

ARIZONA DEPARTMENT OF AGRICULTURE

**SUBSTANTIVE POLICY STATEMENT**

ANIMAL SERVICES DIVISION

**Exemption from Fluid Milk Regulation for  
Manufacturers that Produce Trade Products  
With Limited Dairy Ingredients**

**A.R.S. § 3-601 et seq. and R3-2-801 et seq.**

**A.A.C. R3-2-804 (A)**

**DIVISION/  
PROGRAM ASD**

**SP 23-03**

*Paul E. Brindley*  
SIGNATURE

*10/30/2023*  
DATE

This Substantive Policy Statement is advisory only. A Substantive Policy Statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this Substantive Policy Statement does impose additional requirements or penalties on regulated parties, you may petition the agency under section 41-1033, Arizona Revised Statutes, for a review of the statement.

**1. BACKGROUND**

Pursuant to Arizona Administrative Code R3-2-804(A), "any fluid trade product containing milk solids shall be regulated as a fluid milk product." The Department has determined that such regulation of trade products containing a limited amount of milk solids or milk proteins creates an unreasonable burden on trade-product producers.

**2. POLICY**

Unless or until the Department receives evidence that non-enforcement is affecting food safety, the Department will not regulate trade products that contain a limited amount of milk solids or milk proteins as a "fluid milk product," provided that:

- The trade product contains less than 6.5 percent nonfat milk solids or less than 2.25 percent true milk protein;
- Only commercially pasteurized milk or commercially pasteurized milk-based products is used in the trade product as an ingredient; and
- If a large business, the business complies with the requirements of 21 CFR Part 117 Subpart A, B, and C; or
- If a small business, the business complies with the requirements of 21 CFR Part 117 Subpart A and B. A "small business" is defined in A.R.S. § 41-1001(23) as "a concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year."

**3. EFFECTIVE DATE**

This Substantive Policy Statement is effective as of the date indicated above.