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Fast-Track Regulation Agency Background Document

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) Chapter citation(s)	2 VAC 5-510
VAC Chapter title(s)	Rules and Regulations Governing the Production, Processing, and Sale of Ice Cream, Frozen Desserts, and Similar Products
Action title	Amendments to update regulation to provide clarification and remove duplication
Date this document prepared	May 31, 2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This regulatory action will update the existing Rules and Regulations Governing the Production, Processing, and Sale of Ice Cream, Frozen Desserts, and Similar Products (Regulations), which are based on the U.S. Department of Agriculture's (USDA) General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service. The amendments are necessary to ensure food safety regulations reflect the most current science, knowledge, and emerging technologies; remain current with other federal laws; and provide the highest level of public health protection.

The Regulations establish minimum sanitary standards for frozen dessert plants and the standards of identity for frozen dessert products. The Regulations include requirements pertaining to the safe and sanitary maintenance, storage, operation, and use of equipment; the safe handling, protection, and preservation of frozen dessert products; the proper pasteurization techniques used to ensure dairy

ingredients in frozen desserts are safe for consumers; proper lighting and ventilation; proper equipment design and cleanability; proper facility construction; and personal hygiene for employees.

The proposed regulatory action amends the existing Regulations by replacing the current text for standards of identities for frozen dessert products with references to the standards of identities promulgated in the Code of Federal Regulations (21 CFR Part 135); removing the requirement for out-of-state importers to obtain a permit to operate a frozen dessert plant from the Commissioner; providing flexibility through regulation in determining required processing steps to ensure consumer safety; removing all references to retail sale; allowing the use of electronic record keeping systems; aligning requirements in the Regulations with other existing dairy-related regulations; enhancing record keeping procedures to further protect public health through lot traceability; and updating the referenced version of documents incorporated by reference.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

"CFR" means Code of Federal Regulations.

"Commissioner" means the Commissioner of Agriculture and Consumer Services.

"FDA" means the U.S. Food and Drug Administration.

"Frozen dessert" means any or all of the following: ice cream, frozen custard, french ice cream, french custard ice cream, ice milk, fruit sherbet, water ice, non-fruit sherbet, non-fruit water ice, artificially sweetened ice cream or frozen dietary dairy dessert, artificially sweetened ice milk, frozen yogurt, quiescently frozen confection, quiescently frozen dairy confection, mellorine, parevine, lowfat parevine, freezer made milk shake, freezer made shake, those products manufactured or sold in semblance to or as substitutes for the foregoing frozen desserts, and any mix used in the freezing of the foregoing frozen desserts.

"USDA" means the U.S. Department of Agriculture.

"Board" means the Board of Agriculture and Consumer Services.

"Department" or "VDACS" means the Department of Agriculture and Consumer Services.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On May 23, 2024, the Board adopted amendments to 2 VAC 5-510, *Rules and Regulations Governing the Production, Processing, and Sale of Ice Cream, Frozen Desserts, and Similar Products.*

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.

There is no mandate for this regulatory action. The agency initiated this regulatory action to update and clarify certain provisions in the Regulations in order to make it more easily understood. Additionally, this regulatory action will eliminate duplicative requirements and inspections for retail frozen dessert establishments that are currently permitted in accordance with the Virginia Food and Drink Law.

The agency expects the proposed changes will be noncontroversial because they include the elimination of the requirement that importers of frozen desserts obtain a permit to operate a frozen dessert plant from the Commissioner and provisions allowing for less costly electronic recordkeeping capabilities and do not create new requirements for existing permit holders.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Section 3.2-109 of the Code of Virginia (Code) establishes the Board as a policy board with the authority to adopt regulations in accordance with the provisions of Title 3.2 of the Code.

Section 3.2-5212 of the Code authorizes the Board to establish definitions and standards of quality and identity and to adopt and enforce regulations dealing with the issuance of permits, labeling, and sanitary standards for ice cream, ice milk, frozen custards, sherbets, water ices, related foods, other similar products, and those products manufactured or sold in semblance to or as substitutes for those products.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

This regulation is essential to the protection of the health and welfare of citizens in that it sets the necessary standards of operation for the production of Virginia-made frozen desserts to (i) provide a system of prevention and overlapping safeguards designed to minimize foodborne illness; (ii) ensure that employees are healthy, food is safe, equipment used is easily cleaned and kept in a sanitary condition, and acceptable levels of sanitation are maintained in manufacturing facilities; and (iii) promote Virginia's dairy and frozen dessert industry.

The goal of the Regulations and the proposed amendments is to maintain a scientifically sound basis for regulation of the frozen dessert manufacturing industry. The amendments proposed to the existing regulation are necessary to ensure appropriate measures are in place to address emerging and ongoing food safety concerns that exist within an evolving food industry.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

Substantive changes to the Regulations are as follows:

1. Standards of Identity – Removed standards of identity that have a counterpart in the CFR and incorporated the CFR standards of identity by reference.
2. Out of state operators – Removed the requirement that importers obtain a permit to operate a frozen dessert plant from the Commissioner.
3. Recall plans – Added requirement for recall plans. Permit holders currently submit recall plans to the Department during the permit application process as a best practice. The addition of this requirement aligns this regulation with requirements set forth in other dairy-related regulations.
4. Flexibility of determining required processing steps – Clarified language regarding whether frozen desserts must be re-pasteurized at a receiving plant prior to further sale or distribution. This allows the Department the flexibility to evaluate, on a case-by-case basis, manufacturer processing steps and practices to ensure that finished products are safe to consume, while relaxing the requirement to re-pasteurize certain products.
5. Comprehension, clarity, and ease of understanding – Amended many sections solely to make them more easily readable and understood by all relevant stakeholders.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantage to the public related to the proposed amendments is the associated reduction of the risk of foodborne illnesses within frozen dessert establishments, thus protecting consumers and industry from potentially devastating health consequences and financial losses. The revisions will also make the Regulations more understandable and align them with best practices. Furthermore, all frozen desserts with a current standard of identity in the CFR will no longer have a state-specific standard of identity, and importers of frozen dessert products will no longer be required to obtain a permit to operate a frozen dessert plant from the Commissioner. The proposed amendments will also result in additional flexibility in determining required processing steps. Another advantage is the removal of duplicative permitting and inspection requirements for retail frozen dessert establishments that are permitted in accordance with the Virginia Food and Drink Law.

The primary advantage to the agency related to the proposed amendments is the alignment of the Regulations with current food science and the clarification of ambiguous areas relating to enforcement and inspection standards.

There are no known disadvantages to the public or the Commonwealth with the adoption of the proposed amendments.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no requirements in the proposed amendments to the Regulations that are more restrictive than those currently established in federal law.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

No state agencies will bear a disproportionate material impact.

Localities Particularly Affected

No localities will bear a disproportionate material impact.

Other Entities Particularly Affected

No specific entities will bear disproportionate material impact not experienced by other entities.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and</p>	<p>No expected changes to costs, savings, fees, or revenues as a result of the proposed regulatory change.</p>
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c) whether any costs or revenue loss can be absorbed within existing resources	
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	No expected changes to costs, savings, fees, or revenues as a result of the proposed regulatory change.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	Benefits include alignment with existing standards of identity in the CFR, which promotes uniformity of food standards of identity, reflects the most current science and knowledge regarding food safety, and improvement of agency understanding of food safety expectations.

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees or revenues resulting from the regulatory change.	Analysis of the impact of the proposed amendments on localities has been reported on the ORM Economic Impact form under Table 2.
Benefits the regulatory change is designed to produce.	Analysis of the impact of the proposed amendments on localities has been reported on the ORM Economic Impact form under Table 2.

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	Analysis of the impact of the proposed amendments on other entities has been reported on the ORM Economic Impact form under Tables 1, 3, and 4.
Agency’s best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	Analysis of the impact of the proposed amendments on other entities has been reported on the ORM Economic Impact form under Tables 1, 3, and 4.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses;	Analysis of the impact of the proposed amendments on other entities has been reported on the ORM Economic Impact form under Tables 1, 3, and 4.

b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	
Benefits the regulatory change is designed to produce.	Analysis of the impact of the proposed amendments on other entities has been reported on the ORM Economic Impact form under Tables 1, 3, and 4.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

The Department considered repealing the Regulations and regulating the frozen desserts industry utilizing only the requirements established in the Virginia Milk, Milk Products, and Dairies Law (Va. Code § 3.2-5200 et seq.). However, the Code does not provide specific requirements sufficient to adequately protect the health and welfare of consumers and the industry.

Section 3.2-5201 of the Milk, Milk Products, and Dairies Law requires that regulations adopted for the purpose of sanitation and to prevent deception be guided by the regulations adopted by the U.S. Department of Health and Human Services and USDA. The current Regulations are in conformance and consistent with the model regulations set forth by the USDA and the U.S. Food and Drug Administration.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

No alternative methods are available, as the proposed amendments are necessary and do not impose unreasonably stringent compliance or reporting requirements. The amendments represent the simplest and most effective standards and reporting requirements, and they allow flexibility for small businesses while protecting public health. The agency has determined that it is not appropriate to establish less stringent requirements for small businesses.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held by completing the text below.

Consistent with § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Board of Agriculture and Consumer Services is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email, or fax to

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In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are

being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
510-10		<p>Section: “Definitions.” This section provides definitions to terms used throughout the regulation.</p>	<p>Intent: The proposed change amends, adds, or removes the definitions for the following terms:</p> <p>“3-A Accepted Practices” “3-A Sanitary Standards” “Adulterated milk, milk products, and frozen desserts” “Cleaned in place” “Commissary or depot” “Frozen dessert” “Frozen desserts manufacturer” “Frozen desserts plant” “Frozen desserts retail establishment” “Harmless” “Misbranded” “Mobile unit” “Official methods” “Pasteurization” “Permit” “Permit holder” “Plant”</p> <p>“3-A Sanitary Standards” “State Regulatory Authority” “Summarily suspend” “VDACS”</p> <p>Rationale: Remove definitions for terms that are no longer used. Update definitions to provide clarity for proposed amendments. Provide clarity to existing definitions.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-20		<p>Section: “Uniformity of enforcement.” This section provides a description of how this Chapter should be enforced on a statewide basis.</p>	<p>Intent: Technical edits are proposed so that the section is more easily read and understood throughout.</p> <p>Rationale: To improve the understanding and application of the regulations.</p> <p>Impact: Improved understanding and application of the regulations.</p>

<p>510-30</p>		<p>Section: “Ice cream; identity; label statement of optional ingredients”</p> <p>This section establishes the requirements pertaining to the preparation of ice cream</p>	<p>Intent: Combine Sections 30, 40, and –50 into one section. Remove state-specific standard of identity and incorporate applicable CFR for ice cream or frozen custard instead.</p> <p>Rationale: To replace state-specific requirements with existing, equivalent federal requirements.</p> <p>Impact: Improved understanding and application of the regulations.</p>
<p>510-40</p>		<p>Section: “Ice Cream Mix”</p> <p>This section defines ice cream mix</p>	<p>Intent: Repeal existing section and consolidate it with Section 30.</p> <p>Rationale: To replace state-specific requirements with existing, equivalent federal requirements.</p> <p>Impact: Improved understanding and application of the regulations.</p>
<p>510-50</p>		<p>Section: “Frozen custard, french ice cream, french custard ice cream; identity; label statement of optional ingredients; frozen custard mix, french ice cream mix, and french custard ice cream mix.”</p> <p>This section establishes the requirements pertaining to the preparation of frozen custard, french ice cream, and french custard ice cream</p>	<p>Intent: Repeal existing section and consolidate it with Section 30.</p> <p>Rationale: To replace state-specific requirements with existing, equivalent federal requirements..</p> <p>Impact: Improved understanding and application of the regulations.</p>
<p>510-90</p>		<p>Section: “Fruit sherbets; identity; label statement of optional ingredients; fruit sherbet mix”</p> <p>This section establishes the requirements pertaining to the preparation of fruit sherbet.</p>	<p>Intent: Consolidate fruit sherbet section (Section 90) and non-fruit sherbet section (Section 130). Replace state-specific standard of identity with applicable federal requirements.</p> <p>Rationale: To replace state-specific requirements with existing, equivalent to federal requirements.</p> <p>Impact: Improved understanding and application of the regulations.</p>

510-110		<p>Section: “Water ices; identity; label statement of optional ingredients; water ice mix”</p> <p>This section establishes the requirements pertaining to the preparation of water ice.</p>	<p>Intent: Consolidate water ice section (Section 110) and nonfruit water ice section (Section 150).. Replace state-specific standard of identity with applicable federal requirements.</p> <p>Rationale: To replace state-specific requirements with existing, equivalent federal requirements.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-130		<p>Section: “Nonfruit sherbets; identity; label statement of optional ingredients; nonfruit sherbet mix”</p> <p>This section establishes the requirements pertaining to the preparation of nonfruit sherbet.</p>	<p>Intent: Repeal Section 130 and consolidate fruit sherbet section (Section 90) and non-fruit sherbet section (Section 130) Replace state-specific standard of identity with applicable federal requirements.</p> <p>Rationale: To replace state-specific requirements with existing, equivalent federal requirements.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-150		<p>Section: “Nonfruit water ices; identity; label statement of optional ingredients; non fruit water ice mix”</p> <p>This section establishes the requirements pertaining to the preparation of nonfruit water ice.</p>	<p>Intent: Repeal section and consolidate water ice section (Section 110 and nonfruit water ice section (Section 150). Replace state-specific standard of identity with applicable federal requirements.</p> <p>Rationale: To replace state-specific requirements with existing, equivalent federal requirements.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-170		<p>Section: “Artificially sweetened ice cream or frozen dietary dairy dessert; identity; label statement of optional ingredients; artificially</p>	<p>Intent: Repeal section, as proposed Section 30 establishes requirements for all ice cream.</p>

		<p>sweetened ice cream or frozen dietary dessert mix”</p> <p>This section establishes the requirements pertaining to the preparation of an artificially sweetened ice cream or frozen dietary dairy dessert</p>	<p>Rationale: To replace state-specific requirements with existing, equivalent to federal requirements.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-190		<p>Section: “Artificially sweetened ice milk; identity; label statement of optional ingredients; artificially sweetened ice milk mix”</p> <p>This section establishes the requirements pertaining to the preparation of an artificially sweetened ice milk</p>	<p>Intent: Repeal section.</p> <p>Rationale: The section states that the product shall conform to the standard of identity of another product in a section that was previously repealed.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-210		<p>Section: “Frozen yogurt; identity; label statement of optional ingredients; frozen yogurt mix”</p> <p>This section establishes the requirements pertaining to the preparation of frozen yogurt.</p>	<p>Intent: Replace “which” with “that” in subsection A. Provide proper scientific name format for bacteria in subsection B. Remove confusing language in subsection C.</p> <p>Rationale: To improve understanding and application of the regulations.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-240		<p>Section: “Quiescently frozen confection; identity; label statement of optional ingredients; quiescently frozen confection mix”</p> <p>This section establishes the requirements pertaining to the preparation of a quiescently frozen confection</p>	<p>Intent: Replace “may contain not” with “shall not contain” in subsection A.</p> <p>Rationale: To remove confusing language.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-260		<p>Section: “Quiescently frozen dairy confection; identity; label statement of optional ingredients; quiescently frozen dairy confection mix”</p>	<p>Intent: Add “pasteurized” to subsection A to clarify that all dairy products used in frozen desserts must be pasteurized.</p>

		<p>This section established the requirements pertaining to the preparation of a quiescently frozen dairy confection</p>	<p>Rationale: To clarify existing language.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-280		<p>Section: “Manufactured desserts mix; identity; label statement of optional ingredients”</p> <p>This section establishes requirements for the preparation of a manufactured desserts mix</p>	<p>Intent: Removed “harmless” and incorporated the applicable section of the CFR to clarify acceptable gases that may be used in food products.</p> <p>Rationale: To clarify existing language.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-290		<p>Section: “Mellorine; identity; label statement of optional ingredients; mellorine mix”</p> <p>This section establishes requirements for the preparation of mellorine</p>	<p>Intent: Replace the state-specific standard of identity with applicable federal requirements.</p> <p>Rationale: To replace state-specific requirements with existing, equivalent federal requirements.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-310		<p>Section: “Parevine; parevine mix”</p> <p>This section establishes requirements for the preparation of parevine</p>	<p>Intent: Editorial changes were needed so that the section is more easily read and understood.</p> <p>Rationale: To clarify confusing language.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-330		<p>Section: “Lowfat parevine; lowfat parevine mix”</p> <p>This section establishes requirements for the preparation of lowfat parevine</p>	<p>Intent: Editorial changes were needed so that the section is more easily read and understood.</p> <p>Rationale: To clarify confusing language.</p> <p>Impact: Improved understanding and application of the regulations.</p>

510-350		<p>Section: “Freezer made milk shake; identity; label statement of optional ingredients; freezer made milk shake mix”</p> <p>This section establishes requirements for the preparation of freezer made milk shakes</p>	<p>Intent: Removed restriction that shakes may only be sold or served from a dispenser freezer and not sold hard frozen. Editorial changes were needed so that the section is more easily read and understood .</p> <p>Rationale: To remove requirements that pertain to retail sales in order to focus the regulation on manufacturing and processing. To clarify confusing language.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-370		<p>Section: “Freezer made shake mix”</p> <p>This section establishes requirements pertaining to the preparation of freezer made milk shakes</p>	<p>Intent: Repeal existing section.</p> <p>Rationale: The section has language that is duplicative of existing text in Section 350.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-380		<p>Section: “Frozen desserts; identity”</p> <p>This section outlines what products are considered frozen desserts.</p>	<p>Intent: Repeal existing section.</p> <p>Rationale: The section’s language is a definition, and therefore has been moved to the “Definitions” section.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-390		<p>Section: “Imitation frozen desserts; identity; prohibitions, exceptions, filings confidential”</p> <p>This section establishes requirements for the preparation of imitation frozen desserts</p>	<p>Intent: Removed requirement pertaining to the retail sale of imitation frozen desserts. Editorial changes were needed so that the section is more easily read and understood throughout.</p> <p>Rationale: To remove requirements that pertain to retail sale in order to focus the regulation on manufacturing and processing. To clarify confusing language.</p>

			<p>Impact: Improved understanding and application of the regulations.</p>
N/A	510-415	<p>Section: “Recall plan”</p>	<p>Intent: To require the submission of a recall plan to the agency, and to require the firm to initiate their recall plan when a public health hazard exists.</p> <p>Rationale: To establish requirements similar to those that already established in other dairy-related regulations, 2 VAC 5-531, 2 VAC 5-490, and 21 CFR Part 117.</p> <p>Impact: Improved safety and prevention of food borne illness. Improved understanding and application of the regulations.</p>
510-420		<p>Section: “Issuing, suspension, and revocation of permits”</p> <p>This section outlines the requirements to obtain a permit to manufacture frozen desserts and the circumstances under which suspension of such permit may occur.</p>	<p>Intent: To remove the requirement that importers of frozen desserts and retail frozen dessert establishments must possess a permit to operate a frozen dessert plant from the Commissioner. Added subsections to clarify what actions would warrant a permit suspension.</p> <p>Rationale: To align with requirements already established in other dairy-related regulations, 2 VAC 5-531 and 2 VAC 5-490.</p> <p>Impact: Improved safety and prevention of food borne illness. Improved understanding and application of the regulations.</p>
510-430		<p>Section: “Name and address of manufacturer, statement of quantity, product identity, and optional ingredients”</p> <p>This section outlines the requirements of labelling a frozen dessert product.</p>	<p>Intent: Replace internal reference to a Part of this regulation that is proposed to be amended with references to the existing federal requirements.</p> <p>Rationale: To clarify confusing language. To reference existing 21 CFR Part 101 and 21 CFR Part 135.</p> <p>Impact: Improved understanding and application of the regulations.</p>

510-440		<p>Section: “Frequency, filing of inspection reports and confidentiality”</p> <p>This section outlines the requirements for conducting inspections and leaving a copy of the inspection report with the manufacturing plant.</p>	<p>Intent: Removed references to retail facilities. Editorial changes were needed so that the section is more easily read and understood throughout.</p> <p>Rationale: To remove requirements pertaining to retail sales in order to focus the regulation on manufacturing and processing. To clarify confusing language.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-450		<p>Section: “Product test procedures and the examination of frozen desserts and their ingredients.”</p> <p>This section outlines the frequency of obtaining products samples and how samples must be tested</p>	<p>Intent: Removed requirements to sample products from retail facilities and to sample freezer-made shake products. Moved text from existing Definitions section to this more appropriate section. Editorial changes were needed so that the section is more easily read and understood throughout.</p> <p>Rationale: To remove requirements pertaining to retail sales in order to focus the regulation on manufacturing and processing. To clarify confusing language.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-460		<p>Section: “Quality Standards for pasteurized dairy ingredients, pasteurized and unpasteurized mixes, or frozen desserts”</p> <p>This section outlines the maximum allowable microbiological and temperature limits for frozen dessert products</p>	<p>Intent: To add Celsius temperature equivalents. Editorial changes were needed so that the section is more easily read and understood throughout.</p> <p>Rationale: To standardize temperature equivalents. To clarify confusing language.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-470		<p>Section: “Written notices, removal of products from sale and permit suspension”</p>	<p>Intent: To provide a manufacturing facility an additional week to determine and address quality issues before its permit may be suspended due to previous violations. Editorial changes were needed so that the</p>

		<p>This section establishes when the agency must issue warning and suspension notices to firms that are in violation of 510-460.</p>	<p>section is more easily read and understood throughout.</p> <p>Rationale: To relax existing requirement. To clarify confusing language.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-490		<p>Section: “Building”</p> <p>This section outlines the requirements for frozen dessert manufacturing plant physical structures.</p>	<p>Intent: Editorial changes were needed so that the section is more easily read and understood throughout.</p> <p>Rationale: To maintain consistent terminology throughout the regulation.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-500		<p>Section: “Facilities”</p> <p>This section outlines the requirements for frozen dessert manufacturing plant utilities.</p>	<p>Intent: Removed requirement to provide facilities for drinking water. Removed requirement establishing the manner in which dry waste paper shall be disposed of. Moved text from existing Section 640 to this more appropriate section. Updated documents incorporated by reference to their most recent version. Editorial changes were needed so that the section is more easily read and understood throughout.</p> <p>Rationale: To clarify confusing language.</p> <p>Impact: Improved understanding and application of the regulations.</p>
N/A	510-505	<p>Section: “Rooms used for domestic purposes”</p>	<p>Intent: Provided for allowance of a toilet room to be located outside of the manufacturing facility (i.e., a house). To require that no part of the manufacturing plant is to be accessed through any room used for domestic purposes (i.e., bedroom).</p> <p>Rationale: To align regulation with requirements already established in</p>

			<p>other dairy-related regulations, 2 VAC5-531 and 2 VAC 5-490.</p> <p>Impact: Improved safety and prevention of food borne illness. Improved understanding and application of the regulations.</p>
510-510		<p>Section: “Equipment and utensils”</p> <p>This section outlines the requirements for equipment and utensils used in frozen dessert manufacturing plants.</p>	<p>Intent: Updated documents incorporated by reference to their most recent version. The changes between 3-A Sanitary Standard Number 20-21 and 20-27 reflect updates to the types of plastics to which the sanitary standards apply. The changes between 3-A Sanitary Standard Number 603-06 and 603-07 reflect the inclusion of new definitions, updated provisions for higher-heat shorter-time processing technology and alternate types of thermometers, and formatting changes. The changes between 3-A Sanitary Standard Number 24-02 and 24-03 primarily reflect reformatting and standardization of the language with other 3-A Sanitary Standards.</p> <p>Added requirement that storage tanks, when used, must be cleaned and sanitized every 72 hours. Editorial changes were needed so that the section is more easily read and understood throughout.</p> <p>Rationale: To clarify confusing language. To align regulation with requirements that already exist in other dairy-related regulations such as 2 VAC 5-490.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-520		<p>Section: “Vehicles”</p> <p>This section outlines the requirements for vehicles used to transport frozen desserts and dairy products.</p>	<p>Intent: Editorial changes were needed so that the section is more easily read and understood throughout.</p> <p>Rationale: To clarify confusing language.</p>

			Impact: Improved understanding and application of the regulations.
510-530		<p>Section: “Frozen desserts retail establishments”</p> <p>This section outlines the requirements for frozen desserts retail establishments.</p>	<p>Intent: Repeal existing Section</p> <p>Rationale: To remove requirements pertaining to retail sales in order to focus the regulation on manufacturing and processing.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-540		<p>Section: “Frozen desserts retail establishments which reconstitute powder or dry frozen desserts mix”</p> <p>This section outlines the requirements for frozen desserts retail establishments that reconstitute powder or dry mixes.</p>	<p>Intent: Removed requirements for retail establishments. Moved text from existing Section 550 to this more appropriate section. Editorial changes were needed so that the section is more easily read and understood throughout.</p> <p>Rationale: To remove requirements pertaining to retail sales in order to focus the regulation on manufacturing and processing. To clarify confusing language.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-550		<p>Section: “Pasteurization of frozen dessert mix”</p> <p>This section outlines the requirements for pasteurization of frozen dessert mixes.</p>	<p>Intent: Added requirements to ensure clarification and flexibility in determining when or if frozen dessert products must be re-pasteurized. Moved text from this existing section to the more appropriate section, Section 540. Editorial changes were needed so that the section is more easily read and understood throughout.</p> <p>Rationale: To allow for manufacturers who purchase pre-pasteurized mix to further distribute or process without re-pasteurizing, so long as their process is evaluated by VDACS and deemed safe for consumers. To clarify confusing language.</p>

			<p>Impact: Improved safety and prevention of food borne illness. Improved understanding and application of the regulations.</p>
510-560		<p>Section: “Cooling”</p> <p>This section outlines the cooling requirements for frozen dessert mixes and fluid dairy products.</p>	<p>Intent: Added requirement that storage tanks, when used, must be cleaned and sanitized every 72 hours.</p> <p>Rationale: To align regulation with other dairy-related regulations such as 2 VAC 5-490.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-570		<p>Section: “Storage”</p> <p>This section outlines the requirements for how equipment, packaging, and frozen desserts should be stored.</p>	<p>Intent: Editorial changes were needed so that the section is more easily read and understood throughout.</p> <p>Rationale: To clarify confusing language.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-600		<p>Section: “Lubricants”</p> <p>This section outlines the requirement that lubricants must be safe for product contact surfaces and applied sanitarily.</p>	<p>Intent: Editorial changes were needed so that the section is more easily read and understood throughout.</p> <p>Rationale: To clarify confusing language.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-610		<p>Section: “Cleanliness”</p> <p>This section outlines the requirements for employee hygiene.</p>	<p>Intent: Editorial changes were needed so that the section is more easily read and understood throughout.</p> <p>Rationale: To clarify confusing language.</p> <p>Impact: Improved understanding and application of the regulations.</p>

<p>510-620</p>		<p>Section: “Health”</p> <p>This section outlines the requirements that employees with communicable diseases shall not be allowed to prepare or handle frozen desserts.</p>	<p>Intent: Removes the requirements that employees shall have a medical and physical examination and provide a medical certificate to that effect prior to employment. Editorial changes were needed so that the section is more easily read and understood throughout.</p> <p>Rationale: To not restrict employment potential based on medical reasons or access to medical facilities. To clarify confusing language.</p> <p>Impact: Improved understanding and application of the regulations.</p>
<p>510-630</p>		<p>Section: “Availability”</p> <p>This section outlines the requirement that plants must make available any required records to the agency at reasonable times.</p>	<p>Intent: To include the requirement that the plant shall make available for the Department records pertaining to 21 CFR Part 117, if such are applicable to the plant. Editorial changes were needed so that the section is more easily read and understood throughout.</p> <p>Rationale: To clarify confusing language. To reference existing 21 CFR Part 117.</p> <p>Impact: Improved understanding and application of the regulations.</p>
<p>510-640</p>		<p>Section: “Water supply test records”</p> <p>This section establishes the requirement that plants must keep water supply test results for at least one year.</p>	<p>Intent: Repeal existing section.</p> <p>Rationale: Moved text from existing section to Section 500, a more appropriate section.</p> <p>Impact: Improved understanding and application of the regulations.</p>
<p>510-650</p>		<p>Section: “Pasteurization and C-I-P recorder charts”</p> <p>This section outlines the requirement that plants must maintain pasteurizer and</p>	<p>Intent: To provide the option of using more cost-effective electronic recording devices. To add requirements for temperature recording charts, if used. Editorial changes were needed so that the</p>

		cleaning charts and mark them appropriately.	<p>section is more easily read and understood throughout.</p> <p>Rationale: To clarify confusing language. To align regulation with existing dairy-related regulations such as 2 VAC 5-490.</p> <p>Impact: Improved understanding and application of the regulations.</p>
510-660		<p>Section: "Health"</p> <p>This section establishes the requirements that employees must keep a medical certificate on file at the plant.</p>	<p>Intent: Repeal existing section.</p> <p>Rationale: To not restrict employee retention based on medical reasons or access to medical facilities.</p> <p>Impact: Improved understanding and application of the regulations.</p>
