

# FEDERAL AND STATE REGULATIONS

## New Miller bill introduced . . . compromise on procedures to control pesticide tolerances in foods

CONGRESSMAN A. L. MILLER (R-Neb.) has introduced a new draft of his previous bill to control the quantities of pesticides in foods. The new bill is similar to the bill sponsored by Congressman Miller last year, however many of the objections to the previous bill have been modified in the new proposal as a result of conferences between the Congressman and representatives of industry and the Food and Drug Administration.

According to Congressman Miller the proposed amendment to the Food and Drug Act provides for the prompt and efficient establishment of residue tolerances for farm chemicals used in or on raw agricultural commodities and would protect the consumer against the excessive residues of these chemicals in foods.

The previous pesticide tolerance bill, H.R. 4277 (AG AND FOOD, April 1, 1953, p. 19) died in the House Interstate and Foreign Commerce Committee. At that time it was agreed that representatives of the congressional committee should meet with representatives of the Food and Drug Administration, the Department of Agriculture, farm, and industry groups.

### Bill from Conferences

This new bill, H.R. 7125, is the result of these conferences, and Congressman Miller says that the participants in the conferences "have agreed on all major issues in question."

The establishment of pesticide tolerances in foods is now governed by the provisions of the Food and Drug act of 1938. Under this act tolerances for poisons in foods are established at public hearings called by the FDA. Evidence must be presented at these hearings to show: that the use of the pesticide is necessary to the production of food, the amounts of the material normally present in the food, and toxicity data which can be used for the establishment of safe tolerances.

General opinion seems agreed that this present procedure is cumbersome and inadequate especially in the light of recent research and agricultural practice developing new pesticides. In 1950 an attempt was made to establish a series of tolerances, despite the lengthy deliberations, no practical tolerances were ever established at these hearings.

Under the new procedure proposed

by Representative Miller the tolerance for a pesticide residue in foods would be initiated either by the manufacturer of the chemical, or by the Secretary of the Department of Health, Education, and Welfare. The request for a tolerance on a pesticide would be in the form of a petition filled with the FDA. The petition would be accompanied by scientific data in support of the requested tolerance. The petition would ask the FDA to approve the suggested tolerance in light of the evidence presented.

The Secretary of Agriculture would certify to the FDA that the pesticide under consideration was useful for its intended purpose.

The FDA would be required to take action on this petition within 90 days. The FDA would be required to make a public regulation establishing a tolerance for the questioned pesticide. During this 90 day period the FDA or the person who presented the original petition could request that the scientific data be reviewed by an advisory committee of scientists familiar with the questions involved. Members of the advisory committee would be picked from a list submitted by the National Academy of Sciences.

Anyone adversely affected by tolerance regulation issued under this procedure could request a public hearing on the controversial points. As a result of

the public hearing the Secretary of HEW would then publish a new order affirming or reaffirming the original regulation.

The order resulting from the public hearings would be subject to court review in the manner generally prescribed in regulatory statutes.

The modification of the role of court review is one important change in the new bill compared with the previous measure introduced by Representative Miller last year. Under the previous bill the court review would not consider evidence which had been presented in the previous public hearings. The FDA and several legal experts objected to this procedure for it would, in effect, have put the federal courts in a position of establishing the tolerances.

### Farm Chemicals Separate From Food Additives

One advantage of the measure proposed by Congressman Miller, it is intended to specifically regulate only pesticides residues in foods. Chemicals deliberately added to foods would be covered by other legislation. This is one important advance over several previous measures introduced to regulate the whole problem of chemicals in foods such as the Delaney Bill.

Lea S. Hitchner, executive secretary of the National Agricultural Chemicals Association, says he expects the bill to be supported by representatives of the pesticide industry and farm groups alike. He also said that the new bill is an improvement over the present Food and Drug Act.

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