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*Mad Cow 'Firewalls' Just a Smokescreen*by Thomas O. McGarity
July 22, 2004

It's been seven months since the discovery of a mad cow-infected Holstein in Washington state, time enough for the administration to have developed a comprehensive regulatory response to protect the U.S. beef supply. Indeed, to listen to the rhetoric of Agriculture Secretary Ann Veneman, you'd think the administration had done just that. In particular, the administration is fond of referring to a series of "firewalls" in place to prevent protein from infected cattle from reaching the food supply. On closer inspection, however, it turns out that the administration's mad cow "firewalls" are more about public relations than food safety, and that instead of protecting the beef-eating public, the administration seems more focused on protecting the beef industry's profits.

Veneman announced the discovery of the first U.S. case of mad cow on Dec. 23, 2003. Almost in the same breath, she declared that any risk to public health in the United States was "extremely low." Officials predicted that mad cow would not spread to other animals because of regulatory "firewalls" USDA and the Food and Drug Administration had previously erected. In fact, Veneman boasted, she planned to eat beef for Christmas. A few days later, USDA and FDA both announced their intention to strengthen and supplement existing protections.

An investigation by the Center for Progressive Regulation (CPR) has concluded, however, that the administration's actions don't match its rhetoric. The much ballyhooed "firewalls" are so poorly conceived and implemented that they provide far less protection than the American consumer expects and deserves. In particular, a critical loophole in the regulations permits slaughterhouses to get away with doing no testing whatsoever for mad cow contamination in edible meat.

The government initially erected three "firewalls": controls barring U.S. companies from importing cattle and feed from countries experiencing mad cow outbreaks; a surveillance program to identify suspect cattle and conduct tests on a small number of them; and restrictions on the kinds of protein that can be included in cattle feed.

After the discovery of the infected Holstein, officials announced two additional "firewalls" aimed specifically at protecting human health: a ban on the use of "downer" (unable to walk) cattle in human food; and a regulatory program to ensure that highly infective "specified risk materials," including brains, spinal cords and small intestines, do not contaminate edible meat. Unfortunately, none of these "firewalls" provide the precautionary protections implied in the "firewall" metaphor and demanded by the meat safety laws.

USDA shredded its own restrictions on imports when it covertly permitted U.S. meatpackers to import 33 million pounds of beef from Canada between September 2003 and May 2004 despite Veneman's August 2003 announcement that she was extending a ban on such meat. And while USDA has expanded its surveillance firewall, the number of cattle tested for mad cow disease in the United States is still pitifully small. Indeed, the program remains entirely voluntary. USDA has adamantly rejected any sort of universal approach for testing all cattle, and even refused to let one company conduct universal testing on its own nickel!

FDA promised in January to enhance its feed restriction firewall by eliminating some questionable exemptions, but in the face of resistance from the rendering and poultry industries, it has reneged on that promise.

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problem in their facility. After reaching that conclusion on their own, companies are allowed to follow far less rigorous, industry-drafted Standard Operation Procedures to keep SRM out of edible meat. They are required to have a written plan, but not to follow it. Neither are they required to check for mad cow, or to perform simple tests for brain and other risky nervous system tissues in edible meat. Not surprisingly, it appears that most of the beef industry has taken this less burdensome path. As a result, the administration's assurances about safeguards and firewalls, at least with respect to U.S. beef processing plants, amount to little more than rhetoric.

The sad truth is that the firewalls are designed more to protect the meat industry from economic loss than to protect Americans from mad cow. The consequence: American consumers are at an unnecessarily greater risk of contracting a debilitating and always fatal disease.

Thomas O. McGarity, an expert in food safety law, is a professor of law at the University of Texas and president of the Center for Progressive Regulation.

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