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Version: June 1 2010 Working Document

Attachment 1

Definition of Grade "A" Milk and Milk Products

An excerpt from the GRADE "A" PASTEURIZED MILK ORDINANCE
(GRADE "A" PMO)--2009 REVISION

SECTION 1. DEFINITIONS

X. **MILK PRODUCTS:** Grade "A" Milk and Milk Products include:

1. All milk and milk products with a standard of identity provided for in 21 CFR Part 131, excluding 21 CFR 131.120 Sweetened Condensed Milk.
2. Cottage cheese (21 CFR 133.128) and dry curd cottage cheese (21 CFR 131.129).
3. Whey and whey products as defined in 21 CFR 184.1979, 184.1979a, 184.1979b, 184.1979c, and Section 1, Definition QQ of this *Ordinance*.
4. Modified versions of these foods listed above in Items 1 and 2, pursuant to 21 CFR 130.10- requirements for foods named by use of a nutrient content claim and a standardized term.
5. Milk and milk products as defined in Items 1, 2, 3 and 4 above, packaged in combination with food(s) not included in this definition that are appropriately labeled with a statement of identity to describe the food(s) in final packaged form, e.g., "cottage cheese with pineapple" and "fat free milk with plant sterols".
6. Products not included in Items 1-5 are Grade "A" milk products which have a minimum of 2.0% milk protein (Total Kjeldahl Nitrogen (TKN) X 6.38) and a minimum of sixty-five percent (65%) by weight milk, milk product or a combination of milk products.

Safe and suitable (as defined in 21 CFR 130.3(d)) non-grade "A" dairy ingredients, can be utilized in the products defined in Items 1-6 when added to a level needed for a functional or technical effect, and limited by Good Manufacturing Practices (GMPs) and are either:

- a. Prior sanctioned or otherwise approved by FDA, or
- b. GRAS (generally recognized as safe), or
- c. An approved food additive listed in the CFR.

Except that with respect to those products which have a federal standard of identity, only ingredients provided for in the standard may be utilized.

NOTE: When a non-grade "A" dairy ingredient is used to increase weight or volume of the product, or displace grade "A" dairy ingredients, this use is not a suitable functional or technical effect.

This Definition shall include those milk and milk products, as defined above, which have been aseptically processed and then packaged.

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This Definition does not include:

1. A milk or milk product in which the milkfat of the milk or milk product has been substituted in part or in whole by any other animal or vegetable fat; provided that other fat sources may be included when they are used for purposes currently accepted in any other Grade "A" milk or milk product, such as carriers for vitamins and as an ingredient in emulsifiers and stabilizers;
2. Coffee based products where coffee or water is the primary ingredient as indicated in the ingredient statement;
3. Tea based products where tea or water is the primary ingredient as indicated in the ingredient statement;
4. Dietary products (except as defined herein);
5. Infant formula;
6. Ice cream or other frozen desserts;
7. Butter;
8. Cheese (standardized, except cottage cheese (21 CFR 133.128) and dry curd cottage cheese (21 CFR 131.129), or non-standardized); or
9. Puddings.

Milk and milk products which have been retort processed after packaging, or which have been concentrated (condensed) or dried are only included in this Definition if they are used as an ingredient to produce any milk or milk product defined above or if they are labeled as Grade "A" as described in Section 4.

Powdered dairy blends may be labeled Grade "A" and used as ingredients in Grade "A" milk and milk products, such as cottage cheese dressing mixes or starter media for cultures used to produce various Grade "A" cultured milk and milk products, if they meet the requirements of this *Ordinance*. If used as an ingredient in Grade "A" milk and milk products, blends of dairy powders must be blended under conditions, which meet all applicable Grade "A" powdered dairy blends requirements. Grade "A" powder blends must be made from Grade "A" powdered milk and milk products, except that small amounts of functional ingredients, (total of all such ingredients shall not exceed ten percent (10%) by weight of the finished blend) which are not Grade "A" are allowed in Grade "A" blends when the finished ingredient is not available in Grade "A" form, e.g., sodium caseinate. This is similar to the existing FDA position that such dairy ingredient in small cans of freeze-dried starter culture need not be Grade "A".

F. BUTTERMILK: Buttermilk is a fluid product resulting from the manufacture of butter from milk or cream. It contains not less than 8¼ percent of milk solids not fat.

N. EGGNOG OR BOILED CUSTARD: Eggnog or boiled custard is the product defined in 21 CFR 131.170.

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Milk and milk products that are defined in Definition X that are from the following types of animals (in addition to bovine) shall also be considered Grade "A".

Q. GOAT MILK: Goat milk is the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one (1) or more healthy goats. Goat milk sold in retail packages shall contain not less than 2½ percent milk fat and not less than 7½ percent milk solids not fat. Goat milk shall be produced according to the sanitary standards of this *Ordinance*. The word "milk" shall be interpreted to include goat milk.

S. HOOVED MAMMALS' MILK: Hooved mammals' milk is the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one (1) or more healthy hooved mammals. Hooved mammals for the purpose of this *Ordinance*, include but are not limited to, the members of the Order Cetartiodactyla, such as: Family Bovidae (cattle, water buffalo, sheep, goats, yaks, etc.), Family Camelidae (llamas, alpacas, camels, etc.), Family Cervidae (deer, reindeer, moose, etc.), and Family Equidae (horses, donkeys, etc.). This product shall be produced according to the sanitary standards of this *Ordinance*.

LL. SHEEP MILK: Sheep milk is the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one (1) or more healthy sheep. Sheep milk shall be produced according to the sanitary standards of this *Ordinance*. The word "milk" shall be interpreted to include sheep milk.

PP. WATER BUFFALO MILK: Water buffalo milk is the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one (1) or more healthy water buffalo. Water buffalo milk shall be produced according to the sanitary standards of this *Ordinance*. The word "milk" shall be interpreted to include water buffalo milk.

QQ. WHEY PRODUCTS: Whey products mean any fluid product removed from whey; or made by the removal of any constituent from whey; or by the addition of any wholesome substance to whey or parts thereof.

QQ-1. Grade "A" Whey Products: Grade "A" whey products means any fluid product removed from whey; or made by the removal of any constituent from whey; or by the addition of any wholesome substance to whey or parts thereof which have been manufactured under the provisions of this *Ordinance*.

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The following types of milk products are also considered Grade "A" if they will be used as an ingredient in a product described in Definition X or if they are labeled as Grade "A".

X-1. Dry Milk Products: Dry milk products mean products resulting from the drying of milk or milk products and any product resulting from the combination of dry milk products with other wholesome dry ingredients.

X-2. Grade "A" Dry Milk Products: Grade "A" dry milk products mean dry milk products, which comply with the applicable provisions of this *Ordinance*.

F-1. Grade "A" Dry Buttermilk: Grade "A" dry buttermilk means dry buttermilk, which complies with the applicable provisions of this *Ordinance*.

F-2. Grade "A" Dry Buttermilk Products: Grade "A" dry buttermilk products means dry buttermilk products, which complies with the applicable provisions of this *Ordinance*.

F-3. Concentrated (Condensed) Buttermilk: Concentrated (condensed) buttermilk is the product resulting from the removal of a considerable portion of water from buttermilk.

F-4. Grade "A" Concentrated (Condensed) and Dry Buttermilk and Buttermilk Products: Grade "A" concentrated (condensed) and dry buttermilk and buttermilk products means concentrated (condensed) or dry buttermilk and buttermilk products, which comply with the applicable provisions of this *Ordinance*. The words "concentrated (condensed) and dry milk products" shall be interpreted to include concentrated (condensed) and dry buttermilk and buttermilk products.

J. CONCENTRATED (CONDENSED) MILK: Concentrated (condensed) milk is a fluid product, unsterilized and unsweetened, resulting from the removal of a considerable portion of the water from the milk, which when combined with potable water in accordance with instructions printed on the container label, results in a product conforming with the milkfat and milk solids not fat levels of milk as defined in this Section.

J-1. Concentrated (Condensed) Milk Products: Concentrated (condensed) milk products shall be taken to mean and to include homogenized concentrated (condensed) milk, concentrated (condensed) skim milk, concentrated (condensed) reduced fat or lowfat milk, and similar concentrated (condensed) products made from concentrated (condensed) milk or concentrated (condensed) skim milk, which when combined with potable water in accordance with instructions printed on the container label, conform with the definitions of the corresponding milk products in this Section.

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J-2. Grade "A" Concentrated (Condensed) Skim Milk: Grade "A" concentrated (condensed) skim milk means concentrated (condensed) skim milk, which complies with the applicable provisions of this *Ordinance*.

P. FROZEN MILK CONCENTRATE: Frozen milk concentrate is a frozen milk product with a composition of milk fat and milk solids not fat in such proportions that when a given volume of concentrate is mixed with a given volume of water the reconstituted product conforms to the milk fat and milk solids not fat requirements of whole milk. In the manufacturing process, water may be used to adjust the primary concentrate to the final desired concentration. The adjusted primary concentrate is pasteurized, packaged, and immediately frozen. This product is stored, transported and sold in the frozen state.

QQ-2. Dry Whey Products: Dry whey products mean products resulting from the drying of whey or whey products and any product resulting from the combination of dry whey products with other wholesome dry ingredients.

QQ-3. Grade "A" Concentrated (Condensed) and Dry Whey and Whey Products: Grade "A" concentrated (condensed) and dry whey and whey products means concentrated (condensed) or dry whey and whey products, which complies with the applicable provisions of this *Ordinance*. The words "concentrated (condensed) and dry milk products" shall be interpreted to include concentrated (condensed) and dry whey and whey products.