

MISBRANDING EDIBLE OILS

Seizure of cottonseed and other edible oils by the Department of Agriculture in several different cities is cause for grave concern by packers and distributors of these products. The Department alleges misbranding of these packages because of the statement of contents that appears on the label. An example in point is the appearance on the retail market of olive oil in cans the contents of which is stated on the packages to be 0.98 of 1 gallon. In other instances the contents may be given as $7\frac{1}{2}$ pounds net weight. It is the contention of the Department of Agriculture that this is misbranding in that cans are offered for sale and are purchased as gallon cans. Agents of the Department are said to have made purchases of such packages at retail and the seller has misrepresented these to be gallon packages.

R. W. Dunlap, Acting Secretary of Agriculture, has written the following letter to the JOURNAL OF OIL AND FAT INDUSTRIES. He says:

"The text of the food and drugs act is contained in Circular 21. You will find the so-called net weight amendment in Section 8, paragraph third, in the case of food, on page 25. It states that an article shall be misbranded, 'if in package form, the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count: Provided, however, that reasonable variations shall be permitted, and tolerances and also exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of section three of this act.'

"This amendment requires that food in package form be labeled with a plain and conspicuous statement of the quantity of the contents in terms of weight, measure, or numerical count. Under the regulations for the enforcement of this amendment it has been held by the Department that liquids in general should be labeled in terms of net volume. In this connection please note Regulation 26, especially paragraph (e).²

"In interpreting the act the Department is of the opinion that the requirement that the net contents declaration be plainly and conspicuously made means that the declaration shall be prominently and legibly declared and also in such terms that it will be readily comprehensible by the average purchaser. There is a practice in certain quarters of packing oils, both cotton seed and olive oil, in containers holding just short of one gallon and labeling them in terms of weight, namely $7\frac{1}{2}$ pounds net weight. Information is available showing that a weight declaration on oils conveys no definite knowledge to the purchaser of the quantity of food contained in the package and that as a matter of fact such packages are usually purchased in the belief that they contain one gallon of oil. Because of the deceptive and unintelligible character of a weight declaration, there-

fore, the Department is of the belief that such a declaration does not comply with the requirements of the net weight amendment. It is held, as I have said above, that the declaration of quantity should be in terms of volume and in such simple terms as to be readily comprehensible.

"As an alternative to a net weight declaration on oils, certain packers have employed the same size containers holding a little less than a gallon and have adopted a declaration in decimal form, such as '0.98 of 1 gallon.' The Department is not convinced that this is a satisfactory way of declaring net volume. It is inclined to believe that there is more possibility of deception of the purchaser in this type of declaration than in one which declares the quantity of contents in terms of quarts, pints and fluid ounces. In fact, the practice of employing short gallon containers as well as containers holding just short of a half gallon and a quart is one which we believe is much more likely to lead to deceit than where containers holding even units of measure are employed.

"Certain packers of oils have adopted the practice of filling their containers by weight on the basis, for example, in the case of olive oil, of 7.61 pounds per gallon. While this figure may represent an average of the weight of a gallon of olive oil, it must be recognized that the specific gravity of oils varies and that a packer of oils, therefore, is under obligations to determine the correct weight per gallon of each lot of oil he is packing if he is to avoid the danger of packing too small or too great a quantity in his containers. The regulations require that a product labeled as containing one gallon shall actually contain one gallon of the oil at 68 Fahrenheit."

R. W. DUNLAP, Acting Secretary, United States Department of Agriculture.

²Statement of weight shall be in terms of the avoirdupois pound and ounce; statement of liquid measure shall be in terms of the United States gallon of 231 cubic inches and its customary sub-divisions, i.e., gallons, quarts, pints, or fluid ounces, and shall express the volume of the liquid at 68 F. (20 C.); statement of dry measure shall be in terms of the United States standard bushel of 2,150.42 cubic inches and its customary sub-divisions, i.e., bushels, pecks, quarts, or pints, or in the case of articles in barrels in terms of the United States standard barrel and its lawful sub-divisions, i.e., third, half, or three-quarters barrel, as fixed by the act of March 4, 1915 (38 Stat. 1186): Provided, that statement of quantity may be in terms of metric weight or measure. Statement of metric weight shall be in terms of kilograms or grams. Statement of metric measure shall be in terms of liters or cubic centimeters. Other terms of metric weight or measure may be used if it appears that a definite trade custom exists for marking articles with such other terms and the articles are marked in accordance with the custom.