



**International Dairy Foods Association**  
Milk Industry Foundation  
National Cheese Institute  
International Ice Cream Association

December 15, 2008

Dr. Stephen Beam Ph.D.  
Chief, Milk & Dairy Foods Safety Branch  
Division of Animal Industry  
CA Dept. of Food & Agriculture  
1220 N Street  
Sacramento, CA 95814  
*Transmitted via email to: sbeam@cdfa.ca.gov*

Re: Petition to Consider Adoption of a Temporary Standard for Gelato by California  
Department of Food and Agriculture

Dear Dr. Beam:

The International Dairy Foods Association (IDFA) appreciates the opportunity to provide written comments on the petition submitted by GMSX LLC dba Gelateria Naia, to adopt a temporary standard for gelato by the California Department of Food and Agriculture.

IDFA, which represents the nation's dairy processing and manufacturing industries and their suppliers, is composed of three constituent organizations: the Milk Industry Foundation (MIF), the National Cheese Institute (NCI), and the International Ice Cream Association (IICA). Its 250-plus members range from large multinational corporations to single-plant operations, representing more than 85% of the volume of milk, cultured products, cheese, ice cream and frozen desserts produced and marketed in the United States. These comments are submitted on behalf of the IICA members, which include companies such as Unilever, Dreyer's Grand Ice Cream, Wells Blue Bunny, Publix, Galloway Company and Ciao Bella that produce and sell ice cream, frozen desserts and gelato in packaged and mix forms.

IICA strongly opposes the adoption of a temporary or permanent standard of identity for gelato by the California Department of Agriculture due to the concerns that the product enjoyed by many consumers in the U.S. cannot easily be defined by compositional criteria. Gelato frozen dessert, which is also known as "Italian style ice cream" does not have a federal standard of identity. It is described as a product that is rich in fat and high in total solids such as milk solids and nutritive sweeteners. It carries abundant, rich flavor and has very low overrun if any (0-10%). The low overrun and high solids provides for a

distinctive body and texture that is desirable for release of flavor.<sup>1</sup> However, commercial gelato products in the market vary widely from this historical textbook definition, in composition, amount of air incorporated during freezing (overrun) and the use of emulsifier, stabilizers or egg yolk solids. Depending on the manufacturer there are varying levels of overrun, dairy ingredients, fat, solids, egg yolk solids and fresh fruits, chocolate or flavorings.

IDFA is concerned that due to diversity of composition and manufacturing techniques of gelato in this country, it would be inappropriate for the state of California to enact a standard for gelato that would exclude products currently sold in the market from being labeled as gelato. Furthermore, as no other state has a standard for gelato, establishing even a temporary standard in California could have the impact of excluding products from the California market and interfering with interstate commerce.

Total U.S. production of frozen desserts, in both hard and soft serve forms had previously been increasing until the recent decline in 2007. However the one segment of "other frozen desserts" that includes non-standard products such as gelato increased in 2007.<sup>2</sup> These production trends indicate that consumer demand is increasing for gelato and other non-standard frozen desserts. IDFA believes that if the California Department of Food and Agriculture proceeds with enacting a state standard, this will severely limit the types of gelato that will be sold in California, and stifle future innovation and product development for frozen desserts.

With regards to the specific petition submitted by GMSX LLC dba Gelateria Naia, IDFA asserts it would be inappropriate for a standard to be adopted that as drafted covers one manufacturer's product and excludes most other gelato products currently marketed in the U.S. and California. Listed below are some specific examples of the overly restrictive provisions of petition:

1. The proposed milkfat for gelato of 4 - 7 percent is too restrictive and would exclude products currently in the market with differing fat levels both lower and higher.

Brand	Flavor	Serving (cup)	Weight (ounces)	Weight (grams)	Fat per serving (grams)	Fat Percent by weight*
Gelato Classico	Vanilla	1/2	4.2	118	16	13.6
Wells Blue Bunny	Hazelnut	1/2	3.1	88	7	7.9
Gelati-da	Vanilla	1/2	4.0	113	2	1.8

Source: [www.calorieking.com](http://www.calorieking.com) and label nutrition facts panels

\*Calculated by dividing grams of fat by the weight of a serving

<sup>1</sup> Marshall, R.T, Arbuckle, W.S., Ice Cream, Fifth Edition, Chapman & Hall (1996)

<sup>2</sup> IDFA, Dairy Facts 2008 Edition, International Dairy Foods Association (2008)

2. Gelato is typically considered to have a higher solids level relative to ice cream, but the proposed petition provides an arbitrary value of 2.3 pounds per gallon of total solids.
3. The proposed overrun value of 6.4 pounds per gallon has no foundation other than the typical assumption that the amount of overrun or pounds per gallon in general is higher than most ice creams. The federal standard for pounds per gallon for ice cream is 4.5 pounds per gallon. As shown in the table above, gelato products in the market vary in density from 88 grams to 118 grams per 1/2 cup measure which equates to 6.2 to 8.4 lbs per gallon.
4. The petition's proposal to prohibit "Synthetic Ingredients" is more restrictive than other standards for frozen desserts and is not clearly defined. This petition, as worded would create consumer confusion and would unduly restrict ingredients that are GRAS and are commonly used in gelato type products. All types of ingredients that are safe and suitable in food should be allowed. Food labeling regulations already provide for the use of truthful and non-misleading statements such as "natural" or "all natural" when non-synthetic ingredients are used.
5. The proposed petition to prohibit "some optional dairy ingredients, caseinates, and hydrolyzed milk proteins" is arbitrary and many of these "optional ingredients" have nutritional value and functional purpose that are allowable and desirable in a gelato product. Additionally, these types of dairy ingredients are permitted in the federal standard for ice cream, so there is no basis for restricting the use in gelato.

In summary IDFA urges the California Department of Food and Agriculture to reject the petition submitted by GMSX LLC dba Gelateria Naia, to adopt a temporary standard for gelato. We strongly believe that there is no need to develop a state standard for gelato as the products currently in the market are safe, wholesome, and meet the needs of consumers both in California and across the U.S. Enacting a standard for gelato in California could stifle innovation and future product development, and the continued growth of the frozen dessert industry. Please feel free to contact me if you have any questions or require additional information.

Respectfully submitted,



Cary Frye  
Vice President,  
Regulatory Affairs