

BULLETIN No. 60

REGULATIONS

Relating to

MANUFACTURE AND SALE OF ICE CREAM

AND

OTHER FROZEN DESSERT PRODUCTS

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REGULATION 1. DEFINITION AND STANDARDS

SECTION 1. ICE CREAM AND FROZEN CUSTARD

(a) Description.

(1) Ice cream is a food produced by freezing, while stirring, a pasteurized mix consisting of one of the optional dairy ingredients specified in paragraph (b) of this section, and may contain one or more of the optional caseinates specified in paragraph (c) of this section subject to the conditions hereinafter set forth, and other safe and suitable nonmilk-derived ingredients; and excluding other food fats, except such as are natural components of flavoring ingredients used and are added in incidental amounts to accomplish specific functions. Ice Cream is sweetened with nutritive carbohydrate sweeteners and may or may not be characterized by the addition of flavoring ingredients.

(2) Ice cream weighs not less than 4.5 pounds to the gallon and contains not less than 36% total solids by weight. Ice cream contains not less than 10 percent milkfat, nor less than 10 percent nonfat milk solids, except that when it contains milkfat at 1 percent increments above the 10 percent minimum, it may contain the following milkfat-to-nonfat milk solids levels:

Percent Milkfat	Minimum Percent Nonfat Milk Solids
10	10
11	9
12	8
13	7
14	6

Except that when one or more bulky flavors are used, the weights of milkfat and total milk solids are not less than 10 percent and 20 percent, respectively, of the remainder obtained by subtracting the weight of the bulky flavors from the weight of the finished food; but in no case is the weight of milkfat or total milk solids less than 8 percent and 16 percent, respectively, of the weight of the finished food. Except in the case of frozen custard, ice cream contains less than 1.4 percent egg yolk solids by weight of the food, exclusive of the weight of any bulky flavoring ingredients used. Frozen custard shall contain 1.4 percent egg yolk solids by weight of the finished food: provided, however, that when bulky flavors are added the egg yolk solids content of frozen custard may be reduced in proportion to the amount by weight of the bulky flavors

added, but in no case is the content of egg yolk solids in the finished food less than 1.12 percent. A product containing egg yolk solids in excess of 1.4 percent, the maximum set forth in this paragraph for ice cream, may be marketed if labeled as specified by paragraph (e) (1) of this section.

(3) When calculating the minimum amount of milkfat and nonfat milk solids required in the finished food, the solids of chocolate or cocoa used shall be considered a bulky flavoring ingredient. In order to make allowance for additional sweetening ingredients needed when certain bulky ingredients are needed when certain bulky ingredients are used, the weight of chocolate or cocoa solids, used may be multiplied by 2.5; the weight of fruit or nuts used may be multiplied by 1.4; and the weight of partially or wholly dried fruits or fruit juices may be multiplied by appropriate factors to obtain the original weights before drying and this weight may be multiplied by 1.4.

(b). Optional dairy ingredients.

The optional dairy ingredients referred to in paragraph (a) of this section are: cream, dried cream, plastic cream, (sometimes known as a concentrated milk fat), butter, butter oil, milk, concentrated milk, evaporated milk, sweetened condensed milk, superheated condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed skim milk, sweetened condensed part skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, skim milk that has been concentrated and from which part of the lactose has been removed by crystallization, skim milk in concentrated or dried form which has been modified by treating the concentrated skim milk with calcium hydroxide and disodium phosphate, and whey and those modified whey products (e.g., reduced lactose whey, reduced minerals whey, and whey protein concentrate) that have been determined by FDA to be generally recognized as safe (GRAS) for use in this type of food. Water may be added, or water may be evaporated from mix. The sweet cream buttermilk and the concentrated sweet cream buttermilk or dried sweet cream buttermilk, when adjusted with water to a total solids content of 8.5 percent, has a titratable acidity of not more than 0.17 percent, calculated as lactic acid. The term "milk" as used in this section means cows milk. Any whey and modified whey products used contribute, singly or in combination, not more than 25 percent by weight of the total nonfat milk solids content of the finished food. The modified skim milk, when adjusted with water to a total solids content of 9 percent is substantially free of lactic acid as determined by titration with 0.1N NaOH, and it has a pH value in the range of 8.0 to 8.3.

(c) Optional caseinates.

The optional caseinates referred to in paragraph (a) of this section may be added to ice cream mix containing not less than 20 percent total milk solids are: Casein prepared by precipitation with gums, ammonium caseinate, calcium caseinate, potassium caseinate, and sodium caseinate. Caseinate may be added in liquid or dry form, but must be free of excess alkali.

(d) Methods of analysis.

Fat content shall be determined by the following methods contained in the "Official Methods of Analysis of the Association of Official Analytical Chemists", 13th ed., 1980, (A.O.A.C. Methods).

- (1) Fat content shall be determined by the method: "Fat; Roese-Gottlieb Method Official Final Action", (A.O.A.C. section 16.287).

(e) Nomenclature.

- (1) The name of the food is "ice cream", except that when the egg yolk solids content of the food is in excess of that specified for ice cream by paragraph (a) of this section, the name of the food is "frozen custard" or "french ice cream" or "french custard ice cream".

- (2) (i) If the food contains no artificial flavor, the name of the principal display panel or panels of the label shall be accompanied by the common or usual name of the characterizing flavor, e.g., "vanilla", in letters not less than one-half the height of the letters used in the words "ice cream".

- (ii) If the food contains both a natural characterizing flavor and an artificial flavor stimulating it, and if the natural flavor predominates, the name of the principal display panel or panels of the labels shall be accompanied by the common name of the characterizing flavor, in letters not less than one-half the height of the letters used in the words "ice cream", followed by the word "flavored", in letters not less than one-half the height of the letters in the name of the characterizing flavor, e.g., "Vanilla flavored", or "Peach flavored", or "Vanilla flavored and Strawberry flavored".

- (iii) If the food contains both a natural characterizing flavor and an artificial flavor stimulating it, and if the artificial flavor predominates, or if artificial flavor is used alone the name on the principal display panel or panels of the label shall be accompanied by the common name of the

characterizing flavor in letters not less than one-half the height of the letters used in the words "ice cream", preceded by "artificial" or "artificially flavored", in letters not less than one-half the height of the letters in the name of the characterizing flavor, e.g., "artificially flavored Vanilla and artificially flavored Strawberry".

(3) (i) If the food is subject to the requirements of paragraph (e) (2) (ii) of this section or if it contains any artificial flavor not simulating the characterizing flavor, the label shall also bear the words "artificial flavor added" or "artificial _____ flavor added", the blank being filled in with the common name of the flavor simulated by the artificial flavor in letters of the same size and prominence as the words that precede and follow it.

(ii) Whenever the name of the characterizing flavor appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words prescribed by this paragraph shall immediately and conspicuously precede or follow such name, in a size reasonably related to the prominence of the name of the characterizing flavor and in any event the size of the type is not less than 6-point on packages containing less than 1 pint, not less than 8-point on packages containing at least 1 pint but less than one-half gallon, not less than 10-point on packages containing at least one-half gallon but less than 1 gallon and not less than 12-point on packages containing 1 gallon and not less than 12-point on packages containing 1 gallon or over: Provided, however, that where the characterizing flavor and a trademark or brand are presented together, other written, printed, or graphic matter that is a part of or is associated with the trademark or brand, may intervene if the required words are in such relationship with the trademark or brand as to be clearly related to the characterizing flavor: and, provided further, that if the finished product contains more than one flavor of ice cream subject to the requirements of this paragraph, the statements required by this paragraph need appear only once in each statement of characterizing flavors present in such ice cream, e.g., "Vanilla flavored, Chocolate, and Strawberry flavored, artificial flavors added".

(4) If the food contains both a natural characterizing flavor and an artificial flavor simulating the characterizing flavor, any reference to the natural characterizing flavor shall, except as otherwise authorized by this paragraph, be accompanied by a reference to the artificial flavor, displayed with substantially equal prominence, e.g., "strawberry and artificial strawberry flavor".

(5) An artificial flavor simulating the characterizing flavor shall be deemed to predominate:

(i) In the case of vanilla beans or vanilla extract used in combination with vanillin if the amount of vanillin used is greater than 1 ounce per unit of vanilla constituent, as defined in 21 CFR 169.3(c).

(ii) In the case of fruit or fruit juice used in combination with artificial fruit flavor, if the quantity of the fruit or fruit juice used is such that, in relation to the weight of the finished ice cream, the weight of the fruit or fruit juice, as the case may be (including water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture content) is less than 2 percent in the case of citrus ice cream, 6 percent in the case of berry or cherry ice cream, and 10 percent in the case of ice cream prepared with other fruits.

(iii) In the case of nut meats used in combination with artificial nut flavor, if the quantity of nut meats is such that, in relation to the finished ice cream the weight of the nut meats is less than 2 percent.

(iv) In the case of two or more fruits or fruit juices, or nut meats, or both, used in combination with artificial flavors simulating the natural flavors and dispensed throughout the food, if the quantity of any fruit or fruit juice or nut meat is less than one-half the applicable percentage specified in paragraph (e) (5) (ii) or (iii) of this section. For example, if a combination ice cream contains less than 5 percent of bananas and less than 1 percent of almonds it would be "artificially flavored banana-almond ice cream". However, if it contains more than 5 percent of bananas and more than 1 percent of almonds it would be "banana-almond flavored ice cream".

(6) If two or more flavors of ice cream are distinctively combined in one package, e.g., "Neapolitan" ice cream, the applicable provisions of this paragraph shall govern each flavor of ice cream comprising the combination.

(f) **Label declaration.**

Each of the optional ingredients used shall be declared on the label as required by the applicable section of 21 CFR 101, except that sources of milkfat or milk solids not fat may be declared in descending order of predominance either by the use of all the terms "milkfat or nonfat milk" when one or any combination of two or more of the ingredients listed in the appropriate sections of CFR 101.4 are used or alternatively as permitted in 21 CFR 101.4. Pursuant to section 402(k) of the Federal Food, Drug and Cosmetic Act artificial color need not be declared in ice cream. Voluntary declaration of such color in ice cream is recommended.

SECTION 2. ICE MILK.

(a) Description.

Ice Milk is the food prepared from the same ingredients and in the same manner prescribed in Section 1 for ice cream and complies with all the provisions of Section 1 including the requirements for label statement of optional ingredients, except that:

(1) Its content of milkfat is more than 2 percent but not more than 7 percent.

(2) Its content of total milk solids is not less than 11 percent.

(3) Caseinates may be added when the content of total milk solids is not less than 11 percent.

(4) The provision for reduction in milkfat and nonfat milk solids content from the addition of bulky flavors in Section 1 applies, except that in no case will the milkfat content be less than 2 percent, nor the nonfat milk solids content be less than 4 percent. When the milk fat content increases in increments of 1 percent above the 2 percent minimum, it may contain the following milkfat-to-nonfat milk solids levels:

Percent Milkfat	Minimum percent Nonfat Milk Solids
2	9
3	8
4	7
5	6
6	5
7	4

(5) The quantity of food solids is not less than 30% by weight.

(6) When artificial coloring is used in ice milk, directly or as a component of any other ingredients, the label shall bear the statement "artificially colored", "artificial coloring added", "with added artificial color", or "_____ an artificial color added", the blank being filled in with the common or usual name of the artificial color; or in lieu thereof, in case the artificial color is a component of another ingredient, "_____ artificially colored".

(7) If both artificial color and artificial flavoring are used, the label statements may be combined.

condensed skim milk, sweetened condensed part skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, skim milk that has been concentrated and from which part of the lactose has been removed by crystallization, and whey and those modified whey products (e.g., reduced lactose whey, reduced minerals whey, and whey protein concentrate) that have been determined by FDA to be generally recognized as safe (GRAS) for use in this type of food. Water may be added, or water may be evaporated from the mix. The sweet cream buttermilk and the concentrated sweet cream buttermilk or dried sweet cream buttermilk, when adjusted with water to a total solids content of 8.5 percent, has a titratable acidity of not more than 0.17 percent, calculated as lactic acid. The term "milk" as used in this section means cows milk.

(c) Optional caseinates.

The optional caseinates referred to in paragraph (a) of this section which may be added to sherbet mix are: Casein prepared by precipitation with gums, ammonium caseinate, calcium caseinate, potassium caseinate, and sodium caseinate. Caseinates may be added in liquid or dry form, but must be free of excess alkali. Such caseinates are not considered to be milk solids.

(d) Optional fruit-characterizing ingredients.

The optional fruit characterizing ingredients referred to in paragraph (a) of this section are any mature fruit or juice of any mature fruit. The fruit or fruit juice used may be fresh, frozen, canned, concentrated, or partially or wholly dried. The fruit may be thickened with pectin or other optional ingredients. The fruit is prepared by the removal of pits, seeds, skins, and cores; where such removal is usual in preparing that kind of fruit for consumption as fresh fruit. The fruit may be screened, crushed, or otherwise comminuted. It may be acidulated. In the case of concentrated fruit or fruit juices from which part of the water is removed, substances contributing flavor volatilized during water removal may be condensed and reincorporated in the concentrated fruit or fruit juice. In the case of citrus fruits, the whole fruit, including the peel but excluding the seeds, may be used, and in the case of citrus juice or concentrated citrus juices, cold-pressed citrus oil may be added thereto in an amount not exceeding that which would have been obtained if the whole fruit had been used. The quantity of fruit ingredients used is such that, in relation to the weight of the finished sherbet, the weight of fruit or fruit juice, as the case may be (including water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture content), is not

(b) Nomenclature.

The name of the food is "ice milk". Ice Milk shall be offered for sale, sold or served only in properly labeled factory-filled containers upon which shall be conspicuously printed the words, "Ice Milk" in or any of its ingredients contain added color or any ingredients added for the purpose of imparting a characterizing flavor, except when ice milk is sold at retail, direct from a frozen dessert dispensing freezer. No person shall sell or offer for sale any ice milk to a person who has requested ice cream.

SECTION 3. SHERBET.

(a) Description.

(1) Sherbet is a food produced by freezing, while stirring, a pasteurized mix consisting of one or more of the optional dairy ingredients specified in paragraph (b) of this section, and may contain one or more of the optional caseinates specified in paragraph (c) of this section subject to the conditions hereinafter set forth, and other safe and suitable nonfat-derived ingredients; and excluding other food fats, except such as are added in small amounts to accomplish specific functions or are natural components of flavoring ingredients used. Sherbet is sweetened with nutritive carbohydrate sweeteners and is characterized by the addition of one or more of the characterizing fruit ingredients specified in paragraph (d) of this section or one of the non-fruit-characterizing ingredients specified in paragraph (e) of this section.

(2) Sherbet weighs not less than 6 pounds to the gallon. The milkfat content is not less than 1 percent nor more than 2 percent, the nonfat milk-derived solids content is not less than 1 percent and the total milk or milk-derived solids content is not less than 2 percent nor more than 5 percent by weight of the finished food. Sherbet that is characterized by a fruit ingredient shall have a titratable acidity, calculated as lactic acid, of not less than 0.55 percent.

(b) Optional dairy ingredients.

The optional dairy ingredients referred to in paragraph (a) of this section are: Cream, dried cream, plastic cream, (sometimes known as concentrated milk fat); butter, butter oil, milk, concentrated milk, evaporated milk, superheated condensed milk, sweetened condensed milk, dried milk, skim milk concentrated skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened

less than 2 percent in the case of citrus sherbets, 6 percent in the case of berry sherbets, and 10 percent in the case of sherbets prepared with other fruits. For the purpose of this section, tomatoes and rhubarb are considered as kinds of fruits.

(e) **Optional nonfruit characterizing ingredients.**

The optional nonfruit characterizing ingredients referred to in paragraph (a) of this section include but are not limited to the following:

- (1) Ground spice or infusion of coffee or tea.
- (2) Chocolate or cocoa, including syrup.
- (3) Confectionery.
- (4) Distilled alcoholic beverage, including liqueurs or wine, in an amount not to exceed that required for flavoring the sherbet.
- (5) Any natural or artificial food flavoring (except any having a characteristic fruit or fruit-like flavor).

(f) **Nomenclature.**

(1) The name of each sherbet is as follows:

(i) The name of each fruit sherbet is "_____ sherbet", the blank being filled in with the common name of the fruit or fruits from which the fruit ingredients used are obtained. When the names of two or more fruits are included, such names shall be arranged in order of predominance, if any, by wight of the respective fruit ingredients used.

(ii) The name of each nonfruit sherbet is "_____ sherbet", the blank being filled in with the common or usual name of the characterizing flavor or flavors; for example, "peppermint", except that if the characterizing flavor used is vanilla, the name of the food is "_____ sherbet", the blank being filled in as specified by Section 1 (e) (2) and (5) (i).

(2) When the optional ingredients, artificial flavoring, or artificial coloring are used in sherbet, they shall be named on the label as follows:

(i) If the flavoring ingredient or ingredients consists exclusively of artificial flavoring, the label designation shall be "artificially flavored".

(ii) If the flavoring ingredients are a combination of natural and artificial flavors, the label designation shall be "artificial and natural flavoring added".

(iii) The label shall designate artificial coloring by the statement "artificially colored", "artificial coloring added", "with added artificial coloring", or "_____", an artificial color added", the blank being filled in with the name of the artificial coloring used.

(g) Characterizing flavor(s).

Whenever there appears on the label any representation as to the characterizing flavor or flavors of the food and such flavor or flavors consist in whole or in part of artificial flavoring, the statement required by paragraph (f) (2) (i) and (ii) of this section, as appropriate, shall immediately and conspicuously precede or follow such representation, without intervening written, printed, or graphic matter (except that word "sherbet" may intervene) in a size reasonable related to the prominence of the name of the characterizing flavor and in any event the size of the type is not less than 6-point on packages containing less than 1 pint, not less than 8-point on packages containing at least 1 pint but less than one-half gallon, not less than 10-point on packages containing at least one-half gallon but less than 1 gallon, and not less than 12-point on packages containing 1 gallon or over.

(h) Display of statements required by paragraph (f) (2).

Except as specified in paragraph (g) of this section, the statements required by paragraph (f) (2) of this section shall be set forth on the principal display panel or panels of the label with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(i) Label declarations.

Each of the optional ingredients used shall be declared on the label, as required by the applicable sections of 21 CFR 101.

SECTION 4. NON FRUIT SHERBET.

(a) Description.

(1) Non fruit sherbet is a food having a characteristic fruit-like flavor but shall not contain any fruit or fruit juice. Non fruit sherbet is prepared by freezing while

stirring a pasteurized mix consisting of one or more of the optional dairy ingredients specified in paragraph (b) of this section, and may contain one or more of the optional caseinates specified in paragraph (c) of this section subject to the conditions hereinafter set forth, and any other safe and suitable non-milk-derived ingredients; and excluding other food fats, except such as are added in small amounts to accomplish specific functions. Non fruit sherbet is sweetened with nutritive carbohydrate sweeteners and contains characteristic fruit like flavor.

(2) Sherbet weighs not less than 6 pounds to the gallon. The milkfat content is not less than 1 percent nor more than 2 percent, the nonfat milk-derived solids content not less than 1 percent, and the total milk or milk derived solids content is not less than 2 percent nor more than 5 percent by weight of the finished fruit.

(b) Optional dairy ingredients.

The optional dairy ingredients referred to in paragraph (a) of this section are: Cream, dried cream, plastic cream (sometimes known as concentrated milk fat), butter, butter oil, milk, concentrated milk, evaporated milk, superheated condensed milk, sweetened condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed skim milk, sweetened condensed part skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, skim milk that has been concentrated and from which part of the lactose has been removed by crystallization, and whey and those modified whey products (e.g., reduced lactose whey, reduced minerals whey, and whey protein concentrate) that have been determined by FDA to be generally recognized as safe (GRAS) for use in this type of food. Water may be added, or water may be evaporated from the mix. The sweet cream buttermilk and the concentrated sweet cream buttermilk or dried sweet cream buttermilk, when adjusted with water to be a total solids content of 8.5 percent, has a titratable acidity or not more than 0.17 percent, calculated as lactic acid. The term "milk" as used in this section means cow's milk.

(c) Optional caseinates.

The optional caseinates referred to in paragraph (a) of this section may be added to non fruit sherbet are: Casein prepared by prescription with gums, ammonium caseinate, calcium caseinate, potassium caseinate, and sodium caseinate. Caseinates may be added in liquid or dry form, but must be free of excess alkali. Such caseinates are not considered to be milk solids.

(d) Nomenclature.

The name of the food is "non fruit sherbet".

(e) In addition to all other required information, the label shall:

(1) Contain a complete list of ingredients, in accordance with provision of 21 CFR 101.4.

(2) Comply with the provisions of 21 CFR 101.22.

(3) Contain the following statement "Imitation _____ sherbet". The blank to be filled in by the characterizing flavor used. The letters in the word imitation shall be the same size, type and color and on the same contrasting background as the name of the characterizing flavor and the word sherbet.

(4) The statement required in paragraph (3) of this subsection shall be followed immediately by the words "contains no fruit or fruit juice" in letters at least half the size of those used in statement three above.

(5) When a sign is used at the point of purchase to advertise non fruit sherbet, it shall contain the same information as required in paragraphs three and four of this subsection.

(6) When non fruit sherbet is sold other than in properly labeled factory filled containers a sign must be conspicuously displayed on the sale premises or vehicle where it can be clearly read by customers under normal conditions of purchase, stating the information required in paragraphs 3 and 4 above. The letters on such sign shall be bold face capitals at least three inches in height and in contrasting color to the background.

(7) The sign required as per paragraph 6 above need not be used if each customer is provided with a menu stating the information required by paragraph 3 and 4 above in bold face capitals as large as those used in listing most food items.

SECTION 5. WATER ICE.

(a) Description.

Water ices are the foods each of which is prepared from the same ingredients and in the same manner prescribed in Section 3 for sherbets, except that the mix need not be pasteurized, and complies with all the provisions of Section 3 including the requirements for label statement of optional

ingredients except that no milk or milk-derived ingredient and no egg ingredient, other than egg white, is used.

(b) **Nomenclature.**

The name of the food is "_____ ice", the blank being filled in, in the manner as specified in Section 3 (f) (1) (i) and (ii) as appropriate.

SECTION 6. NON FRUIT WATER ICE.

Non fruit water ice is an ice having a characteristic fruit-like flavor, but shall not contain any fruit or fruit juice. Non fruit water ice is prepared while stirring a mix composed of:

- (a) Characteristic fruit-like flavors.
- (b) One or more nutritive sweeteners.
- (c) Any other safe and suitable ingredient approved by the Department. The finished non fruit water ice weighs not less than six pounds per gallon.

In addition to all other required information the label shall:

- (1) Contain a complete list of ingredients, in accordance with the provisions of 21 CFR 101.4.
- (2) Comply with the provisions of 21 CFR 101.22.
- (3) Contain the following statement "Imitation _____ water ice". The blank to be filled in by the characterizing flavor used. The letters in the word imitation shall be the same size, type and color and on the same contrasting background as the name of the characterizing flavor and the word sherbet.
- (4) The statement required in paragraph (3) of this subsection shall be followed immediately by the words "contains no fruit or fruit juice" in letters at least half the size of those used in statement three above.
- (5) When a sign is used at the point of purchase to advertise non fruit sherbet, it shall contain the same information as required in paragraphs three and four of this subsection.
- (6) When non fruit water ice is sold other than in properly labeled factory filled containers a sign must be

conspicuously displayed on the sale premises or vehicle where it can be clearly read by customers under normal conditions of purchase, stating the information required in paragraphs 3 and 4 above. The letters on such sign shall be bold face capitals at least three inches in height and in contrasting color to the background.

(7) The sign required as per paragraph 6 above need not be used if each customer is provided with a menu stating the information required by paragraph 3 and 4 above in bold face capitals as large as those used in listing most food items.

SECTION 7. MELLORINE.

(a) Description.

(1) Mellorine is a food produced by freezing, while stirring, a pasteurized mix consisting of safe suitable ingredients including, but not limited to, milk-derived nonfat solids and animal or vegetable fat, or both, only part of which may be milkfat. Mellorine is sweetened with nutritive carbohydrate sweetener and is characterized by the addition of flavoring ingredients.

(2) Mellorine contains not less than 1.6 pounds of total solids to the gallon, and weighs not less than 4.5 pounds to the gallon. Mellorine contains not less than 6 percent fat and 2.7 percent protein having a protein efficiency ratio (PER) not less than that of whole milk protein (108 percent of casein) by weight of the food, exclusive of the weight of any bulky flavoring ingredients used. In no case shall the fat content of the finished food be less than 4.8 percent or the protein content be less than 2.2 percent. The protein to meet the minimum protein requirements shall be provided by milk solids not fat, and/or other milk-derived ingredients.

(3) When calculating the minimum amount of milkfat and protein required in the finished food, the solids of chocolate or cocoa used shall be considered a bulky flavoring ingredient. In order to make allowance for additional sweetener ingredients needed when certain bulky ingredients are used, the weight of chocolate or cocoa solids used may be multiplied by 2.5; the weight of fruit or nuts used may be multiplied by 1.4; and the weight of partially or wholly dried fruits or fruit juices may be multiplied by appropriate factors to obtain the original weights before drying and this weight may be multiplied by 1.4.

(b) Fortification.

Vitamin A is present in a quantity which will ensure that 40 international units (IU) are available for each gram of fat in mellorine, within limits of good manufacturing practice.

(c) Methods of analysis.

Fat and protein content, and the PER shall be determined by the following methods contained in the "Official Methods of Analysis of the Association of Official Analytical Chemists", 12th ed., 1975 (A.O.A.C. Methods).

(1) Fat content shall be determined by the method: "Fat, Roesse-Gottlieb Method-Official Final Action", (A.O.A.C., section 16.228).

(2) Protein content shall be determined by one of the following methods: "Nitrogen-Official Final Action", Kjeldahl Method, section 16.226, or Dye Binding Method, section 16.227.

(3) PER shall be determined by the method: "Biological Evaluation of Protein Quality-Official Final Action" sections 39.166-39.170.

(d) Nomenclature.

The name of the food is "mellorine". The name of the food on the label shall be accompanied by a declaration indicating the presence of characterizing flavoring in the same manner as is specified in Section 1, paragraph (e).

(e) Label declaration.

The common or usual name of each of the ingredients used shall be declared on the label, in accordance with section 21 CFR 101.4 except that sources of milkfat or milk solids not fat may be declared, in descending order or predominance, either by the use of the terms "milkfat, and nonfat milk" when one or any combination of two or more ingredients listed in 21 CFR 101.4. Mellorine shall be sold, held, offered for sale by any manufacturer, wholesaler, retailer, or any other seller only in factory-filled containers not larger than one-half gallon.

SECTION 8. GOATS MILK ICE CREAM AND GOATS MILK ICE MILK.

(a) Goats milk ice cream.

(1) Description.

Goats milk ice cream is the food prepared in the same manner prescribed in Section 1 for ice cream, and complies with all

the provisions of Section 1, except that the only optional dairy ingredients that may be used are those in paragraph (2) of this section; casinates may not be used; and paragraphs (e) (1) and (f) of Section 1 shall not apply.

(2) Optional dairy ingredient.

The optional dairy ingredients referred to in paragraph (1) of this section are goats skim milk, goats milk, and goats cream. These optional dairy ingredients may be used in liquid, concentrated, and/or dry form.

(3) Nomenclature.

The name of the food is "goats milk ice cream" or, alternatively, "ice cream made with goats milk", except that when the egg yolk solids content of the food is in excess of that specified for ice cream in paragraph (2) of Section 1, the name of the food is "goats milk frozen custard" or alternatively, "frozen custard made with goats milk", or "goats milk frence ice cream" or, alternatively, "french ice cream made with goats milk", or "goats milk frence custard ice cream", or alternatively, "french custard ice cream made with goats milk".

(4) Label declaration.

Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Regulation 1 of these regulations.

(b) Goats milk ice milk.

(1) Description.

Goats milk ice milk is the food prepared in the same manner prescribed in section (a) for goats milk ice cream, except that paragraph (3) shall not apply, and which complies with all the requirements of Section (a) (1), (2), (4), (5), (6) and (7) for ice milk.

(2) Nomenclature.

The name of the food is "goats milk ice milk" or alternatively, "ice milk made with goats milk".

SECTION 9. FROZEN YOGURT.

Frozen yogurt is the food which is prepared by freezing while stirring a pasteurized mix consisting of the ingredients permitted for ice cream in Section 1. Such ingredients are cultured after pasteurization by one or more strains of *Lactobacillus bulgaricus* and *Streptococcus thermophilus*, provided, however, fruit, nuts, or other flavoring materials may be added before and after the mix is pasteurized and cultured. The standard plate count requirement for frozen desserts shall apply to the mix prior to culturing. Frozen yogurt, exclusive of any flavoring contains not less than 3.25 percent milkfat, not less than 8.25 percent milk solids not fat and has a titratable acidity of not less than 0.5 percent expressed as lactic acid. This characteristic acidity is developed as a result of the bacterial activity and no heat or bacteriostatic treatment, other than refrigeration, which results in destruction or partial destruction of the organisms, shall be applied to the product after such culturing. The finished yogurt shall weigh not less than five pounds per gallon. The name of the food is frozen yogurt. In addition to all other required information the label shall contain a complete list of ingredients, in accordance with the provisions of 21 CFR 101.4, and comply with the provisions of subdivision (h) and (i) of 21 CFR 101.22. On the label of frozen yogurt the strains of bacteria may be collectively referred to as yogurt culture.

SECTION 10. FROZEN LOWFAT OR LOWFAT FROZEN YOGURT.

Frozen lowfat yogurt or lowfat frozen yogurt is the food which is prepared by freezing while stirring a pasteurized mix consisting of the ingredients permitted for ice cream in Section 1. Such ingredients are cultured after pasteurization by one or more strains of *Lactobacillus bulgaricus* and *Streptococcus thermophilus*, provided however, fruit, nuts, and other flavoring materials may be added before or after the mix is pasteurized and cultured. The standard plate count requirement for frozen desserts shall apply only to the mix prior to culturing. The food, exclusive of any flavoring, contains not less than 0.5 percent nor more than 2 percent milkfat and not less than 8.25 percent milk solids not fat, and has a titratable acidity of not less than 0.5 percent, expressed as lactic acid. This characteristic acidity is developed as a result of the bacterial activity and no heat or bacteriostatic treatment, other than refrigeration, which results in destruction or partial destruction of the organisms, shall be applied to the product after such culturing. The finished food shall weigh not less than five pounds per gallon. The name of the food is frozen lowfat yogurt or lowfat frozen yogurt.

The label on a package of this food, in addition to all other required information shall:

(1) Contain a complete list of ingredients in accordance with the provisions of 21 CFR 101.4.

(2) Contain nutrition information as required by 21 CFR 101.9.

(3) Comply with the provisions of subdivision (h) & (i) of 21 CFR 101.22.

On the label, the strains of bacteria may be collectively referred to as yogurt culture.

SECTION 11. FROZEN NONFAT YOGURT OR NONFAT FROZEN YOGURT

Frozen nonfat yogurt or nonfat frozen yogurt is the food which is prepared by freezing while stirring a pasteurized mix consisting of the ingredients permitted for ice cream in Section

1. Such ingredients are cultured after pasteurization by one or more strains of *Lactobacillus bulgaricus* and *Streptococcus thermophilus*, provided, however, fruit, nuts, or other flavoring materials may be added before and after the mix is pasteurized and cultured. The standard plate count requirement for frozen desserts shall apply only to the mix prior to culturing. The food, exclusive of any flavoring, contains less than 0.5 percent milkfat, not less than 8.25 percent milk solids not fat and has a titratable acidity of not less than 0.5 percent expressed as lactic acid. This characteristic acidity is developed as a result of the bacterial activity and no heat or bacteriostatic treatment other than refrigeration, which results in destruction or partial destruction of the organisms, shall be applied to the product after such culturing. The finished food shall weigh not less than five pounds per gallon. The name of the food is frozen nonfat yogurt or nonfat frozen yogurt. The label on a package of this food in addition to all other information shall:

(1) Contain a complete list of ingredients, in accordance with the provisions of 21 CFR 101.4.

(2) Contain nutrition information as required by 21 CFR 101.9.

(3) Comply with the provisions of subdivision (h) & (i) of 21 CFR 101.22.

On the label, the strains of bacteria may be collectively referred to as yogurt culture.

SECTION 12. QUIESCENTLY FROZEN CONFECTION.

Quiescently frozen confection means the frozen product made from sweetening agent, harmless natural or artificial flavoring, water, and it may contain milk solids, harmless coloring, organic acids, and any safe and suitable functional ingredient approved by the Department. The finished product shall contain not less than seventeen per centum by weight of total food solids. The name of the food is quiescently frozen confection. In the manufacture of this product, freezing has not been accomplished by stirring or agitation (generally known as quiescent freezing). In the production of this quiescently frozen confection, no processing or mixing prior to quiescent freezing shall be used that develops in the finished confection mix any physical expansion in excess of ten per centum. This confection must be manufactured in the form of servings, individually packaged, bagged or otherwise wrapped, properly labeled and purveyed to the consumer in its original factory-filled package. The individually wrapped confection need not be labeled if it is contained in a multiple package which is properly labeled and is purveyed unopened to the consumer. In addition to all other required information, the label shall contain a complete list of ingredients, in accordance with the provisions of 21 CFR 101.4, and comply with the provisions of subdivision (h) & (i) of 21 CFR 101.22.

SECTION 13. QUIESCENTLY FROZEN DAIRY CONFECTION

Quiescently frozen dairy confection means the frozen product made from milk products, sweetening agents, harmless natural or artificial flavoring, water and it may contain harmless coloring, and any safe and suitable functional ingredient approved by the Department. The finished product contains not less than thirteen per centum by weight of total milk solids, not less than thirty-three per centum by weight of total food solids. The name of the food is quiescently frozen dairy confection. In the manufacture of this product, freezing has not been accompanied by stirring or agitation (generally known as quiescently freezing.) In the production of this quiescently frozen dairy confection, no processing or mixing prior to quiescent freezing shall be used that develops in the finished confection mix any physical expansion in excess of ten per centum. This confection must be manufactured in the form of servings, individually packaged, bagged or otherwise wrapped, properly labeled and purveyed to the consumer in its original factory-filled package. The individually wrapped confection need not be labeled if it is contained in a multiple package which is properly labeled and is purveyed unopened to the consumer. In addition to all other required information, the label shall contain a complete list of ingredients, in accordance with the provisions of 21 CFR 101.4, and comply with the provisions of subdivision (h) and (i) of 21 CFR 101.22.

SECTION 14. FROZEN DIETARY DAIRY DESSERT

- (1) Frozen dietary dairy dessert means a frozen dessert prepared for persons who wish to restrict their intake of ordinary sweetening ingredients. It is produced by freezing while stirring a pasteurized mix consisting of the ingredients permitted for ice cream in Section 1. The minimum fat content shall be three percent, it shall contain no sugars other than those naturally present in milk solids or flavoring agents which have been added thereto, and it may contain edible carbohydrates other than sugars. The edible carbohydrates must be approved by the Department.
- (2) The name of the food is frozen dietary dairy dessert.
- (3) The label on a package of frozen dietary dairy dessert in addition to other required information shall:
 - (a) Contain a complete list of ingredients, in accordance with the provisions of 21 CFR 101.4.
 - (b) Contain a statement as follows:

(Diabetics: This product may be useful in your diet on the advice of a physician. This food is not a reduced calorie food.)
 - (c) Immediately preceding or following the name of the product contain a statement as follows: "Contains ____% milkfat". The blank to be filled with the percentage of milkfat in the product.
 - (d) comply with the provisions of 21 CFR 101.9 and subdivision (h) and (i) of 21 CFR 101.22.
- (4) The product shall not be sold in any manner other than in sealed or unbroken packages or containers.

SECTION 15. DIETARY FROZEN DESSERT OR LOW FAT FROZEN DAIRY DESSERT

- (a) Dietary frozen dessert or low fat frozen dairy dessert is the food prepared by freezing while stirring, a pasteurized mix consisting of the ingredients permitted for ice cream in Section 1. The finished product contains less than two percent by weight of ether extractable fat, its content of total milk solids consisting of ingredients listed in paragraph (b) of Section 1 is not less than seven pounds per gallon and the quantity of food solids per gallon is not less than 1.1 pounds nor more than 1.55 pounds, exclusive of any microcrystalline cellulose used as an ingredient.

- (b) One or more vitamins and/or minerals listed in CFR Title 21, Section 101.9 (c) (7) (iv) may be added to the product. If vitamins and/or minerals are added, the name of the food on the principal display panel shall be immediately preceded or followed by the word "fortified" in the same style and at least one-half the size of the type used for the name "dietary frozen dessert" and on the same contrasting background. If vitamins and/or minerals are added, then each four fluid ounce serving or finished product shall provide no less than eight percent nor more than 20 percent of the U.S. Recommended Daily allowance of such vitamins and/or minerals.
- (c) The name of the food is dietary frozen dessert or low fat frozen dairy dessert.
- (d) The label on dietary frozen dessert or low fat frozen dairy dessert, in addition to all other required information shall:
- (1) Contain a complete list of ingredients, in accordance with the provisions of 21 CFR 101.4.
 - (2) comply with the provisions of 21 CFR 101.9 and subdivision (h) and (i) of 21 CFR 101.22.
- (e) Dietary frozen dessert or lowfat frozen dairy dessert may be sold only in properly labeled factory-filled containers, except it may be served directly from a dispensing freezer at the time of a direct request from a customer, the name of the food, nutrition information required by 21 CFR 101.9, and a complete listing of ingredients in accordance with the provisions of 21 CFR 101.4 shall appear on the container used.

SECTION 16. LACTOSE REDUCED ICE CREAM AND
LACTOSE REDUCED ICE MILK

- (a) Lactose reduced ice cream is the product resulting from the treatment of ice cream, as defined in Section 1 of these regulations, by the addition of safe and suitable enzymes to convert sufficient amounts of lactose to glucose and/or galactose so that the remaining lactose is less than thirty percent of the lactose in ice cream.

The name of the food is "lactose reduced ice cream".

The label on lactose reduced ice cream in addition to all other required information shall contain a complete list of ingredients in accordance with the provisions of 21 CFR 101.4, and contain nutrition information as required by 21 CFR 101.9.

Wherever the name appears on the container, the words lactose reduced shall be in the same type style and size and in the same color and contrasting background as the words ice cream.

- (b) Lactose Reduced Ice Milk. Lactose reduced ice milk is the product resulting from the treatment of ice milk, as defined in Section (2) of these regulations, by the addition of safe and suitable enzyme(s) to convert sufficient amounts of lactose to glucose and galactose so that the remaining lactose is thirty percent or less of the lactose in ice milk conforming to Section (2) of these regulations.

The name of the food is "lactose reduced ice milk".

The label on lactose reduced ice milk in addition to all other required information shall contain a complete list of ingredients in accordance with the provisions of 21 CFR 101.4, and contain nutrition information as required by 21 CFR 101.9.

Whenever the name appears on the container, the words lactose reduced shall be in the same type style and size and in the same color and contrasting background as the words ice milk.

SECTION 17. MANUFACTURED DESSERTS MIX.

"Manufactured desserts mix", whipped cream confection, bisque tortoni means a frozen dessert made with milk product, sweetening agents, flavoring agents, with or without harmless coloring or any other safe and suitable ingredients approved by the Commissioner. The product must contain not less than eighteen per centum by weight of milk fat, and not more than twelve per centum of milk solids not fat, and may be packaged with harmless gas causing it to fluff upon ejection from the package or container.

In addition to all other required information, the label shall contain a complete list of ingredients in accordance with the provisions of 21 CFR 101.4.

SECTION 18. FREEZER MADE SHAKE - FREEZER MADE MILK SHAKE.

- (a) Freezer made milk shake means a pure, clean, wholesome semi-viscous drink prepared by stirring while freezing a pasteurized mix consisting of the ingredients prescribed for ice milk in Section 2 of these regulations except that:

(1) It shall contain not less than three and one-fourth percent and not more than six percent milk fat.

(2) Its content of milk solids not fat shall not be less than ten percent.

- (b) Other freezer made shakes including jumbo shake, thick shake, T.V. shake, or any coined or trade name containing the word "shake" shall meet the requirements of paragraph (a), except that the minimum percent of milk fat may be less than three and one-fourth percent.
- (c) "Shakes" not meeting the requirement for "milk shakes" shall not be advertised, sold or served as milk shakes.
- (d) When any freezer made milk shake or other freezer made shake purports to be or is represented for any special dietary use by man, it shall be sold only in a container with an ingredient listing in accordance with the provisions of 21 CFR 101.4, and nutrition information as required by 21 CFR 101.9.

SECTION 19. PAREVINE.

- (a) Parevine is the food which is prepared by freezing while stirring, a pasteurized mix composed of:
 - (1) One or more edible vegetable oils or fats;
 - (2) Protein and carbohydrate food ingredients from other than milk or meat sources;
 - (3) Nutritive sweeteners other than lactose;
 - (4) Characterizing ingredients except any containing meat or milk; and
 - (5) Any other safe and suitable ingredient which is not milk or meat or a product or derivative of milk or meat. This product shall not contain any milk, milk product, meat or meat products or any of their derivatives of any kind.
- (b) Its fat content shall not be less than 10 percent except that when bulky optional characterizing ingredients are used, the fat content may be reduced, as a result of the addition of such ingredients, but shall in no case be less than eight percent.
- (c) Its content of food solids shall be not less than 1.3 pounds per gallon of the finished product.
- (d) The name of the food is "parevine".
- (e) Parevine shall be sold, held, offered for sale by any manufacturer, wholesaler, retailer, or any other seller only in properly labeled factory-filled containers, except parevine may be served other than in a properly labeled factory filled container if a sign is conspicuously displayed where it can easily be read under normal

conditions of purchase stating "PAREVINE SOLD HERE". Letters on such sign shall be bold face capitals at least three inches in height and in contrasting color to the background. No such sign need be displayed if each customer is provided with a menu on which there is stated "PAREVINE SERVED HERE" in bold face capitals as large as those used in listing most food items.

- (f) The label on packages of parevine shall, in addition to all other required information include a complete list of all ingredients, in accordance with the provisions of 21 CFR 101.4.

SECTION 20. LO-MEL.

- (a) "Lo-mel" means a pure, clean, wholesome semi-viscous drink prepared by stirring while freezing in a dispensing freezer a pasteurized mix composed of edible fats or oils other than milk fat, milk solids not fat, and water. It may contain optional sweetening ingredients and any other safe and suitable ingredients approved by the Department.
- (b) Lo-mel may only be served or sold directly from a dispensing freezer and may not be sold hard frozen.
- (c) When Lo-mel is sold a sign must be prominently and conspicuously displayed not more than 18 inches above each dispensing freezer, where it can be clearly read by customers under normal conditions of purchase, stating "LO-MEL SERVED HERE", in bold face capitals at least three inches in height and in contrasting color to the background. Such sign shall include a list of all ingredients in a manner acceptable to the Department, provided, however, that the name of the edible fats or oils used must be specified. The letters on such sign to be of sufficient size to be read by consumers under normal conditions of purchase. No such list of ingredients need be included on the sign if the list of ingredients is printed on the side of the container in which the product is served to the customer.
- (d) When any lo-mel purports to be or is represented for any special dietary use by man, it shall be sold only in a container with an ingredient listing in accordance with the provisions of 21 CFR 101.4 and nutrition information as required by 101.9.

REGULATION 2.

APPLICATION FOR LICENSE TO MANUFACTURE FROZEN PRODUCTS

The application for license shall be on a form furnished by the Commissioner of Agriculture and shall include:

- (1) A statement showing the location of each plant or outlet where said products are manufactured and the name of the brand or brands, if any, under which the same are sold.
- (2) In those cases where the frozen desserts or frozen dessert mix manufacturing plant is located outside the confines of the State of Vermont, the application shall be accompanied by a copy of the latest sanitary inspection report made by the inspection agency of the state in which the plant is located.

REGULATION 3.

TEMPORARY MARKETING PERMIT.

Any person holding a current Vermont Frozen Dessert License who wishes to manufacture a frozen dessert for which a standard of identity has not been promulgated by the Commissioner, may make application to the commissioner for a Temporary Marketing Permit to market such a product. The application shall be on a form furnished by the Commissioner and shall contain such information as the Commissioner may require. Such permit shall be for a period not to exceed one year.

REGULATION 4.

INSPECTION OF FROZEN DESSERT PLANTS.

Each plant or place where frozen dessert or frozen dessert mix are manufactured shall be subject to inspection at any time by the Commissioner of Agriculture or his duly authorized agent. Upon notification by the Department of Agriculture that a retail outlet is not a suitable place for the sale of frozen desserts or is not operated in a sanitary manner, the licensee shall at once stop deliveries of frozen desserts or frozen dessert mix to such retail outlet.

REGULATION 5.

MANUFACTURING PLANT.

"Frozen dessert plant" shall mean the premises or plant where frozen desserts and frozen dairy products are defined in this regulation are assembled, processed, manufactured or converted into form for distribution or sale, and rooms or premises where such frozen products manufacturing equipment is washed, sanitized or stored.

The building in which frozen desserts, and frozen dessert mix and ingredients for same are manufactured, stored or handled, and the surroundings, shall be maintained in a clean and orderly manner, with the yards well drained, free from refuse, odors and other insanitary conditions.

REGULATION 6.

ROOMS.

Rooms in which frozen desserts and frozen dessert mix are manufactured or handled shall be well ventilated and well lighted. Walls and ceilings shall have smooth, washable light colored surfaces and shall be kept clean. The floor shall be smooth, impervious to water, in good repair, and clean. Sufficient floor slope to trapped drains shall be provided to prevent pools of water on the floor, except that cold storage rooms need not be provided with drains. All outside openings shall be adequately screened and all rooms kept free from flies. Storage rooms, boxes and cabinets shall be so constructed that they can be maintained in a clean and sanitary condition and free from objectionable odors. All cartons, supplies, materials and ingredients shall be protected in storage against dust, dirt, moisture, rodents and vermin. Such ingredients as are subject to deterioration due to a lack of refrigeration shall be refrigerated properly. All ingredients, except those in water tight containers, shall be stored on shelves or racks above the floor and kept covered to prevent contamination.

REGULATION 7.

EQUIPMENT.

- (a) All utensils and equipment used in the manufacture or handling of frozen desserts and frozen dessert mix shall be of a design capable of being readily taken apart for the washing of all parts with which frozen products come in contact. All metal containers shall be smoothly welded or soldered and free from dents and corrosion.
- (b) Sanitary piping, connections and fittings shall be of such diameter and design as to permit easy cleaning.
- (c) Work benches and/or tables used in the manufacturing or processing of frozen desserts and frozen dessert mix shall be of metal or other material approved by the Commissioner of Agriculture, so constructed and maintained that they can be kept in a clean, sanitary condition.
- (d) Pasteurizers shall be equipped with flush, leak protector valves.

- (e) Surface coolers shall be equipped with covers.
- (f) All strainers shall be of perforated stainless steel.

REGULATION 8.

MANUFACTURING PRACTICES.

- (a) All utensils and equipment used in the manufacturing and handling of frozen desserts and frozen dessert mix shall be completely disassembled after each days operation and all parts with which such products come in contact shall be thoroughly washed with hot water and a cleaning solution. All such utensils and equipment, after assembly and before use, shall be sanitized. In-place-cleaning may be practiced if the method used in any specific assembly unit has been approved by the Commissioner of Agriculture.
- (b) Hot and cold running water and wash sink of suitable size and construction for the purpose of cleaning of all utensils and equipment shall be provided.
- (c) Convenient hand washing facilities including warm running water, soap and single service towels, shall be provided in all manufacturing rooms.
- (d) all multi-service containers, when empty and before being returned to a frozen desserts plant, shall be thoroughly rinsed and shall be washed and sanitized before re-filling.

REGULATION 9.

PASTEURIZATION.

- (a) Pasteurization. all frozen desserts mix with the exception of water ice mix and flavoring agents used in frozen desserts shall be pasteurized.
- (b) Pasteurization temperatures. pasteurization of frozen desserts mix provided in subdivision (a) of this section shall be done in a plant and with equipment conforming to the provisions of this part, by heating every particle:
 - (1) to a temperature of at least 155°F. and held at such temperature for at least 30 minutes, or
 - (2) to a temperature of at least 160°F. and held at such temperature for at least 15 minutes, or
 - (3) to a temperature of at least 165°F. and held at such temperature for at least 10 minutes, or by short term pasteurization with controls approved by the Commissioner.

(4) to a temperature of at least 175°F. and held at such temperature for at least 25 seconds, or

(5) to a temperature of at least 180°F. and held at such temperature for at least 15 seconds, or

(6) to a temperature of at least 200°F. and held at such temperature for at least three seconds, or

(7) to a temperature of at least 210°F. with no holding time, or to such equivalent temperature and period of holding as the Commissioner shall approve in writing.

(8) In the case of ice milk mix, to a temperature of at least 166°F. for at least 15 seconds, or

(9) to a temperature of at least 161°F. for at least 25 seconds.

(10) to a temperature and time to aseptically process. Aseptically processed frozen dessert mixes are hermetically sealed in a container and so thermally processed and in conformance with the requirements for low acid canned foods and the provisions of these regulations so as to render the product commercially sterile, free of micro-organisms capable of reproducing in the product under normal non-refrigeration conditions of storage and distribution. The product shall be free of viable micro-organisms (including spores) of public health significance. A hermetically sealed container is designed and intended to be secure against the entry of micro-organisms and thereby maintain the commercial sterility of the contents after processing.

(c) High temperature short time pasteurizers shall have the thermal limit controller set and sealed so that forward flow of product cannot start unless the temperature at the controller sensor is above the appropriate required temperature. The seal shall be applied after test, by the representative of the commissioner, and shall not be removed without immediately notifying the Commissioner. The system shall be so designed that no product can be by-passed around the controller sensor which shall not be removed from its proper position during the pasteurization process.

(d) Cooling. After pasteurization all mix shall be cooled immediately to a temperature of not more than 40°F. until subject to freezing. any milk, cream, and other fluid milk products other than aseptically processed, sterilized, evaporated or sweetened condensed milk in hermetically sealed containers shall also be stored at temperatures of not more than 40°F. This requirement shall be deemed:

(1) to require the use of refrigerated vehicles or approved insulated containers in transporting frozen desserts mix from the manufacturing or other plant to retail manufacturers, and

(2) to apply to conveying milk from coolers or refrigeration units in manufacturing plants to freezers by means of pipes, tubing, or other means.

REGULATION 10.

LABELING

- (a) All ingredients and substances received, handled, used, stored, sold or offered for sale by any frozen dessert products manufacturer shall be labeled or otherwise identified by the common name of the product.
- (b) All packages of frozen desserts, including bags, cartons, cups, boxes or other similar containers, packaged at the time of manufacture, but not including frozen desserts packaged in edible cones or edible cone cups shall bear conspicuously:
- (1) The name of the manufacturer or his registered trademark or symbol.
 - (2) The official class name of the product as defined in the law and these regulations.
 - (3) The net contents of the package or container.
- (c) The use of the term "Home Made" or "Home Maid", "Farm Made" or "Farm Maid", is limited to those products actually manufactured in the home or on the farm. Frozen desserts made in a commercial plant may not be labeled or advertised as "Home Made", "Home Maid", "Farm Made" or "Farm Maid", or labeled in any other manner which will be false or misleading.

REGULATION 11.

TOILETS AND LOCKERS

Adequate toilet and locker facilities shall be provided for employees. No toilet room shall open directly into any room used for manufacturing and handling of frozen desserts or frozen confections or frozen dessert mix. Wash basins and single service towels shall be provided.

Regulation 12
Health and Habits of Employees

- (a) All persons engaged in the manufacture or processing of frozen dessert licenses shall be free from communicable disease, shall be clean of person and wear clean washable clothing.
- (b) The use of tobacco in any form, spitting or other insanitary habits, are prohibited within the manufacturing room.
- (c) Articles of wearing apparel, when not in use, shall be kept in rooms other than those in which frozen dessert products are manufactured or processed.

Regulation 13
Bacterial and Coliform Standards

No frozen desserts or frozen dessert mix after pasteurization shall show a standard plate count of bacteria of more than 50,000 colonies per gram and the coliform bacteria shall not exceed 10 per gram as determined by methods outlined in the current edition of the American Public Health Association Publication known as "*Standard Methods for the Examination of Dairy Products*".

Regulation 14
Frozen Dessert Products at Retail Manufacturing Outlets

- (a) All premises where frozen desserts are frozen and dispensed shall be maintained in a clean and sanitary condition, and all openings properly screened and protected against flies and dust.
- (b) Suitable toilets shall be provided for the use of employees, and all toilets shall be maintained in a clean and sanitary condition and be screened against flies. No toilet shall open directly into a room used in the freezing or dispensing of frozen dessert products.
- (c) Suitable wash basins and single service towels shall be provided on premises for use of employees.
- (d) Frozen dessert products, fruit, flavors, colors, cones, etc., shall be protected from flies, dust and dirt.

- (e) An adequate supply of hot and cold running water shall be provided for washing purposes, and all utensils which are not in constant use, shall be thoroughly washed after each use by cleaning with hot water and a suitable cleaner and then given a bacterial treatment before re-using.
- (f) Utensils, single service cups, dishes, spoons and drinking straws, etc., shall be protected from flies, dust and dirt.
- (g) Frozen dessert product cabinets shall be clean and present a neat appearance. The holes and wells containing bulk or packaged frozen dessert products shall be clean and free of objectionable odor, and where bulk frozen dessert products are dispensed, the holes shall be kept covered, except when products are being dispensed therefrom or placed therein.
- (h) Utensils and devices such as scoops and spoons used in dispensing frozen dessert products shall be kept clean and in running water or in water maintained at 170°F.
- (i) Frozen dessert product containers shall be used for no other purpose than to store frozen dessert products.
- (j) Every person while engaged in dispensing or manufacturing frozen dessert products shall wear clean clothing, and shall avoid contact with any substances that may contaminate frozen dessert products.
- (k) No person who has a communicable disease shall be employed in any capacity where frozen dessert products are dispensed.
- (l) Places where suitable facilities for washing utensils are not available shall sell frozen dessert products only in the original container packaged in an approved frozen dessert plant.

Regulation 15

Mobile Units and Temporary Stands

Mobile units and temporary stands shall conform to the same regulations as Regulation 14 with the exception of running water. Hot and cold running water must be available in adequate supply to maintain acceptable sanitary conditions.