
CHAPTER FOUR

Risk, Reality, and Inspection Reform

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A few months ago, the American electorate delivered a very clear message to Congress: less government, greater local control, and greater individual freedom. These are the fundamental premises on which the United States was founded, and they are the keys to the innovation and ingenuity that are the hallmarks of American industry. The voters' message has begun a fundamental shift in the relationship between government and the individual citizen, between the regulator and the regulated, and between USDA and the meat and poultry industry it oversees.

The meat and poultry industry is intensively and heavily regulated by the federal government; therefore, it is an industry more familiar with regulation than any other segment of the economy. Among the many reasons for such a high level of intrusiveness are the technological advancements and successes achieved by the meat and poultry industry. Those who have been in the food industry for many years will remember that the industry was quantifying cancer-causing adulterants in food in parts per million just a few decades ago. In the eighties it was possible to achieve parts per billion. Now those risks can be quantified beyond parts per trillion. The ability to detect such minute residues of adulterants means that everything humans touch, smell, or eat conceivably could be found to contain a carcinogen.

In addition, the country's economic prosperity has fueled the belief that everything in life should be risk-free. This new perception creates the expectation of a utopian existence that is unrealistic and unachievable.

In the last year, this focus on risk has received a lot of coverage in the media. One particularly good *Newsweek* article that appeared last spring addressed this quest for a risk-free society:

We feel that identifiable risks should be avoidable risks. We act as if there is a constitutional right to immortality and that anything that raises risk should be outlawed. Our goal is a risk-free society and that goal fosters a lot of outsized fears. (Robert Samuelson, *Newsweek*).

These "outsized" fears are being fueled by politicians, policy advocates, and promoters of various causes and lifestyles. Animal rights activists and vegetarians are excellent examples of groups whose outsized fears have led to radical behavior and outrageous expectations. Their exaggerated fears are being promoted by journalists, most likely because such stories sell newspapers and attract viewers. These groups have one common theme: they all traffic in sensational and simplistic ideas.

Neither USDA nor the meat and poultry industry are immune to the pressures of the media and consumers. These pressures have led to the use of potential perception benefits rather than sound scientific foundations as the basis for the implementation of government policies. For instance, the zero tolerance standard for *E. coli* O157:H7 bacteria in ground beef was implemented in order to improve the perception that the government was taking action against foodborne illness associated with

E. coli O157:H7. Ironically, in announcing the policy, USDA Acting Under Secretary for Food Safety Michael Taylor acknowledged that the policy would not eliminate *E. coli* O157:H7. He claimed that the policy's purpose was to "motivate industry." In reality, this policy has hampered an already motivated industry's scientifically based efforts to successfully address the problem of *E. coli* O157:H7.

Consumers who read newspaper articles about Taylor's policy perceived that industry had an *E. coli* problem and that USDA had the answer; therefore, these consumers concluded that they no longer needed to worry so much about bacteria in their meat. The industry knew better. As the industry continues to work on a solution to this problem, consumers need to remain vigilant in their cooking and handling of raw meat and poultry. Safe food handling helps to ensure that meat and poultry products are as safe as possible. However, the common sense food handling of our grandparents' era has been replaced by the risk-free expectations of today's consumers.

Sadly, it seems that today's culture has become one of fear. People prefer to worry about perceived dangers rather than taking steps to address the source of food safety risks. Consumers believe that testing carcasses for their microbial content, even if the results are not necessarily statistically accurate, will help to ensure a safer food supply. Instead, they should be more concerned with properly washing a cutting board or properly cooking a natural product like meat. Such simple precautions help consumers take important steps—in addition to the many precautions taken by producers, processors, and distributors of meat and poultry products—to increase the safety of their food.

John Stossel, a journalist at ABC News, has captured this country's obsession with risk. In a remarkably candid show that aired this past spring entitled "Are We Scaring Ourselves to Death?", Stossel reported to a prime time audience that:

We've been told by politicians and the media that there is danger everywhere, and it is getting worse. The fact is that's just not true. What I have learned as a reporter on this show is that the risks we in the media spend the most time talking about are not usually the biggest threats. (John Stossel, ABC News)

It is time for consumers to tell legislators and regulators that the threats they are addressing with new laws and new regulatory requirements are not the biggest threats either.

The current reactive method of determining regulatory policy is what former Environmental Protection Agency (EPA) Administrator William Riley calls regulation by "episodic panic." Regulation by episodic panic occurs when public outcry to a perceived risk dictates government policy, regardless of the actual risk or the cost to society and the economy. For example, a 1970's

study indicated that asbestos, when inhaled, may cause lung cancer. As a result, EPA banned asbestos and ordered its removal from buildings even though the risk of dying from asbestos is 1 in 11,000,000. Before assuming the bench of the United States Supreme Court, then Federal Judge Stephen Breyer wrote a book about this regulation. He showed that removing asbestos from buildings, and releasing particles in the air, actually caused more harm to humans than if EPA had left it there in the first place. Nevertheless, as required by EPA, building owners removed asbestos from the insulation of existing buildings at a cost of \$1.4 billion per each life prolonged.

EPA also banned chloroform emissions from smokestacks from 48 pulp mills at a cost of \$99.3 billion dollars per life saved. In fact, a study recently completed by Harvard University estimates that all EPA regulations impose an average cost of \$7.6 million per year, every year, for every life prolonged. No wonder the current administrator, Carol Browner, acknowledged that EPA has "really serious problems."

Admittedly, environmental regulations have accomplished much good in the 20 years since EPA was created. But these accomplishments have not occurred because the laws were acceptable and the regulations and requirements were effective. Rather, when one trillion dollars have been spent in twenty years, some things were bound to be cleaned up. Perhaps not efficiently or effectively, but we had to make some environmental improvements with a trillion dollar investment over the past two decades.

The Occupational Safety and Health Administration (OSHA) is another example of regulatory rulemaking that is not based upon actual risk and does not consider the costs to the economy. Created by Congress in 1970 to improve worker safety and health, OSHA now has 4,000 detailed regulations, including regulations that dictate the height of railings in facilities (42 inches) and how much a plank can stick out in temporary scaffolding (12 inches). In addition, OSHA has 140 regulations regarding wooden ladders—140 different regulations with which industry must comply.

Ironically, more than half of all the OSHA violations recorded every year have no direct correlation with improving workplace safety or reducing injuries and illnesses. The major source of OSHA violations is paperwork mistakes. No wonder, according to the Bureau of Labor Statistics, workplace safety in America is about the same today as it was in 1970 before OSHA began promulgating those 4,000 regulations. Not surprisingly, 80 percent of EPA's proposed regulations over the last two decades and 96 percent of OSHA's 4,000 regulations have been challenged in court by affected parties.

Today, Americans are drowning in regulatory costs and requirements. Since 1960, the number of U.S. regulatory agencies has doubled, and the size of the *Federal*

Register has increased from 15,000 pages a year in 1963, to 70,000 pages at the end of the Bush Administration. The Clinton Administration estimates that compliance costs imposed by these federal regulations cost the private sector \$430 billion every year; the Rochester Institute of Technology estimates that the cost is closer to \$500 billion a year. In other words, 10 percent of America's gross national product is absorbed in complying with regulatory requirements. In addition, the Small Business Administration (SBA) estimates that small businesses in our country spend at least a billion hours per year filling out regulatory paperwork.

Many of these regulatory excesses and absurdities are chronicled in a book by Phillip Howard entitled, The Death of Common Sense. Since the meat and poultry industry is the most heavily regulated industry, when Howard talks about regulatory excesses and absurdities he inevitably talks about meat and poultry regulations. For example, Howard talks about a small meat packer in Springfield, Oregon who has run his business for 33 years. USDA keeps one full-time inspector in his plant and one half-time inspector. This level of regulatory attention is not surprising for an industry plant, but what is surprising is the ratio of inspectors to workers: the plant has only four employees.

However, rules require that at least one inspector is present whenever livestock is slaughtered. According to the Springfield plant owner, the inspectors sit there every day, mainly talking on the phone, but they always find time to cite him and his four employees for a violation. One citation was for loose paint located 20 feet from the animal. The plant manager says, "I am swimming in paperwork, I don't even know one-tenth of the rules, you should see all these USDA manuals." But he does his job as best he can, relying on 33 years of experience.

Perhaps common sense has died a slow and painful death at the hands of bureaucrats in Washington. When the late President Truman was preparing his biography, he told his biographer about the greens that he used in making a country salad: turnips, dandelions, and mustard. Truman cautioned his biographer that certain greens, like pokeweed roots, had to be picked at just the right time because otherwise, "You might as well order your coffin, you're done." The biographer wanted to know how Truman knew when to pick the pokeweed roots. The former President replied, "Your grandmother had to tell you." Today, it seems that either grandma isn't talking or the grandkids aren't listening. Instead, consumers and industry are faced with, as Howard put it, the worst of both worlds: a system of regulation that goes too far and does too little.

One of the main reasons there is a dramatically different Congress this year is that voters are becoming more aware of the shortcomings of our regulatory system. As a result, 1995 may be one of the most significant years for

the meat and poultry industry since Congress passed the current, outdated meat inspection law in 1906. Curiously enough, this was the year that the meat packers created the American Meat Institute.

Last year, bills were introduced in Congress to reform the meat and poultry inspection system. It seems likely that this is the year Congress will pass a new meat and poultry law: they will repeal the 1906 Federal Meat Inspection Act; they will repeal the 1957 Poultry Product Inspection Act; and they will enact a single, uniform statute to regulate both competing species. There are even some Congressmen, such as Pat Roberts of Kansas, Chairman of the House Agriculture Committee, who want to extend that statutory authority to seafood inspection so that all competing proteins are regulated by the same law.

COMMON SENSE, WOULDN'T YOU THINK?

A number of groups in the United States representing producers, packers, processors, retailers, wholesalers and restaurateurs have worked over the last few months to develop a set of common principles that can be unanimously endorsed in a legislative reform. The anticipated result of such a broad-based industry perspective is a new statute that does not focus all federal regulatory resources solely on meat and poultry plants, but extends back to the farm and forward to the table, with appropriate levels of federal regulatory oversight at each stage. If the government is serious about improving food safety, it does not make sense to take 100 percent of its resources and allocate it where only three percent of foodborne illnesses arise.

According to the Centers for Disease Control, which tracks foodborne illnesses in the United States, three percent of the illnesses are traced back to the processing facilities, and 97 percent of foodborne illness occur because of mishandling or improper preparation after food has left the processing facility. If improvements are to occur, appropriate oversight is necessary after the product leaves the plant.

To assure greater safety in the plant, the current system—the visually based, subjective, labor intensive, very expensive system mandated by existing laws, where inspectors are visually looking at every bird and every carcass—needs to be eliminated. Visual inspection of every bird and every carcass made a lot of sense at the turn of the century. However, federal inspectors or employees will never see *E. coli* O157:H7 if they look at every bird and every carcass, and they will never see *Salmonella*, *Campylobacter*, or *Listeria* either. A scientific inspection program that incorporates a HACCP system in meat and poultry plants is a more effective method to eliminate the pathogens that cause foodborne illness. The inspection system must be rooted in actual,

not perceived, risk and must replace, not overlap, the traditional system under which these industries have operated for a century.

USDA'S announcement of mandatory HACCP in all meat and poultry plants is a step in the right direction, but it is only half of the necessary equation. The other half is a fundamental dismantling of the old system, and this can only be truly accomplished through legislation. Layered on top of the current, outdated system, HACCP will only increase the regulatory stranglehold that for years has threatened to choke any industry innovation in new technology to increase food safety.

Regulators seem to have a difficult time grasping a concept that is very important to members of the meat and poultry industry: when given the opportunity, this industry will do the right thing; it will take the actions necessary to provide consumers with meat and poultry products that are as safe as they can possibly be. It is the ethical thing to do, and it is in the economic interest of this industry to produce a safe, wholesome, quality product. The fact is, most of the safety innovations that have been made in meat and poultry have been made by the industry. By combining industry's efficiency and ingenuity with the resources and expertise of USDA, the potential to make major strides in food safety and quality is vastly increased. Industry and government's goal should be the same: to ensure a safe product for consumers which in turn promotes the health of the industry and the nation's economy.

However, if policy decisions continue to be based on what the media and the public have decided are the risks, rather than establishing risks based on scientific information, then the industry and government will continue to be entwined in policies that do not help achieve everyone's ultimate goal of an even safer food supply. A scientifically-determined, risk-based HACCP program will result in a safer food process system, and it will operate at a lower cost to the taxpayer.

In America we spend about \$1.5 million every day inspecting meat and poultry products, and every year the federal government has fewer and fewer resources to allocate to such an expensive system. It is time to think smart, act smart, and return to common sense. As a writer named Ed Howe said, "Common sense is compelled to make its way without the enthusiasm of anyone." Perhaps that is why so many steps toward safer meat and poultry have been so hard to take: they are not glamorous and they are taken without much fanfare.

Concepts like HACCP do not involve bells, whistles, and flashing lights, and they do not appear as an expensive new piece of equipment. Instead, they require that perception is set aside, that the real risks are established, and that the correct actions are taken. Rather than take the same route as the EPA on asbestos, it is time to find real solutions to real risks in an environment that allows American ingenuity to thrive.