CHAPTER 7-03.2-09
FROZEN DESSERTS

Section
7-03.2-09-01 Frozen Desserts - Manufacturers and Processors Regulations
7-03.2-09-02 Microbiological Requirements for Ice Cream, Ice Milk, Ice Cream Mix, and Frozen Yogurt
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7-03.2-09-01. Frozen desserts - Manufacturers and processors regulations.

1. For the purposes of this chapter, frozen desserts include ice cream, ice milk, sherbet, soft serve, frozen yogurt, and any frozen dessert or ice cream mix containing dairy products.

2. A license from the commissioner is required for any frozen dessert processor that packages, freezes, or adds flavors to ice cream mix. Establishments taking the product directly from the mix freezer and delivering it directly to the ultimate consumer are exempt from licensing.

3. All frozen dessert processors must be inspected once every three months by the commissioner.

4. All new equipment used by frozen dessert processors must comply with 3A standards or other standards acceptable to the commissioner. Modifications of plant processes for manufacturing frozen desserts must be submitted to the commissioner for approval prior to installation or construction.

5. All raw milk and dairy ingredients used in processing frozen desserts must be pasteurized and must originate from plants approved by the United States department of agriculture, the food and drug administration, or the commissioner.

6. Sanitary requirements, at a minimum, must meet United States department of agriculture regulations for manufacturing frozen desserts.

7. Four samples within a six-month period must be collected by the commissioner from each frozen dessert processor.

8. Samples must be handled in accordance with the standard methods. Samples must be tested at laboratories approved by the commissioner.

History: Effective October 1, 2009.
General Authority: NDCC 4-30-55.1
Law Implemented: NDCC 4-30-02, 4-30-33, 4-30-35, 4-30-36

7-03.2-09-02. Microbiological requirements for ice cream, ice milk, ice cream mix, and frozen yogurt.

1. The United States department of agriculture regulations that set microbiological requirements for frozen desserts apply to ice cream, ice milk, ice cream mix, and frozen yogurt.

2. All milk, when delivered to a plant to be used in making ice cream, ice milk, ice cream mix, or frozen yogurt, must have a temperature of forty-five degrees Fahrenheit [7.22 degrees Celsius] or lower. If the delivered milk is from a single producer, it must not exceed five hundred thousand per milliliter standard plate count. If the delivered milk is commingled, it must not exceed one million per milliliter standard plate count.

3. All cream delivered to a plant to be used in making ice cream, ice milk, ice cream mix, or frozen yogurt must have a temperature of forty-five degrees Fahrenheit [7.22 degrees Celsius]

or lower. All delivered cream must not exceed eight hundred thousand per milliliter standard plate count.

4. All dry dairy ingredients to be used in making ice cream, ice milk, ice cream mix, or frozen yogurt must meet the manufacturing standards set by United States department of agriculture regulations.

5. All ice cream, ice milk, ice cream mix, and frozen yogurt products must meet the following phosphatase and coliform requirements:

   a. Phosphatase. The phenol value of a product may be no greater than the minimum specified for the product as determined by the phosphatase test in the standard methods, or other tests approved by the commissioner.

   b. Coliform.

      (1) In plain ice cream, ice milk, ice cream mix, and frozen yogurt products, the coliform may not exceed ten per milliliter. Further, these products must not exceed twenty thousand per milliliter standard plate count.

      (2) In flavored ice cream, ice milk, ice cream mix, and yogurt products, the coliform may not be more than twenty per milliliter. Further, these products must not exceed twenty thousand per milliliter standard plate count.

History: Effective October 1, 2009.
General Authority: NDCC 4-30-55.1
Law Implemented: NDCC 4-30-33, 4-30-35, 4-30-36

7-03.2-09-03. Resampling.

When a sample exceeds the microbiological requirements, the licensed operator must be notified in writing. An additional sample must be taken in not less than three days or more than twenty-one days from the notification. When two samples out of four consecutive samples are not in compliance, a warning must be sent. An inspection must be made at this time to determine sanitary conditions. When three out of five consecutive samples are not in compliance, sale of the product must be stopped until the test results are in compliance.

History: Effective October 1, 2009.
General Authority: NDCC 4-29-03, 4-29-04, 4-30-55.1
Law Implemented: NDCC 4-30-33, 4-30-35, 4-30-36