WEST VIRGINIA CODE: §19-11A-2

§19-11A-2. Definitions.

(a) "Adulterated" means dairy products or imitation dairy products meeting one or several of the conditions listed in section five of this article.

(b) "Approved laboratory" means a laboratory approved by the commissioner under section nine of this article.

(c) "Cheese" means blue, cheddar, cottage, cream, edam, gouda, gruyere, limburger, monterey jack, mozzarella, muenster, neufchatel, romano, roquefort, swiss or cold-pack cheese; pasteurized blended cheese whether made from cow or goat milk; and such other products as established by rule as a cheese.

(d) "Clean" means the condition where no residue remains on a surface that will, or is likely to, cause adulteration.

(e) "Commissioner" means the commissioner of agriculture of the State of West Virginia or his or her duly authorized agent.

(f) "Dairy products" means milk products, frozen desserts and cheeses as defined in this article which are intended for human consumption.

(g) "Distributor" means any person who distributes dairy products or imitation dairy products. The term does not include persons who are exclusively retailers.

(h) "Distribute" means the act of transporting, holding for sale, offering for sale, selling, bartering, parceling out, giving or otherwise disposing of dairy products or imitation dairy products. This term does not apply to a firm listed as a distributor on the label if the firm is not engaged in the activities listed in this subsection within the State of West Virginia.

(i) "Embargo" means an order to withdraw a dairy product or imitation dairy product from distribution or to stop a manufacturing operation. An embargo shall detain such product and prohibit the manufacturing process as provided in section ten of this article.

(j) "Freezer" means mechanical equipment used to lower the temperature of a mix, with or without incorporating air into the mix during the freezing process. Freezers may operate on a continuous or batch basis.

(k) "Frozen dessert" means ice cream, frozen custard, French ice cream, French custard ice cream, ice milk, goat's milk ice cream, goat's milk ice milk, fruit sherbet, nonfruit sherbets, frozen dietary dessert, frozen yogurt, frozen lowfat yogurt, milkshakes, any mix used to make such frozen desserts whether quiescently frozen or frozen while mixed and such other products as established by rule as a frozen dessert whether made with milk products from a

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cow or goat.

(l) "Imitation dairy products" means products that are manufactured, packaged or labeled so as to resemble the composition, physical and sensory properties of dairy products, which contain dairy products or milk-derived ingredients and which are intended to be used as a substitute for a dairy product.

(m) "Label" means the display of written, printed or graphic matter upon or affixed to the package in which the dairy product or imitation dairy product is distributed.

(n) "Labeling" means all representations disseminated in any manner or by any means other than by the label, which induce or which are likely or intended to induce the purchase or use of dairy products or imitation dairy products.

(o) "Manufacture" means pasteurizing, ultrapasteurizing, formulating, compounding, freezing, packaging or preparation for distribution of dairy products or imitation dairy products.

(p) "Manufacturer" means any person who manufactures dairy products or imitation dairy products.

(q) "Milk-derived ingredients" means whey, modified whey products, casein, caseinates, lactose, lactalbumins and lactoglobulins used in fluid, concentrated or dry form and such other ingredients established by rule as a milk-derived ingredient.

(r) "Milk products" means milk, acidified milk, cultured milk, concentrated milk, sweetened condensed milk, sweetened condensed skim milk, lowfat dry milk, nonfat dry milk, nonfat dry milk fortified with vitamins A and D, evaporated milk, evaporated skim milk, lowfat milk, acidified lowfat milk, cultured lowfat milk, skim milk, acidified skim milk, cultured skim milk, dry whole milk, cream, dry cream, heavy cream, light cream, light whipping cream, sour cream, acidified sour cream, eggnog, half-and-half, sour half-and-half, acidified sour half-and-half, butter, yogurt, lowfat yogurt, nonfat yogurt and such other products established by rule as a milk product whether made with milk products from a cow or goat.

(s) "Milk fat" means fat in dairy products or in milk-derived ingredients.

(t) "Misbranded" means dairy products or imitation dairy products meeting one or several of the conditions listed in section six of this article.

(u) "Mix" means the product that when frozen produces a frozen dessert or an imitation of a frozen dessert.

(v) "Official sample" means any sample taken in accordance with the provisions of this article.

(w) "Package" means any container holding dairy products or imitation dairy products.

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(x) "Pasteurized" means the process of uniformly heating every particle of a dairy product or imitation dairy product, holding it in the heated state and cooling it, in equipment under conditions of temperature and time that is established in the Grade "A" Pasteurized Milk Ordinance, 1989 revision, published by the United States department of health and human services: Provided, That nothing contained in this definition shall be construed as barring any other process which may be approved by the commissioner or the state director of health that results in products that are free from pathogens.

(y) "Person" means any individual, partnership, association, fiduciary, firm, company, corporation, or any organized group of persons whether incorporated or not. The term "person" extends to the agents, servants, officers and employees of the person.

(z) "Retailer" means the person who sells dairy products or imitation dairy products only to the ultimate consumer, who does not transport dairy products or imitation dairy products in any manner except between buildings on the same lot or within the retail premises and who sells frozen desserts from a freezer only at the firm where the freezer is located.

(aa) "Sanitization" means the application of any effective method or substance to a clean surface for the destruction, as far as practicable, of pathogens and other organisms. Such treatment shall not adversely affect the equipment, the milk or the health of the consumers consuming the products manufactured in the equipment and shall be a method acceptable to the commissioner.

(bb) "Transport" means the movement from one facility to another of dairy products and imitation dairy products in a manner that maintains adequate temperatures and protects the product from freezing temperatures, exposure to the sun and from sources of contamination.

(cc) "Ultrapasteurized" means the process of heating every particle of a dairy product or imitation dairy product at or above two hundred eighty degrees Fahrenheit for at least two seconds either before or after packaging so as to produce a product which has an extended shelf life under refrigerated conditions.

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