



December 27, 2005

The Division of Dockets Management
(HFA-305)
Food and Drug Administration
5630 Fishers Lane
Room 1061
Rockville, MD 20857

Re: Docket No. 2003P-0132 Frozen Desserts; Petition to Revoke Standards for Goat's Milk Ice Cream and Mellorine and to Amend Standards for Ice Cream and Frozen Custard. (Advanced Notice of Proposed Rulemaking)

Dear Sir/Madam:

The Grocery Manufacturers Association (GMA)¹ is writing to encourage the Agency to act on the proposed changes to the standards for ice cream and frozen desserts as described in its Advanced Notice of Proposed Rulemaking². GMA is also writing in support of the petition of the International Ice Creams Association (IICA) on which the ANPR is based.

As we had commented in response to the proposed rule, made by the Agency together with the USDA Food Safety and Inspection Service, to establish general principles for food standards and a process to modernize them³, GMA and its members also support the objectives of truly useful food standards: to promote honesty and fair dealing in the interest of consumers and to protect the public, to allow for technological advances in food production, to be consistent with international food standards to the extent feasible, and especially, to be clear, simple, and easy to use for both manufacturers and the agencies that enforce compliance with the standards. GMA believes the changes to the standards for frozen desserts in the subject ANPR are consistent with these objectives.

Regarding honesty and fair dealing, the proposed changes include an allowance for "alternate make" procedures, a new §133.110(a)(2), that requires any other procedures, including any safe and suitable

¹ The Grocery Manufacturers Association (GMA) represents the world's leading branded food, beverage and consumer products companies. Since 1908, GMA has been an advocate for its members on public policy issues and has championed initiatives to increase industry wide productivity and growth. GMA member companies employ more than 2.5 million workers in all 50 states and account for more than \$680 billion in annual sales. The association is led by a board of member company chief executives. For more information, visit the GMA Web site at www.gmabrands.com.

² 70 FR 54409. Advance notice of proposed rulemaking. Frozen Desserts; Petition to Revoke Standards for Goat's Milk Ice Cream and Mellorine and to Amend Standards for Ice Cream and Frozen Custard, Sherbet, and Water Ices; Petition to Amend Standards for Parmesan and Reggiano Cheese. September 27, 2005.

³ 70 FR 29214. Proposed Rule. Food Standards; General Principles and Food Standards Modernization. May 20, 2005.

milk-derived ingredients used, result in “a finished product which has essentially the same physical, chemical and organoleptic characteristics” as ice cream or other frozen dessert prepared according to the current standard. The nutritional equivalence of “current standard” ice cream with “alternate make” ice cream will be readily apparent in the nutrition facts box of the two versions. The clear labeling requirements of the proposed §133.110(c)(1) for milk from cows, goats, sheep and other milk source animals, singly or in combination, further support honesty and fair dealing. Similarly, the proposed nomenclature for categories of milk and milk-derived ingredients in proposed §133.110(d)(1)-(7) are consistent with other ingredient labeling requirements, and also recognize developments in food technology.

Regarding technological advances in food ingredients and production, the existing standards for ice cream and frozen desserts have been overtaken by developments in food ingredients and processing methods. IICA has described these developments in their petition, and, we understand, will provide additional detail in their comments to this ANPR. The importance of these developments is that they allow manufacturers to provide frozen desserts that meet consumer expectations of taste, quality and performance for these products as well as consumer demands for newer, healthier products.

Regarding international food standards, while there is to date no Codex standard for ice cream or frozen desserts, there is a Codex standard for fermented milks which is based on minimum milk-derived protein rather than minimum nonfat milk solids. Changing the standard for ice cream and frozen desserts to one based on minimum milk-derived protein would position the US industry well for the time when an international standard is developed.

Lastly, regarding food standards that are clear, simple, and easy to use for both manufacturers and the Agency, the changes in this ANPR definitely meet this objective. Revoking the current separate standard for goats milk ice cream, and including the use of milk, and other safe and suitable milk ingredients, from goats, sheep and other milk source animals would definitely be much simpler. Revoking the standard for mellorine and allowing for frozen desserts that contain vegetable fat in place of milkfat to be labeled with a clearly descriptive common or usual name would provide clarity and simplicity to manufacturers, the agency, and no doubt to consumers. Similarly, appropriately applying many of the changes proposed for the ice cream and frozen desserts to the standard for sherbet would provide additional clarity and simplicity, as well as consistency of characteristics common to two or more standards.

Again, GMA encourages FDA to move forward with the proposed rulemaking to modernize the standards of identity for ice cream and specific frozen desserts. GMA believes the proposed changes are consistent with the objectives of the Agency’s efforts to establish general principles for and a process to modernize food standards. GMA feels that it is very important to provide the frozen dessert industry updated standards of identity that allow the use of currently available processing and ingredient technology to meet consumer expectations of taste, quality and performance for these products as well as consumer demands for newer, healthier products.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark F. Nelson", with a long horizontal flourish extending to the right.

Mark F. Nelson, Ph.D.
Vice President, Scientific and Regulatory Policy