

TITLE 64  
LEGISLATIVE RULES  
DEPARTMENT OF HEALTH

SERIES 28  
ICE CREAM AND FROZEN MILK

**§64-28-1. General.**

1.1. Scope. -- These legislative rules establishes the minimum sanitation requirements for ice cream plants.

1.2. Authority. -- W. Va. Code §16-1-7

1.3. Filing Date. -- November 28, 1967

1.4. Effective Date. -- December 29, 1967

**§64-28-2. Application and Enforcement.**

2.1. Application - These legislative rules apply to the owners and operators of ice cream plants.

2.2. Enforcement - The enforcement of these legislative rules is vested with the director of the West Virginia department of health or his lawful designee.

**§64-28-3. Definitions.**

3.1. Ice cream mix is hereby defined to include a mixture of all milk products and sugar used in the ice cream, together with all good stabilizers and egg products if such are used and with or without flavoring materials and color.

3.2. Ice cream plant shall be construed to mean any place, premises or establishment, or any part thereof, where ice cream and other frozen products, as defined above, are collected, processed, manufactured, handled or prepared for distribution or sale.

3.3. Person includes masculine and feminine, and any firm, co-partnership, institution, association, or corporation and any agent, servant, assistant, employee or representative thereof.

3.4. To sell, for sale, or sold, and similar terms means the selling, exchanging, delivering or having

in possession, care, control or custody with intent to sell, exchange, deliver or offer or expose for sale.

**§64-28-4. Essential Features of Sanitation, as Prescribed for Grade "A" Milk Pasteurization Plants, Shall Govern Ice Cream Plants.**

4.1. Floors - The floors of all rooms in which milk is handled shall be constructed of concrete or other equally impervious and easily cleaned material and shall be smooth, properly drained and provided with trapped drains, and kept clean.

4.2. Walls and Ceilings - Walls and ceilings of rooms in which milk is handled or stored shall have a smooth, washable, light colored surface and shall be kept clean.

4.3. Doors and Windows - All openings into the outer air shall be effectively screened to prevent the access of flies. Doors shall be self-closing.

4.4. Lighting and Ventilation - All rooms shall be well lighted and ventilated.

4.5. Protection from Flies and Other Insects - The products used in the manufacture of ice cream and other frozen products and cleansed containers and utensils shall be protected from flies and other insects.

4.6. Toilet Rooms and Lavatories - The number of toilet rooms and the number of toilets shall conform to the state regulatory laws. No toilet rooms shall open directly into any room in which ice cream and other frozen products are manufactured, handled or stored. Toilet rooms shall be equipped with an adequate number of washing fixtures or have such fixtures convenient thereto, and shall be supplied with soap, running water and single service towels. The doors of toilet rooms shall open outward and be self-closing. Placards prominently displayed shall remind

employees of the requirements of sanitation and cleanliness and particularly the washing of their hands. The disposal of wastes from floors and toilet shall be in accordance with the state regulatory laws.

4.7. Water Supply - The water supply shall be easily accessible, adequate and of a safe, sanitary quality

4.8. Cleaning and Equipment - Ice cream and other frozen products manufacturing plants shall be equipped with facilities for supplying and using an abundance of hot water and live steam for cleansing and sterilizing purposes. All wagons, trays, trucks, tubs, platforms and other equipment shall be constructed so that they may be washed and kept clean. Utensils shall be of smooth non-absorbent material and have flush seams. The water supply for washing equipment, apparatus and containers shall be free from contamination. Suitable facilities and equipment shall be provided and used for the proper cleansing and sterilizing of freezers, vats, tanks, cans, racks, molds, slabs, forms, piping and other equipment and utensils with which ice cream and other frozen products come in contact during the manufacture or preparation for sale. All equipment used in the making or direct handling of ice cream and other frozen products shall be cleaned and finally scalded with water or sterilized with steam each day such equipment is in use. All hand washed equipment or apparatus shall be subsequently sterilized with steam or boiling water each day such equipment or apparatus is in use. Pipe lines shall be disconnected and valves taken apart after use and thoroughly washed and sterilized. Cleaning and sterilizing powders and solutions may be used in the cleaning and sterilizing of equipment and apparatus, but these powders and solutions shall not be used as a substitute for hot water and steam.

4.9. Canning and Packing Ice Cream - The operators filling, removing and packing ice cream molds and the operators wrapping cut bricks and ice cream specialties by hand shall wear clean clothes and keep their hands scrupulously clean. Shipping bags and containers shall be clean and dry when leaving the ice cream plant. All cans and containers shall be washed and sterilized when returned to the ice cream plant. After sterilization all cans and other containers shall be stored in such a manner as to be protected from contamination. All metal cans and containers shall be kept free from rust and corrosion. Paper used to

line or cover ice cream cans or containers shall be stored, kept and handled so as to be free from contamination.

4.10. Ingredients - All milk and milk products used in the manufacture of ice cream and other frozen products shall conform to the requirements of the state department of health concerning the production and sale of milk and milk products. All fruits, nuts, egg products, flavors, color, sugar, stabilizers or any other products used in frozen specialties of any kind, other than ice cream, shall be clean and wholesome and shall comply with the State and Federal Food Laws and Regulations.

4.11. Pasteurization - The entire ice cream mix with or without flavor or color shall be pasteurized. Pasteurization shall be defined as heating the ice cream mix to a temperature of not less than 145 degrees F. and holding at that temperature not less than 30 minutes. After pasteurization the mix shall be cooled to at least 45 degree F. and held at that temperature until frozen. All vats or other pasteurizing equipment shall be equipped with recording and indicating thermometers of a type approved by the state department of health. A recording thermometer record of each batch pasteurized shall be kept on file for at least six months.

4.12. Personnel - Every person engaged in direct physical contact with ice cream and other frozen products during its manufacture shall be clean and wear clean clothes. Immediately on occurrence of any case of communicable disease, either in himself or his family or within the ice cream plant, the employee shall cease work and report to his employer who shall notify the local health authority. No employee shall touch the ice cream with his hands, except those specifically designated to cut and wrap brick and package ice cream and other frozen products and to fill fancy molds. It shall be the duty of any person engaged in the manufacture of ice cream and other frozen products to cause a medical examination to be made by methods prescribed the state department of health at the time of employment, and at least semi-annually thereafter of all employees who come in contact with ice cream. No person suffering with any communicable disease and no person who is known as a "carrier" of a communicable disease, as defined by the state department of health, shall be employed in any capacity where ice cream and other frozen products are sold.

**§64-28-5. Bacterial Count.**

5.1. No person, firm or corporation shall exchange or deliver any ice cream which contains more than 500,000 bacteria per cubic centimeter.

**§64-28-6. No Resale Permitted.**

6.1. No old or melted ice cream returned to a manufacturer from whatever cause shall again be used in the preparation of ice cream.