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New Jersey, (State)
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REGULATIONS ESTABLISHING DEFINITIONS AND STANDARDS OF IDENTITY FOR FROZEN DESSERTS

Pursuant to authority of N.J.S.A. 24:10-73.1, and in accordance with applicable provisions of the Administrative Procedures Act, 1968, Regulations Establishing Definitions and Standards of Identity for Frozen Desserts, the text of which follows in 13 pages, is adopted this date by the State Department of Health and are to become effective immediately.

ORDERED at the Offices of the Commissioner, State Department of Health this 25 day of May 1970.

Regulation 1 General definitions.

As used in these regulations, unless otherwise expressly stated, or unless the context or subject matter otherwise requires, the following terms shall have the following meanings:

- (a) "Department" means the State Department of Health.
- (b) "Person" means any individual, co-partnership, corporation, cooperative association, cooperative corporation, or unincorporated association.
- (c) "Package" means any carton, box, jar, bottle, pail, wrapper or other container for frozen desserts.
- (d) "Label" means any written, printed, or graphic matter attached to or on a package.
- (e) "Frozen desserts" means ice cream, frozen custard, French ice cream, French custard ice cream, sherbet, fruit sherbet, ice milk, ice, water ice, nonfruit sherbets, nonfruit water ices, quiescently frozen confection, quiescently frozen dairy confection, whipped cream confection, bisque tortoni, artificially sweetened ice cream, or artificially sweetened ice milk, special frozen dietary foods, frozen yogurt, mellorine frozen desserts, as all such products are commonly known, together with any such mix used in frozen desserts and any products which are similar in appearance, odor or taste to such products or are prepared or frozen as such products are customarily prepared or frozen whether made with dairy or nondairy products.
- (f) "Dispensing freezer" means the type of equipment which freezes frozen desserts so they are served in a soft condition for sale to the customer.
- (g) "CFR" means the Code of Federal Regulations of the United States Government.

Regulation 2 Ice Cream; identity; optional ingredients; label statement of optional ingredients.

(a) Ice cream is the food prepared by freezing, while stirring, a pasteurized mix composed of one or more of the

optional dairy ingredients specified in paragraph (c) of this regulation sweetened with one or more of the optional sweetening ingredients specified in paragraph (d) of this regulation. One or more of the optional characterizing ingredients specified in paragraph (b) of this regulation and one or more of the optional ingredients specified in paragraph (d) (5) to (10) may be used to characterize the ice cream. One or more of the optional caseinates specified in paragraph (e) and one or more of the optional ingredients specified in paragraph (f) of this regulation may be used, subject to the conditions hereinafter set forth. The mix may be seasoned with salt, and may be homogenized. The kind and quantity of optional dairy ingredients used, as specified in paragraph (c) of this regulation and the content of milk fat and nonfat milk solids therein, are such that the weights of milk fat and total milk solids are not less than 10 percent and 20 percent respectively, of the weight of the finished ice cream; but in no case shall the content of milk solids not fat be less than 6 percent, except that when one or more of the bulky optional ingredients as specified in paragraph (b) (3) to (8), inclusive, of this regulation, are used, the weights of milk fat and total milk solids (exclusive of such fat and solids in any malted milk used) are not less than 10 percent and 20 percent, respectively, of the remainder obtained by subtracting the weight of such optional ingredients, modified as prescribed in this paragraph, from the weight of the finished ice cream; but in no case is the weight of milk fat or total milk solids less than 8 percent and 16 percent respectively, of the weight of the finished ice cream. The optional caseinates specified in paragraph (e) of this regulation are not deemed to be milk solids. In calculating the reduction of milk fat and total milk solids from the use of bulky optional ingredients, chocolate and cocoa solids used shall be considered the bulky ingredients of paragraph (b) (3) of this regulation. In order to make allowance for additional sweetening ingredients needed when bulky ingredients are used, the weight of chocolate or cocoa solids 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 multiplied by 1.4. The finished ice cream contains not less than 1.6 pounds of total solids to the gallon and weighs not less than 4.5 pounds to the gallon; except that when the optional ingredient microcrystalline cellulose specified in paragraph (f) (6) of this regulation is used, the finished ice cream contains not less than 1.6 pounds of total solids to the gallon and weighs not less than 4.5 pounds to the gallon exclusive, in both cases, of the

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weight of the microcrystalline cellulose. Artificial flavoring in any chocolate, cocoa, confectionery, or other ingredient used in an optional ingredient of the finished ice cream. Coloring, including artificial coloring, may be added.

(b) The optional characterizing ingredients referred to in paragraph (a) of this regulation are:

- (1) Ground spice, ground vanilla beans, infusion of coffee or tea, or any natural food flavoring.
- (2) Artificial food flavoring.
- (3) Chocolate or cocoa, which may be added as such or as a suspension in sirup, and which may contain disodium phosphate or sodium citrate in such quantity that the finished ice cream contains not more than 0.2 percent by weight of disodium phosphate or sodium citrate. For the purposes of this regulation, the term "cocoa" means one or any combination of two or more of the following; cocoa, breakfast cocoa, low-fat cocoa, and the unpulverized residual material prepared by removing part of the fat from ground cocoa nibs.
- (4) Mature fruit or the juice of mature fruit, either of which may be fresh, frozen, canned, concentrated, or partially or wholly dried. The fruit may be whole, shredded, or comminuted; it may be sweetened, thickened with pectin or with one or more of the ingredients named in paragraph (f) (2) of this regulation, subject to the restriction on the total quantity of such substances in ice cream prescribed in that paragraph, and it may be acidulated with citric acid, ascorbic acid, or phosphoric acid. 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. In the case of fruit or fruit juice from which part of the water is removed, the substances contributing flavor volatilized during water removal may be condensed and reincorporated in the concentrated fruit or fruit juice. In the case of the 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 juice, cold-pressed citrus oil may be added in an amount not exceeding that which would have been obtained if the peel from the whole fruit had been used. For the purposes of this regulation, the flesh of the coconut shall be considered a fruit.
- (5) Nut meats, which may be roasted, cooked in an edible fat or oil, or preserved in sirup, and which may be salted.
- (6) Malted milk.
- (7) Confectionery. For the purpose of this regulation, the term "confectionery" means candy, cakes, cookies, and glaced fruits.
- (8) Properly prepared and cooked cereal.
- (9) Distilled alcoholic beverage, including liqueurs or wine, in an amount not to exceed that required for flavoring the ice cream.

(c) The optional dairy ingredients referred to in paragraph (a) of this Regulation are: Cream, dried cream, plastic cream (sometimes known as 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, and skim milk that has been concentrated and from which part of the lactose has been removed by crystallization, skim milk concentrated or dried form which has been modified by treating the concentrated skim milk with calcium hydroxide and disodium phosphate, cheese whey, concentrated cheese whey, and dried cheese whey. 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 cow's milk. Any cheese whey, concentrated cheese whey and dried cheese whey used contribute 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. The cheese whey, concentrated cheese whey or dried cheese whey may be modified prior to incorporation into the mix by treatment with calcium hydroxide, disodium phosphate or other safe and suitable ingredient approved by the Commissioner to a pH value no higher than 8.3.*

*Section has been amended, effective March 13, 1973.

(d) The optional sweetening ingredients referred to in paragraph (a) of this regulation are:

- (1) Sugar (sucrose) or sugar sirup.
- (2) Dextrose.
- (3) Invert sugar (in paste or sirup form).
- (4) Corn sirup, dried corn sirup, glucose sirup, dried glucose sirup.
- (5) Maple sirup, maple sugar.
- (6) Honey.
- (7) Brown sugar.
- (8) Malt sirup, maltose sirup, malt extract.
- (9) Dried malt sirup, dried maltose sirup, dried malt extract.
- (10) Refiner's sirup.
- (11) Molasses (other than blackstrap).
- (12) Lactose.
- (13) Fructose.

(e) The optional caseinates referred to in paragraph (a) of this regulation which 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. Caseinates may be added in liquid or dry form, but must be free of excess alkali.

(f) Other optional ingredients referred to in paragraph (a) of this regulation are:

- (1) Liquid eggs, frozen eggs, dried eggs, egg yolks, frozen egg yolks, and dried egg yolks. Any egg

ingredient used is added to the mix before it is pasteurized. The total weight of egg yolk solids in the finished ice cream from one or a combination of two or more such ingredients is less than the minimum prescribed for frozen custard by regulation 3 (1.4 percent).

(2) Agar-agar, algin (sodium alginate), calcium sulfate, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, carrageenan, salts of carrageenan, furcelleran, salts of furcelleran, lecithin, psyllium seed husk, sodium carboxymethylcellulose. The total weight of the solids of any such ingredient used singly or of any combination of two or more such ingredients used (including any such ingredient and pectin added separately to the fruit ingredient) is not more than 0.5 percent of the weight of the finished ice cream. Such ingredients may be added in admixture with dextrin, propylene glycol, or glycerin.

(3) Monoglycerides or diglycerides or both of fat-forming fatty acids. The total weight of such ingredients is not more than 0.2 percent of the finished ice cream. If the preparation used is one having a high proportion of monoglycerides (over 90 percent), it may be preblended with edible fat, but the amount of such fat does not exceed 20 percent by weight of the blend, and the total amount of the blend used does not exceed 0.2 percent of the weight of the finished ice cream.

(4) Polyoxyethylene (20) sorbitan triesterate, polysorbate 80, or both (complying with the provisions of 21 CFR Part 121, sections 121.1008 and 121.1009, including the limit on either used separately or both used in combination of not more than 0.1 percent by weight of the finished frozen dessert).

(5) Propylene glycol alginate (complying with the provisions of 21 CFR Part 121, section 121.1015, including the limit of not more than 0.5 percent by weight of the finished frozen dessert).

(6) Microcrystalline cellulose, in a quantity not to exceed 1.5 percent by weight of the finished frozen dessert.

(7) When one or more of the optional thickening ingredients in sub-paragraph (2) or (5) of this paragraph are used, dioctyl sodium sulfosuccinate complying with the requirements of 21 CFR Part 121, section 121.1137 may be used in a quantity not in excess of 0.5 percent by weight of such ingredients.

(8) (i) Sodium citrate, disodium phosphate, tetrasodium pyrophosphate, sodium hexametaphosphate, or any combination of two or more of these; but the total quantity of the solids of such ingredients (exclusive of any disodium phosphate or sodium citrate present in chocolate or cocoa, as permitted by paragraph (b) (3) of this regulation is not more than 0.2 percent by weight of the finished ice cream.

(ii) Calcium oxide, magnesium oxide, calcium hydroxide, magnesium hydroxide, or any combination of two or more of these, but the total quantity of the solids of such ingredients is not more than 0.04 percent of the weight of the finished ice cream.

(g) (1) The name of the food is "ice cream."

(2) (i) If the food contains no artificial flavor, the name on 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 simulating it, and if the natural flavor predominates, 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," followed by the word "flavored," in letters not less than one-half of 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 simulating 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., "artificial VANILLA," or "artificially flavored STRAWBERRY" or "artificially flavored VANILLA and artificially flavored STRAWBERRY."

(3) (i) If the food is subject to the requirements of subparagraph (2) (ii) of this paragraph 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 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) When the optional ingredient microcrystalline cellulose specified in paragraph (f) (6) of this regulation is used, the label shall bear the statement "microcrystalline cellulose added" or "with microcrystalline cellulose."

(iii) When two or more of the optional ingredients specified in paragraphs (b) (2) and (f) (6) of this regulation are used, such words may be combined; for example, "microcrystalline cellulose and artificial flavor added."

(iv) Wherever 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 subparagraph 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 or over; provided, however, that where the characterizing flavor and a trade mark or brand are presented together, other written, printed, or graphic matter that is a part of or is associated with the trade mark or brand, may intervene if the required words are in such relationship with the trade mark 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 subparagraph, the statements required by this subparagraph 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 that term is defined in CFR Title 21 Chapter 1, Subchapter B, Part 22, Section 22.1 (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 combinations with artificial nut flavor, if the quantity of nut meats used 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 dispersed 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 subdivision (ii) or (iii) of this subparagraph. 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 distinctly 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.

Regulation 3 Frozen custard, French ice cream, French custard ice cream; identity; label statement of optional ingredients.

Frozen custard, French ice cream, French custard ice cream conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for ice cream by regulation 2, except that one or more of the optional egg ingredients permitted by regulation 2 (f) (1) are used in such quantity that the total weight of egg yolk solids therein is not less than 1.4 percent of the weight of the finished frozen custard: Provided, however, that when the ingredients named in regulation 2 (b) (3) through (8), inclusive, are used the content of egg yolk solids may be reduced in proportion to the bulky ingredient or ingredients added, under the conditions prescribed by regulation 2 (a) for reduction in milk fat and total milk solids; but in no case is the content of egg yolk solids less than 1.12 percent.

Regulation 4 Ice milk; identity; label statement of optional ingredients.

Ice milk is the food prepared from the same ingredients and in the same manner prescribed in regulation 2 for ice cream and complies with all the provisions of regulation 2 (including the requirements for label statement of optional ingredients), except that:

(a) Its content of milk fat is more than 2 percent but not more than 7 percent.

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

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

(d) The provision for reduction in milk fat and total milk solids from the addition of bulky ingredients in regulation 2 (a) does not apply.

(e) The quantity of food solids per gallon is not less than 1.3 pounds; except that when the optional ingredient microcrystalline cellulose specified in regulation 2 (f) (6) is used, the quantity of food solids per gallon is not less than 1.3 pounds, exclusive of the weight of the microcrystalline cellulose.

(f) When any artificial coloring is used in ice milk, directly or as a component of any other ingredient, 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.”

(g) The name of the food is “ice milk.”

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

(i) Ice milk shall be sold, held, offered for sale or served by any manufacturer, wholesaler, retailer, restaurant, public eating establishment, or any other seller only in properly labeled factory-filled containers no larger than one-half gallon, if the ice milk or any of its ingredients contain added color or any ingredients added for the purpose of imparting a characterizing flavor, except ice milk may be served and sold at retail from a dispensing freezer.

(j) When ice milk is sold by any seller, except in a properly labeled factory-filled container, a sign must be prominently and conspicuously displayed on the sales premises or vehicle, where it can be clearly read by consumers under normal conditions of purchase, stating “ICE MILK SOLD HERE.” The letters on such sign shall be bold face capitals at least three inches in height and in contrasting color to the background.

Regulation 5 Fruit sherbets; identity; label statement of optional ingredients.

(a) Fruit sherbets are the foods each of which is prepared by freezing, while stirring, a mix composed of one or more of the optional characterizing fruit ingredients specified in paragraph (b) of this regulation and one or more of the optional ingredients specified in paragraph (c) of this regulation, sweetened with one or more of the optional sweetening ingredients specified in paragraph (d) of this regulation. One or more of the optional ingredients specified in paragraph (e) of this regulation may be used, subject to the conditions hereinafter set forth. The mix of combined dairy ingredients, with or without other ingredients, is pasteurized. The titratable acidity of the finished fruit sherbet, calculated as lactic acid, is not less than 0.35 percent. The mix with or without added water may be seasoned with salt, and may be homogenized. The optional dairy ingredients used and the content of milk fat and nonfat milk solids therein are such that the weight of milk fat is not less than 1 percent and not more than 2 percent, and the weight of total milk solids is not less than 2 percent and not more than 5 percent of the weight of the finished fruit sherbet. The optional caseinates specified in paragraph (e) (5) of this regulation are not deemed to be milk solids. The finished fruit sherbet weighs not less than 6 pounds to the gallon; except that when the optional ingredient microcrystalline cellulose specified in paragraph (e) (11) of this regulation is used, the finished fruit sherbet weighs not less than 6 pounds to the gallon, exclusive of the weight of the microcrystalline cellulose.

(b) The optional fruit characterizing ingredients referred to in paragraph (a) of this regulation are any mature fruit or the 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 of the optional ingredients named in paragraph (e) (2) of this regulation, subject to the restriction on the total quantity of such substances in fruit sherbets prescribed in that paragraph. 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 with citric acid, ascorbic acid, or phosphoric acid. 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 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 purposes of this regulation, tomatoes and rhubarb are considered as kinds of fruit.

(c) The optional dairy ingredients referred to in paragraph (a) of this Regulation 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, cheese whey, concentrated cheese whey, and dried cheese whey. 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 cow’s milk. The cheese whey, concentrated cheese whey or dried cheese whey may be modified prior to incorporation into the mix by treatment with calcium hydroxide, disodium phosphate or other safe and suitable ingredient approved by the Commissioner to a pH value no higher than 8.3.*

*Section has been amended, effective March 13, 1973.

(d) The optional sweetening ingredients referred to in paragraph (a) of this regulation are: Sugar (sucrose), dextrose, invert sugar (paste or sirup), glucose sirup, dried glucose sirup, corn sirup, dried corn sirup, malt sirup, malt extract, dried malt sirup, dried malt extract, maltose sirup, dried maltose sirup.

(e) Other optional ingredients referred to in paragraph (a) of this regulation are:

(1) Liquid eggs, frozen eggs, dried eggs, egg yolks, frozen yolks, dried yolks; but the weight of egg yolk solids therein is less than 0.5 percent of the weight of the finished fruit sherbet.

(2) Agar-agar, algin (sodium alginate), calcium sulfate, egg white, gelatin, gum acacia, guar seed gum,

gum karaya, locust bean gum, oat gum, gum tragacanth, hydroxypropyl methylcellulose, carrageenan, salts of carrageenan, furcelleran, salts of furcelleran, lecithin, pectin, psyllium seed husk, sodium carboxymethylcellulose. The total weight of the solids of any such ingredient used singly or of any combination of two or more such ingredients used (including any such ingredient added separately to the fruit ingredient) is not more than 0.5 percent of the weight of the finished fruit sherbet. Such ingredients may be added in admixture with dextrin, propylene glycol, or glycerin.

(3) Monoglycerides or diglycerides or both of fat-forming fatty acids. The total weight of such ingredients is not more than 0.2 percent of the weight of the finished fruit sherbet. If the preparation used is one having a high proportion of monoglycerides (over 90 percent), it may be preblended with edible fat, but the amount of such fat does not exceed 20 percent by weight of the blend, and the total amount of the blend used does not exceed 0.2 percent of the weight of the finished fruit sherbet.

(4) Polyoxyethylene (20) sorbitan tristearate, polysorbate 80, or both (complying with the provisions of CFR Part 121, sections 121.1008 and 121.1009 including the limit on either used separately or both used in combination of not more than 0.1 percent by weight of the finished frozen dessert).

(5) Propylene glycol alginate (complying with the provisions of CFR Part 121, section 121.1015 including the limit of not more than 0.5 percent by weight of the finished frozen dessert).

(6) Citric acid, tartaric acid, malic acid, lactic acid, ascorbic acid, phosphoric acid, or any combination of two or more of these in such quantity as seasons the finished food.

(7) Casein prepared by precipitation with gums, ammonium caseinate, calcium caseinate, potassium caseinate, sodium caseinate.

(8) Any natural food flavoring.

(9) Any artificial flavoring.

(10) Coloring, including artificial coloring.

(11) Microcrystalline cellulose, in a quantity not to exceed 0.5 percent of the weight of the finished fruit sherbet.

(12) When one or more of the optional thickening ingredients in subparagraph (2) or (5) of this paragraph are used, dioctyl sodium sulfosuccinate complying with the requirements of CFR Part 121, section 121.1137 may be used in a quantity not in excess of 0.5 percent by weight of such ingredients.

(f) The name of each such 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 weight of the respective fruit ingredients used.

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

(1) The label shall be designated 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.

(2) The label shall designate artificial flavoring by the statement "artificially flavored," "artificial flavoring added," "with added artificial flavoring," or "....., an artificial flavor added," the blank being filled in with the name of the artificial flavoring used.

(3) Whenever artificial flavoring is not added as such but as a component of some other ingredient, the label shall include the statement "....., artificially flavored," the blank being filled in with the name of such other ingredient.

(4) When the optional ingredient microcrystalline cellulose specified in paragraph (e) (11) of this regulation is used, the label shall bear the statement "microcrystalline cellulose added" or "with added microcrystalline cellulose."

Label statements may be combined, as for example, "with added artificial flavoring and artificial coloring."

(h) Where one or more of the optional ingredients artificial coloring or artificial flavoring are used and there appears on the label any representation as to the fruit or fruits in the sherbet, such representation shall be immediately and conspicuously accompanied by appropriate label statements as prescribed in paragraph (g) of this regulation, showing the optional ingredients used.

(i) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements specified in this regulation, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter.

Regulation 6 Nonfruit sherbets; identity; label statement of optional ingredients.

(a) Nonfruit sherbets are the foods each of which is prepared by freezing, while stirring, a mix composed of one or more of the optional characterizing ingredients specified in paragraph (b) of this regulation and one or more of the optional dairy ingredients specified in paragraph (c) of this regulation, sweetened with one or more of the optional sweetening ingredients specified in paragraph (d) of this regulation. One or more of the optional ingredients specified in paragraph (e) of this regulation may be used, subject to the conditions hereinafter set forth. The mix of combined dairy ingredients, with or without other ingredients, is pasteurized. The mix, with or without added water, may be seasoned with salt and may be homogenized. The optional dairy ingredients used and the content of milk fat and nonfat milk solids therein are such that the weight of milk fat is not less than 1 percent and not more than 2 percent and the weight of total milk solids is not less than 2 percent and not more than 5 percent of the weight of the finished nonfruit sherbets. The optional caseinates specified in paragraph (e) (7) of this regulation are not deemed to be

milk solids. The finished nonfruit sherbet weighs not less than 6 pounds to the gallon; except that when the optional ingredient microcrystalline cellulose specified in paragraph (e) (9) of this regulation is used, the finished nonfruit sherbet weighs not less than 6 pounds to the gallon, exclusive of the weight of the microcrystalline cellulose.

(b) The optional characterizing ingredients referred to in paragraph (a) of this regulation are:

- (1) Ground spice or infusion of coffee or tea.
- (2) Chocolate or cocoa, including sirup.
- (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).

(c) The optional dairy ingredients referred to in paragraph (a) of this Regulation 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, cheese whey, concentrated cheese whey, and dried cheese whey. 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 cow's milk. The cheese whey, concentrated cheese whey or dried cheese whey may be modified prior to incorporation into the mix by treatment with calcium hydroxide, disodium phosphate or other safe and suitable ingredient approved by the Commissioner to a pH value no higher than 8.3.*

*Section has been amended, effective March 13, 1973.

(d) The optional sweetening ingredients referred to in paragraph (a) of this regulation are: Sugar (sucrose), dextrose, invert sugar (paste or sirup), glucose sirup, dried glucose sirup, corn sirup, dried corn sirup, malt sirup, malt extract, dried malt sirup, dried malt extract, maltose sirup, dried maltose sirup.

(e) Other optional ingredients referred to in paragraph (a) of this regulation are:

- (1) Liquid eggs, frozen eggs, dried eggs, egg yolks, frozen yolks, dried yolks; but the weight of egg yolk solids therein is less than 0.5 percent of the weight of the finished nonfruit sherbet.
- (2) Agar-agar, algin (sodium alginate), calcium sulfate, egg white, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, hydroxypropyl methylcellulose, carrageenan, salts of carrageenan, furcelleran, salts of furcelleran, lecithin, pectin, psyllium seed husk, sodium

carboxymethylcellulose. The total weight of the solids of any such ingredient used singly or of any combination of two or more such ingredients used is not more than 0.5 percent of the weight of the finished nonfruit sherbet. Such ingredients may be added in admixture with dextrin, propylene glycol, or glycerin.

(3) Monoglycerides or diglycerides or both of fat-forming fatty acids. The total weight of such ingredients is not more than 0.2 percent of the weight of the finished nonfruit sherbet. If the preparation used is one having a high proportion of monoglycerides (over 90 percent), it may be preblended with edible fat, but the amount of such fat does not exceed 20 percent by weight of the blend and the total amount of the blend used does not exceed 0.2 percent of the weight of the finished nonfruit sherbet.

(4) Polyoxyethylene (20) sorbitan tristearate, polysorbate 80, or both (complying with the provisions of CFR Part 121, sections 121.1008 and 121.1009 including the limit on either used separately or both used in combination of not more than 0.1 percent by weight of the finished frozen dessert).

(5) Propylene glycol alginate (complying with the provisions of CFR Part 121, section 121.1015 including the limit of not more than 0.5 percent by weight of the finished frozen dessert).

(6) Citric acid, tartaric acid, malic acid, lactic acid, ascorbic acid, phosphoric acid, or any combination of two or more of these in such quantity as seasons the finished food.

(7) Casein prepared by precipitation with gums, ammonium caseinate, calcium caseinate, potassium caseinate, sodium caseinate.

(8) Coloring, including artificial coloring.

(9) Microcrystalline cellulose in a quantity not to exceed 0.5 percent of the weight of the finished nonfruit sherbet.

(10) When one or more of the optional thickening ingredients in subparagraph (2) or (5) of this paragraph are used, dioctyl sodium sulfosuccinate complying with the requirements of CFR Part 121, section 121.1137 may be used in a quantity not in excess of 0.5 percent by weight of such ingredients.

(f) Except as provided for in paragraph (g) of this regulation, the name of each such nonfruit sherbet is "..... sherbet," the blank being filled in with the common or usual name or names of the characterizing flavor or flavors; for example, "peppermint."

(g) If the characterizing flavor used is vanilla, the name of the food is "..... sherbet," the blank being filled in as specified by regulation 2 (g) (2) and (5) (i).

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

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

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

(3) 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.

(4) When the optional ingredient microcrystalline cellulose is used, the label shall bear the statement "microcrystalline cellulose added" or "with added microcrystalline cellulose."

(i) Wherever 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 (h) (1) or (2) of this regulation, as appropriate, shall immediately and conspicuously precede or follow such representation, without intervening written, printed, or graphic matter (except that the word "sherbet" may intervene) 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 or over.

(j) Except as specified in paragraph (i) of this regulation, the statements required by paragraph (h) of this regulation 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.

Regulation 7 Water ices; identity; label statement of optional ingredients.

(a) Water ices are the foods, each of which is prepared by freezing, while stirring, a mix composed of one or more of the optional characterizing fruit ingredients specified in paragraph (b) of this regulation, sweetened with one or more of the optional sweetening ingredients specified in paragraph (c) of this regulation. One or more of the optional ingredients specified in paragraph (d) of this regulation may be used, subject to the conditions hereinafter set forth. The titratable acidity of the finished water ice, calculated as lactic acid, is not less than 0.35 percent. The mix, with or without added water, may be seasoned with salt, and may be homogenized. The finished water ice weighs not less than 6 pounds to the gallon.

(b) The optional fruit ingredients referred to in paragraph (a) of this regulation are any mature fruit or the 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 of the optional ingredients named in paragraph (d) (1) of this regulation subject to the restriction on the total quantity of such substances in water ices prescribed in that paragraph. 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 with citric acid, ascorbic acid, or phosphoric acid. In the case of 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 water ice, 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 less than 2 percent in the case of citrus ices, 6 percent in the case of berry ices, and 10 percent in the case of ices prepared with other fruits.

(c) The optional sweetening ingredients referred to in paragraph (a) of this regulation are: Sugar (sucrose), dextrose, invert sugar (paste or sirup), glucose sirup, dried glucose sirup, corn sirup, dried corn sirup, malt extract, dried malt extract, maltose sirup, dried maltose sirup.

(d) Other optional ingredients referred to in paragraph (a) of this regulation are:

(1) (i) Agar-agar, algin (sodium alginate), egg white, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, hydroxypropyl methylcellulose, carrageenan, salts of carrageenan, furcelleran, salts of furcelleran, propylene glycol alginate, pectin, psyllium seed husk, sodium carboxymethylcellulose. The total weight of the solids of any such ingredient used singly, or of any combination of two or more such ingredients used (including any such ingredient added separately to the fruit ingredient), is not more than 0.5 percent of the weight of the finished water ice. Such ingredients may be added in admixture with dextrin, propylene glycol, or glycerin.

(ii) When one or more of the optional thickening ingredients in subdivision (i) of this subparagraph are used, dioctyl sodium sulfosuccinate complying with the requirements of CFR Part 121, section 121.1137 may be used in a quantity not in excess of 0.5 percent by weight of such ingredients.

(2) Citric acid, tartaric acid, malic acid, lactic acid, ascorbic acid, phosphoric acid or any combination of two or more of these in such quantity as seasons the finished food.

(3) Any natural flavoring.

(4) Any artificial flavoring.

(5) Coloring, including artificial coloring.

(e) The name of each such water ice is "..... ice," the blank being filled in with the common name of the fruit or fruits from which the fruit ingredient used is obtained. When the names of two or more fruits are included, such names shall appear in the order of predominance, if any, by weight of the respective fruit ingredients used.

(f) When the optional ingredients artificial coloring and artificial flavoring are used in water ices they shall be named on the labels as follows:

(1) 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.

(2) The label shall designate artificial flavoring by the statement “artificially flavored,” “artificial flavoring added,” “with added artificial flavoring,” or “....., an artificial flavor added,” the blank being filled in with the name of the artificial flavoring used.

Label statements may be combined, as for example, “flavoring and artificial coloring added.”

(g) Where one or more of the optional ingredients artificial coloring or artificial flavoring are used and there appears on the labeling any representation as to the fruit or fruits in the ice, such representation shall be immediately and conspicuously accompanied by appropriate label statements as prescribed in paragraph (f) of this regulation, showing the optional ingredients used.

(h) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements set out in this regulation showing the optional ingredients used shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter.

Regulation 8 Nonfruit water ices; identity; label statement of optional ingredients.

(a) Nonfruit water ices are the foods each of which is prepared by freezing, while stirring, a mix composed of one or more of the optional characterizing ingredients specified in paragraph (b) of this regulation, sweetened with one or more of the optional sweetening ingredients specified in paragraph (c) of this regulation. One or more of the optional ingredients specified in paragraph (d) of this regulation may be used, subject to the conditions hereinafter set forth. The mix, with or without added water, may be seasoned with salt and may be homogenized. The finished nonfruit water ice weighs not less than 6 pounds to the gallon.

(b) The optional characterizing ingredients referred to in paragraph (a) of this regulation are:

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

(c) The optional sweetening ingredients referred to in paragraph (a) of this regulation are: Sugar (sucrose), dextrose, invert sugar (paste or sirup), glucose sirup, dried glucose sirup, corn sirup, dried corn sirup, malt sirup, malt extract, dried malt sirup, dried malt extract, maltose sirup, dried maltose sirup.

(d) Other optional ingredients referred to in paragraph (a) of this regulation are:

- (1) (i) Agar-agar, algin (sodium alginate), egg white, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, hydroxypropyl

methylcellulose, carrageenan, salts of carrageenan, furcelleran, salts of furcelleran, propylene glycol alginate, pectin, psyllium seed husk, sodium carboxymethylcellulose. The total weight of the solids of any such ingredient used singly, or of any combination of two or more such ingredients used, is not more than 0.5 percent of the weight of the finished nonfruit water ice. Such ingredients may be added in admixture with dextrin, propylene glycol, or glycerin.

(ii) When one or more of the optional thickening ingredients in subdivision (1) of this subparagraph are used, dioctyl sodium sulfosuccinate complying with the requirements of CFR Part 121, section 121.1137 of this chapter may be used in a quantity not in excess of 0.5 percent by weight of such ingredients.

(2) Citric acid, tartaric acid, malic acid, lactic acid, ascorbic acid, phosphoric acid, or any combination of two or more of these in such quantity as seasons the finished food.

(3) Coloring, including artificial coloring.

(e) Except as provided for in paragraph (f) of this regulation, the name of each such nonfruit water ice is “.....ice,” the blank being filled in with the common or usual name or names of the characterizing flavor or flavors; for example, “peppermint.”

(f) If the characterizing flavor used is vanilla, the name of the food is “.....ice,” the blank being filled in as specified by regulation 2 (g) (2) and (5) (i).

(g) When the optional ingredients artificial flavoring or artificial coloring are used in nonfruit water ice, they shall be named on the label as follows:

(1) If the flavoring ingredient or ingredients consist exclusively of artificial flavoring, the label designation shall be “artificially flavored.”

(2) If the flavoring ingredients used are a combination of natural and artificial flavors, the label designation shall be “artificial and natural flavoring added.”

(3) 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.

(h) Wherever 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 (g) (1) or (2) of this regulation, as appropriate, shall immediately and conspicuously precede or follow such representation, without intervening written, printed, or graphic matter (except that the word “ice” may intervene) 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 or over.

(i) Except as specified in paragraph (h) of this regulation,

the statements required by paragraph (g) of this regulation shall be set forth on the principal display panel or panels or 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.

Regulation 9 "Artificially sweetened ice cream" or "frozen dietary dairy dessert" means ice cream manufactured, prepared, or processed for consumption by persons who wish to restrict their intake of ordinary sweetening ingredients and shall conform to the definition and standard of identity prescribed for ice cream in regulation 2 of this regulation, except that it shall be sweetened with an artificial sweetening agent and contain edible carbohydrates other than sugar. The artificial sweetening agent and the edible carbohydrates must be approved by the Department and no sugars other than those naturally present in the milk solids or flavoring agent shall be added thereto.

(a) The manufacturer shall place the product in packages or containers which shall be conspicuously labeled either "artificially sweetened" immediately preceding the words "ice cream" in similar type at least one-half the size of the type used for the words "ice cream" and on the same contrasting background, or "frozen dietary dairy dessert."

(b) The label shall also contain a statement in terms of percentage by weight of protein, fat, and carbohydrates, the total number of calories per ounce, the number of calories contributed by carbohydrates and any carbohydrates other than lactose, and the name of each ingredient entering into the composition other than flavors.

(c) The following statement shall appear conspicuously following the declaration of the artificial sweetener used, such as "Contains % saccharin, (or sodium salt of saccharin, as the case may be, a non-nutritive artificial sweetener which should be used only by persons who must restrict their intake of ordinary sweets." The blank is to be filled in with the percent by weight of saccharin or other artificial sweetener in said product.

(d) The product shall not be sold in any manner other than in sealed or unbroken packages or containers from one or more separate compartments of a refrigerated container or cabinet.

Regulation 10 "Artificially sweetened ice milk" means ice milk manufactured, prepared, or processed for consumption by persons who wish to restrict their intake of ordinary sweetening ingredients and shall conform to the definition and standard of identity prescribed for ice milk in regulation 4 of this regulation, except that it shall be sweetened with an artificial sweetening agent and contains edible carbohydrates other than sugar. The artificial sweetening agent and the edible carbohydrates must be approved by the Department and no sugars other than those naturally present in the milk solids or flavoring agent shall be added thereto.

(a) The manufacturer shall place the product in packages or containers which shall be conspicuously labeled "artificially sweetened" immediately preceding the words "ice milk" in similar type at least one-half the size of the type used for the words "ice milk" and on the same contrasting background.

(b) The label shall also contain a statement in terms of percentage by weight of protein, fat, and carbohydrates, the total number of calories per ounce, the number of calories contributed by carbohydrates and any carbohydrates other than lactose, and the name of each ingredient entering into the composition other than flavors.

(c) The following statement shall appear conspicuously following the declaration of the artificial sweetener used, such as "Contains % saccharin, (or sodium salt of saccharin, as the case may be), a non-nutritive artificial sweetener which should be used only by persons who must restrict their intake of ordinary sweets." The blank is to be filled in with the percent by weight of saccharin or other artificial sweetener in said product.

(d) The product shall not be sold in any manner other than in sealed or unbroken packages or containers from one or more separate compartments of a refrigerated container or cabinet.

Regulation 11 "Quiescently frozen confection" means a clean, wholesome, frozen, sweetened, flavored product in the manufacture of which freezing has not been accompanied by stirring or agitation (generally known as quiescent freezing). This confection may be acidulated with harmless organic acid, may contain milk solids, may be made with or without added harmless natural or artificial flavoring, with or without harmless coloring. The finished product may contain not more than one-half of one per centum by weight of stabilizing agents. The finished product shall contain not less than seventeen per centum by weight of total food solids. 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. 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.

Regulation 12 "Quiescently frozen dairy confection" means a clean, wholesome, frozen product made from water, milk products and sweetening agents, with added harmless natural or artificial flavoring, with or without added harmless coloring, with or without added stabilizing and emulsifying ingredients, and in the manufacture of which freezing has not been accompanied by stirring or agitation (generally known as quiescent freezing). It shall contain 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, not more than one-half of one per centum by weight of monoglycerides or diglycerides or a combination of both, and not more than one-tenth of one per centum by weight of polyoxyethylene (twenty) sorbitan tristearate or polysorbate eighty (polyoxyethylene (twenty) sorbitan monooleate) or a combination of both. 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. 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.

Regulation 13 Whipped cream confection or bisque tortoni; identity; label statement of optional ingredients.

(a) Whipped cream confection or bisque tortoni means the frozen dessert composed of a combination of one or more of each of the optional ingredients specified in Regulation 2. It shall contain not less than 18 percent by weight of milk fat, not more than 1/2 of 1 percent by weight of stabilizing agents, not more than 2/10 of 1 percent by weight of monoglycerides or diglycerides of fat forming fatty acids or a combination of both, not more than 1/10 of 1 percent by weight of polyoxyethylene (20) sorbitan tristearate or polysorbate 80 (polyoxyethylene (20) sorbitan, monooleate) or a combination of both, not more than 12 percent of milk solids not fat, and may be whipped with or without harmless gas prior to freezing.

(b) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, a listing of the optional ingredients used shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

Regulation 14 "Frozen yogurt" is a food which is prepared by freezing while stirring a pasteurized mix, containing one or more of the following ingredients: whole milk, partially de-fatted milk, skim milk, other milk products, and with or without fruits, nuts, flavoring materials, sweeteners, stabilizers, emulsifiers, and any other safe and suitable ingredient approved by the Department, which is cultured after pasteurization by one or more strains of *Lactobacillus bulgaricus*, and *Streptococcus thermophilus*, provided however that fruits, nuts, or 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 finished frozen yogurt shall weigh not less than 5 pounds per gallon. The name of the product is "frozen yogurt." The label on a package of frozen yogurt, in addition to other required information, shall include a complete list of all ingredients in descending order of predominance. For the purposes of this regulation the strains of bacteria may be collectively referred to as yogurt culture.

Regulation 15 Mellorine; identity; label statement of ingredients.

(a) Mellorine conforms to the definition and standard of identity, and is subject to the requirements for optional ingredients, prescribed for ice cream by regulation 2, except that in place of optional dairy ingredients containing butterfat as permitted pursuant to regulation 2 (c), edible fats or oils other than milk fat are used, and provided further that the weight of edible fats or oils other than milk fat, is not less than 10% of the weight of the finished mellorine and the weight of the milk solids not fat is not less than 10% of the weight of the finished mellorine, except that when one or more of the bulky optional ingredients as specified in regulation 2 (b) (3), (4), (5), (6), (7), or (8) are used, the weight of the edible fats or oils other than milk fat and the combined weight of edible fats or oils other than milk fat and milk solids not fat (exclusive of any fat and milk solids not fat in any malted milk used) are not less than 10% and 20% respectively, of the remainder obtained by subtracting the weight of such optional ingredients as

provided in regulation 2 (a), from the weight of the finished mellorine, but in no case is the weight of edible fats and oils other than milk fat and milk solids not fat to be less than 8% and 16% respectively of the weight of the finished mellorine. Wherever provisions appear in regulation 2 referring to milk fat, it shall be understood to be edible fats or oils other than milk fat in the case of mellorine.

(b) The name of the product is "mellorine."

(c) When any artificial color is used in mellorine, directly or as a component of any other ingredient, the label shall bear the statement, "artificially colored," "artificial coloring added," "with added artificial color," or "....., an artificial color added," the blank to be 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."

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

(e) 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.

(f) The label on packages of mellorine shall, in addition to other required information, include a complete list of all ingredients in descending order of predominance, including the type of each edible fat or oil.

Regulation 16 Parevine; identity; label statement of ingredients.

(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) one or more of the optional sweetening ingredients except lactose, specified in regulation 2 (d); (3) one or more of the optional characterizing ingredients, except malted milk and confectionery and cooked cereals containing any milk, milk product, meat, meat products or any of their derivatives of any kind, as specified in regulation 2 (b); and (4) one or more of the other optional ingredients, specified in regulation 2 (f), excluding those containing any milk, milk product, meat or meat products or any of their derivatives of any kind, and (5) protein and carbohydrate food ingredients from other than milk or meat sources, which are not included in preceding categories of optional ingredients for ice cream may be authorized by the Department. 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 8 percent.

(c) Its content of food solids shall not be less than 1.3 lbs. per gallon of the finished product.

(d) If eggs or egg ingredients, as specified in regulation 2 (f) (1) are used there shall be no limit on the quantity of eggs or egg ingredients used.

(e) The weight of the finished product shall not be less than 4.5 lbs. per gallon.

(f) The name of the product is "parevine."

(g) When any artificial coloring is used in parevine, directly or as a component of any other ingredient, 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."

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

(i) The labeling with respect to optional ingredients shall correspond to those specified pursuant to regulation 2 (g).

(j) Parevine 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, provided, however, that parevine may be served for consumption on the premises provided that the individual service is taken from a properly labeled factory-filled container not larger than one-half gallon. When parevine is served for consumption on the premises, 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 "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.

(k) The label on packages of parevine shall, in addition to other required information, include a complete list of all ingredients in descending order of predominance, including the type of each edible fat or oil.

Regulation 17 "Special frozen dietary food" is any frozen milk product which includes a combination of one or more of the ingredients used in the manufacture of ice cream no matter under what coined or trade name it may be sold or offered for sale, the manufacturing process of which is similar to the process of manufacture of ice cream, and which contains added vitamins, minerals or edible carbohydrates. Such vitamins, minerals and edible carbohydrates must be approved by the Department.

(a) The manufacturer shall place the product in packages or containers which shall be conspicuously labeled "special frozen dietary food."

(b) The label shall also contain a conspicuous statement of usefulness of the food limited to a listing of the dietary properties upon which such use is based.

(c) The label of a special frozen dietary food which purports to be or is represented for special dietary use by reason of its vitamin or mineral properties shall identify each added vitamin or mineral by name, minimum amount added, and the percentage of the minimum adult daily requirement, as established by the National Academy of Science—National Research Council, represented by such addition.

(d) The label of a special frozen dietary food which purports to be or is represented for special dietary use by reason of its intake of protein, fat, carbohydrate, or calories, for the purpose of reducing or maintaining body

weight shall bear a statement of the quantity in grams of protein, fat, and available carbohydrates and a statement of the number of calories in a specified serving of such food; and the statement "for calorie restricted diets."

(e) The product shall not be sold in any manner other than in sealed or unbroken packages or containers from one or more separate compartments of a refrigerated container or cabinet.

Pursuant to authority of N.J.S.A. 24:10-73.1. and in accordance with applicable provisions of the Administrative Procedures Act, 1968, Regulations Establishing Definitions and Standards of Identity for Frozen Desserts, the text of which follows, is adopted this date by the State Department of Health and are to become effective immediately.

ORDERED at the Offices of the Commissioner, State Department of Health this 13th day of March 1973.

Regulation 18 Dietary Frozen Dessert; identity; label statements.

(a) The name of the food is dietary frozen dessert.

(b) Dietary frozen dessert is the food prepared by freezing while stirring a pasteurized mix containing one or more of the following ingredients: Optional dairy ingredients as permitted by Regulation 2 paragraph (c) of these regulations; sweetened with one or more of the optional sweetening ingredients permitted by Regulation 2 paragraph (d) of these regulations; one or more of the optional characterizing ingredients permitted by Regulation 2 paragraph (b) of these regulations. Other optional ingredients as permitted by Regulation 2 paragraph (f) of these regulations, and any safe and suitable stabilizers, emulsifiers, and non-nutritive sweeteners approved by the Commissioner. The finished product contains less than 2% by weight of ether extractable fat; its content of total milk solids is not less than 7% by weight. The product weighs no less than 4.5 pounds per gallon and the quantity of food solids per gallon is not less than 1.1 pounds nor more than 1.45 pounds. Caseinates may be added but they are not deemed to be milk solids.

(c) The labeling provisions provided by Regulation 2 (g). 2, 3, 4, 5, and 6 of this part shall apply.

(d) When any artificial coloring is used in dietary frozen dessert directly or as a component of any other ingredient, the label shall bear the statement, "artificially colored," "artificial color 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," if both artificial color and artificial flavoring are used, the label statements may be combined.

(e) One or more vitamins and/or minerals required in human nutrition may be added to the product. If any of such vitamins and/or minerals which are added are those for which Recommended Daily Dietary Allowances have been established by the Food and Nutrition Board of the National Research Council, National Academy of Sciences, then each four fluid ounce serving of finished dessert shall provide no less than 8% nor more than 20% of the Recommended Daily Dietary Allowances for adults for such vitamins and/or minerals. If vitamins or minerals are added to the product, the name of the food shall be im-

mediately preceded or followed with the word fortified in type of 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.

(f) Except when in conflict with the statutes of the State of New Jersey or with rules and regulations of the Commissioner, label statements on each package of the food for retail sale shall comply with all applicable provisions of CFR Title 21, part 125 (Label Statements Concerning Dietary Properties of Food Purporting to be or Represented for Special Dietary Uses.) The label on each package of dietary frozen dessert shall include a complete list of ingredients in descending order of predominance. If nutritive sweeteners are used in conjunction with non-nutritive sweeteners the statement (contains nutritive and non-nutritive sweeteners) shall immediately follow the name of the food in a size type easily read under customary circumstances of purchase.

(g) Dietary frozen dessert may only be sold in a properly labeled factory filled container except that it may be sold directly from a dispensing freezer. When dietary frozen dessert is sold directly from a dispensing freezer it shall be sold in a container labeled as required above.

Regulation 19 Freezer made milk shake; identity; label statement of ingredients.

(a) Freezer made milk shake means a pure, clean, wholesome semi-viscous drink prepared by stirring while freezing in a dispensing freezer a pasteurized mix consisting of milk fat, milk solids not fat, water, optional sweetening ingredients, with or without egg or egg products, with or without harmless flavoring, with or without harmless coloring, and with or without stabilizer, emulsifier or any other safe and suitable ingredients approved by the Commissioner. It shall contain not less than three and one-fourth percent and not more than six percent milk fat. It shall contain not less than ten percent milk solids not fat, it shall contain not more than one-half percentum by weight of stabilizer and not more than one-fifth of one percent emulsifier. Freezer made milk shake may only be sold or served from a dispensing freezer and may not be sold hard frozen.

(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 advertized, sold or served as milk shake.

(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 labeled in accordance with all applicable provisions of C F R Title 21, Part 125. (Label Statements Concerning Dietary Properties of Food Purporting to be or Represented for Special Dietary Uses.)

Regulation 20 Lo-Mel; identity; label statement of ingredients.

(a) "Lo-Mel" means a pure, clean, wholesome semi-viscous drink prepared by stirring while freezing in a dispensing freezer a mixture of edible fats or oils other than milk fat, milk solids not fat, water, optional sweetening ingredients as approved by the Commissioner, with or without egg or egg products, with or without harmless flavoring, with or without harmless coloring, and with or without stabilizer or emulsifier as approved by the Commissioner. It shall contain not more than six percent edible fats or oils other than milk fat. It shall contain not less than ten percent milk solids not fat. It may contain any other safe and suitable ingredients approved by the Commissioner. It shall contain not more than one-half percentum by weight of stabilizer and not more than one-fifth of one percent of emulsifier.

(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 from a dispensing freezer a sign must be displayed which shall read "Lo-Mel Served Here," in letters at least three inches in height and shall include a list of all ingredients in a manner prescribed by the Commissioner, provided, however, that the type of edible fats or oils other than milk fat 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 labeled in accordance with all applicable provisions of C F R Title 21, Part 125. (Label Statements Concerning Dietary Properties of Food Purporting to be or Represented for Special Dietary Uses.)