

Regulation of the
Department of Consumer Protection

Concerning
Frozen Desserts

Regulations adopted after July 1, 2013, become effective upon posting to the website of the Secretary of the State, or at a later date specified within the regulation.

Website posted on
April 2, 2015

Effective Date
April 2, 2015

Approved by the Attorney General on
March 10, 2015

Approved by the Legislative Regulation Review
Committee on
March 24, 2015

Received and filed in the Office of the
Secretary of the State on
March 27, 2015

Electronic copy with agency head certification statement
submitted to the Office of the
Secretary of the State on
March 27, 2015

Published in the Connecticut Law Journal on

Purpose and Legal Disclaimer: This form was designed to facilitate submission of the "statement from the department head" required by CGS 4-172(a) as amended by PA 12-92, Section 6. This form does not constitute legal advice. The Office of the Secretary of the State (SOTS) is not authorized to provide legal advice to state agencies. Consult with your agency's legal counsel before completing and submitting this form for filing

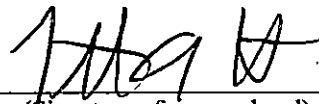
Instructions: (1) Save a copy of this document to your computer; (2) To enter data, use the Tab key to move between fields, or click-and-highlight an entire <text field>; (3) When complete, submit to your agency's legal counsel for review and approval; (4) After approval by counsel, PRINT and submit to your agency head for his/her original signature; (5) Scan the originally-signed form and submit it with the electronic copy of the regulation the statement certifies to the eRegulations System for processing and public website posting by the Office of the Secretary of the State; (6) retain the originally-signed copy for your agency's regulation-making record.

Electronic Copy Certification Statement

I, **Jonathan A. Harris**, Commissioner of the Department of Consumer Protection, in accordance with the provisions of Section 4-172 of the *General Statutes of the State of Connecticut*, do hereby certify:

That the electronic copy of a regulation concerning **Frozen Desserts**, which was approved by the Legislative Regulation Review Committee on **March 26, 2015**, and which shall be submitted electronically for filing to the Secretary of the State by **Tanya Washington** of this agency on **March 27, 2015**, is a true and accurate copy of the original regulation approved in accordance with Sections 4-169 and 4-170 of the *General Statutes of the State of Connecticut*.

In testimony whereof, I have hereunto set
my hand on **March 27, 2015**.



(Signature of agency head)

IMPORTANT: Use this form (REGS-1) to submit permanent regulations to the Legislative Regulation Review Committee.
For *emergency regulations*, use form REGS-1-E instead.
For *non-substantive technical amendments and repeals* proposed without prior notice or hearing as permitted by subsection (g) of CGS 4-168, as amended by PA 13-247 and PA 13-274, use form REGS-1-T instead.

Please read the additional instructions on the back of the last page (Certification Page) before completing this form. Failure to comply with the instructions may cause disapproval of proposed regulations.

State of Connecticut
REGULATION
of the

NAME OF AGENCY:

The Department of Consumer Protection

Concerning

SUBJECT MATTER OF REGULATION:

Frozen Desserts

Section 1. The Regulations of Connecticut State Agencies are hereby amended by adding section 21a-58-38 as follows:

(NEW) Sec. 21a-58-38. Exceptions to pasteurization of frozen dairy dessert mix

- (a) Frozen desserts with additives that meet the requirements of the latest revision of the Pasteurized Milk Ordinance (PMO), as adopted by reference in section 22-133-115 of the Regulations of Connecticut State Agencies, shall be permitted, provided that:
- (1) Such products shall be made with milk and milk products that have been pasteurized and have been obtained from a source operating in compliance with the most up to date version of the PMO, and all added ingredients shall meet the requirements of the PMO;
 - (2) Pasteurized milk and milk products used in production shall only come from single-use packaging, and said products shall be completely used in a single day's production; and
 - (3) Added powdered ingredients, other than flavorings, shall only come from aseptically packaged single-batch containers.
- (b) Frozen desserts that are produced from ingredients in accordance with subsection (a) of this section are exempt from the need to pasteurize the frozen dessert mix prior to flavoring and freezing, provided that the production process and resulting mix complies with the following specifications:
- (1) The frozen dessert shall be manufactured to be served directly to the consumer in single serving containers designed for consumption at the time of delivery, such as being scooped or spooned into cones or cups for immediate consumption;
 - (2) The frozen dessert shall be made with pasteurized dairy and pasteurized egg products obtained from single-use packaging, which products shall be completely used in a single day's production;

- (3) Sweeteners and flavorings approved for use for the particular type of frozen dessert shall be stored in a manner that would prevent contamination, and may be blended into the mix;
- (4) In addition to sweeteners and flavorings, other ingredients allowed for frozen desserts as specified in this section may be added provided they are packaged in aseptic packaging and are used completely within a single day's production;
- (5) Make sheets shall be maintained for each base batch with a tracking system that allows easy traceability of all the ingredients used in each batch;
- (6) Dairy, egg and other perishable ingredients, and the prepared mix, shall be held at or below 38° F at all times. If the mix is to be "heat treated," the target temperature shall be reached not later than sixty (60) minutes after starting the heating process, and after heat treatment is concluded, it shall not take longer than sixty (60) minutes for the mix to be cooled to 38° F or below;
- (7) The mix shall be frozen within one hundred forty four (144) hours of preparation;
- (8) Unfrozen mix shall be date marked in a manner consistent with the requirements set forth in the Uniform Open Dating Regulation, as amended from time to time by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology Handbook 130, or subsequent corresponding handbook of the United States Department of Commerce. The dates of preparation and disposal shall be indicated on any prepared product; and
- (9) All other applicable regulations shall be complied with.

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

PURPOSE

The purpose of these regulations is provide an alternate means of production for the manufacture and retail sale of frozen desserts. To ensure an unadulterated product, the regulations allow the mixing of previously pasteurized products, require the use of specific refrigeration temperatures for such derived mixtures, and also require date marking.

SUMMARY

With these regulations, retail manufacturers of frozen desserts will be allowed to employ an alternate production process which makes use of previously pasteurized ingredients.

LEGAL EFFECTS

The legal effect of this proposal would be to add an alternate new set of standards for the preparation of frozen desserts.

(Certification page—see Instructions on back)

CERTIFICATION

This certification statement must be completed in full.

I hereby certify that the above Regulation(s)

- 1) is/are (check all that apply) adopted amended repealed by this agency pursuant to the following authority(ies): (complete all that apply)
- a. **Connecticut General Statutes section(s)** 4-168 and 21a-58.
- b. **Public Act Number(s)** _____.
(Provide public act number(s) if the authorizing act has not yet been codified in the Connecticut General Statutes.)

And I further certify

- 2) that **Notice of Intent** to adopt, amend or repeal said regulation(s) was electronically submitted to the Secretary of the State on 09-02-2014, and posted to the Secretary's regulations website on 09-03-2014; *(Insert dates notice was (a) emailed to the Secretary of the State and (b) posted on the Secretary's website, if notice and posting were required by CGS 4-168, as amended by PA 13-247 and PA 13-274.)*
- 3) and that a public hearing regarding the proposed regulation(s) was held on 10-09-2014 or that no public hearing was held; *(Insert date(s) of mandatory public hearing(s) held pursuant to CGS 4-168(a), as amended, or other applicable statute, and/or voluntary hearing, or if no hearing was held, check the box for that statement.)*
- 4) and that notice of **Decision to Take Action** on said regulations was electronically submitted to the Secretary of the State on 11-21-2014, and posted to the Secretary's regulations website on 12-01-2014; *(Insert dates notice was (a) emailed to the Secretary of the State and (b) posted on the Secretary's website, if notice and posting were required by CGS 4-168, as amended by PA 13-247 and PA 13-274.)*
- 5) and that said regulation(s) is/are **EFFECTIVE** (check one, and complete as applicable)
- When posted online by the Secretary of the State.

OR on (insert date) _____.

6) SIGNED (Head of Board, Agency or Commission)	OFFICIAL TITLE, DULY AUTHORIZED	DATE
	Commissioner of Consumer Protection	3/4/15

APPROVED by the Attorney General as to legal sufficiency in accordance with CGS Section 4-169, as amended.

DATE	SIGNED (Attorney General or AG's designated representative)	OFFICIAL TITLE, DULY AUTHORIZED
3/10/15	 Joseph Rubin	ASSOC. ATTY. GENERAL

Proposed regulations are **DEEMED APPROVED** by the Attorney General in accordance with CGS Section 4-169, as amended, if the Attorney General fails to give notice to the agency of any legal insufficiency within thirty (30) days of the receipt of the proposed regulation.

(For Regulation Review Committee Use ONLY)

APPROVED in WHOLE or WITH technical corrections deletions substitute pages

DEEMED APPROVED, pursuant CGS 4-170(c), as amended.

Rejected without Prejudice Disapproved, pursuant to CGS 4-170(c), as amended.

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended	DATE	SIGNED (Administrator, Legislative Regulation Review Committee)
	3-24-15	

In accordance with CGS Section 4-172, as amended by PA 13-247 and PA 13-274, one certified paper copy and one electronic copy with agency head certification statement received on the date(s) specified below.

DATE	SIGNED (Secretary of the State)	BY

(For Secretary of the State Use ONLY)

Date Posted to SOTS Regulations Website:

Date Electronic Copy Forwarded to the Commission on Official Legal Publications:

SOTS file stamp:

GENERAL INSTRUCTIONS

1. All regulations proposed for adoption, amendment or repeal, *except* emergency regulations, must be presented to the Attorney General for determination of legal sufficiency. (See CGS Section 4-169.)
2. After approval by the Attorney General, the original and one electronic copy (in Word format) of all regulations proposed for adoption, amendment or repeal must be presented to the Legislative Regulation Review Committee for its action. (See CGS Section 4-168, as amended by PA 13-247, section 28, and PA 13-274, and CGS Section 4-170.)
3. Each proposed regulation section must include the appropriate regulation section number and a section heading. (See CGS Section 4-172.)
4. New language added to an existing regulation must be in underlining or CAPITAL LETTERS, as determined by the Regulation Review Committee. (See CGS 4-170(b).)
5. Existing language to be deleted must be enclosed in [brackets]. (See CGS 4-170(b).)
6. A completely new regulation or a new section of an existing regulation must be preceded by the word "(NEW)" in capital letters. (See CGS Section 4-170(b).)
7. The proposed regulation must have a statement of its purpose following the final section of the regulation. (See CGS Section 4-170(b).)
8. The *Certification Statement* portion of this form must be completed, including all applicable information regarding notice submission and website posting date(s) and public hearing(s). (See more specific instructions below.)
9. Additional information regarding rules and procedures of the Legislative Regulation Review Committee can be found on the Committee's web site: <http://www.cga.ct.gov/lrr/>.
10. A copy of the Legislative Commissioners' Regulations Drafting Manual is located on the LCO website at http://www.cga.ct.gov/lco/pdfs/Regulations_Drafting_Manual.pdf.

CERTIFICATION STATEMENT INSTRUCTIONS

(Numbers below correspond to the numbered sections of the *Certification Statement* page)

1. a) Indicate whether the regulation contains newly adopted sections, amendments to existing sections, and/or repeals of existing sections. **Check all cases that apply.**
b) Indicate the specific legal authority that permits or requires adoption, amendment or repeal of the regulation. If the relevant public act has been codified in the most current biennial edition of the *Connecticut General Statutes*, indicate the relevant statute number(s) instead of the public act number. If the public act has not yet been codified, indicate the relevant public act number.
2. An agency must electronically submit notice of its intent to adopt the regulation to the Secretary of the State at regulations.sots@ct.gov for posting on the Secretary's regulations website. Enter both the date notice of intent was submitted to the Secretary of the State *and* the date the notice was posted on the Secretary's website. For emergency regulations, use Form Regs-1-E instead of this form. For non-substantive technical amendments and repeals adopted without prior notice or hearing as permitted by subsection (g) of CGS 4-168, use Form REGS-1-T instead of this form.
3. CGS 4-168(a), as amended by PA 13-247 and PA 13-274, prescribes requirements for holding a public hearing on proposed regulations. Enter the date(s) of all hearing(s) held under that section, if any, also enter the date(s) of any hearing(s) the agency was required to hold under the provisions of any other law; and enter the date(s) of any public hearing(s) the agency elected to hold voluntarily. If no public hearing was held, mark (X) the check box.
4. **NEW REQUIREMENT:** CGS 4-168(d), as amended by PA 13-247 and PA 13-274, prescribes requirements electronically submitting notice of decision to take action (proceed with adoption) of a proposed regulation for posting to the Secretary's regulations webpage. Enter both the date notice of decision was submitted to the Secretary of the State *and* the date the notice was posted on the Secretary's website.
5. As applicable, enter the specific effective date of the regulation; or indicate that it is effective upon posting online by the Secretary of the State. **Please note the important information below.**
Permanent regulations adopted after July 1, 2013 are effective upon posting online by the Secretary of the State (SOTS), or at a *later* date specified by the agency, or at a *later* date if required by statute. See CGS 4-172(b). An effective date may not precede the date of posting online by SOTS, and it may not precede the effective date of the public act requiring or permitting the regulation.
6. Submit the original proposed regulation to your agency commissioner for signature.