

TRANSMITTAL OF RULES ADOPTED

FROM: DEPARTMENT OF AGRICULTURE
(Name of Agency)

TO: CODE REVISER
LEGISLATIVE BLDG (Southwest Corner, Ground Floor)
Olympia 98501

The enclosed Permanent rules , being order No. 1101
Emergency rules

relating to (Name of rules or description of subject matter)

labeling and advertising of products resembling genuine dairy products

(ALTERNATIVE A. Use only for adoption of permanent rules)

pursuant to Notice No. 2150 ^① filed with the code reviser
on 9/18/68 ^② were regularly adopted as permanent rules of this
(date)
agency at Olympia, Washington on 10/18/68 and are herewith
(place) (date)
filed in the office of the code reviser pursuant to chapter 34.04
RCW. The effective date of such rules shall be 2/1/69 ^③

(ALTERNATIVE B. Use only for adoption of emergency rules)

pursuant to its finding that the immediate adoption of
these rules is necessary for the preservation of the public
health, safety, or general welfare and that observance of the
requirements of notice and opportunity to present views on
the proposed action would be contrary to the public interest,
were regularly adopted as emergency rules of this agency at
_____ on _____ and are herewith filed in
(place) (date)
the office of the code reviser pursuant to chapter 34.04 RCW.

Dated this 18th day of October 1968.

STATE OF WASHINGTON
FILED
OCT 18 1968
CODE REVISER'S OFFICE
KET 2237 FILE # 20

DEPARTMENT OF AGRICULTURE
(AGENCY)
Donald W. Moos
By Donald W. Moos, Director

Title

① NOTICE NUMBER AS APPEARS ON THE COPY OF NOTICE RETURNED TO YOU BY REVISER'S OFFICE (IF PROCEEDINGS WERE CONTINUED, USE NO. OF LAST NOTICE)
② STAMPED DATE AS APPEARS ON THE COPY OF NOTICE RETURNED TO YOU BY REVISER'S OFFICE (IF PROCEEDINGS WERE CONTINUED, USE DATE OF LAST NOTICE)
③ UNLESS A LATER DATE IS SPECIFIED IN THIS ORDER OR IS PRESCRIBED IN ANOTHER STATUTE, RULES ARE EFFECTIVE 30 DAYS AFTER FILING: RCW 34.04.040. LEAVE THIS SPACE BLANK EXCEPT IN SUCH SPECIAL CASES.

STATE OF
WASHINGTON

DANIEL J. EVANS
GOVERNOR



DEPARTMENT OF
AGRICULTURE

DONALD W. MOOS
DIRECTOR

OLYMPIA

October 18, 1968

Mr. Richard O. White, Code Reviser
Code Reviser's Office
Legislative Building
Olympia, Washington 98501

Dear Mr. White:


We have discovered a typographical error in Department of Agriculture Order No. 1101 (WAC Chapter 16-129) filed with your office this morning.

Under WAC 16-129-020, subsection 3, there is a citation referred to as RCW 15.30.010. The citation should be RCW 15.36.010.

We are enclosing a copy of the order as filed, with the correction made in longhand.

I would sincerely appreciate a correction of this typographical error.

Sincerely,



Donald W. Moos
Director

DWM:sj

Encl.

STATE OF WASHINGTON
DEPARTMENT OF AGRICULTURE
OLYMPIA

ORDER NO. 1101
Effective February 1, 1969

CHAPTER 16-129 LABELING AND ADVERTISING OF
PRODUCTS RESEMBLING GENUINE DAIRY PRODUCTS

WAC 16-129-001 PROMULGATION. I, Donald W. Moos, director of agriculture of the state of Washington, by virtue of the authority vested in me under chapter 69.04 RCW, after due notice as provided under chapters 34.04 and 42.32 RCW, and the public hearing held in Seattle, Washington, on October 8 and 9, 1968, do hereby promulgate the following regulations relating to labeling and advertising products resembling genuine dairy products:

WAC 16-129-010 DECLARATION OF PURPOSE. (1) The director finds that because of the advent in the market place of food products which are non-dairy food products, (a) which closely resemble, and which are made in semblance of genuine dairy products and (b) which are manufactured in a manner so as to possess in a substantial degree the physical characteristics of genuine dairy products, and (c) which are frequently mistaken both physically and organoleptically for genuine dairy products, and (d) which are held out and sold as being usable for the same or similar purposes as genuine dairy products, and (e) which are most frequently packaged in the same types, sizes and shapes of glass, paper and plastic containers which historically consumers have associated with the marketing of genuine dairy products, and the labeling, appearance characteristics and other marketing techniques of said packages or containers used for such food products are frequently misleading to consumers in that they are confused and led to believe that they are buying genuine milk products; and the director further finds that as a result of the foregoing conditions and circumstances there is insufficient distinction in the names and other labeling of the said products described above and genuine dairy products; that it is necessary in order to prevent confusion among consumers and for the protection of the public health to promulgate regulations establishing definitions and standards of labeling and advertising for said products.

(2) It is the finding of the director that RCW 69.04.190 provides that rules may be adopted for the purpose of promoting honesty and fair dealings in the interest of consumers in the following areas: standards for identity of the product, standards of quality, and standards of fill, and no authority is set for the adoption of regulations as to where the product may be physically located at point of sale.

WAC 16-129-020 DEFINITIONS. (1) "Products resembling genuine dairy products" means any food product for human consumption other than genuine dairy products, as set forth and defined in subsection (3) of this regulation, and which has the appearance, taste, smell, texture and color of genuine dairy products and which taken as a whole bears a resemblance

In WAC 16-129-020

(3)

RCW 15.30.010

2/p 13.36.010

to, or is in semblance of, any genuine dairy products; Provided, however, that the term "products resembling genuine dairy products" shall not include oleomargarine.

(2) The term "non-dairy" means and refers to any product resembling a dairy product as defined in subsection (1) of this regulation and which contains no dairy products or components of dairy products.

(3) "Genuine dairy products" means those certain milk products as defined by RCW 15.30.010, and dairy products as defined by RCW 15.32.051, or regulations adopted thereunder.

(4) Other terms used in this regulation shall have the definition or definitions set forth in RCW 69.04.

WAC 16-129-030 PRODUCTS RESEMBLING DAIRY PRODUCTS; WHEN DEEMED TO BE MISBRANDED, FALSELY LABELED OR FALSELY ADVERTISED.

(1) Any product resembling a dairy product shall be deemed to be misbranded and to have a misleading label when its package or immediate container or dispenser bears a statement, or legend using dairy terms or words or designs commonly associated with dairying or genuine dairy products, except to the extent that such words or terms are necessary to meet legal requirements for labeling; Provided, that the term "non-dairy" may be used as an informative statement.

(2) Any advertisement or display concerning a product resembling a dairy product shall be deemed to be false and misleading if by its content such advertisement or display makes use of any dairy terms, or words or designs commonly associated with dairying or genuine dairy products, except that any such word may be included in the seller's or manufacturer's registered name under which he regularly does business; Provided, that this does not include any name registered as a subterfuge to include a dairy term; Provided further, that the term "non-dairy" may be used as an informative statement.

(3) No representation or suggestion that any product resembling a genuine dairy product is approved or sanctioned by the Federal Food and Drug Administration, the Washington State Department of Agriculture, or any other governmental entity, shall be made in any labeling or advertisement.

(4) Any label concerning a product resembling a dairy product shall clearly set forth a list of ingredients of which such product consists; in the event that such product contains vegetable fat or oil, such label shall set forth and name the specific kind of vegetable fat or oil. If only one oil is used, it shall be specifically named in the ingredient statement. If a blend or variety of oils is used, the ingredient statement shall contain the term "vegetable oil" in the appropriate place in the ingredient statement, with a qualifying phrase following the ingredient statement, such as "vegetable oils are soybean, cottonseed and coconut oils", or "vegetable oil may be cottonseed, coconut or soybean oil".

WAC 16-129-040 EFFECTIVE DATE. The effective date of this order shall be February 1, 1969.

I hereby certify that the foregoing is a true and correct copy of the regulations promulgated.



Donald W. Moos
Director of Agriculture
State of Washington

Signed at Olympia, Washington

Date: Oct 18, 1968