

March 11, 1949

Mr. H. J. Shouse  
Deputy Dairy Commissioner  
101 State House  
Phoenix, Arizona

LAW LIBRARY  
ARIZONA ATTORNEY GENERAL

Dear Mr. Shouse:

In response to your letter of March 4, this office has investigated the matter relating to the commercial dairy product known as "Reddi-wip". This product appears to be, from the description thereof printed on the lithographed sale container which accompanied your request, composed of pasteurized cream, milk solids stabilizer, sugar, vanilla, nitrous oxide and carbon dioxide gas.

Paragraph (c) of Section 50-901, A.C.A.1939, defines dairy products as including "milk and cream and milk products \* \* \*".

Paragraph (b) of the same section defines milk products as follows:

"'Milk products' shall imply all edible products other than raw milk or cream, but derived or produced therefrom, either whole or in part thereof, and shall include: Pasteurized milk or cream; chocolated skim, part skim or whole milk; evaporated or condensed milk or cream; dried or powdered milk or cream; butter; buttermilk; either liquid, condensed or dried; cheese or cottage cheese; frozen dairy products, and all other similar products of milk".  
(Emphasis supplied)

Paragraph (v) provides:

"'Manufacturing milk or cream' is such milk or cream as shall be used in the production or manufacture of manufactured milk products";

By reason of the foregoing definition it is the opinion of this office that the product described as "Reddi-wip" is a "dairy product" and therefore subject to the regulations under the Dairy Code.

The first question you ask is: "Must the cream used be grade A?". We do not believe that it is mandatory that the cream used be grade A as long as the product meets the standards for health and cleanliness by bacterial tests. However, if the can has a label on it which indicates that the cream content is grade "A" cream, then the cream used must be grade "A" cream.

Your second question is: "Must the grade of the cream used be specified on the label?". This question is partly answered by the answer to question number one in relation to the use of grade A cream. However, we do not believe that the use of Grade B cream for instance would be prohibitive, providing the bacterial tests and others meet the standards of the Department, and in that instance, the specification of the grade of the cream used in the product need not necessarily be indicated on the label.

Answering your third question: "Should the words light, heavy, or extra heavy be used on the label to designate approximately how much butter fat the cream contains?", your attention is invited to Section 59-937, "Labeling of Dairy Products", so far as pertinent to your question reads as follows:

"\* \* \* No dairy products shall be sold, other than such as shall have been labeled as herein specified. All such products when sold shall have the container thereof plainly and legibly labeled as to the contents thereof, the grade or class, if any, the name of the manufacturer and whether produced within or without the state. \* \* \* \*".

From the above quotation we do not believe that the words light, heavy or extra heavy are necessary or that a percentage should be used on the can such as "not less than 25%". In the event the label states that the product contains a percentage of 25% or more, the product should of course contain a percentage of 25% or more as far as butter fat contents are concerned.

Your fourth question is: "Is it required that the amounts of the various contents be designated in percentages or some other manner?". We do not believe that the percentage of the various elements is necessary to be indicated on the container so long as the label on the container is plainly and legibly labeled as to the contents thereof, the grade or

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class, if any, as provided by Section 50-937, supra, and also such combination of elements as contained in the sales container is wholesome and edible.

It appears from a study of the contents as set forth on the label that they are not such elements as would constitute an adulteration as defined by Section 68-402, A.C.A. 1939, nor does it appear to be mislabeled as defined by Section 68-403 A.C.A.1939.

Very truly yours,

FRED O. WILSON  
Attorney General

PERRY M. LING  
Chief Assistant  
Attorney General

MAURICE BARTH  
Assistant Attorney General

PML:lh