

is greater than 1 ounce per unit of vanilla constituent, as that term is defined in § 169.3(c) of this chapter.

(ii) In the case of fruit or fruit juice used in combination with artificial fruit flavor, if the quantity of the fruit or fruit juice used is such that, in relation to the weight of the finished ice cream, the weight of the fruit or fruit juice, as the case may be (including water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture content) is less than 2 percent in the case of citrus ice cream, 6 percent in the case of berry or cherry ice cream, and 10 percent in the case of ice cream prepared with other fruits.

(iii) In the case of nut meats used in combination with artificial nut flavor, if the quantity of nut meats used is such that, in relation to the finished ice cream the weight of the nut meats is less than 2 percent.

(iv) In the case of two or more fruits or fruit juices, or nut meats, or both, used in combination with artificial flavors simulating the natural flavors and dispersed throughout the food, if the quantity of any fruit or fruit juice or nut meat is less than one-half the applicable percentage specified in paragraph (e)(5) (ii) or (iii) of this section. For example, if a combination ice cream contains less than 5 percent of bananas and less than 1 percent of almonds it would be "artificially flavored banana-almond ice cream". However, if it contains more than 5 percent of bananas and more than 1 percent of almonds it would be "banana-almond flavored ice cream".

(6) If two or more flavors of ice cream are distinctively combined in one package, e.g., "Neapolitan" ice cream, the applicable provisions of this paragraph shall govern each flavor of ice cream comprising the combination.

(7) Until September 14, 1998, when safe and suitable sweeteners other than nutritive carbohydrate sweeteners are used in the food, their presence shall be declared by their common or usual name on the principal display panel of the label as part of the statement of identity in letters that shall be no less than one-half the size of the type used in the term "ice cream" but in any case no smaller than one-sixteenth of

an inch. If the food purports to be or is represented for special dietary use, it shall bear labeling in accordance with the requirements of part 105 of this chapter.

(g) *Label declaration.* Each of the ingredients used shall be declared on the label as required by the applicable sections of parts 101 and 130 of this chapter, except that the sources of milkfat or milk solids not fat may be declared in descending order of predominance either by the use of all the terms "milkfat and nonfat milk" when one or any combination of two or more of the ingredients listed in § 101.4(b)(3), (b)(4), (b)(8), and (b)(9) of this chapter are used or, alternatively, as permitted in § 101.4 of this chapter. Under section 403(k) of the Federal Food, Drug, and Cosmetic Act, artificial color need not be declared in ice cream, except as required by § 101.22(c) or (k) of this chapter. Voluntary declaration of all colors used in ice cream and frozen custard is recommended.

[43 FR 4598, Feb. 3, 1978, as amended at 45 FR 63838, Sept. 26, 1980; 46 FR 44433, Sept. 4, 1981; 47 FR 11826, Mar. 19, 1982; 49 FR 10096, Mar. 19, 1984; 54 FR 24894, June 12, 1989; 58 FR 2896, Jan. 6, 1993; 59 FR 47079, Sept. 14, 1994; 63 FR 14035, Mar. 24, 1998; 63 FR 14818, Mar. 27, 1998]

#### § 135.115 Goat's milk ice cream.

(a) *Description.* Goat's milk ice cream is the food prepared in the same manner prescribed in § 135.110 for ice cream, and complies with all the provisions of § 135.110, except that the only optional dairy ingredients that may be used are those in paragraph (b) of this section; caseinates and hydrolyzed milk proteins may not be used; and paragraphs (f)(1) and (g) of § 135.110 shall not apply.

(b) *Optional dairy ingredients.* The optional dairy ingredients referred to in paragraph (a) of this section are goat's skim milk, goat's milk, and goat's cream. These optional dairy ingredients may be used in liquid, concentrated, and/or dry form.

(c) *Nomenclature.* (1) The name of the food is "goat's milk ice cream" or, alternatively, "ice cream made with goat's milk", except that when the egg yolk solids content of the food is in excess of that specified for ice cream in paragraph (a) of § 135.110, the name of

the food is "goat's milk frozen custard" or, alternatively, "frozen custard made with goat's milk", or "goat's milk french ice cream", or, alternatively, "french ice cream made with goat's milk", or "goat's milk french custard ice cream", or, alternatively, "french custard ice cream made with goat's milk".

(2) Until September 14, 1998, when safe and suitable sweeteners other than nutritive carbohydrate sweeteners are used in the food, their presence shall be declared by their common or usual name on the principal display panel of the label as part of the statement of identity in letters that shall be no less than one-half the size of the type used in the term "goat's milk ice cream" but in any case no smaller than one-sixteenth of an inch. If the food purports to be or is represented for special dietary use, it shall bear labeling in accordance with the requirements of part 105 of this chapter.

(d) *Label declaration.* Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of parts 101 and 130 of this chapter.

[47 FR 41526, Sept. 21, 1982, as amended at 58 FR 2896, Jan. 6, 1993; 59 FR 47080, Sept. 14, 1994]

#### § 135.130 Mellorine.

(a) *Description.* (1) Mellorine is a food produced by freezing, while stirring, a pasteurized mix consisting of safe and suitable ingredients including, but not limited to, milk-derived nonfat solids and animal or vegetable fat, or both, only part of which may be milkfat. Mellorine is sweetened with nutritive carbohydrate sweetener and is characterized by the addition of flavoring ingredients.

(2) Mellorine contains not less than 1.6 pounds of total solids to the gallon, and weighs not less than 4.5 pounds to the gallon. Mellorine contains not less than 6 percent fat and 2.7 percent protein having a protein efficiency ratio (PER) not less than that of whole milk protein (108 percent of casein) by weight of the food, exclusive of the weight of any bulky flavoring ingredients used. In no case shall the fat content of the finished food be less than 4.8 percent or the protein content be less

than 2.2 percent. The protein to meet the minimum protein requirements shall be provided by milk solids, not fat and/or other milk-derived ingredients.

(3) When calculating the minimum amount of milkfat and protein required in the finished food, the solids of chocolate or cocoa used shall be considered a bulky flavoring ingredient. In order to make allowance for additional sweetening ingredients needed when certain bulky ingredients are used, the weight of chocolate or cocoa solids used may be multiplied by 2.5; the weight of fruit or nuts used may be multiplied by 1.4; and the weight of partially or wholly dried fruits or fruit juices may be multiplied by appropriate factors to obtain the original weights before drying and this weight may be multiplied by 1.4.

(b) *Fortification.* Vitamin A is present in a quantity which will ensure that 40 international units (IU) are available for each gram of fat in mellorine, within limits of good manufacturing practice.

(c) *Methods of analysis.* Fat and protein content, and the PER shall be determined by following the methods contained in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists International, 481 North Frederick Ave., suite 500, Gaithersburg, MD 20877-2504, or may be examined at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(1) Fat content shall be determined by the method: "Fat, Roesse-Gottlieb Method—Official Final Action," section 16.287.

(2) Protein content shall be determined by one of the following methods: "Nitrogen—Official Final Action," Kjeldahl Method, section 16.285, or Dye Binding Method, section 16.286.

(3) PER shall be determined by the method: "Biological Evaluation of Protein Quality—Official Final Action," sections 43.212-43.216.

(d) *Nomenclature.* The name of the food is "mellorine". The name of the food on the label shall be accompanied