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# DAIRY EQUIPMENT

## Separating Facts from Myths



Often a food package bears a kosher symbol followed by a D or a DE, which most of us understand to indicate that the food contained therein is either dairy (in the case of the D) or processed on the same equipment as dairy (as symbolized by the DE).

But more often than not, these symbols raise more questions than they answer. Why is a food marked as dairy when I see no dairy ingredients on the package? If I keep *chalav Yisrael* do I need to avoid DE? May I eat it with or right after meat? How come some things can be labeled as dairy in the allergen information but the *hechsher* indicates that they are *pareve*, and other products have a D or a DE but have no allergen warning at all?

And then to answer the greatest question of all: Which Oreos are really dairy, and which are not?

To understand the answers to these questions--and many more--let's take a deep dive into the world of dairy processing.

We will begin by understanding some reasons why a product that does not appear to contain any dairy may nonetheless be labeled as such.

## TAINTED MACHINERY

A common scenario is when the *pareve* food is processed on equipment that had also been used for hot dairy food, and the equipment was not *kashered* in between. While most agencies will correctly mark this as DE, some will, for simplicity sake, just put a D next to their logo.

This is the case for Silk soymilk, David sunflower seeds, Pedialyte drink, many of the Hershey's syrups, and some Kind Bars, all of which are marked as D because the manufacturing lines are not *kashered* between runs.

Another possibility involves dry ingredients. For example,

if machinery was used to process dairy powders and then used for *pareve* powders, such as colored sugar. To wash the machinery with water is not practical, since even the smallest amount of leftover moisture would cause the powders to clump. So how is one food cleaned out before another one is processed?

The standard procedure is to run the second product, in this case colored sugar, through the machinery until the company determines that all residue of the previous product has been flushed out. The tainted sugar powder is then discarded, and the company is sufficiently confident that whatever they process from then on is free of significant residue from the previous product.

The *hechsher*, however, is not quite convinced.

A case in point would be Trader Joe's chocolate chips, which some readers may recall switched from being designated by the OK as *pareve*, to dairy.

This was because it came to the attention of the OK that the chips were packaged on the same machinery as dairy chocolate chips. And even after the company flushed out the lines with chocolate chips to be discarded, occasionally dairy chips were still found in the non-dairy batch. These are actual dairy chips, and if they would be ingested by someone who is allergic to dairy, that person could become ill. So, while one can rightfully argue that the small amount of dairy chips would be *botul* (nullified) which leads us to a new internal term amongst kashrus agencies called "*dairy botul*", it nevertheless is correct to designate the "*pareve*" chips as "dairy".

Another possibility is when the food contains a flavoring that has dairy in it. Even though it is a minute amount relative to the food itself, since it provides flavor, it is not necessarily nullified by the ratio of 1/60. Additionally, a unique aspect of

flavors is that there is no governmental requirement to list the specific ingredients used to make up a flavor, and it is sufficient to just list the words “natural and artificial flavors.” So a consumer will never know what is really in a flavor and must rely on the *hechsher* for its status.

This is why a product can be marketed as vegan, but the *kashrus* agency has correctly labeled it as dairy, since it was either made on a non-*kashered* dairy manufacturing line or one of the flavors being used in this vegan product is labeled dairy. The vegan company is not concerned that this would compromise their vegan status, while the kosher agency has different criteria of what is acceptable as non-dairy.

Another example of this are certain Torani coffee flavors, which contains a dairy component in the flavoring, yet there is no dairy in the ingredient information.

If one reads the ingredient panel and sees nothing that seems dairy-sensitive, they still cannot be sure that there is no dairy hidden in something with an innocent seeming name such as galactose, high protein, ghee, lactalbumin, paneer, pre-biotics, recaldent, and, of course, “flavors.” I keep a very long list of such ingredients, and I am constantly finding more ingredients to add to it. (On the other hand, there are plenty of dairy sounding ingredients that are actually not dairy at all. Some examples are cocoa butter, cream of tartar, lactase, lecithin, milk thistle, etc.)

For this reason, as well as others mentioned in this article, even if you are a chemist, reading the ingredients is not enough to assure you that the product in your hand is truly dairy-free.

## INHERITED DESIGNATIONS

Some companies, just to keep things simple for themselves, may choose to label everything they produce as dairy, even items that are 100% *pareve*. An example of this is plain (unflavored) Snyder’s pretzels. Since the company also makes dairy pretzels, they want a uniform kosher logo on all their packaging and designate everything as “dairy.”

I recall once working with a major breakfast cereal producer that was considering adding a dairy ingredient to a product more than two years down the line. To avoid making mistakes, the executives were going to start labeling it as “dairy” already. I prevailed upon them not to do so, and many *chalav Yisrael* keeping Jews enjoyed many breakfasts as a result.

Many products are made from dozens of ingredients, each of which comes from a different plant or a different company. Virtually all *hashgachos* work with each other, relying on each

other’s supervision. Thus, a product bearing the cRc may contain ingredients that are supervised by the OU, OK, and many others as well. If one of those ingredients, for whatever reason (for example, the company requesting uniformity of their kosher designation), has been designated as “dairy” by its supervising agency, we would have no choice but to designate the final product “dairy” as well. In these cases, the product is 100% *pareve*, but the consumer has no way of knowing this, unless they consult with someone with “inside information”.

## WHEN THE ALLERGEN INFO AND THE HECHSHER DON’T JIBE

There are times when something is 100% bona fide *milchigs*, but it is not labeled as dairy in the allergy panel. This is because only certain components of the milk trigger common dairy allergies. However, as far as kosher is concerned, the food is decidedly dairy.

(A similar example would be wheat that has been modified so that it lacks the elements that are problematic for people who are gluten intolerant. Thus, it can be entirely gluten-free but also entirely *chametzdik*. This is one reason why not everything that is gluten-free is kosher for Pesach.)

Conversely, there can be things that are dairy as far as allergens is concerned but are *pareve* from a *halachic* perspective. This is because the allergens are concerned with the most minute particles. From a *halachic* perspective, however, something can become *batul* in a ratio of 1/60.

A classic example of this issue at play is a potato chip factory, where the finished chips are sprayed with flavors, some of which are dairy. These sprays create a cloud, and partitions are erected to block the powder from floating from one manufacturing line to another. As far as allergy is concerned, the entire plant may be labeled as dairy and the company will state on all labels “made in a plant that processes milk,” since there are potential dairy particles crossing through the partitions. However, *halachah* is not concerned about these minute traces of dairy in the air and is comfortable labeling the non-dairy chips as *pareve*.

## DE AND CHALAV YISRAEL

In virtually all instances of a product being marked DE, the dairy in question is *chalav stam*. How is it to be viewed? There are three basic approaches:

Based on the *Shulchan Aruch’s* clear *halachah* (*Rama*, YD 115:1) items made with *chalav Akum* are not kosher and the *keilim* are equally not kosher. While one can argue that the reasons

behind the *gezairah* of *chalav yisrael* might not apply today, the *Chasam Sofer* (YD 2:107) writes that this *gezairah* was made in all cases, whether the reasons apply or not. Based on this, the Chassidische community tends to treat non-*chalav Yisrael* as actual non-kosher. Thus, they would treat DE products as entirely not acceptable.

On the other extreme, there are many who follow the approach of Rav Moshe Feinstein, who ruled that the dairy in contemporary Western countries do not need Jewish supervision. As such, the DE products would generally be treated like a *pareve* cake you baked at home in a dairy pan: You would not eat it with actual *fleishigs* but would be able to serve it immediately following a meat meal.

Among the Litvishe community, many who are stringent regarding *chalav Yisrael* follow the approach of Rav Yosef Elyahu Henkin (*Teshuvos Ibra*:43, see also *Shulchan HaLevi* 22:5), who determined the concerns of *chalav Yisrael* do not apply to *keilim*. Accordingly, even if they would generally choose to be *machmir* on themselves and not eat something not marked *chalav Yisrael*, they do not extend this *chumra* to *keilim* and would be allowed to use DE products in the same manner as those who follow Rav Moshe.

Regarding those who do use DE products, there is an important dissenting opinion, which is significantly more permissive.

As explained by Rav Shmuel Fuerst and others, there is good reason to treat the traces of dairy in commercial equipment with more leniency than those found in our home kitchens. Some reasons for this leniency:

There is a general rule that unless we know otherwise, we assume that 24 hours have elapsed since non-Jewish vessels were last used with non-kosher, in which case the flavor is assumed to have become distasteful (*pagum*).

Even if the flavor is certainly less than 24 hours old, there is still good reason to assume that whatever remains in the equipment would only detract from the desired taste, and certainly not enhance it. (This is known as *nosein taam Lifgam*, see YD 103.)

Most importantly, the volume produced on commercial equipment is so high that any flavor (*bliyos*) remaining in the walls would certainly become nullified in a ratio of 1/60 to the kosher food now being processed. (This is known as *shefa*, see YD 99.) This is in contrast to when one cooks at home, in which case there is generally not 60 times as much kosher food as there is tainted equipment.

The manufacturing lines are cleaned between runs, and there is good reason to assume that the cleanings would be

considering *kashering*, at least to the point of the *halachic* notion of *kebolo kach polto* (“in the manner it was absorbed, it is expelled”).

An example of this would be dairy bottling plants, many of which only get milk every other day. On their off days, they bottle juices, which are labeled as DE. For the above reasons, there are many who would consider these juices perfectly *pareve* and acceptable to be added to a meat dish.

According to the above logic, an individual has sound *halachic* basis to almost never even take note when they see a DE!

This logic is a *halachic* rationale for eating a product marked DE as if it was *pareve*, and consumers should consult with their *Rav* as to whether this line of reasoning is appropriate to rely on. That said, a product would only be certified as “pareve” if the equipment had been properly *kashered* after dairy was produced. Even if the technical *halacha* is that the item is not “dairy”, *hashgachos* will only declare it “pareve” if it is clearly produced as *pareve* in a *l’hatchilah* manner.

## COMMON QUESTION #1: OREOS

There is little doubt that one of the most pressing questions of our kosher world is the urgent need to know which Oreo cookies are dairy and which are not. The answer is that even though all Oreos are marked as “dairy”, in fact, many of them are made up of *pareve* ingredients on dairy equipment with the most notable one being the “original” Oreo cookie.

However, since some of the advanced Oreo flavors can indeed be dairy (and not necessarily discernable in the ingredient panel, which again can have actual dairy hidden in the innocent word “flavors”), it is therefore wise to stick to the Original Oreo Sandwich Cookies Oreo cookie if you want *pareve* ingredients only (provided that you are not *machmir* on DE (and *pas yisrael*) products).

Additionally, there are other Oreo cookies flavors that currently enjoy the same status, not containing dairy ingredients but produced on dairy equipment.

These are: Chocolate Oreo Sandwich Cookies, Dark Chocolate Oreo Sandwich Cookies, Gluten Free Double Stuff Oreo, Gluten Free Oreo, Golden Oreo Double Stuff Sandwich Cookie, Golden Oreo Mega Stuff Sandwich Cookie, Golden Oreo Sandwich Cookies, Mini Original Oreo Sandwich Cookies, Oreo Chocolate Peanut Butter Pie, Oreo Base Cake Cookie Crumbs, Oreo Caramel Coconut Sandwich Cookies, Oreo Chocolate Marshmallow Sandwich Cookies, Oreo Cinnamon Bun Sandwich Cookies, Oreo Double Stuff Sandwich Cookies, Oreo Lemon Sandwich Cookies, Oreo Mint Creme Sandwich

Cookies, Oreo Original Mega Stuff Sandwich Cookie, Oreo Peanut Butter Sandwich Cookies, Oreo Red Velvet Sandwich Cookies, Oreo Red, White & Blue Oreo (Team USA), Oreo S'more Sandwich Cookies, Oreo Thins Latte Crème Sandwich Cookies, Oreo Thins Sandwich Cookies, Oreo Tiramisu Sandwich Cookies, Oreo Winter Edition Sandwich Cookies, Oreo Maple Cream, and Triple Double Oreo Sandwich Cookies.

If you have another Oreos that is not on this list, there is a good chance there is a dairy component in the added flavor.

Please note that one should periodically check in with the certifying *kashrus* agency to see if there have been any changes that would make these Oreos (and all the mentioned brands in this article) real dairy.

## COMMON QUESTION #2: NON-DAIRY CREAMER

Many have wondered why “non-dairy creamer” is labeled as kosher dairy. The answer is somewhat humorous. The product contains sodium caseinate, a milk protein. The reason it is labeled as non-dairy is because American dairy producers feared that the inexpensive sodium caseinate, which was being imported from New Zealand, would hurt their share of the market. They lobbied congress to require that products manufactured with it be marked as “non-dairy.” However, as far as *kashrus* is concerned, of course, it is as dairy as ever.

*While the above is but a small snapshot of the issues we touched upon, I hope that it will serve to help the consumer make more educated choices, or at least know what to bring up with their Rav, as they decide what to bring into their kitchens and dining rooms.*

Please note that the list of Oreo Cookies was compiled in March 2021 and may not be current.