



REQUEST FOR PUBLIC COMMENT Frozen Desserts – Five Year Rule Review

The rules in this package have been reviewed pursuant to Chapter 119 of the Revised Code and are being proposed as follows. **The comment period will remain open through January 19, 2018.** Comments may be emailed to ecomments@agri.ohio.gov or mailed to Legal Section, Ohio Department of Agriculture, 8995 E. Main St., Reynoldsburg, Ohio 43068.

Chapter 901:11-3 of the Ohio Administrative Code regulates the production of frozen desserts in the state of Ohio. Frozen desserts are defined in OAC 901:11-3-02 but generally includes products such as ice cream and frozen custard. Without proper safeguards, the manufacturing process can result in the growth of highly dangerous pathogens such as *Clostridium botulinum*, *E. coli* 0157:H7, *Salmonella*, and *Listeria monocytogenes*. These bacteria can result in human illnesses including respiratory problems, pneumonia, diarrhea, vomiting, and in some cases can result in the death of the infected individual. Due to this high level of risk there is significant regulation to monitor the frozen dessert production industry which is designed to prevent illness and protect consumers.

These rules contained in this package mirror federal regulations in order to allow Ohio's frozen dessert processors to be able to ship all across the country. The rules below have been reviewed in accordance with Chapter 119 of the Ohio Revised Code and are being proposed as follows:

OAC 901:11-3-01 outlines the definitions as used in the chapter. The rule is being amended to make small stylistic changes which do not impact the substance of the rule.

OAC 901:11-3-02 states the term "frozen desserts" means the articles of food listed in Title 21 C.F.R. 135 Subpart B. The adoption of this standard of identity ensures that consumers are confident in purchasing frozen dessert products by ensuring that the label accurately reflects what the product is. There are no changes proposed to this rule.

OAC 901:11-3-03 outlines the labeling requirements for frozen desserts. The rule requires that both commercial bulk packages and retail packages be legibly labeled with certain information. The rule is being amended to make a stylistic change which should improve reader comprehension. Further, the rule is being amended to ensure that frozen desserts whose ingredients are not from either a goat or a cow are labeled properly.

OAC 901:11-3-04 outlines the chemical, bacteriological, and temperature standards for frozen desserts. Due to the Legislative Service Commission's rule on administrative rule drafting the rule has been rescinded and replaced in order to make this rule easier to comprehend. No substantive changes have been made to this rule.



OAC 901:11-3-05 outlines the pasteurization requirements for frozen dessert products. The rule has been amended to simplify external references. Further, the rule has been amended to allow dairy products to be included in the frozen dessert after pasteurization when these products and the processor demonstrates to the director's satisfaction that the addition of these products post-pasteurization will not negatively impact the ability to produce a safe, sanitary, and quality product.

OAC 901:11-3-06 requires all frozen dessert manufacturers develop a written Hazard Analysis and Critical Control Point plan, otherwise known as a HACCP plan. This is required whenever the hazard analysis performed reveals one or more food hazards are likely to occur during production. This plan outlines critical control points where food hazards are likely to occur and critical limits which, when operating within these limits, allows the processor to decrease the likelihood of product contamination. Additionally, the HACCP plan outlines how manufacturers will monitor these critical control points and requires the development and implementation of corrective action plans should a deviation from the critical limits occur. There are no changes proposed to this rule.

OAC 901:11-3-07 outlines the process for taking corrective actions when a deviation from a critical limit occurs. The rule states that all corrective action plans shall ensure that no product which may be injurious to consumer health or otherwise adulterated enter the stream of commerce. The rule also requires that the cause of this deviation be corrected. There are no changes proposed to this rule.

OAC 901:11-3-08 requires all frozen dessert manufacturers to verify and validate that their HACCP plan is being implemented according to its design. A manufacturer verifies and validates their HACCP plan by reviewing any consumer complaints, calibrating instruments, and recording any deviation that may occur. This validation must take place at least once every twelve months. There are no changes proposed to this rule.

OAC 901:11-3-09 requires that all frozen dessert manufacturers maintain records which document the processor's HACCP plan. In particular, the manufacturer must maintain records documenting that the processor continues to monitor the critical control points and their critical limits. There are no changes proposed to this rule.

OAC 901:11-3-10 states that all frozen dessert manufacturers shall have and implement a sanitation standard operating procedure. This procedure addresses sanitation controls at all points in the production line including, water sanitation, cross contamination of other insanitary objects (ie. utensils, food packaging material, gloves, and clothing), and control of employee health conditions. There are no changes proposed to this rule.

OAC 901:11-3-11 outlines the training and education necessary to apply HACCP principles. There are no changes proposed to this rule.

