



Food Distribution National Policy Memorandum

United States
Department of
Agriculture

Food and
Nutrition
Service

3101 Park
Center Drive

Alexandria, VA
22302-1500

DATE: February 3, 2003
POLICY NO. FD-001: State Processing
SUBJECT: Nonfat Dry Milk Processing

Due to an extreme surplus of U.S. Department of Agriculture (USDA) commodity nonfat dry milk (NDM), the Food and Nutrition Service (FNS) is exercising authority at §250.30(t) to waive specific requirements in the State commodity processing program that will allow commercial processors to draw down commodity NDM inventory at a higher rate. This policy applies to commercial processors utilizing donated commodity NDM and commercial milk or whey in the formulation of an end product.

Inventory Draw Down

USDA is allowing an additional draw down against a State's NDM inventory based on the nonfat solids contained in milk and whey. Processors must identify this extra draw down for the nonfat milk solids contained in the milk or whey somewhere on the End Product Data Schedule (EPDS). To eliminate fluctuation of nonfat milk solids and promote consistent application of this policy, USDA is fixing the allowable draw down for nonfat milk solids as follows:

- 9% of the weight of the milk used in a formulation.
- 6% of the weight of whey used in a formulation.

Some amount of donated commodity NDM must be used in the formulation of the end product to qualify for the additional inventory draw down. Draw down against the commodity NDM inventory is not allowed when an end product formulation contains only milk or whey. Substituting concentrated skim milk for donated commodity NDM as described at §250.30(f)(3) and §250.30(n)(2) is not allowable under this policy.

Processors producing both Mozzarella and Ricotta from the same starting batch of milk and donated commodity NDM are only allowed to take the additional 9% NDM inventory draw down for the solids contained in the initial batch of milk used to make the Mozzarella. No additional draw down is allowed for the 6% nonfat milk solids contained in the whey by-product from the Mozzarella production that is then used to make the Ricotta. However, any donated NDM added to fortify the whey before making Ricotta is an allowable draw down. For an example of this process, please see Attachment 1.

Regulatory Exemptions

Processors of end products containing donated commodity NDM and commercial milk whey are exempt from the following regulations:

- The 100% yield factor for substitutable donated foods as described at §250.30(c)(4)(ii). Processors are allowed inventory draw down for all donated commodity NDM used in a formulation regardless of 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 donated NDM used to make an end product.
- §250.30(c)(4)(xii), which requires that inventory draw down be limited to the actual amount of donated food contained in the end product. The commodity NDM draw down for the NDM solids contained in the milk or whey must be shown somewhere on the EPDS. The total allowable commodity NDM inventory draw down for an end product is the amount of donated food needed to produce one case (Column 8 of the EPDS) plus the additional draw down for the nonfat solids contained in the milk or whey used in the formulation. The total NDM inventory draw down will also be used to calculate rebates and discounts for the value of donated food contained in a finished case.
- §250.30(f)(2) that prohibits sale or disposal of commodity NDM in bulk form. The processor may utilize the NDM as he sees fit, except that this NDM may not be sold back to the government under price support operations. All USDA logos and markings must be obliterated prior to sale or disposal.

Handling Fees

FNS is aware that some processors will be assessing “handling fees” or “handling charges” for extra labor associated with the use of donated commodity NDM. Current regulations do not prohibit this practice, but processors assessing such fees or charges must clearly disclose the amount the contracting agency will be charged somewhere on the EPDS.

By-Products

Using NDM in manufacturing food products, such as cheese, results in a whey by-product. By-products have value and arrangements for crediting this value must be established between the contracting agency and the processor prior to any processing and documented as part of the agreement. If the processor derives any financial benefit (net profit) from the use or sale of the whey by-product, the benefit must be returned to the contracting agency. The return of this financial benefit must be shown on the EDPS.

Cheese Processing

For all processing contracts producing cheese, including contracts where the further processor sub-contracts with a cheese manufacturer, the commodity processing transaction is the conversion of the NDM powder into cheese. Once the conversion from raw ingredients into cheese is complete, the cheese end product is not

"commodity cheese" or "bonus cheese," but rather cheese containing commodity NDM. The further processing of the cheese that contains commodity NDM is subject to the following restrictions:

1. State processing program regulations at §250.30 are not applicable to this cheese. However, the remaining §250 regulations are applicable to the cheese because it contains commodity NDM.
2. As with any other processed end product, the contracting agency cannot sell the cheese to a processor because it contains commodities. However, the cheese may be sold as a bulk unit by a processor if the processor has substituted a commercial cheese for the cheese made from commodity NDM. Appropriate records should be maintained to document the substitution.
3. This cheese cannot be added to the commodity cheese book inventory.
4. The commodity NDM inventory must be drawn down by the pounds of NDM solids per pound of cheese used in a further processed food item.
5. Rebates or discounts shall not be paid based on the November 15th commodity file price for cheese.

Records must be maintained to document that all requirements in 7 CFR 250 and this policy are fulfilled. For further information regarding this policy, please contact David Brothers at (703) 305-2668 or Sherry Thackeray at (703) 305-2652.

A handwritten signature in black ink that reads "Rosalind Cleveland". The signature is written in a cursive, flowing style.

ROSALIND CLEVELAND
Acting Director
Food Distribution Division

Attachment 1: Mozzarella and Ricotta processing.

Date Originally Issued: 02/03/2003 (Policy Memorandum No. FD-001)

Attachment 1: Mozzarella & Ricotta Processing

In this example, a State provides a processor with USDA donated commodity NDM powder to convert into Mozzarella and Ricotta under a fee-for-service agreement. The processor formulates an EPDS to show how much of each cheese will be made from the NDM powder, including an additional 9% inventory draw down for the nonfat milk solids contained in the commercial fluid milk that will be used in the first cooking to make Mozzarella.

First cooking formulation for Mozzarella

USDA NDM powder	10 lbs.
Starter culture	10 lbs.
Commercial Fluid Milk	<u>980 lbs.</u>
Total Batch Weight	1,000 lbs.

This first cooking yields 100 pounds for Mozzarella cheese and 900 pounds of whey by-product that will be used to manufacture the Ricotta.

Second cooking formulation for Ricotta

USDA NDM powder ¹	10 lbs.
Starter culture	10 lbs.
Whey by-product	<u>900 lbs.</u>
Total Batch Weight	920 lbs.

This second cooking yields 90 pounds of Ricotta and 830 pounds of whey by-product. The processor dries the whey remaining from the production of the Ricotta and sells the whey powder in the commercial market. The processor deducts expenses associated with drying the whey from the proceeds of the sale. The net financial gain is returned to the contracting agency through a reduction in the fee-for-service.

For this example batch, the EPDS shows the following inventory draw down for the production of 100 pounds Mozzarella and 90 pounds of Ricotta:

Mozzarella: NDM powder	10.0 lbs.
Mozzarella: Additional 9% (980 lbs milk x 9%)	88.2 lbs.
Ricotta: NDM powder	<u>10.0 lbs.</u>
Total NDM draw down for this example	108.1 lbs.

No NDM inventory draw down is allowed for the 6% nonfat milk solids contained in the whey by-product used to manufacture the Ricotta. The processor delivers the cheese to the State designated destination and receives payment for the appropriate fee-for-service. This ends the commodity processing transaction.

¹ It is not necessary to fortify whey with NDM to manufacture Ricotta; however FNS encourages States and processors to utilize as much donated commodity NDM as practical to increase inventory draw down.