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FYI: J. Ortiz
F. A. Provorny
J. C. Weber
D. Wood

FROM: Glynn Young

EDF SEEKS COURT ORDER REQUIRING FDA TO LOWER PCB TOLERANCE LEVELS IN FOOD

Environmental Defense Fund has asked the D.C. Circuit Court of Appeals to order the Food and Drug Administration to finalize a rule that would reduce the permissible levels of polychlorinated biphenyls in food. A suit filed Jan. 31 contends that FDA has had ample opportunity to act on a 1977 agency proposal to lower PCB tolerance levels, yet the agency has failed to do so. FDA should be ordered to issue a final rule within 30 days, EDF says.

In April 1977, FDA proposed rules that would lower the legal limits of PCBs in milk from 2.5 parts per million to 1.5 ppm; poultry tolerances from 5 to 3 ppm; egg tolerances from .5 to .3 ppm; and levels in fish and shell fish from 5 to 2 ppm (TMN, Jan. 10, 1979, p. 9). FDA had proposed retention of tolerance levels for animal feed at .2 ppm; fish meal, 2 ppm; infant foods, .2 ppm; and food packaging at 10 ppm.

The suit charges that FDA has been dragging its feet on setting the lower PCB limits. There has been little indication of progress towards finalizing the proposal, says EDF, which calls the inaction "an unconscionable delay," particularly since FDA acknowledges the dangers of PCBs. EDF points out that the dangers of PCBs are so widely recognized that Congress has required a phased ban on manufacture and use of the chemicals, and regulation of their disposal.

EDF's Jacqueline Warren told TMN that the environmental group filed suit because FDA was giving in to pressure from opponents to the lower tolerances, in the belief that the "pressure was off" from environmental interests. EDF felt it was time to reassert the environmentalist position, she said. Warren also noted that EDF is considering legal action against the Environmental Protection Agency to speed up its regulations on the PCB ban.