

CANNED TUNA FISH ON PESAH

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The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah.

שאלה

May tuna fish packed in water without השגחה for Pesah be used on Pesah? If so, are there any restrictions or requirements?

In order to answer the question of tuna on Pesah, one must consider the following issues: the processing of tuna fish; the regulations concerning the processing and labeling of tuna fish; and the כשרות concerns which apply to Pesah.

תשובה

Processing Tuna Fish

Tuna boats, which are at sea for months at a time, usually freeze their catch in brine to transport to the cannery. At the cannery the fish is thawed, cleaned, and partly cooked. Then it is boned, trimmed of skin and scales, and sent through automatic equipment for shaping, cutting, and canning. The cans are then vacuum sealed and heated, to complete the cooking process. The FDA calls this process retorting, also known as autoclaving.

FDA Regulations¹

The Food and Drug Administration's HHAS provides the regulations concerning the processing of tuna fish in "Part 113 – Thermally Processed Low-Acid Foods Packaged

¹ I want to thank Mr. Lou Blecher for his help in obtaining and explaining the regulations concerning the processing of tuna fish.

in Hermetically Sealed Containers,” with some additional information appearing in Section 161.1900 of that document.

Included in these regulations are: the types of fish that can be labelled as tuna [Section 161.190 A(2)]; the types of seasoning or flavoring that may be added to the tuna [Section 6]; and the fact that canned tuna may be packed in water [Section A(5)].

According to the regulations, if the packing medium is water, the label must read “in water.” If seasoning is added, the label must specify “seasoned with x,” and the name or names of the ingredient or ingredients used must be listed.

In order to inhibit the development of struvite crystals, sodium acid pyrophosphate may be added not in excess of 0.5% by weight of the finished food. Where added, this ingredient must also appear on the label.

Kashrut Concerns for Pesah

In studying the regulations concerning the use of tuna fish on Pesah, the concerns revolve around the additions to tuna fish which is packed in water – usually, but not limited to, salt. There is also the concern that additives, oil, or seasoning may have inadvertently been added during the processing of the fish.

This responsum applies only to tuna packed in water, to which only sodium acid pyrophosphate has been added. (This information will appear on the label.)

Food prepared under rabbinical supervision for Pesah is devoid of any **חמץ** (leaven), and can be bought and used during Pesah. Processed food that does not contain **חמץ** and does not have rabbinical supervision for Pesah, may not be purchased during Pesah. However, these foods may be purchased prior to Pesah, and can then be used during Pesah. One example of this type of food is frozen vegetables (non-legumes) which are washed, peeled, and in some cases salted, and then frozen. Since the ingredients are not **חמץ**, the product may be purchased before Pesah and used during the holiday.

During the seven/eight days of Pesah, **חמץ** does not lose its identity in an admixture, no matter how small a proportion of **חמץ** may be involved. Therefore, the minutest amount of **חמץ** renders the whole admixture **חמץ**, and its use is prohibited on Pesah. However, during the rest of the year, **חמץ** follows the normal rules of admixtures (i.e. it loses its identity in an admixture of one part **חמץ** to sixty parts non-**חמץ** **חמץ** **בשישים**)². This affords us the opportunity to differentiate between foods purchased before Pesah and foods purchased during Pesah.

In order to prevent the deliberate use of this rule to prepare admixtures that are prohibited, like meat and milk, the Rabbis decreed that **לכתחילה איסור מבטלין איסור**³: the deliberate nullification of a prohibited item before the fact, is prohibited. But in the inadvertent mixing of milk and meat, where done accidentally, the admixture is permissible.

In the case of tuna packed in water, even if some ingredient inadvertently fell into the mixture, it would be extremely difficult to argue that the processors deliberately added **חמץ** in the proper amount in order to nullify it. Therefore, any inadvertent admixture, if it occurred, would be permissible. When tuna in water, without any other additives, is purchased before Pesah, any additional ingredient (vegetable oil, seasoning, etc.) that may have inadvertently found its way into the can, would be nullified. Therefore, if the can of tuna in water is purchased before Pesah, it is not considered an admixture according to halakhah, and may be used during Pesah.

² Yoreh De'ah 98:1.

³ Yoreh De'ah 99:5.

The only remaining concern is the use of sodium acid pyrophosphate. Sodium acid pyrophosphate is a chemical that is not derived from grain or alcohol, and is itself not חמץ. It therefore does not pose a problem in water-packed tuna which is purchased before Pesah.

Conclusion

Tuna fish packed in water may not contain any additives without those additives appearing on the label of the can. If salt is added to the fish, the label must indicate that ingredient. Therefore, one can assume that no additional ingredient has been added to the fish if the label does not list it.

Inadvertant mixtures follow the rule of בטל בשישים throughout the year, except during Pesah itself. Before Pesah, any inadvertently added ingredient would lose its identity, and would be nullified. Therefore, even without Passover השגחה tuna packed in water without any additives, or with only salt added, may be used during Pesah if purchased prior to the holiday. However, it may not be purchased during the holiday itself.

Most cans of tuna packed in water do have additional ingredients in them. Therefore, one must look at the label carefully, before purchasing. *This responsum applies only to tuna fish packed in water (with or without salt), but with no other additives.*