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Mad Cow Disease: Closing the Loopholes in FDA's Feed Regulations

Overview on FDA's Feed Regulation

The Food and Drug Administration (FDA) issued restrictions on animal feed in 1997 that the agency claims create a "firewall" against the spread of Bovine Spongiform Encephalopathy (BSE), known commonly as Mad Cow Disease. In fact, this "firewall" is full of loopholes, and animal feed remains a route by which the disease could be spread in the United States.

FDA's 1997 rule prohibits the feeding of ruminant (cattle, sheep, deer, goat) material to ruminants. However, the regulations allow the feeding of ruminant material to pigs and chickens, and rendered pig and chicken material to ruminants. FDA's 1997 rule also permits cattle blood, poultry litter, and salvaged pet food to be fed to cattle and other ruminants. These loopholes leave the door open to circulation of BSE among food animals.

Background

BSE is spread through the feeding of rendered animal byproducts back to livestock. In 1997, FDA implemented animal feed regulations designed to address the risk of spreading the disease.[1] These regulations are not a "feed ban." Animal feed containing rendered cow, sheep, deer and goat protein must simply be labeled "Do not feed to cattle or other ruminants."

As written, the current FDA regulations have numerous shortcomings and loopholes. First, compliance with, and enforcement of, the FDA feed regulation labeling requirements has been inadequate. In 2002, the General Accounting Office released a report finding serious flaws in the FDA's inspection and review of animal feed renderers, manufacturers, feed haulers and distributors.[2]

Second, the FDA's current regulations also have numerous loopholes. The regulations specifically allow blood and blood products, gelatin, plate waste and protein derived from pigs and horses to be used in animal feed that does not require the "Do not feed to cattle or other ruminant" label. All of these exemptions create increased risk that BSE could be spread in the U.S. cattle supply. In 1999, the Center

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[1] 21 C.F.R. § 589.2000 (2004).

[2] See U.S. General Accounting Office, "Mad Cow Disease: Improvements in the Animal Feed Ban and Other Regulatory Areas Would Strengthen U.S. Prevention Efforts," GAO-02-183 (January 2002).

for Food Safety and others filed a legal petition for rulemaking with the FDA asking the agency to amend its regulations to close these loopholes.[3] While the FDA solicited some comments concerning these issues in 2002, the agency has refused to provide a substantive answer to the legal petition or close the existing loopholes.[4]

Four Direct Pathways that FDA's Current Regulations Allow Infected Feed into Cattle Population

(1). Blood and Blood Products - Current regulations specifically allow blood and blood products from cattle to be fed back to cattle. Currently, cattle blood and blood products are used in dairy replacer formula for calves. Blood is known to transmit transmissible spongiform encephalopathies, or TSEs, the family of diseases to which Mad Cow Disease and CJD belong.

(2). Poultry Litter - In areas where cattle are raised close to poultry operations, poultry litter consisting of bedding, waste, and spilled feed may be used as a feed ingredient for cattle. Thus, feed material not allowed for use in ruminants under the current FDA regulations can still be fed back to cattle as part of feed created from poultry litter.

(3). Plate Waste - Current regulations allow inspected meat products that have been cooked and offered for human food and then further processed for feed to be fed to ruminants.

(4). Salvaged Pet Food - Pet food is not required to be labeled with the "Do not feed to cattle or other ruminants" label. Some of these pet food products destined for the retail market may eventually make it back to the cattle feed market as salvaged or distressed pet food.

Indirect Pathways that FDA's Current Regulations Allow Infected Feed into Cattle Population

(1). Cattle feed using "silent carriers" such as pigs and chickens - Recent research shows that animals maybe infected with TSEs but not exhibit outward manifestations of such disease. Under the FDA regulations pigs and chickens that become "silent carriers" infected with TSEs can be rendered into animal feed used for cattle.

Conclusion

FDA should close the loopholes in the current feed rule by banning all use of any mammalian protein in the feed of animals that enter the human food supply.

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[3] See Center for Food Safety, Center for Media & Democracy, Humane Farming Association and families of CJD victims, "Petition Seeking Immediate Action to Combat the Spread of Transmissible Spongiform Encephalopathy in the United States," FDA Docket No. 99P-0033, January 6, 1999 (available at http://www.centerforfoodsafety.org/li/BSEpetFDA.html).

[4] See 67 Federal Register 67572 (November 6, 2002).