Holcomb, Kansas, owned by Tyson Foods, accounts for nearly six percent of the nation's slaughter capacity.

In the days following the fire, U.S. cattle producers witnessed extreme volatility in the daily feeder and live cattle futures. Prices have not yet recovered from the impact of the fire, despite a return to business as usual for both processors and retailers.

CATTLE FUTURES CHANGES SINCE FIRE[1]



A September 16, 2019 report released from Kansas State University listed projected values for finished steers in Kansas feedyards last month at - $184.99[2]. During that same time period, packer margins spiked significantly to nearly four times their annual average, or approximately $549. Within that same report, Kansas State University predicts that cattle feeders will not see a positive net return on finished steers or heifers until May 2020.

The livestock industry is a historically up and down, ever-changing marketplace due to its dependence on consumer trends, domestic and international policies, and foreign market factors; however, today's marketplace lacks the transparency and true price discovery indicative of a healthy industry. While the fire in Holcomb, Kansas is a unique event, it paints an accurate illustration of the importance of the futures board to the cattle marketplace.

The Live and Feeder Cattle Futures Contracts are a critical risk mitigation tool not only for seasoned cattle producers, but especially for young producers who use the futures board to assist in securing operating loans from lenders.

However, the futures board fails to reflect marketplace fundamentals. USCA submitted four recommendations to the CME Group that would improve the way the Live and Feeder Cattle Futures Contracts operate.

First, the creation of an industry working group remains the most critical missing piece in ensuring that the fundamentals of the cattle market are working properly and that the futures

[1] (American Farm Bureau Federation , 2019)
[2] (Tonsor, 2019)

contract specifications are carefully maintained to ensure market integrity. This working group should include representatives from at least the following organizations: American Farm Bureau Federation, Livestock Marketing Association, National Cattlemen's Beef Association, National Farmers Union, and the United States Cattlemen's Association

Second, we believe that the creation of a field coordinator position to liaison with auction markets, feeders and cattle producers would demonstrate the CME Group's commitment to addressing the volatility concerns that have historically plagued the cattle marketplace. This field representative shall keep in regular dialogue with auction markets and emphasize the importance of serving as a delivery location. Further, the CME Group should compensate sale barns with an annual stipend for participating in the Contract as delivery locations.

Third, as stated in our March 2019 comments to the CME Group, we support the implementation of a mechanism to systematically update the Choice/Select quality percentage of the par value of the Live Cattle futures contract using a weekly public report published by the United States Department of Agriculture ("USDA").

Once these changes have been implemented, USCA would like to see CME move forward in a similar fashion for deliverable cattle weights. Though we recognize that confidentiality may restrict the availability of some of these data points, the calculation of a bell-shaped distribution graph with individual cattle weights would greatly enhance the ability to properly define dynamic contract specifications for weights.

Finally, the Contract should utilize real-time information and data, as produced by a third-party contractor, for calculating the CME Feeder Cattle Index. Utilizing sales data as it is available adds volume and creates a more complete picture of market activity.

The easiest solution Congress can provide to immediately restore order to the futures market is to direct CME to allow the long to demand delivery.

(*See Exhibit One for more information.)*

MANDATORY PRICE REPORTING REAUTHORIZATION

Overseen by the United States Department of Agriculture, Agriculture Marketing Service (USDA AMS), Mandatory Price Reporting (MPR) was established to ensure transparent price discovery and provide all market participants, with accurate and comparable levels of market information for slaughter cattle, swine, sheep, boxed beef, lamb meat, and wholesale pork.

Feeder Cattle are sold based on origin, breed, quality, and value. Divisions for Feeder Cattle price reporting include Canadian, Mexican, Brahma Cross, and Split Load among others. However, Live Cattle MPR reports are based only on gender and dairy influence and does not currently report Canadian or Mexican origin cattle separately like the Feeder Cattle reporting does. Live Cattle MPR is further defined by "Imported" or "Domestic." "Imported" Live cattle are cattle delivered straight to a packing plant from another country and are reported separately from "Domestic" cattle. However, "Domestic" cattle include non-native feeders, which are fed to slaughter weight in the US. The current system of "Domestic" reporting does not allow producers to be able to distinguish what is the market price for USA born and raised Live Cattle, and what is the market price for non-native feeders fed to slaughter weight. This lack of transparency in “Domestic” reporting is crucial, as non-native feeders can sell at a severe discount compared to USA born and raised cattle.

The Chicago Mercantile Exchange (CME) contract policy requires that producers who deliver Live Cattle to a CME delivery point sign an affidavit certifying that the cattle were born and raised exclusively in the US. Under these contract specifications, CME Live Cattle price reporting is based solely on the prices for US born and raised live cattle. Similarly, the CME Feeder Index excludes Non-USA origin cattle when calculating the Feeder Index. Thus, the CME Feeder Index is reporting the prices paid solely for USA born and raised feeder cattle. CME reports serve as a guide and benchmark for producers in determining their sale decisions, access to current and accurate pricing is essential.

Packers require that cattle feeders sign affidavits indicating that Feeder Cattle originating from Canada and Mexico were on feed for over 100 days. This requirement serves as an industry-led tracking system for non-native live cattle. Strict state health requirements also provide for a tracking system for foreign born imported feeders. Many states allow only certified feedlots to feed foreign born feeders, so feedlots track non-native cattle for these reasons also.

The practices outlined above by the CME, state health requirements, feedlots, and packers encourage transparency in the livestock market. However, such improvements will not be realized in market reports unless current MPR Live Cattle divisions are changed. Currently, MPR divisions only report “Imported” live cattle as “steer” or “heifer”, leaving out crucial origin information on imported feeder cattle fed to slaughter weight and sold as “Domestic”. This severely impacts the transparency and true price discovery within the livestock market.

Negotiated sales of live cattle set the base price and weekly formula in live cattle marketing; however only 20% of sales are negotiated [3], leaving the market vulnerable to small manipulations due to undisclosed cattle origin. In utilizing such a small percentage of sales to guide the entire market, any impact on the weekly formula results in ramifications across the entire industry, with producers bearing the bulk of the burden.

The MPR classifications for live cattle must be updated to include a “non-native” division. This addition would improve transparency across all Live Cattle markets and prevent market manipulation.

PACKERS AND STOCKYARDS ACT

In October 2017, the USDA withdrew the Interim Final Rule (IFR) regarding the Scope of Sections 202(a) and (b) of the Packers and Stockyards Act. In a lawsuit filed following the withdrawal, USDA is accused of violating Congress’ mandate in the 2008 farm bill, which was to publish a regulation that laid out criteria around contracting practices by June 2010. The organization making the accusations state that without a reasonable explanation for doing so, the agency’s actions are “arbitrary and capricious”.

USCA has always supported the clarification of The Packers and Stockyards Act of 1921. The P&S Act was passed “to regulate the sale of livestock by farmers to the more economically powerful livestock buyers.” The Act passed following a long list of existing antitrust laws: the

[3] (CME Group , 2016)

Sherman Antitrust Act of 1890, the Federal Trade Commission Act of 1914, and the Clayton Act of 1914. Congress recognized that while these existing laws addressed issues of anti-competitive and collusive behaviors in U.S. markets, they did not address the subject of individual producers interacting with the highly-concentrated meatpacking sector. Thus, the P&S Act directly addressed this issue with its most critical portion of the law, Section 202.

The legislative history and purposes clearly demonstrate that sections 202(a) and (b) were to be distinct from the antitrust injuries illustrated in subsections (c), (d), and (e) based on the absence of anticompetitive language. The congressional intent was clearly to provide remedies for individual producers in the instance that meat packers took unwarranted actions to provide less than fair market value to similarly situated producers. Consistent with the language and structure of the P&S Act, USCA wholly supports the USDA's longstanding position that the protections intended by sections 202(a) and (b) extend beyond the competitive injury required under the antitrust laws.

USCA also believes that the "harm to competition" phrase must be addressed. The interpretation of this phrase has led to preferential contract deals between meatpackers and select producers that has increased captive supply and decimated price discovery, leading to a favorable position for the meatpacker. The "unreasonable" requirement allows packers to continue paying premiums for higher quality and value-based pricing without the threat of litigation.

USCA urges the USDA Grain Inspection, Packers and Stockyards Administration to carry out its mission of promoting "fair and competitive trading practices for the overall benefit of consumers and American agriculture."

CURRENT OPPORTUNITIES IN INTERNATIONAL TRADE

In 2018, the U.S. exported $8.3 billion worth of U.S. beef. Our major export markets included Japan, South Korea, and Mexico.[4]

While Japan remains the top destination for U.S. beef exports in 2019, the industry is seeing an overall 3 percent decline in pounds of beef exported. It is vital for the U.S. to continue to export its products globally, however our trade agreements must reflect the unique nature of the cattle and beef industry.

Cattle and beef are perishable products, meaning they have limited and time-sensitive marketing periods and, therefore, face unique challenges in obtaining relief when trade is injurious, either from dumping, subsidies, or related surges.

When negotiating trade agreements, the following should be considered:

First and foremost, we need to maintain health of the domestic herd. The U.S. upholds the strictest protocols for animal and food safety; we must ask our trading partners to do the same.

[4] (U.S. Meat Export Federation)

Trade deals should be negotiated in the best interests of the U.S. cattle producer. Significant and timely dumping and countervailing laws and remedies must be in place to ensure U.S. producers are not disadvantaged by injurious dumping, subsidies, and import surges.

Finally, USCA supports the prioritization of bilateral, over multilateral trade agreements. The complexity of multilateral trade agreements make them difficult to enforce. Bilateral trade agreements are easier to negotiate, go into effect quicker, and are much more likely to be enforced.

TRUTH IN LABELING

Since the repeal of country-of-origin labeling (COOL) in 2015, there are no clear definitions for what constitutes a U.S. beef product. Cattle or beef that is imported into our borders and undergoes further processing or handling at a USDA-inspected facility can be labeled as a "Product of the United States", even if the handling of the product was minimal.

Congress should close this loophole and clearly define the phrase "Product of the U.S.A." to mean cattle that are born, raised, and harvested within our borders.

Without meaningful country-of-origin labeling on meat products or strong rules of origin, many consumers who wish to purchase meat derived from animals born and raised in the United States are unable identify such product. This deprives U.S. cattle producers of the ability to differentiate their product in the market and allows meat packers to take advantage of different supply sources while capitalizing on consumer confusion about the source of the food they eat.

In February 2018, USCA submitted a petition for rulemaking[5] to the USDA Food Safety and Inspection Service, asking the agency to define the terms 'beef' and 'meat' as products derived from the flesh of a [bovine] animal harvested in the traditional manner. The petition remains under review at USDA FSIS and we look forward to their final rule on the matter.

The Food and Drug Administration (FDA) has made it a priority to tackle the issue of standards of identity for certain food products. USCA has weighed in with the agency several times asking that this same priority be placed on vegetarian- or insect-based products that attempt to imitate meat.

Our members testified in front of both FDA and USDA on the issue of foods produced using cellular technology multiple times in 2018 and we were pleased to see both agencies commit to working together on the labeling and oversight of cell-cultured protein.

Allowing these products to call themselves 'beef' would hijack the many years and millions of dollars of branding that producers have invested into the Beef Checkoff Program. Since 1986, nearly $1.1 billion has been raised through the contributions producers make each time a beef animal changes ownership. Alternative proteins are attempting to ride the coattails of this program by capitalizing on consumer confusion.

[5] (United States Cattlemen's Association , 2018)

It is imperative that misleading origin labels, and false advertising of alternative protein products, be remedied in a timely fashion. We urge this Committee to direct the Secretary of Agriculture to address both of these issues.

PROTECT THE HEALTH OF THE DOMESTIC HERD

With regard to international trade, the health of the domestic cattle herd must be protected at all times. We are seeing an epidemic of Africa Swine Fever take hold in China and other east Asian countries that is decimating domestic swine production.

Similarly, an outbreak of Foot and Mouth disease within our borders would result not only in the loss of animal life in historic proportions, but also disruptions in trade as a result of a change in the U.S. FMD status through the World Animal Health Organization (OIE).

An outbreak of FMD in the United Kingdom in 2001 resulted in the slaughter of 6.1 million animals, devastating the agriculture industry, the economy and strained resources to the breaking point. The devastating effects of FMD cannot be overstated.

It has been calculated by the OIE that a FMD outbreak within the United States could result in $14 billion in losses calculated to include both farm income and the effect on consumers and international trade relations. The ability to prevent the introduction of foreign animal diseases must be maintained to ensure consumer confidence in that products purchased in the U.S. The U.S. upholds the strictest protocols for animal and food safety, we must ask our trading partners to do the same.

Along those same lines, with the growth of a global marketplace, our trading partners will begin to expect a more comprehensive and transparent animal identification system. Producers carry out animal traceability on their own operations every day. Tracing and tracking animals occurs on a regular basis via the filing and transfer of health papers, bill of sales, brand inspections, herd tags and lot loads. Though we recognize the gaps in the current framework, we also believe there are opportunities to strengthen and establish an animal identification system that works for all producers, which we believe would include these tenets:

1. A national ADT system should be carried out on a state-by-state basis.
   a. State animal health officials should remain in charge of the data and information, to prevent the dispersal of sensitive material.
   b. State animal health officials also have a heightened responsibility to respond to producer concerns and are more accessible to their constituents.
2. No single private organization should house all the data.
   a. Private organizations should not be contracted to provide this service, as the data the system will hold is composed of sensitive and confidential market information.
   b. The confidential nature of the information stored within an ADT system would present a clear conflict of interest for private organizations to own and manage.
   c. In instances where disease traceback is needed, it would be more cost-efficient for the data to be stored in a manner in which public health officials

can access the information. Housing the data in a private organization may impede that process and increase costs of traceback.

3. Streamlined technology to maximize efficiency.
    a. The mixture of high- and low-frequency tags hinder the ability of auction markets and others involved in the process of buying and selling cattle to move at the speed of commerce.
    b. It is expensive to maintain a system which has to take into account multiple forms of identification.
    c. The ‘840’ or U.S. origin tag should be used as often as possible to differentiate cattle born, raised and harvested in the U.S.

LIVESTOCK TRANSPORTATION PRIORITIES

Our members are responsible for the daily transportation of millions of animals. The welfare and the safety of their cargo is of the utmost importance to livestock transporters; it is their job to ensure that the animals arrive to their destination in the best condition possible. This responsibility requires additional hours of training and expertise, provided by industry programs such as the Master Cattle Transporter program and the National Pork Board’s Transport Quality Assurance program. Both courses offer specific suggestions on keeping animals comfortable on long trips, including temperature considerations and the appropriate length of time that animals should be on the trailer. Livestock haulers must take into consideration the welfare of their cargo which means avoiding rough-road conditions, slowing down, and being more aware of their surroundings to prevent animal injury.

Because of these added demands, livestock haulers only make up between 6% and 7% of the nation’s roughly 4 million commercial drivers yet are involved in less than 1% of the total crashes.[6]

On December 18, 2017, the U.S. Department of Transportation Federal Motor Carrier Safety Administration (FMCSA) required commercial vehicle drivers to install an electronic logging device (ELD) in their truck to track compliance with Hours of Service rules. The Administration exempted livestock haulers from this requirement until March 18, 2018 and a congressional delay has extended it through September 30, 2019.

Currently, for livestock and insects, HOS rules require that haulers turn on their ELD after they cross a 150-air mile radius of the origin of their load. After crossing a 150-air mile radius, haulers must start tracking their on-duty time and can only drive 11 hours before taking a mandatory 10-hour rest time.

Welcomed flexibility to the restrictive HOS rules comes in the form of the *Transporting Livestock Across America Safely Act (S. 2938, H.R. 6079)* which is pending before the Senate Commerce Committee. We are also encouraged by recent steps FMCSA has taken to address the HOS rules and for seeking input from the livestock industry. We encourage FMCSA to continue to evaluate changes with cattle producers in mind, and the impact this will have on shipping costs and potentially consumer costs at the grocery store.

IMPLEMENTATION OF 2018 FARM BILL

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[6] TRUCKS INVOLVED IN FATAL ACCIDENTS FACTBOOK 2005, Center for National Truck and Bus Statistics, University of Michigan, February 2008

We were pleased to see the inclusion of $150 million in funding for two new programs: the National Animal Vaccine and Veterinary Countermeasures Bank and the National Animal Disease Preparedness and Response Program (Preparedness and Response Program). The 2018 Farm Bill also expanded funding opportunities for the existing National Animal Health Laboratory Network (NAHLN).

The 2018 Farm Bill made important improvements to the Farm and Ranch Stress Assistance Network, including explicitly providing access to tribal communities and authorizing up to $10 million each year for the program until 2023. Suicide rates are consistently higher for farmers and agriculture workers when compared with total occupations, with some studies estimating that specifically male farmers are nearly four times more likely to commit suicide.[7] The bill also directed USDA and the Department of Health and Human Services to examine the problem of occupational stress among farmers and individuals who work in agriculture to develop a long-term strategy and response.

Title II is a critical component to ensuring the viability of working lands and wildlife habitat. The Conservation Planning Assessment included in the 2018 Farm Bill serves as a pathway to enrollment in one of the many voluntary, cost-share conservation programs offered by USDA, including the Conservation Stewardship Program (CSP), Environmental Quality Incentives Program (EQIP) and more.

Acting as an initial consultation or orientation, the Conservation Planning Assessment pairs landowners with either qualified USDA NRCS conservationists, qualified conservation district staff, or a certified rangeland professional to assess the rangeland resource concerns that effect the ecological integrity and of that land resource and make recommendations that are economically feasible.

Programs such as CSP and EQIP are critical to building on past conservation successes.

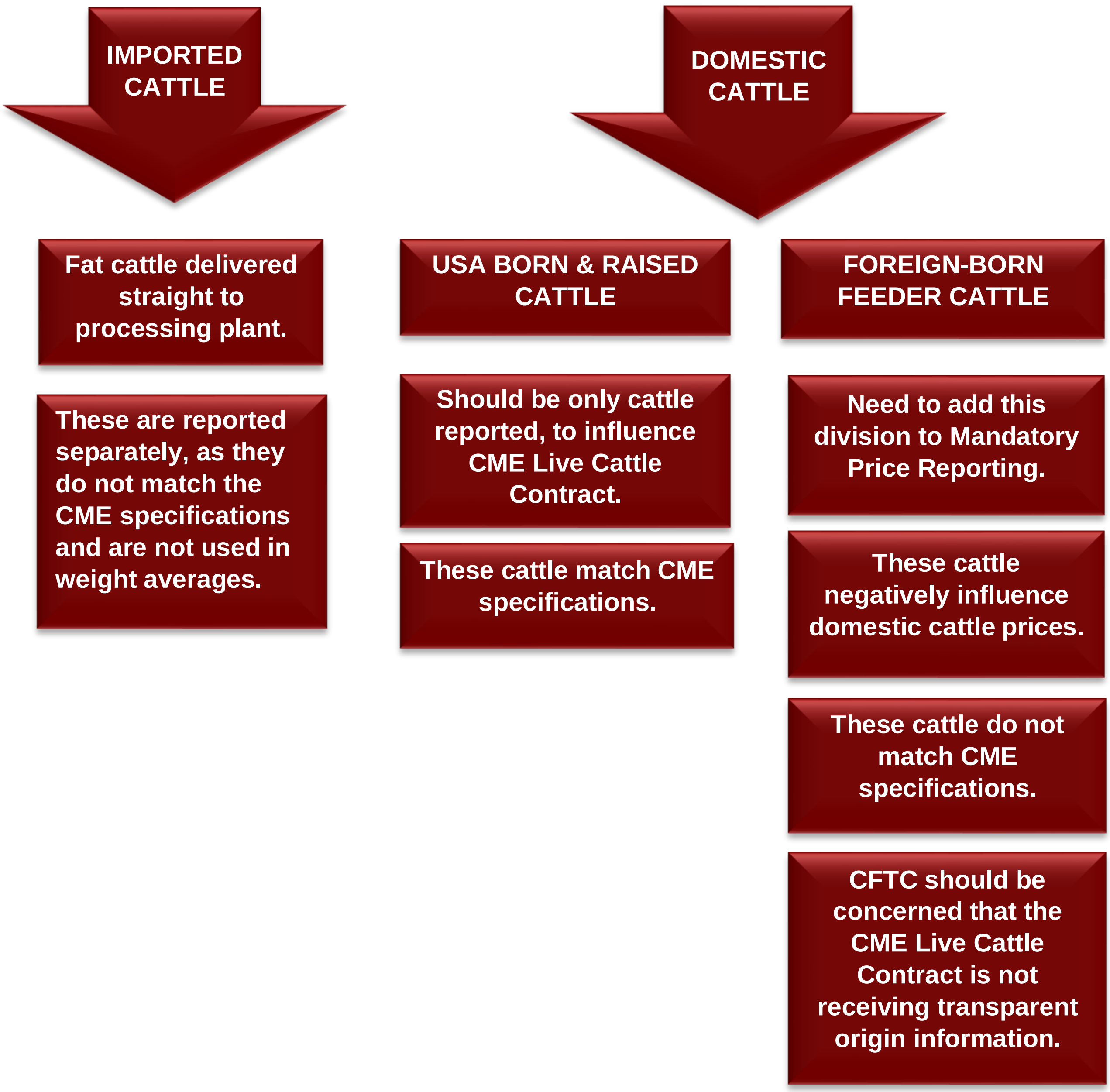
Finally, we'd like to express support for a provision included under *Title I: Commodities, Subtitle E – Supplemental Disaster Assistance*. The recognition that producers may be compensated for inspections of cattle tick fever under the Emergency Livestock Assistance Program did not go unnoticed and will go far in helping producers recoup the costs associated with eradicating the disease in the southwestern parts of the United States.

CONCLUSION

We have spent the last decade charting a course for the long-term health and vitality of the U.S. cattle industry, but we are currently tasked with unprecedented threats to the success of the independent rancher. Congress has a unique opportunity to enact meaningful change that will serve to strengthen the bottom line of U.S. cattle producers. The U.S. benefits from one of the safest, most plentiful, and highest-quality food supply in the world. Our members can only continue to produce that food supply if it is sustainable for them to do so. We recommend the above policy changes to ensure that our farming and ranching families will continue to be profitable for many generations to come.

[7] (Univeristy of Iowa, Spring 2014)

EXHIBIT ONE: MANDATORY PRICE REPORTING FLOW CHART



CONGRESSIONAL ACTION:

1. Define "non-native cattle": *Foreign-born, imported feeder cattle fed to slaughter Weight within U.S.*
2. Currently, 0-14 and 15-30 day windows are used in weight average; this should be reduced to 0-14 days.
3. Change five-stave area to include states that trade cash-negotiated cattle.
4. Add "Bonus Buys" to weight average for the one- and two-dollar over transactions.

REFERENCES

American Farm Bureau Federation . (2019, 09 10). *Impacts of the Packing Plant Fire in Kansas.* Retrieved from https://www.fb.org/market-intel/impacts-of-the-packing-plant-fire-in-kansas

CME Group . (2016, 04 05). *CME Group Announces New Steps to Enhance Live Cattle Futures Markets.* Retrieved from https://www.cmegroup.com/media-room/press-releases/2016/8/05/cme_group_announcesnewstepstoenhancelivecattlefuturesmarkets.html

Tonsor, D. G. (2019). *Historical and Projected Kansas Feedlot Net Returns.* Kansas State University . Retrieved from https://agmanager.info/livestock-meat/cattle-finishing-historical-and-projected-returns/cattle-feeding-returns-september-1

U.S. Meat Export Federation . (n.d.). *Total U.S. Beef Exports 2009 - 2018.* Retrieved from https://www.usmef.org/downloads/Beef-2009-to-2018.pdf

United States Cattlemen's Association . (2018, 02 09). *Petition for the Imposition of Beef and Meat Labeling Products: To Exclude Product Not Derived Directly from Animals Raised and Slaughtered from the Definition of "Beef" and "Meat" .* Retrieved from https://www.fsis.usda.gov/wps/wcm/connect/e4749f95-e79a-4ba5-883b-394c8bdc97a3/18-01-Petition-US-Cattlement-Association020918.pdf?MOD=AJPERES

Univeristy of Iowa. (Spring 2014). *Trends and characteristics of occupational suicide and homicide in farmers and agricultural workers, 1992 - 2010*. Retrieved from Iowa Research Online : https://ir.uiowa.edu/cgi/viewcontent.cgi?article=5250&context=etd