



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency: Washington Department of Agriculture

- Permanent Rule
 Emergency Rule

(1) Date of adoption: 5/1/95

(2) Purpose: To require pasteurization or proper handling of frozen dessert mixes at plants where they are frozen and packaged, to prevent contamination of mixes with harmful bacteria during post-pasteurization transport and handling.

(3) Citation of existing rules affected by this order:
Repealed:
Amended: WAC 16-144-001 and New Section
Suspended:

(4) Authority for adoption:
Statute: RCW 15.36.021 and 69.04.398 (3)
Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR _____ on _____ (date).

Describe any changes other than editing from proposed to adopted version:

(5.2) EMERGENCY RULE ONLY

Pursuant to RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: Inadequate protection of frozen dessert mix during transport and handling could cause contamination after pasteurization. This rule simply requires pasteurization as last step after transport, and handling, and the addition of potentially contaminated ingredients. Permits transport in approved single use containers without final pasteurization. The overall purpose of the rule is to prevent an outbreak as occurred at Schwann's.

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
 Yes No If yes, explain:

We are in the process of adopting a permanent rule covering handling and pasteurization of frozen desserts.

(6) Effective date of rule:

- Permanent Rules 31 days after filing
 Other (specify) _____
- Emergency Rules Immediately Later (specify) 5/1/95
- * (If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

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STATE OF WASHINGTON
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MAY 01 1995

TIME: 2:35
WSR 95-10649

NAME (TYPE OR PRINT)
Jim Jesernig

SIGNATURE

TITLE: Director DATE: 4/26/95

AMENDATORY SECTION (Amending Order 1069, filed 9/20/67, effective 11/1/67)

WAC 16-144-001 Promulgation and purpose. (~~I, Donald W. Moos, director of agriculture of the state of Washington, after public notice and hearing held at Olympia, Washington on September 6, 1967, by virtue of authority vested in me under chapters 34.04, 15.32 and 15.36 RCW, do hereby promulgate the following regulations governing frozen desserts.~~) This chapter is promulgated under authority of RCW 15.36.021 and 69.04.398(3). The purpose of this rule is to establish requirements for production of frozen desserts.

NEW SECTION

WAC 16-144-015 Frozen dessert processing requirements. Frozen desserts mix; transportation and pasteurization requirements.

(1) Frozen dessert mixes and other fluid dairy ingredients intended for frozen desserts which are transported from the plant where they are originally pasteurized in milk cans or in other nonhermetically sealed containers, including bulk tank trucks, or which are stored at the original plant more than seventy-two hours after original pasteurization, shall be repasteurized prior to freezing and packaging. This requirement does not apply to frozen dessert mixes which are transported in sealed single use containers or containers with single use liners which meet the container requirements for Grade A pasteurized milk products under WAC 16-101-700, Pasteurized Milk Ordinance (PMO) Section 18p page 109-110 and Appendix J page 255.

(2) The following ingredients, must be added to the frozen dessert mix before final pasteurization: All dairy products including milk solids, whey, nonfat dry milk, condensed milk, cream, skim milk, and other milk products, egg products, cocoa, cocoa products, emulsifier, stabilizers, liquid sweeteners, dry sugar or any reconstituted or recombined dry ingredients mixed with water. This does not apply to cocoa, cocoa products, emulsifiers or stabilizers which are used without being reconstituted or recombined or which meet one or more of the requirements under subsection (3) of this section.

(3) The only ingredients which may be added after final pasteurization are those flavoring, coloring ingredients, or listed ingredients under subsection (2) of this section which meet one of the following applicable criteria:

(a) Subjected to prior heat treatment sufficient to destroy pathogenic microorganisms.

(b) Of 0.85% water activity or less.

(c) Of pH 4.7 or less.

(d) Roasted nuts or confectionary cups (added at the freezer).

(e) Contain high alcohol content (i.e., 15% or more by volume).

(f) Harmless lactic acid forming bacteria cultures.

(g) Fruits and vegetables added at the freezer.

(h) Subjected to any other process approved by the director which will assure that the finished product is free of pathogenic organisms.