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The Diet-Supplement Fiasco

The Bush administration's announcement that it plans to ban ephedra came several weeks after lawsuits forced Metabolife, the last major manufacturer of products containing the risky drug, to stop selling ephedra products. It's a classic case of closing the barn door long after the cows have ambled on.

Health and Human Services Secretary Tommy G. Thompson said he decided to announce the ban now — the government's first-ever on a dietary supplement — so that people making New Year's weight-loss resolutions wouldn't be tempted to try "speed"-like ephedra, long sold as an exercise and weight loss aid.

The obvious question is, why did he wait so long?

The administration should have banned ephedra in September 2001, when the group Public Citizen petitioned the Food and Drug Administration to do so. Numerous studies have proved it unsafe, and it has been linked to more than 155 deaths.

Another obvious prohibition point was five months ago, when the Army and Air Force took ephedra-containing products off commissary shelves. Thompson himself as far back as a year ago was publicly saying, "I wouldn't use it, would you?"

Ephedra is not the lucrative product it once was. Thompson's decision will barely ripple the industry's profits. And that's the problem. Federal regulation should have been exercised when ephedra use was thriving and people were dying of it. Thompson and FDA Commissioner Mark McClellan waited far beyond reason.

Legislators and the Bush administration should now confront the illogic in the way the FDA regulates the chemicals that Americans consume. If those chemicals are in products arbitrarily deemed "drugs," then the agency is required to prove they are safe before they can be sold. However, if those same chemicals are in "dietary supplements," the FDA has to do the opposite: prove that they are *un*safe before they can be taken off the market. In a Senate hearing in fall 2002, then-acting FDA Commissioner Lester M. Crawford conceded that if ephedra supplements were considered drugs they would be off the market.

Given the political clout of the supplement industry, it's unlikely that Congress will address the whole problem. At a minimum, however, it should pass two less ambitious reforms. The first, by Sen. Richard Durbin (D-Ill.) would require the makers of stimulants like ephedra to submit proof that their products were safe before they could be marketed. The second bill, by Rep. Susan A. Davis (D-San Diego), would require manufacturers or distributors to report negative health effects to the FDA within 15 days.

Until such basic safety regulations are in place, there will be more ephedra-type debacles in the dietary supplement industry.