



# RULE-MAKING ORDER

(RCW 34.05.360)

Adm Order 5067  
**CR-103** (10/1/89)

Agency: *Agriculture*

- Permanent Rule
- Emergency Rule

(1) Date of adoption: *7/01/95 12/29/94 JM*

(2) Purpose: *To put in place requirements for pasteurization of frozen dessert mixes at place where mix is 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Repealed:  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: *WAS 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 during hauling and handling to prevent contamination after pasteurization. Simply requires pasteurization as last step after transport and handling and addition of potentially contaminated ingredients. To prevent outbreak as occurred at Schwan'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:

**(6) Effective date of rule:**

**Permanent Rules**

- 31 days after filing
- Other (specify) \_\_\_\_\_ \*

**Emergency Rules**

- Immediately
- Later (specify) 1/01/95

\*(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

DEC 29 1994

TIME  
WSR

*8:20*  
*95-02-032*

NAME (TYPE OR PRINT)  
*John King*

SIGNATURE  
*John M. King*

TITLE  
*Deputy Director*

DATE  
*12/29/94*

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 larger than ten-gallon containers or in 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.

(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.

(3) The only ingredients which may be added after final pasteurization are those flavoring and coloring ingredients 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 (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.