



United States
Department of
Agriculture

Food and
Nutrition
Service

3101 Park
Center Drive

Alexandria, VA
22302-1500

DATE: March 27, 2009
POLICY NO.: FD-085: Commodity Processing
SUBJECT: Nonfat Dry Milk Processing

The Secretary of Agriculture authorized the Commodity Credit Corporation (CCC) to make nonfat dry milk (NDM) available for donation to Food and Nutrition Service (FNS) as a bulk commodity for reprocessing into finished end products. Commodity processing has a history of absorbing large quantities of NDM while maximizing options and flexibility for processing the NDM, but there must be restrictions to minimize commercial displacement.

We will not reinstate policy memoranda FD-001: NDM Processing as issued on February 3, 2003, due to complications that arose from that policy and depressed dairy markets.

- Approved products will be limited to those end products that actually utilize NDM in the formulation of the end product, such as, **but not limited** to fortified fat-free fluid milk and macaroni and cheese.
- We will not authorize any additional inventory drawdown for nonfat solids contained in fluid milk or whey used in a formulation.
- Concentrated skim milk shall not be substituted for or used to replace commodity NDM in a formulation as allowed for in §250.30(f)(2), 250.30(f)(3), and 250.30(n)(2).
- We will not authorize any "tolling," "partial tolling," or other exchange or barter of NDM to increase the value-pass-through or reduce the price of the finished end product.
- NDM markets are still depressed and CCC is still acquiring NDM under price support, so we must enforce §250.13(a) (1) (ii) and §250.30(f) (2) that prohibits sale, exchange, or disposal of commodity NDM in bulk form.
- End Product Data Schedule (EPDS) will not be approved when NDM is used to standardize cheese vats due to high commodity cheese inventories at processors.
- Processors must have approved EPDS for each end product and a National Processing Agreement or an In-State Processing Agreement for direct delivery of NDM.

AN EQUAL OPPORTUNITY EMPLOYER

Regulatory Exemptions

Processors of end products containing commodity NDM are exempt from the following regulations:

- The 100% yield factor for substitutable foods as described at §250.30(c)(4)(ii). Processors can draw down commodity inventory for all NDM used in a formulation regardless for production yield or manufacturing loss. Processors are not required to add additional commercial NDM to make up the manufacturing loss in order to return 100% of the commodity NDM used to make an end product.
- §250.30(c)(4)(xii), which requires that inventory drawdown be limited to the actual amount of commodity contained in the end product. The total allowable NDM inventory drawdown for an end product is the amount of commodity needed to produce one case (Column 8 of the EPDS). The total NDM drawdown will also be used to calculate rebates and discounts for the value of commodity needed to produce one case.

Handling Fees

FNS will allow processors to assess reasonable “handling fees” or “handling charges” for extra labor associated with the use and handling of commodity NDM. FNS will determine if the fees are reasonable and show the reduction in commodity value on the processor’s approved Summary End Product Data Schedule.

Processors must maintain records to document that all requirements in 7 CFR 250 and this policy are fulfilled. For further information regarding this policy, please contact Sherry Thackeray at (703) 305 – 2652 or email NPA@fns.usda.gov.



Cathie McCullough
Director
Food Distribution Division