DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

[DA-93-18]

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service (General Specifications), by revising the requirements for anhydrous milkfat to allow butter to be used as an ingredient and by revising the requirements for butteroil to allow the addition of safe and suitable antioxidants. The action to allow the use of butter was initiated at the request of the American Butter Institute.

EFFECTIVE DATE: January 24, 1995.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The final rule also has been reviewed in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The Administrator, Agricultural Marketing Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities because participation in the USDA-approved plant program is voluntary and the amendments will not increase the costs to those utilizing the program.

The Department is issuing this final rule in conformance with Executive Order 12866.

The General Specifications, established in 1975, do not provide for butter to be used as an ingredient in

anhydrous milkfat. This is inconsistent with international standards. The General Specifications also do not provide for the addition of antioxidants to butteroil, which also is permitted in international standards. These restrictions place the domestic manufacturer at a disadvantage when competing in the world market.

In order to enable domestic manufacturers of anhydrous milkfat and butteroil to compete on equal terms with manufacturers from other exporting countries and to amend the General Specifications to more closely align U.S. requirements with international standards, USDA is amending part 58, subpart B, of the grading and inspection regulations concerning dairy products, as follows:

1. Provide that butter may be used as an ingredient in anhydrous milkfat. Currently, the General Specifications permit only cream to be used as an ingredient in anhydrous milkfat. This is inconsistent with internationally recognized standards published by the International Dairy Federation and the Codex Alimentarius Commission that allow the use of butter in anhydrous milkfat. These amendments more closely align USDA requirements with internationally recognized standards and allow butter to be used as an ingredient in anhydrous milkfat.

2. Provide that antioxidants may be added to butteroil. Currently, the General Specifications do not allow the addition of antioxidants to butteroil. Internationally recognized dairy standards permit this addition to assist in preserving the flavor characteristics of this product. These amendments more closely align USDA requirements with international standards and allow the addition of antioxidants to butteroil, provided the antioxidant used is permitted by standards developed by the Codex Alimentarius Commission and authorized for use by the Food and Drug Administration (FDA). The Standards developed by the Commission may be found in the 'Standard A-2 for Milkfat Products 1." Antioxidants which are permitted by the Commission and which may be added to butteroil and the maximum levels allowed are as follows:

Antioxidant	Maximum level
Propvl gallate	100 mg/kg.

¹ "Standards A–2 for Milkfat Products", Joint FAO/WHO Food Standards Program, Codex Committee on Milk and Milk Products. Copies of the Standard may be obtained from the Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, P.O. Box 96456, Washington, DC 20090–6456.

Antioxidant	Maximum level
Butylated hydroxytoluene (BHT)*.	75 mg/kg.
Butylated hydroxyanisole (BHA).	200 mg/kg.
Any combination of propyl gallate, BHA, or BHT*	200 mg/kg, but indi- vidual limits above not to be ex- ceeded.
Natural and synthetic tocopherols.	500 mg/kg.
Ascorbyl palmitate; Ascorbyl stearate.	500 mg/kg individ- ually or in combina- tion.
Dilauryl thiodipropionate.	200 mg/kg.
Antioxidant synergists	
Citric acid	Limit by Good Manu- facturing Practice (GMP).
Sodium citrate Isopropyl citrate mix- ture; Phosphoric acid; Monoglyceride citrate.	Limit by GMP. 100 mg/kg individ- ually or in combina- tion.

*Temporarily endorsed by the Codex Alimentarius Commission.

FDA provisions relevant to those antioxidants permitted by the Commission are found in 21 CFR parts 172, 182 or 184. The antioxidants permitted by FDA are those contained in these regulations. The antioxidants and levels permitted by FDA are as follows:

Antioxidant	Maximum level
Propyl gallate	0.02% of fat.
Butylated hydroxytoluene (BHT).	0.02% of fat.
Butylated hydroxyanisole (BHA).	0.02% of fat.
Tocopherols	Limit by GMP.
Ascorbyl palmitate	Limit by GMP.
Dilauryl thiodipropionate	0.02% of fat.
Antioxidant synergists	
Citric acid	Limit by GMP.
Sodium citrate	Limit by GMP.
Isopropyl citrate	0.02% of food.
Phosphoric acid	Limit by GMP.
Monoglyceride citrate	200 ppm of fat.

3. Reduce the amount of moisture permitted in anhydrous milkfat. Currently, the General Specifications allow a maximum moisture content of 0.15 percent in anhydrous milkfat. International standards developed by the International Dairy Federation and the Codex Alimentarius Commission allow a maximum moisture content of 0.1 percent. These amendments more closely align USDA requirements with international standards by reducing the maximum allowable moisture content to 0.1 percent.