

LEGISLATION AND REGULATIONS

Dietetic foods industry experiences growing pains . . . standards of identity are under consideration but advertising and merchandising practices may be regulated

THERE MAY BE 2 TO 5 MILLION DIABETICS and from 25 to 30 million people in this nation who are overweight. Whether or not sugarless foods fill the nutritional needs of this one fifth of our population is not a decision for the food canner, the chemical manufacturer, or the advertising promoter. The answer for these individuals is logically in the province of nutritional science.

The arrival of cyclamate sweeteners in 1950, coupled with the still current fad for diet and calorie counting, has given increased impetus to the development of the dietetic food processing industry. Whether low calorie foods are a fad or a permanent commodity for the food processor will probably not be known for some time.

Low calorie foods have had a rapid growth since 1950. It has been estimated that 10 million cases were packed in 1953; this constituted an increase of 100% over the 1951 pack. Noncaloric soft drinks first appeared about 1950 and by last year about 5 million cases were sold.

Meanwhile the industry is experiencing "growing pains" which could result in arrested development. These growing pains have brought forth a number of actions on the regulatory front in the last two months.

Food Standards

The FDA has not yet established standards of identity for dietetic foods, but temporary permits have been granted to processor to pack these special products. In the case of soft drinks no permits have been necessary because the FDA has never established standards of identity for soft drinks. However, the question of standards has come up recently.

The development of formal standards for artificially sweetened canned fruits was discussed at an informal conference in Washington on May 25. The conference, arranged by B. S. Clark of the Food and Nutrition Board of the National Research Council, included C. W. Crawford, commissioner of the FDA and members of his technical staff and representatives of the National Canners Association. Conferences of

this type previously have been arranged for interchange of information before the formal process of establishing food standards.

Mr. Crawford pointed out that processors have been canning the synthetically sweetened foods for 2 or 3 years under the temporary permits and the FDA believes that the time has come to decide whether or not standards of identity should be developed.

The canners believe that there is a profitable market for these special packs and the labeling requirements under the permits have generally proved satisfactory.

As a result of this conference it was decided that the standards problem could be expedited if the National Canners Association would submit a formal petition for modification of the existing food standards to include artificially sweetened foods. This petition action is simplified by the recently passed Hale Amendment.

Shortly after this conference, on June 5, Commissioner Crawford sent an informal letter to Dr. Clark requesting the Committee on Definitions and Standards of the Food and Nutrition Board to consider the scientific data on the worth of artificially sweetened foods. This committee of the NRC has previously functioned in an advisory capacity to the FDA on scientific questions relating to food standards questions. The committees of the NRC are expected to consider problems associated with artificially sweetened foods and perhaps make recommendations on the significance of these foods to the nation's health.

These recent actions of the FDA may indicate that the officials are ready to acknowledge the value of artificially sweetened foods. The timing of this action in relation to the recent not so favorable resolution of the food control officials is probably not to be interpreted as a contradiction. Rather it may be an indication of problems facing the industry.

The Association of Food and Drug Officials adopted a resolution on artificially sweetened foods meeting in Des Moines the end of May.

The control officials both in the FDA and the various states acknowledge that there may be a logical place for artificially sweetened foods. Whether or not the market for these products extends to one fifth of the population seems to be another problem and here the question seems to settle on merchandising and advertising.

Merchandising and Regulation

Control officials and nutritionists seem agreed that there may be a need for special dietetic foods but they seem to differ with the merchandizers on how these articles should be sold. The recent resolution adopted at Des Moines recommends that in addition to the existing labeling requirements for these special foods there should be an attempt to limit their sale to those who need them.

The control officials resolution takes a rather strong stand for segregating these special foods from ordinary foods in the grocery store, and also advertising and promoting these as special foods not to be confused with the standard article.

There seems to be some fear that uninformed consumers will purchase these special foods thinking they are the same as or better than the standard article, or the consumer will purchase them as a step in self imposed diet regimes. The control officials feel that these acts would not be to the best interest of the public health.

The segregation recommendation is perhaps more than a mere suggestion for under the Federal Food and Drug Act and the model state act which many states have adopted the courts have found that the jurisdiction of the control officials can extend to the display and advertising of foods.

Food which is displayed deceptively in a grocery store or advertised in a misleading manner can be found to be misbranded. This interpretation has been substantiated by the courts and perhaps the recent resolution by the control officials should be interpreted as a warning to the manufacturers to go slow on this special foods movement, for food fad balloons have burst before.

The state control officials are concerned over the fact that these low calorie foods are often indistinguishable in appearance and taste from the standard food articles. Soda pop, for example, looks and tastes about the same whether sweetened with sugar or cyclamate. The control officials pointed out that the indiscriminate

sale of these products could possibly be inimical to the sound nutrition of children and a great mass of adults. The control officials also said that individuals in need of a normal diet might be misled into the belief that the nonsugar foods would be a cure-all for their difficulties.

To mitigate the indiscriminate sale of these foods the control officials resolution recommended that they be segregated from standard foods in the shelves of grocery stores and other outlets. They believe the intermingling of these products with other foods would create deception.

California has already issued a regulation on the dietetic foods calling clear separation from standard items on the grocery shelves.

FTC Joins FDA

A recent agreement between the Federal Trade Commission and the FDA may have a bearing on the advertising of these products. The purpose of the agreement is to prevent duplication of effort on the part of the two federal agencies.

The FTC has jurisdiction over advertising of foods and drugs, while the FDA is specifically charged with regulation of labeling of these commodities. Under provisions of the agreement the FTC will assume primary

responsibility for regulation of the truth or falsity of advertisements for foods and drugs. The FDA on the other hand will assume primary responsibility for the misbranding of these commodities.

The implication of this agreement to the producers of artificially sweetened foods is that the FTC may be in a better position to regulate the advertising of these products than previously, when the relative jurisdiction of that agency with the FDA was unclear.

The FDA has previously brought legal action against food processors for their advertising but the action usually involves an expensive legal battle to prove that advertising or display constitutes misbranding.

The jurisdiction of the FTC in this area has been rather well established and it is logical to presume that there may be reconsideration and possibly modification of the advertising claims being advanced for some of the artificially sweetened foods in the near future.

FDA Amends Labeling Regulations on "Salt Free Foods"

The Food and Drug Administration has issued a new amendment to the regulations covering labeling of dietary foods.

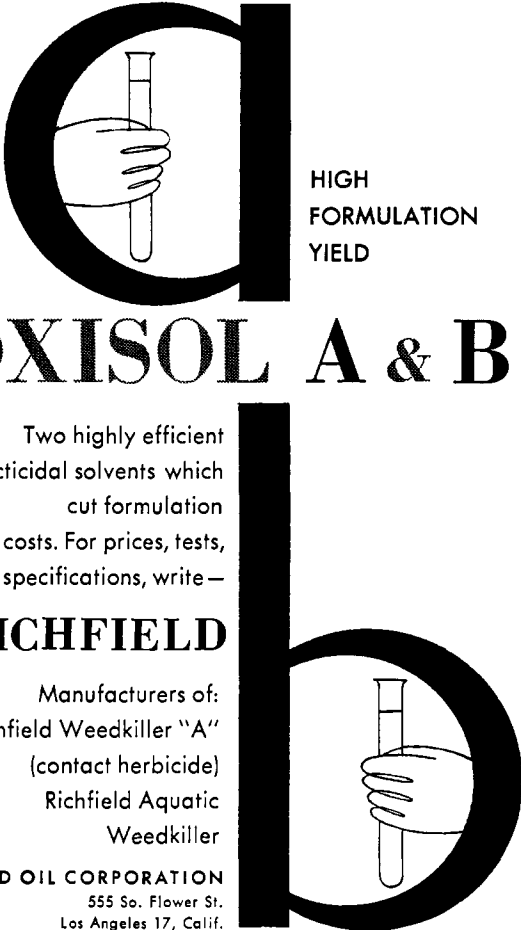
The new regulation will require that labels of "salt free" or "low sodium" food products for dietary purposes contain a

statement of the milligrams of sodium per 100 grams of the food product. In addition the labels must contain a statement of the number of milligrams of sodium present in an average serving of the food.

The FDA says that the new regulations should insure uniformity in the label information regarding the salt or sodium content of the foods and make it possible for patents to better compute their intake of sodium.

Salt free or low sodium foods are widely prescribed for persons suffering from high blood pressure and certain types of heart, liver, and kidney diseases. Salt free or low sodium diets have proved of value in these diseases as a method of regulating the water content of body tissue. Edema, or excessive water in the tissues, is a complication of these diseases which may require dietary management under the direction of a physician. As a result the market for these special foods has grown extensively in recent years. This expansion has, however, been accompanied by a great deal of confusion in labeling. Many products are found labeled "salt free" which nevertheless contained substantial amounts of sodium.

The new regulations are in line with recommendations made by the American Heart Association, and the Council on Foods and Nutrition of the American Medical Association. The new regulations will become effective on September 29, 1954.



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