

CR 82-154

STATE OF WISCONSIN)
DEPARTMENT OF AGRICULTURE,)
TRADE & CONSUMER PROTECTION) SS.

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TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Norman E. Kirschbaum, Administrator, Food Division, State of Wisconsin Department of Agriculture, Trade and Consumer Protection, and custodian of the official records of said Division, do hereby certify that the annexed order amending rules relating to ice cream mix and ice milk mix labeling requirements and standards of identity, Chapter Ag 70, Wis. Adm. Code, was duly approved and adopted by the Department on December 6, 1982.

I further certify that said copy has been compared by me with the original on file in the Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Department offices in the city of Madison, this 6th day of December, 1982.

Norman E. Kirschbaum
Norman E. Kirschbaum, Administrator
Food Division

2-1-83

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1 ORDER OF

2 STATE OF WISCONSIN

3 DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

4 Adopting, Amending and Repealing Rules

5 To amend Ag 70.01(7), 70.07(1), 70.08(2) and create 70.05(10), 70.09(3)(c),
6 70.09(4) and 70.11 relating to ice cream mix and ice milk mix labeling require-
7 ments and standards of identity.

Analysis Prepared by the Department of Agriculture,
Trade and Consumer Protection

The major change in the Department's proposed revision of Chapter Ag 70, specifically sections 70.09 and 70.11, is to provide some additional requirements in the standard of identity for ice cream that will enable the Department to more easily enforce the standard.

Section 97.09, Wisconsin Statutes, provides for the adoption of the federal standards of identity for foods. The standard of identity for ice cream that is enforced and followed in Wisconsin is the federal standard promulgated by the Food and Drug Administration. The federal standard requires a minimum fat and milk solids not fat content. The standard, however, does not differentiate the ingredients that can be used to achieve the milk solids not fat content. The ingredients that are normally used are nonfat dry milk, whey solids and caseinates.

The Department has experienced an increasing use of whey solids and caseinates which has made it difficult to enforce the standard and also has led to some criticism on the quality of ice cream. The use of whey solids and caseinates also becomes a competitive factor since these ingredients are generally cheaper than nonfat dry milk solids.

The proposed change in section 70.09 provides that all ice cream mixes and ice milk mixes shall be labeled with the percent milk fat and ingredients in the descending order of prominence by weight. The addition of section 70.11 sets forth some minimum nonfat dry milk solids percentages and minimum protein percent content for each percent of milk fat in the product. This addition to the standard will enable the Department to enforce the ice cream standard more effectively and, hopefully, will also increase the quality of the ice cream sold and processed in this state.

Additional changes at the hearing resulted in changes and additions to sections 70.01(7), 70.05(10), 70.07(1), 70.08(2) and 70.09(4). These changes allow ice cream mix or ice milk mix to be manufactured as a dry powder and reconstituted with potable water--a bacteriological standard of 20,000 per gram is created for dry mixes. With these changes the dry dairy product will be able to compete with the imitation or substitute products that will be available after January 1983.

1 Pursuant to authority vested in the State of Wisconsin Department of
2 Agriculture, Trade and Consumer Protection by sections 93.07(1), 93.09, and
3 97.09, Wis. Stats., the State of Wisconsin Department of Agriculture, Trade and
4 Consumer Protection adopts rules interpreting sections 93.09 and 97.09, Wis.
5 Stats., as follows:

6 SECTION 1. Ag 70.01(7) is amended to read:

7 Ag 70.01(7) Frozen dessert mix or mix means the mixture of frozen desserts
8 ingredient before being processed and frozen as a frozen dessert and includes
9 dry mixes made from previously pasteurized dairy ingredients which are recombined
10 with potable water for the purpose of making a frozen dessert mix.

11 SECTION 2. Ag 70.05(10) is created to read:

12 Ag 70.05(10) DRY FROZEN DESSERT MIXES. The addition of potable water alone
13 will not require repasteurization providing that the water is added to a sealed
14 single batch container of pasteurized dry mix.

15 SECTION 3. Ag 70.07(1) is amended to read:

16 Ag 70.07 PASTEURIZATION, COOLING AND STORING OF FROZEN DESSERT MIXES OR
17 FROZEN DESSERTS. (1) PASTEURIZATION. All frozen dessert mixes with the
18 exception of water ice mix and flavoring agents used in frozen desserts and dry
19 frozen dessert mixes shall be pasteurized at the point of manufacture.

20 SECTION 4. Ag 70.08(2) is amended to read:

21 Ag 70.08(2) FINISHED PRODUCTS. After pasteurization, frozen desserts or
22 frozen dessert mixes shall not contain in excess of 10 coliform per gram or in
23 excess of 50,000 plate count of bacteria per gram at any time up to time of sale
24 except that dry frozen dessert mixes packaged in a sealed single batch container
25 shall not have a coliform count in excess of 10 per gram nor a bacterial count in
26 excess of 20,000 per gram.

27 SECTION 5. Ag 70.09(3)(c) is created to read:

1 Ag 70.09(3)(c) The label on all packages of ice cream mix and ice milk mix
2 shall include the percent of milk fat present in the mix and a statement of all
3 ingredients comprising the mix in descending order of prominence by weight.

4 SECTION 6. Ag 70.09(4) is created to read:

5 Ag 70.09(4) Dry frozen dessert mixes shall be packaged in single batch
6 containers such that the total content of the dry mix will be reconstituted with
7 potable water at one time in the container. Such packaging shall be in a manner
8 that the container is sealed prior to the addition of the potable water.

9 SECTION 7. Ag 70.11 is created to read:

10 Ag 70.11 ICE CREAM AND ICE MILK STANDARDS OF IDENTITY. Ice cream and ice
11 milk shall conform to the standards of identity in Title 21, Code of Federal
12 Regulations, Sections 135.110 and 135.120 respectively. In addition to the
13 required percentages of milk fat and nonfat milk solids (NFMS), the following
14 minimum levels of protein for the corresponding levels of milk fat and NFMS shall
15 be present in ice cream and ice milk sold in this state.

16 ICE CREAM

17	<u>Percent</u>	<u>Minimum Percent</u>	<u>Minimum Percent</u>
18	<u>Milk Fat</u>	<u>Nonfat Milk Solids</u>	<u>Protein</u>
19	10	10	2.70
20	11	9	2.55
21	12	8	2.40
22	13	7	2.25
23	14	6	2.10

24 ICE CREAM CONTAINING BULKY FLAVORS

25	<u>Percent</u>	<u>Minimum Percent</u>	<u>Minimum Percent</u>
26	<u>Milk Fat</u>	<u>Nonfat Milk Solids</u>	<u>Protein</u>
27	8	8	2.40
	9	8	2.40

ICE MILK

	<u>Percent Milk Fat</u>	<u>Minimum Percent Nonfat Milk Solids</u>	<u>Minimum Percent Protein</u>
1			
2			
3	2	9	2.55
4	3	8	2.40
5	4	7	2.25
6	5	6	2.10
7	6	5	1.95
8	7	4	1.80
9			

10 The minimum levels of protein for ice cream and ice milk sold in this state
 11 shall have a protein efficiency ratio of not less than that of whole milk, or 108
 12 percent of caseinate by weight of the food.

13 The rules contained in this order shall take effect on the first day of the
 14 month following publication in the Wisconsin administrative register, as provided
 15 in s. 227.026(1), Stats.

16 Dated: December 6th, 1982.

STATE OF WISCONSIN
 DEPARTMENT OF AGRICULTURE,
 TRADE AND CONSUMER PROTECTION

By Norman E. Kirschbaum
 Norman E. Kirschbaum
 Administrator
 Food Division

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