



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

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Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

Office of Food Protection and Consumer Health Services

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MARYLAND INTERPRETIVE MEMORANDUM (MIM)

<b>MIM #:</b>	08-03
<b>TO:</b>	Environmental Health Directors/ Food Program Supervisors/ Sanitarians
<b>FROM:</b>	Jody Menikheim, Chief, Division of Facility and Process Review
<b>DATE:</b>	June 12, 2008
<b>SUBJECT:</b>	Preparation of Frozen Desserts in Retail Food Service Facilities

The following information is provided in response to requests from local food programs for clarification on the preparation of frozen desserts in retail food service facilities. A frozen dessert menu item, offered only for onsite sale in the retail food facility where it is prepared, is regulated by the local food program under COMAR 10.15.03. The following requirements apply:

- The Person-In-Charge (PIC) must perform a HACCP evaluation on the recipe,
- The HACCP plan must be submitted to, and approved by, the local food program, and
- Sale of this product is limited to the premises where prepared (See "Note" below for information on selling this product from a stand or cart\*).

In contrast, frozen desserts prepared for off-premises sale are addressed under COMAR 10.15.05, "Manufacture and Sale of Frozen Dairy Foods and Ices Manufactured for Sale in Maryland". This chapter is enforced by the Office of Food Protection's Division of Milk Control. COMAR 10.15.05.26 (P) requires that frozen dessert formulations be pasteurized after ingredients are combined, or be made from a pasteurized mix. Only fruit, nuts and flavoring can be added without subsequent re-pasteurization.

\*Note: Any frozen dessert menu items prepared in a retail facility for sale from a stand or cart at a temporary event will remain under the authority of the local food program, provided the product is made from pasteurized mix to which nothing is added except fruit, nuts, and/or flavoring, and the facility making the product sells it directly to the consumer. As noted above, the Division of Milk Control will regulate operations where frozen desserts are not sold directly to the consumer, including wholesaling and distribution to other facilities.

This memorandum will be placed on the "Retail Facilities" page of the Office of Food Protection Website at: <http://www.cha.state.md.us/ofpchs/fc/retail.html>. Any questions regarding this document should be directed to the Division of Facility and Process Review at 410-767-8400. Questions specific to the manufacture of frozen desserts for off-premises sale or distribution should be directed to the Division of Milk Control Section Head, at 410-767-8429.

410-767-8400 • Fax 410-333-8931

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