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Citizen Petition

Division of Dockets Management
Department of Health and Human Resources
Food and Drug Administration
5630 Fishers Lane, Rm. 1061
Rockville, MD 20952

Date: October 17, 2024

The undersigned submits this revised petition under CFR Title 21, Chapter I, Subchapter A, Part 10.25 and 10.30 to request the Commissioner of Food and Drugs to amend 21 CFR 133.169, the standard for Pasteurized Process Cheese, to allow the use of extra virgin olive oil as an anti-sticking agent in cheese slices. The initial request was filed under Docket No. FDA-2024-P-1570

A. Action Requested

Petitioner requests that the Commissioner amend 21 CFR 133.169 (Pasteurized Process Cheese) to allow the use of extra virgin olive oil, in addition to the currently approved lecithin products, as an anti-sticking agent for process cheese slices under these standards. The amendment would allow the use of an alternative anti-sticking agent that is non-allergenic and would expand consumption of process cheese slice-type items by young, Jewish consumers who have limited access to kosher cheese items, sold through the federally-managed, National School Lunch Program.

B. Statement of Grounds

Bongards' Creameries has been working with the USDA and FDA on correcting a conundrum that historically prevented the sale of standardized, kosher, Pasteurized Process Cheese slices into the federally-managed school lunch program. FDA's program requires that only standardized cheese products can qualify for school lunch credits. Because of the complete lack of kosher lecithin products for use as the anti-sticking agent (or release agent), it is impossible to meet this requirement, and students who require kosher foodstuffs are excluded from the program. To meet program requirements will require alternate release agents not currently allowed by the standards of identity. One alternate release agent for process cheese that has worked in non-standardized, kosher Pasteurized process cheese product slices is extra virgin olive oil. Bongards has been providing non-standardized, kosher process cheese products, using extra virgin olive oil as the slice anti-sticking agent, to the USDA for over 4 years, and we have received no slice separation complaints from consumers or through the USDA product complaint system. Kosher extra virgin olive oil is readily available in the United

States. For this reason, we are requesting amendment to the standards (indicated above) to allow the use of extra virgin olive oil as an alternative to lecithin-based release agents.

Some distinct advantages when using extra virgin olive oil include:

- 1) It provides “like” performance as a release agent for cast process cheese slices.
- 2) Extra virgin olive oil has positive nutritional benefits. Claims associated with olive oil consumption include:
 - High in antioxidant content
 - Rich in healthy monounsaturated fats
 - Anti-inflammatory properties
 - Help reduce the risk of strokes
 - Protection against heart disease
 - Reduced risk of Type 2 diabetes
 - Improved bone health
- 3) Kosher extra virgin olive oil is readily available in the marketplace.
- 4) Extra virgin olive oil is non-allergenic versus some sources of commonly used lecithin (i.e., soy lecithin).

Results of Recent Temporary Marketing Permit

In spring of 2023, FDA granted a Temporary Marketing Permit to Bongards to market standardized process cheese items containing extra virgin olive oil at up to 0.3% application rate as an anti-sticking agent for cheese slices an alternative to lecithin products. Initially, the TMP was designed to test the marketability of kosher process cheese slices within the national school lunch program for acceptability, but the TMP also allowed use in non-kosher products as well. No negative responses (slice separation or flavor issues) have been reported by our primary distributor of kosher slices, World Cheese based in Brooklyn, NY, in schools or by retail customers. In fact, over two million pounds of kosher slices have been sold to-date with only positive feedback. Mr. Mark Sherer, Vice President of Sales for World Cheese, has provided a letter of support for extra virgin olive oil use in process cheese slices, and it is attached.

Modified Specification Change by FDA/USDA

As a work-around to allow kosher process cheese slices into the School Lunch Program, FDA and USDA coordinated a specifications update in May 2023. Prior to the update, process cheese slices containing kosher, extra virgin olive oil could only be marketed as non-standardized cheese “products” not allowed for use in the national School Lunch Program. The newly updated, USDA specifications for Pasteurized Process cheese slices allows Pasteurized Process Cheese slices containing extra virgin olive oil produced under a Temporary Marketing Permit for sale into the Federally managed, School Lunch Program. This opened the door for kosher process cheese consumption in schools nation-wide. However, as Bongard’s Temporary Marketing Permit for olive oil use expires in late 2024, a more permanent change to the standards of identity is needed. Our request for amendment to the standard listed above to allow an alternate ant-sticking agent would permanently correct a hurdle for standardized kosher cheese consumption in schools and elsewhere where standardized products are required.

C. Environmental Impact

No impact to the environment is anticipated or has been observed.

D. Economic Impact

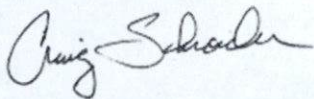
The proposed amendment to the standards would allow further access of kosher process cheese-type slices in the national school lunch program where it has been historically prohibited due to technicalities of specific ingredient requirements. Amending the standards would also open access to consumers for standardized, kosher cheese products at the retail level as well.

E. Certification

The undersigned certifies that, to the best knowledge and belief of the undersigned, this petition includes all information and views on which the petition relies, and that it includes representative data and information known to the petitioner which are unfavorable to the petition.

We look forward to your decision on our petition to amend 21CFR 133.169. Please don't hesitate to contact me directly if you have any additional questions or concerns.

Best regards,



Dr. Craig J. Schroeder
Vice President of Technology
Bongards Premium Cheese
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Chanhassen, MN 55317
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World Cheese Co., Inc.

March 13, 2024

Bongards Creamery
250 Lake Drive East
Chanhassen, MN 55317

Dear Dr. Craig J. Schroeder

In May 2023, Bongards Creamery received approval for the TMP, for the use of a minimal amount of extra virgin olive oil as an anti-sticking agent. We have since worked together with Bongards to produce and purchase over 2 million pounds of kosher pasteurized processed cheese with the use of olive oil.

These 2 million pounds have been distributed throughout the country in all markets such as school lunch programs in New York, food services and retail stores.

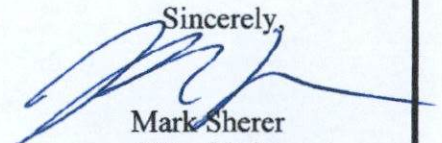
We have received incredibly positive feedback and no negative backlash from consumers. They appreciated the ability to obtain a high level kosher standardized process cheese without any compromises. The consumers have also noted the positive use of extra virgin olive oil since it is non-allergenic as opposed to the commonly used lecithin, as an anti-sticking agent.

The use of olive oil did not affect the pasteurized processed cheese in its texture, appearance, and taste in all markets that we sell the product.

The use of olive oil performed just as well, if not even better as the lecithin as a non sticking agent with added benefits for the kosher consumer in all markets. This includes children in schools, chefs in the food service industry, as well as the common housewife. Therefore, we would benefit from the continued use of olive oil in pasteurized processed cheese.

We look forward to continuing to supply the kosher consumer with the highest level of quality kosher cheese.

Sincerely,



Mark Sherer
VP of Sales
World Cheese Co.