

M E M O R A N D U M

TO: TOBY VIGOD

FROM: PAT FILE

DATE: 21 AUGUST 1981

RE: STATUTORY AUTHORITY FOR ESTABLISHING SAFE LEVELS OF DIOXIN IN FISH

The statutory authority for Health and Welfare Canada to establish safe levels of Dioxin in fish for consumption comes from the Food and Drugs Act, R.C.S. 1970, c.F-27.

In the main part of the Act, s4 is the general section:

- s.4. No person shall sell an article of food that
 - a) has in or upon it any poisonous or harmful substance;
 - b) is unfit for human consumption;
 - c) consists in whole or in part of any filthy, putrid, disgusting, rotten, decomposed or diseased animal or vegetable substance;
 - d) is adulterated; or
 - e) was manufactured, prepared, preserved, packaged or stored under unsanitary conditions. 1952-53, c. 38, s.4.

However, the power to make regulations is s. 25(1)(a):

- s.25 1) The Governor in Council may make regulations for carrying the purposes and provisions of this Act into effect, and, in particular, but not so as to restrict the generality of the foregoing, may make regulations
 - a) declaring that any food or drug or class of food or drugs is adulterated if any prescribed substance or class of substances is present therein or has been added thereto or extracted or omitted therefrom;

...

The guidelines established for Dioxin at present are interpretive and are open for dispute in court. However, the Department is considering regulations or a mixture of both. Ron Reid--Director of the Bureau of Chemical Safety (593-4871) also told me that s. B01047 is an exemption to s. B01046, with respect to Dioxin. He will try to have any publications sent to you on 21 August, 1981.

M E M O R A N D U M

TO: TOBY VIGOD

FROM: PAT FILE

DATE: 14 AUGUST 1981

RE: STATUTORY AUTHORITY FOR ESTABLISHING SAFE LEVELS OF DIOXIN IN FISH

Questions

1. What is the legal (statutory) authority for Health and Welfare Canada to establish the safe-consumption levels for dioxin in fish (or any substance for that matter)?
2. Are they considering any legally binding regulations for dioxin? (If so, under what statutory authority?)

I called the Health Protection Department and spoke with Mrs D. Kirkpatrick, (613-995-7214). The statutory authority comes from Section 4 of the Food and Drugs Act which prohibits the sale of any food containing any poisonous or harmful substance. The Health Protection department decides what is poisonous or harmful and are continually evaluating new assessment information on chemicals like dioxin.

They do not establish "safe-consumption" levels, since they do not establish consumption. But their guidelines for safe levels of dioxin in food which is to be consumed, are legally binding for the purposes of section 4. The guidelines are binding until the Minister changes them. The Food and Drugs Act is a preamble to the Food and Drugs Regulations.

Generally, the Department of Fisheries and Oceans conducts the compliance action with respect to fish guidelines set by the Dept. of Health and Welfare.

As Mrs Kirkpatrick is mainly involved with assessment, she suggested we call the legal department if we would like more information.