

Bill C-27:

Rewarding Failure

A Brief to the Standing Committee on Agriculture, House of Commons

On the

CANADIAN FOOD INSPECTION AGENCY ENFORCEMENT ACT

By

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Canadian Health Coalition

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www.medicare.ca

BACKGROUND ON C-27

Bill C-27, the Canadian Food Inspection Agency Enforcement Act, is intended to provide a legal framework for and consolidation of the existing inspection and enforcement powers of the CFIA for food, agricultural and aquatic commodities (meat, fish, agricultural products), agricultural inputs (seed, feed and fertilizer), animals and plants.

Bill C-27 is the second step in a three-step process, the first of which was the creation of the CFIA in April 1997, by virtue of the *Canadian Food Inspection Agency Act*, as a result of a federal government decision to combine all federal food inspection and animal and plant health services into a single inspection agency reporting to the Minister of Agriculture and Agri-Food. The CFIA is the child of the Thatcher-Reagan-Mulroney era that established “Special Operating Agencies” for regulation with conflicting mandates of promotion and protection of health and safety. This hybrid that housed food promotion with food safety protection was abandoned in Europe, especially in the U.K. following the BSE disaster.

The second step in food safety deregulation (or re-regulation in the interests of industry) is the consolidation, modernization and enhancement of the CFIA’s *legislative* base. The third step, which will follow some time later, involves the consolidation, modernization and enhancement of the Agency’s *regulatory* base. In 1999, the CFIA introduced Bill C-80 in the House of Commons, the Canada Food Safety and Inspection Act. The bill died on the *Order Paper* when it was exposed as a major attempt to weaken the statutory duties to protect Canadians from adulterated food and a major transfer of authority from the Minister of Health to the Minister of Agriculture.

Subsequently, the CFIA continued its work on the development of new legislation. That work eventually resulted in the current bill, C-27, which has also had to address a number of major developments that have occurred since the last bill was introduced in 1999.

WHAT C-27 IS SUPPOSED TO ADDRESS

The CFIA continued the search for a legislative framework for its reliance on industry to self regulate and comply voluntarily with the law. That work resulted in the current bill, C-27, which has also had to address a number of major developments. The CFIA noted the following developments that C-27 is supposed to address:

- new threats to the safety of food, animals and plants, including
- **outbreaks of animal diseases (notably mad cow disease [BSE] in North America),**
- new plant pests, and
- the possibility of bioterrorism;
- new federal legislative initiatives, especially the Agricultural Policy Framework;
- legislative initiatives in the United States dealing with strengthened import and border controls.

Some of highlights of the Bill C-27 are that it:

- provides a framework for licensing related to the importation, exportation, interprovincial movement or preparation or sale of specified “regulated products”
- consolidates the inspection and enforcement authorities of CFIA inspectors in eight existing commodity-specific Acts into one Act;
- authorizes the CFIA to enter into arrangements with government departments, agencies or prescribed organizations, both domestic and foreign, regarding the collection, use and disclosure (exchange) of information for enforcement purposes;
- allows the CFIA to enter into arrangements with foreign governments or organizations respecting the *importation* of regulated products; it also permits the Agency to enter into arrangements with foreign governments or organizations respecting the *exportation* of regulated products;
- establishes licensing requirements for certain dangerous activities – the manufacturing, exporting, using, selling, etc., of animal pathogens, disease agents, toxic substances, veterinary biologics and plant pests; and
- authorizes the Governor in Council to make regulations respecting the above and a number of other issues pertinent to the bill.

C-27 IMPACT ANALYSIS STATEMENT

According to the Library of Parliament’s analysis of Bill C-27, the CFIA described this legislation as a response, in part, to the outbreak of BSE in Canada. This statement warrants close examination. The establishment of the Canadian Food Inspection Agency in 1997 was a radical departure from traditional regulatory agencies and programs. It would be prudent to assess the impact of this new approach to regulation of food safety before locking it in with legislation.

**How well has the CFIA performed under this new industry-friendly approach?
How have the CFIA inspection and regulatory approaches - that Parliament is being asked to codify in C-27 - protected Canadians from BSE?**

Traditionally, regulatory programs have been based on regulations that require companies to comply with certain standards of production or service delivery, and on an inspection and penalty system to ensure compliance. The government retained primary responsibility for developing regulations and for ensuring compliance with them. The creation of the CFIA was a radical departure from traditional regulation in Canada. The CFIA increased reliance on industry to self-regulate, self-inspect and comply voluntarily.

The CFIA moved to a greater use of standards set by third parties and the use of internationally accepted standards. Both these instances have since been shown to be controversial. Serious concerns persist with this approach to regulation, including: a) the selection procedures; b) composition; c) scientific competence; d) lack of accountability; e) secrecy; f) conflict of financial interest; g) exclusion of public interest involvement; h) reliance on secret and questionable industry data; and i) lack of procedural transparency.

The CFIA shifted away from command and control regulation and on-site inspections in favour of a paper audit of a company's performance. How well has industry done in monitoring itself in the area of compliance with BSE control programs? With BSE currently incubating in Canadian cattle herds, it is obvious that the CFIA has failed Canadians and yet the Government of Canada is proposing to reward them with C-27.

How much money did the CFIA's 1997 feed regulations save the rendering, feed mills, and slaughter-house plants by not adopting precautionary measures to shut the door on BSE transmission with a complete ban on all ruminant protein re-cycling, including beef blood, road kill, deer and elk? How much money has this CFIA approach to regulation, inspection and compliance cost beef farmers and the Canadian taxpayer?

Like the United States Department of Agriculture (USDA), CFIA has two incompatible mandates: promoting trade and contributing to food safety. Trade clearly dominates. Since 1997, the agency has downgraded its science capabilities by closing labs; it has hired lots of folks with MBAs and communication degrees; and it has adopted a paper audit system for food inspection.

BSE CASE STUDY: CFIA's BIGGEST FAILURE

The Canadian Food Inspections Agency's failure to protect Canadians from BSE (Mad Cow Disease) involves, according to the former president of the Royal Society of Canada, William Leiss: "unacceptable failures in risk assessment, sloppy surveillance programs for animal disease control, and a stubborn refusal to impose a total ban on recycling ruminant protein in animal feed." He added that as a result of the CFIA approach: "We may have a new generation of infected animals". [SOURCE: Globe & Mail, Jan. 13, 2005]

Documents obtained under the Access to Information Act show that in 1998, a senior Health Canada committee warned the CFIA about having blood in animal feed. [*See Appendix A for ATI documents*] "No amount of prion agent can be considered 'safe' at this time." And saying: "... when the same species is fed back to itself, it increases the possibility of disease emergence ..."

SERGIO TOLUSSON, (CFIA): **We haven't taken any steps.** At this point, **it still does not seem that there's definitive proof** that blood is a potential source of transmission.

DAVID COMMON (CBC): But there is also no definitive proof it's safe. Not knowing for certain prompted most of Europe to ban the use of blood in cattle feed. [SOURCE: CBC Television/The National/July 11, 2003/Health Canada Worried About Cattle Feed]

CAMERON PRINCE, CFIA: "It is surprising in this day and age, but a test does not exist to determine whether a bit of feed has the prohibited material in it. There is no chemical test to do that at this point, partly because of the complications that certain ruminant materials are still permitted, such as blood, which has no risk whatsoever for BSE infectivity, yet it is a ruminant-based material, so it is hard to test. [SOURCE: The Standing Committee on Agriculture and Forestry, Evidence/Ottawa, Feb. 3, 2005]

According to Dr. Stanley Prusiner, the Nobel laureate who discovered the prion, or misshapen protein, that carries mad cow, it is: "stupid" to feed cattle blood to cattle. Legname said, 'Before we can demonstrate one way or the other, it's safer not to use it.'" [SOURCE: Boston Globe/January 11, 2004/Feed ban allows cow blood/By Mark Sherman, AP].

The Canadian Health Coalition wrote the Minister of Health on January 21, 2001, concerning the dereliction of duty by failing to adopt precautionary measures to protect Canadians from known BSE risk. [See Appendix B for copy of letter.]

The Precautionary Principle states:

Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent adverse health impact or environmental degradation.

If the devastating threat of BSE and a horrible death from vCJD does not warrant the application of the Precautionary Principle by the Government of Canada, what would?

RECOMMENDATIONS:

Recommendation 1: That Bill C-27 be rejected.

Recommendation 2: That the government of Canada terminate the failed experiment at the Canadian Food Inspection Agency and house responsibility for health and safety of Canada's food supply with an independent agency that reports directly to Parliament.

Recommendation 3: That the Government of Canada conduct a review of the CFIA failures resulting from its increased reliance on industry to self-regulate and re-think 'Smart Regulation' initiatives in light of the lessons learned from the CFIA disaster.



CBC Television
The National
Friday, July 11, 2003

TRANSCRIPT

Health Canada worried about cattle feed

ALISON SMITH (HOST):

A U.S. maker of animal feed has admitted to breaking the rules meant to keep Mad Cow disease away. American authorities say the Washington State company sold cattle feed contaminated with animal tissue. They say the risk is small, but it's believed contaminated feed was what infected the one cow in Canada.

ALISON SMITH (HOST):

And a warning about cattle feed from authorities in this country -- actually an old warning that's come to light in newly released documents. Five years ago, senior officials at Health Canada told the Canadian Food Inspection Agency (CFIA) it had concerns about what was in the feed, and why. David Common reports.



DAVID COMMON (REPORTER):

It's not a pretty practice, but in Canada, blood from slaughtered cattle is drained, rendered and turned into feed for other cattle.

**BRADFORD DUPLISEA
(CANADIAN HEALTH COALITION):**

Cattle are herbivores and they should not be forced to eat other animals.

DAVID COMMON (REPORTER):

In general, cattle cannot be fed to other cattle, the result of the 1997 feed ban imposed by Canada's food inspection agency. It feared BSE (the scientific name for Mad Cow disease) might spread through the food chain as it did throughout Europe.

But blood was excluded from that ban under the belief it did not contain the tiny prions that carry the disease. Now documents obtained under the Access to Information Act show that in 1998, a senior Health Canada committee warned the CFIA about having blood in animal feed. "No amount of prion agent can be considered 'safe' at this time." And saying: "... when the same species is fed back to itself, it increases the possibility of disease emergence ..."

SERGIO TOLUSSON (CANADIAN FOOD INSPECTION AGENCY):

We haven't taken any steps.

DAVID COMMON (REPORTER):

Despite that concern, neither Health Canada nor the CFIA changed the policy, which continues today.

SERGIO TOLUSSON (CANADIAN FOOD INSPECTION AGENCY):

At this point, it still does not seem that there's definitive proof that blood is a potential source of transmission .

DAVID COMMON (REPORTER):

But there is also no definitive proof it's safe. Not knowing for certain prompted most of Europe to ban the use of blood in cattle feed.

DR. CHRIS CLARKE (UNIVERSITY OF SASKATCHEWAN):

We're going to find a lot of people looking at whether it is necessary to tighten up the regulations, whether it's necessary to go all the way to the ones that are now in place in Great Britain.

**BRADFORD DUPLISEA
(CANADIAN HEALTH COALITION):**

Obviously no one knows.

DAVID COMMON (REPORTER):

Many groups say allowing blood into cattle feed is yet more proof Canada was too lax in protecting the system.

**BRADFORD DUPLISEA
(CANADIAN HEALTH COALITION):**

Instead of taking these precautionary measures, we placated industry and hoped for the best -- and now we have Mad Cow disease. In essence, we gambled with our Industry and Canada lost.

DAVID COMMON (REPORTER):

But with the presence of that one case of BSE and the fear of more, the CFIA and Health Canada are reassessing all of Canada's animal feed regulations, including whether cattle blood should continue to be in cattle feed. **David Common, CBC News, Regina.**

-- THE END --

**Length: 500 words
Date: 30/07/2003
Time: 22:00 EDT**



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Mr. Brackenridge:

Just yesterday we posted the report on the microscopy study. That was the reference point being made; a study we conducted to evaluate a test methodology trying to determine the efficacy of a microscopic test to determine whether there was prohibited material in ruminant feeds. Again, I will ask Mr. Prince to explain it. The reports that came out were based upon an Access to Information request that was made. Our assessment of all the data had not been completed at that time, and certain assumptions were being made about the fact that animal proteins were being found in what was deemed to be vegetable feeds, is how it was being termed. Our report is now complete and is on the website.

Mr. Prince:

The testing methodology for feeds is, at this point, an inexact science.

Senator Oliver:

It not an exact science?

Mr. Prince:

Yes, it is not an exact science. It is surprising in this day and age, but a test does not exist to determine whether a bit of feed has the prohibited material in it. **There is no chemical test to do that at this point, partly because of the complications that certain ruminant materials are still permitted, such as blood, which has no risk whatsoever for BSE infectivity, yet it is a ruminant-based material, so it is hard to test.** We were left with internally trying to find the best method to determine whether ruminant material or prohibited material was inadvertently put into feed, so we did this microscopy test. With microscopy, as you can imagine, we can look at little fragments and determine whether they are hair, bone, feathers or other animal-based materials.

aid Louis Russell, a vice president.

...



Access to Information and
Privacy Division
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Your file Votre référence

Our file Notre référence

A-01-0078

April 24, 2001

Mr. Bradford Duplisea
Canadian Health Coalition
2841 Riverside Drive
Ottawa, Ontario
K1V 8X7

Dear Mr. Duplisea:

This is to acknowledge receipt of your undated request under the Access to Information Act for the following information:

"Provide all information (minutes and documentation) pertaining to the work of the "TSE Team" and/or "vCJD Team" pertaining to the time period 1996-present."

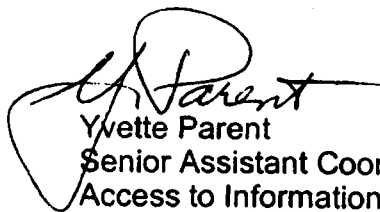
I am pleased to inform you that I have been assigned to process your request which was received on April 23, 2001.

Please be informed that you may be required to pay additional fees in accordance with section 11 of the Act. The charges may cover search and preparation time in excess of five hours at a cost of \$2.50 per quarter hour and/or the cost of reproduction calculated at 20 cents per page. You will be notified of any amount required.

If you require any information or wish to clarify any aspect of your request, I may be contacted by mail at the address noted above, by telephone or by fax.

Please refer to our file number (A-01-0078) on all future correspondence pertaining to this request.

Yours sincerely,



Yvette Parent
Senior Assistant Coordinator
Access to Information
and Privacy

E-mail: Yvette_Parent@hc-sc.gc.ca

This document was obtained
through Access-to-Information
by Ottawa-based Researcher
Bradford Duplisea

**Health Canada TSE Team meeting
October 30, 1997 (9 a.m.- noon)**

Participants:

L.Boag
C.Choquet (secretary)
D.Kennedy
S.Thompson
B.Wozny

The meeting began with Dr. G. Paterson (DG Food Directorate) giving an update on the HC/CFIA meeting that had been held the day before. He stated that the HC TSE Team had been sanctioned by HPB & that we (the group) were invited to attend the Program Management Board presentation in December (date to be determined, December 9 or 16).

Agenda was approved.

General meeting rules were discussed wrt. Confidentiality. Any/everything that was discussed in confidence in these meetings should remain that. Notes should not be taken.

OLD BUSINESS:

1. The minutes to the HC/CFIA meeting of September 16th would be revised & circulated following the next meeting scheduled for January 1998. An update of ACTION items from the last meeting ensued: Scrapie Control Program - A letter was sent to R. Rogers with detailed testament of HRDs dating back to 1991 regarding HC's recommendations regarding the need/continuation of this program. A second letter was discussed with HC supporting the WHO recommendation of the elimination of species with TSEs from the food chain. ACTION: Lynn to forward letter to Ron. Ruminant blood for consumption - A response has been drafted. ACTION: Lynn to discuss with Maura. Most other action items completed.
2. Discussion/Consensus
Qs&As to be compared with document from CFIA. ACTION: Lynn.
HC's response to EU SRM Ban. ACTION: Lynn to circulate.
Trilateral Briefing Note. ACTION: Request for comments to Lynn by Nov.3.
Reporting Structure & List of activities RE: BSE/TSE - some still outstanding or need updating. ACTION: Lynn to recirculate Food example; outstanding to be submitted to Lynn.
Forward - some changes suggested. ACTION: Lynn to revise & submit.

Resources Letter - OK.

3. Deck for the PMB
See above.
4. Update on:
HRD: Food
CFIA is reviewing this. A small HC working group is to be set up to discuss this with CFIA. Penny will be our contact at CFIA. ACTION: Bruce, Maura & Lynn

TPP Policy

R-R feedban - Should there be a date for this ban?

Addresses BSE but not Scrapie i.e. TSE free materials from BSE free country
What other controls should be in place? ACTION: Lynn to send additional wording RE: controls that should be in place & the Canadian Scrapie Control program since disease is endemic in most of the world.

HRD: Gelatin

ACTION: A small HC working group is to be set up to discuss this with CFIA.

Graham will be our contact at CFIA. Once US Policy is reviewed & HRD finalized, CFIA will review this. ACTION: Teleconference scheduled for Nov 4. Bruce, Maura & Lynn

NEW BUSINESS:

1. NO new hot issues presently.
2. Presentation postponed to future date.
3. Teleconference scheduled for November 4 to discuss organ concoctions with CFIA.
4. Learning for Leadership forms given out for feedback on Lynn's leadership skills?
5. Meeting with CFIA - October 29, 1997
Highlights - CFIA does not appear to see BSE as a human health issue; instead they appear to see it as an animal health issue. Identification of the lead role not established. In a ranking sense on the 3 unresolved issues with CFIA, I ranked gelatin as #1. Some question as to why rendering process in different countries has not been standardized. ACTIONS: HRDs to be discussed with small working group. nv-CJD Emergency Response plan to be sent to CFIA. List to be compiled of HC's Response Crisis Team with lead role identified. Discussion to ensue on the possibility of a mock-up. Lynn to get and send out CFIA

organizational chart.

6. Meetings

USA SEAC mtg - Rockville, MD October 6&7 ACTION: Doug and Maura to update.

TSE Workshop - Washington, November 17&18 ACTION: Doug and Lynn to update.

Highlights of TSE Team Teleconference, Sept. 23/98

Members on call: Lynn Boag, Hugh Davis, Jeff Farber, Elizabeth Stratton, Diane Kirkpatrick.

Regrets: Doug Kennedy, Maura Ricketts

The purpose of the call was to discuss a number of issues relevant to the exchange of correspondence between Lynn and Penny Greenwood (CFIA) dealing with Canada's current regulatory and enforcement actions aimed at preventing transmission of the prion agent to ruminants from their feed.

Key points which emerged as well as action items are noted below.

- (1) There is recent evidence from a study in mice (Nature, Adriano Aguzzi) that blood cells can carry the prion agent from the gut to the brain. This has implications insofar as the current exemption of blood in the prohibition of ruminant tissues in ruminant feeds. In addition, the sensitivity of methodology for enforcement purposes precludes affirmation of absence of ruminant tissues. Since the infectious dose is unknown, no amount of prion agent can be considered "safe" at this time. In order to better assess the significance of the findings as reported in Nature, Liz agreed to circulate a copy of the paper to all TSE Team members. *Ab, Liz*
- (2) In April 1996, WHO recommended a world-wide ban on the use of ruminant tissues in ruminant feeds. They also, however, made recommendations on the safety of specific products including blood. There is some uncertainty as to whether this latter recommendation as meant for human ingestion to change the broader ban proposal such that these products would be permissible in ruminant feeds. Diane agreed to pursue clarification of this matter by contacting Ron-Burke so as to ascertain what information was available at the time the recommendations were developed. Liz also agreed to send TSE Team members a copy of a paper re: heat acting as a "fixing" agent in processes which is relevant to discussions about the safety of gelatin and tallow in gelatin. *Done ✓*
- (3) At present, Canada's ruminant feed ban is based on review of quality management systems through documentation and on-site visits at rendering plants and feed manufacturers. As noted by CFIA, this is similar to other countries and results from the absence of any validated methodology to detect ruminant materials in ruminant feed. It was felt that this approach may be the only means at present but test development was necessary and essential. In the interim, there is a need to ensure adequate audit measures of the current approach. Lynn agreed to follow-up on audit measures with Sharon Chard. *✓*

- (4) A trading partner has apparently questioned Canada's current import policy re: no exemption on meat from bovines less than 6 months of age. There are several outstanding issues that would need to be addressed before consideration could be given to such a request. These include determination of incubation period (currently believed to be some 3 years; youngest clinical case reported at 22 months); methodology to determine such clinical disease/health; animals as carriers of the agent. CFIA have requested supporting documentation be forwarded to them for our review upon receipt.
- (5) The TSE Team discussed a potential concern about introducing another disease/issue when changing natural courses i.e. changing herbivores into carnivores and when the same species is fed back to itself increasing the possibility of disease emergence. Reference was made to a clipping in ANET entitled "Emerging Zoonosis" and it was generally agreed that there was evidence to support this concern. It was agreed that the TSE Team should document available evidence so as to open discussions on this issue with our partners, notably, CFIA.

●
*Lynn
permitted
to all
clips*

Originators: Diane Kirkpatrick / Lynn Boag
Health Protection Branch
October 6, 1998