



Beatrice Foods Co.

GENERAL OFFICES • 120 SOUTH LA SALLE STREET • CHICAGO, ILLINOIS 60603 • 312-782-3820

July 23, 1971

Hearing Clerk
Department of Health,
Education and Welfare
Room 6--62
5600 Fishers Lane
Rockville, Maryland 20852

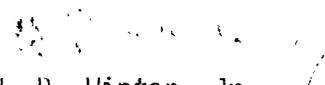
Re: F.R. Doc. 71-8272
Proposed Statement of Policy
Ingredient Statements Regarding
Oils and Fats

Dear Sir:

We are submitting attached five copies of Written Comments in the above-entitled matter on behalf of Beatrice Foods Co. and its subsidiary and affiliated companies.

It would be appreciated if you would send us copies of any additional notices or proceedings in this matter.

Respectfully submitted,


H. R. Winton, Jr.
Associate General Counsel

HRW:smr
Attachments

IN THE MATTER OF PROPOSED)
STATEMENT OF POLICY BY FOOD)
AND DRUG ADMINISTRATION ON)
INGREDIENTS STATEMENTS)
REGARDING OILS AND FATS)

21 C.F.R. Part 3
F.R. Doc. 71-8272

W R I T T E N C O M M E N T S

July 23, 1971

H. R. Winton, Jr.
Associate General Counsel
Beatrice Foods Co.
120 South La Salle Street
Chicago, Illinois 60603
(312) 782-3820

In the Matter of Proposed Statement of Policy by Food and Drug Administration on Ingredients Statements Regarding Oils and Fats)))

21 C.F.R. Part 3
F.R. Doc. 71-8272

W R I T T E N C O M M E N T S

I. INTRODUCTION

The subject Proposed Statement of Policy dated June 8, 1971 appeared in Federal Register Volume 36, No. 115 of Tuesday, June 15, 1971 at page 11521.

Beatrice Foods Co., a Delaware corporation, ("Beatrice"), having its principal executive offices at 120 South La Salle Street, Chicago, Illinois 60603, and its subsidiary and affiliated companies, process and package numerous food products of various types and sizes, at numerous plant locations, which are shipped in interstate commerce and would be subject to the Proposed Statement of Policy; and therefore, it is an interested party in these proceedings.

Although some of its products would not be seriously affected by the proposed provisions, others would be very seriously affected for the reasons to be stated; and Beatrice, therefore, requests that such provisions not be adopted, or in the alternative, a hearing be called to consider appropriate changes.

In the event that the new regulations are adopted, Beatrice requests that processors be given at least one year to make use of existing supplies of packages and to allow adequate time to prepare new packages and labels, since

in many cases, it will involve not only using up such existing supplies but experimenting with new formulations of products.

II. STATEMENT OF FACTS

A. Breads, Buns and Rolls

A majority of the bread, buns and rolls made by our Bakery Division plants are made with lard, which is identified on the ingredient label as "shortening". In the opinion of the principal operating personnel of our Bakery Division, lard is used because it produces a superior product in that the flavor is better than products using vegetable oil; it is also more economical than vegetable fat or oil; and a loaf of bread made with lard slices better than one made with vegetable oil.

If the proposed regulations are adopted and the "lard" is required to be shown on the label as an ingredient, there will be a tendency by most bakeries to try and shift to formulas using vegetable oil because of anticipated consumer resistance to products containing lard. Since vegetable oil is not used in most bread, buns and rolls, this will require experimenting with new formulas using vegetable oil, which is more expensive than lard and will result in less satisfactory products in the opinion of our Bakery Division operating personnel.

B. Snack Products

Beatrice operates several plants that process snack products such as caramel corn, cheese wafers, puffed corn meal snacks, and various flavorings and modifications thereof. These products contain and/or are cooked in vegetable oils, namely, cottonseed oil, corn oil or soybean oil and the

ingredient label of such products indentify such ingredients as "vegetable oil". There is no appreciable difference in flavor or quality of finished products whichever type of oil is used, and the choice of oil is primarily based upon its cost. At times, these plants will "book" oil ahead for anywhere from one week to one year depending on crop conditions. On other occasions, they will buy oil on a day-to-day basis and will buy different types of oil based upon market price. If they were required to list on the label the exact type of vegetable oil, there would be many times when they would be paying a premium for the oil because it would be required to be purchased to meet the ingredient labeling designation. Since there are over 300 different packages in their inventory, it would be impossible to change the ingredient clause each time they purchase a different type of oil and since oil is a major ingredient in their products, amounting to over 5 million pounds a year, if they were required to use only the exact type of oil stated on their ingredient clause, this could increase the cost of their products by up to \$500,000 a year, which increased cost would have to be passed on to consumers.

C. Ethnic Products - Pizza, Chinese Foods . . .

Beatrice operates several plants that process pizza and several plants that process Chinese foods. The pizza plants are presently using peanut oil in the crust formulation and declaring it on the label as "vegetable oil". If peanut oil should become too costly or

scarce, they would have to change to cottonseed oil and this would involve a substantial change in labeling on the various types and sizes of pizza without much time to make the change as well as involving substantial increased cost in inventories of cartons which would not be usable.

Chinese noodles and egg rolls processed by the Chinese food plants are fried in a mixture of soybean and cottonseed oils. The ratio will vary depending on the relative market price of the two oils. At the present time, these ingredients are shown as "vegetable oil". If the individual oils must be shown separately in their order of predominance, it would require twice as many cartons or increased ingredient costs. In the event that either or both of these oils should become too scarce to use, it may be necessary to substitute other vegetable oils. The cost involved in maintaining inventories of cartons of the numerous products and sizes of packages with the various types and combinations of vegetable oils used would be quite expensive.

D. Confectionery Products

Beatrice operates numerous plants that process confectionery products and use various vegetable oils as ingredients, which at the present time, are labeled only as "vegetable oil". In the event that the cost or supply of the presently used vegetable oils substantially changes, it will be necessary to change the ingredients

accordingly. With the substantial number of different formulations, kinds and sizes of products involved, the inventory of packages required would be substantial.

In some cases, the confectionery product is prepared under a secret formula in which the particular oil used is a key ingredient, and our processing personnel would prefer not to disclose such oil on the label because it would aid our competitors.

E. Salad Dressings

Beatrice operates several plants that process salad dressing using various types of vegetable oil. If the cost or supply of the vegetable oil ingredients used is substantially changed, it will be necessary to make changes in the ingredient formulations of these products. Such changes would require maintaining a substantial inventory of labels for each of the various kinds and sizes of salad dressing products.

III. ARGUMENT

The Commissioner of Foods and Drugs has failed to consider several important factors in concluding that there should be a change in the existing policy statement of FDA, as follows:

A. Increased Cost to Consumers

Although "the shortening ingredients of many fabricated foods can be predicted by the manufacturers of fabricated foods and are readily available from their suppliers", as stated by the Commissioner, the cost of these ingredients can vary substantially within a short period of time due to the supply and quality of such ingredients. This

can be vividly demonstrated by the change in price of the various types of vegetable oil over an extended period of time. In support of this argument, it is requested that the Commissioner take official notice of the following publications:

Fats and Oil Situation - Economic Research Center
U.S. Department of Agriculture

Fats and Oils Monthly Price Record - The Trade News
230 Park Avenue
New York, New York 10017

B. Suitability of Substitutes

At the present time, many products are made using ingredients that are uniquely adapted to producing products with superior qualities, such as, aroma and sliceability of bread using lard. In many cases, these ingredients are a minor part of the finished product, but because of some adverse publicity with regard to the use of such ingredients, processors may be forced to change to products that contain more expensive ingredients which produce less desirable finished products.

C. Secret Formulas

Manufacturers of certain fabricated foods presently list "shortening" as the ingredient used, and they are concerned that a disclosure of the specific oil used in their product will result in divulging confidential formulas to their competitors.

It is not apparent from the face of the proposal the extent of consumer demands for such specific fat labeling or the advantages to be gained by doing so, if any. Nor has any consideration been given to the

disadvantages of said proposal, such as, pointed out in the Statement of Facts included in these Written Comments.

There is no intent by processors to conceal information from consumers, but there are definite problems including, particularly, the substantial number of different types of cartons which would be required to be made available if the ingredient terms are changed to require disclosure of the different types of oils used, because of fluctuating supplies and costs of such specific oils from time to time.

IV. SUMMARY

Beatrice has stated its position with regard to the Proposed Statement of Policy in the Introduction to these Written Comments, the factual basis for its position in the Statement of Facts and its reason for its position in the Argument. It hereby requests that no action be taken to adopt the Proposed Statement of Policy, but that if such action is felt to be necessary by FDA, that a public hearing be held to determine appropriate changes that should be made in this policy, and that if and when a final determination is made, processors be given at least one year within which to develop new labels and packages for their products which would be affected.

Respectfully submitted,

BEATRICE FOODS CO.

H. R. Winton, Jr.
H. R. Winton, Jr.
Associate General Counsel