



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (7/23/95)

Agency: Agriculture	<input checked="" type="checkbox"/> Permanent Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Expedited Repeal
(1) Date of adoption: July 26, 1995	

(2) Purpose: To prevent post-pasteurization contamination of frozen dessert mixes with harmful micro-organisms by establishing requirements for handling and transportation.

(3) Citation of existing rules affected by this order:
Repealed: none
Amended: Chapter 16-144 WAC
Suspended: none

(4) Statutory authority for adoption: RCW 15.36.021 and 69.04.398(3)
Other authority:

PERMANENT RULE ONLY
 Adopted under notice filed as WSR 95-12-084 on 6/7/95 (date).
 Describe any changes other than editing from proposed to adopted version:
 Changed cite in WAC 16-144-149 from 16-140 WAC to 16-142 WAC to correct error.

EMERGENCY RULE ONLY
 Under 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:

EXPEDITED REPEAL ONLY
 Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date).

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

(6) Effective date of rule:
Permanent Rules **Emergency Rules**
 31 days after filing Immediately
 Other (specify) _____ * Later (specify) _____
 *(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

JUL 26 1995

TIME: 4:20
 WSR: 95-12-084

NAME (TYPE OR PRINT) Jim Jesernig
SIGNATURE *Jim Jesernig*
TITLE Director **DATE** 7/26/95

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New <u>0</u>	Amended <u>0</u>	Repealed <u>0</u>
Federal rules or standards:	New <u>0</u>	Amended <u>0</u>	Repealed <u>0</u>
Recently enacted* state statutes:	New <u>0</u>	Amended <u>0</u>	Repealed <u>0</u>

*(current calendar year)

The number of sections adopted at the request of a nongovernmental entity:

New <u>0</u>	Amended <u>0</u>	Repealed <u>0</u>
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The number of sections adopted on the agency's own initiative:

New <u>7</u>	Amended <u>1</u>	Repealed <u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New <u>0</u>	Amended <u>0</u>	Repealed <u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New <u>0</u>	Amended <u>0</u>	Repealed <u>0</u>
Pilot rule making:	New <u>0</u>	Amended <u>0</u>	Repealed <u>0</u>
Other alternative rule making:	New <u>7</u>	Amended <u>1</u>	Repealed <u>0</u>

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 the 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 16-144-145 Requirements for frozen dessert mix processing, handling, transportation and pasteurization. (1) Definitions for terms used in this section may be found in the following sections:

- (a) Frozen desserts, WAC 16-144-010.
- (b) Washington Food, Drug and Cosmetic Act, chapter 69.04 RCW.
- (c) Fluid milk, RCW 15.36.012.
- (d) Intrastate commerce in foods, WAC 16-167-050 (1)(r).
- (e) Pasteurized milk ordinance adopted in WAC 16-101-700.
- (2) Additional definition: Harmful microorganisms are bacteria or other microorganisms which have been shown to be capable of causing disease in humans by consumption or contact.

NEW SECTION

WAC 16-144-146 How may frozen dessert mix be transported without requiring repasteurization? (1) Single service containers which meet the requirements for Grade A milk products under Appendix J of the pasteurized milk ordinance (PMO).

(2) Containers with single service liners which meet the requirements for Grade A milk products under Appendix J of the PMO.

NEW SECTION

WAC 16-144-147 Can frozen dessert mix be transported in milk tank trucks or milk cans? No. Transport of mix in milk trucks or milk cans is not allowed. The risk of post pasteurization contamination is too great without final pasteurization at the plant where the mix is frozen and packaged.

NEW SECTION

WAC 16-144-148 What temperature must frozen dessert mix be held at? Forty-five degrees Fahrenheit or less at all times.

NEW SECTION

WAC 16-144-149 How long may frozen dessert mix be held after pasteurization? (1) Frozen dessert mix containers approved under WAC 16-144-146 must bear a pull date which establishes the last day it may be used. This pull date must meet the requirements for pull dating of perishable packaged food under chapters 69.04 RCW and 16-142 WAC.

(2) Pasteurized frozen dessert mix may be held for up to seventy-two hours in storage tanks before it must be repasteurized.

NEW SECTION

WAC 16-144-150 What ingredients must be added to the mix before final pasteurization? (1) All dairy products including milk solids, whey, nonfat dry milk, condensed milk, cream, skim milk, and other milk products.

(2) Egg products.

(3) Reconstituted or recombined dry mixes including cocoa and cocoa products which are mixed with water or other liquids.

(4) Liquid sweeteners.

(5) Dry sugars.

(6) Emulsifiers or stabilizers which do not meet one of the requirements under WAC 16-144-151.

NEW SECTION

WAC 16-144-151 What ingredients may be added after final pasteurization or at the freezer? (1) Ingredients which have been subjected to prior heat treatment sufficient to kill harmful microorganisms.

(2) Ingredients with 0.85% water activity or less.

(3) High acid ingredients with pH 4.7 or less.

(4) Roasted nuts or confectionery chips (added at the freezer).

(5) Harmless lactic acid forming bacteria cultures.

(6) Fruits and vegetables (added at the freezer).

(7) Ingredients with high alcohol content (i.e., fifteen percent or more by volume).

(8) Ingredients which have been subjected to any other process approved by the director which will ensure that the finished product is free of harmful microorganisms.