

**SENATE**  
**STATE OF MINNESOTA**  
**NINETIETH SESSION**

**S.F. No. 1674**

**(SENATE AUTHORS: WEBER)**

DATE	D-PG	OFFICIAL STATUS
03/02/2017	984	Introduction and first reading Referred to Agriculture, Rural Development, and Housing Policy
03/14/2017	1378a 1458	Comm report: To pass as amended Second reading
04/18/2017	3166a	Rule 45-amend, subst. General Orders HF1717 See HF1545

1.1 A bill for an act

1.2 relating to agriculture; making policy and technical changes to various

1.3 agricultural-related provisions; reorganizing dairy law; making conforming changes;

1.4 amending Minnesota Statutes 2016, sections 13.6435, subdivision 8; 15.985;

1.5 17.119, subdivision 1; 17.53, subdivisions 2, 8, 13; 17.983, subdivision 1; 17.984,

1.6 subdivision 1; 18B.01, by adding subdivisions; 18B.03, by adding a subdivision;

1.7 18B.26, subdivision 1; 18B.28, subdivisions 1, 3; 18B.305, subdivision 1; 18B.37,

1.8 subdivision 3; 18C.70, subdivision 5; 18C.71, subdivision 4; 18H.06, subdivision

1.9 2; 18H.07, subdivisions 2, 3; 21.111, subdivisions 2, 3; 21.113; 21.117; 25.32;

1.10 25.33, subdivisions 5, 10, 21; 25.341, subdivisions 1, 2; 25.35; 25.371, subdivision

1.11 2; 25.38; 25.39, subdivisions 1, 1a, 2, 3; 25.40, subdivision 2; 25.41, subdivisions

1.12 1, 2, 3, 5, 7a; 25.42; 25.43; 27.04; 27.041, subdivision 1; 28A.21, subdivision 6;

1.13 31A.02, subdivision 4; 32C.02, subdivision 2; 32C.06; 34A.01, subdivision 1;

1.14 41B.03, subdivisions 2, 3; 41B.043, subdivision 5; 41B.045, subdivision 2; 41C.02,

1.15 subdivision 12; 116V.01, subdivisions 1, 2, 3, 4, 7, 10, 11, 13, 14; 223.17,

1.16 subdivision 8; 232.22, subdivision 7; proposing coding for new law as Minnesota

1.17 Statutes, chapter 32D; repealing Minnesota Statutes 2016, sections 18B.01,

1.18 subdivisions 10a, 10b, 22a; 18B.285; 25.371, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, 10,

1.19 11, 12, 13, 14, 15; 32.01, subdivisions 1, 2, 6, 8, 9, 10, 11, 12; 32.021; 32.071;

1.20 32.072; 32.073; 32.074; 32.075; 32.076; 32.078; 32.10; 32.102; 32.103; 32.105;

1.21 32.106; 32.21; 32.212; 32.22; 32.25; 32.391, subdivisions 1, 1d, 1e, 1f, 1g, 2, 3;

1.22 32.392; 32.393; 32.394, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 8a, 8b, 8c, 8d, 8e, 9, 11,

1.23 12; 32.395; 32.397; 32.398, subdivision 1; 32.401, subdivisions 1, 2, 3, 5; 32.415;

1.24 32.416; 32.475; 32.481, subdivision 1; 32.482; 32.483; 32.484; 32.486; 32.55,

1.25 subdivisions 1, 2, 3, 4, 5, 12, 13, 14; 32.555; 32.56; 32.61; 32.62; 32.63; 32.64;

1.26 32.645; 32.70; 32.71; 32.72; 32.74; 32.745; 32.75; 32.90; 41D.01, subdivision 4.

1.27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.28 **ARTICLE 1**

1.29 **AGRICULTURAL POLICY**

1.30 Section 1. Minnesota Statutes 2016, section 15.985, is amended to read:

1.31 **15.985 ADVISORY INSPECTIONS.**

2.1 (a) Upon the voluntary request of a person to a state agency for an advisory inspection  
2.2 for the purpose of complying with state law, the agency must, except as provided in  
2.3 paragraphs (f) and (g), conduct an advisory inspection. An agency is not required to conduct  
2.4 an advisory inspection if the agency has a regularly scheduled inspection that would occur  
2.5 within 90 days after the request for the advisory inspection, or if before an advisory inspection  
2.6 is requested, the agency has notified the person that it will be conducting an inspection  
2.7 within 45 days. If an advisory inspection results in findings that potentially could make a  
2.8 person subject to a fine or other penalty imposed by the agency, the agency must notify the  
2.9 person in writing of those findings within ten days of the inspection.

2.10 (1) Except as provided in clause (2), if within 60 days of receiving notice, the person  
2.11 notifies the agency that it has corrected the situation that made the person potentially subject  
2.12 to the fine or penalty, and the agency later determines that the situation is corrected, the  
2.13 agency may not impose a fine or penalty as a result of the findings in the advisory inspection.

2.14 (2) For violations of chapter 177, if the person notifies the agency within the time period  
2.15 for remedying violations required under the applicable section of chapter 177 that it has  
2.16 corrected the situation that made the person potentially subject to the fine or penalty, and  
2.17 the agency later determines that the situation is corrected, the agency may not impose a fine  
2.18 or penalty as a result of the finding in the advisory inspection.

2.19 (3) A person may not request more than one advisory inspection from the same agency  
2.20 in a calendar year. A person may not request an advisory inspection after an inspection  
2.21 resulting in a fine or other penalty has been determined and the violator notified of the  
2.22 amount to be paid, until fines or penalties have been paid or settled.

2.23 (b) For purposes of this section:

2.24 (1) "inspection" includes an examination of real or personal property or an audit or other  
2.25 examination of financial or other documents;

2.26 (2) "penalty" includes a civil or administrative fine or other financial sanction;

2.27 (3) "person" includes a real person and businesses, including corporations, partnerships,  
2.28 limited liability companies, and unincorporated associations; and

2.29 (4) "state agency" means a department, agency, board, commission, constitutional office,  
2.30 or other group in the executive branch of state government.

2.31 (c) If an agency revises, amends, extends, or adds additional violations to a notice, the  
2.32 person has 60 days from the date of those changes to correct the situation without fine or

3.1 penalty. For violations of chapter 177, the person has the time period for remedying violations  
3.2 under the applicable section of chapter 177 to correct the situation without fine or penalty.

3.3 (d) An agency conducting an inspection under this section may impose and collect from  
3.4 the person requesting the inspection a fee equal to the costs incurred by the agency related  
3.5 to the inspection. Fees under this section shall be considered charges for goods and services  
3.6 provided for the direct and primary use of a private individual, business, or other entity  
3.7 under section 16A.1283, paragraph (b), clause (3). Fee revenue collected under this section  
3.8 must be deposited in an appropriate fund other than the general fund and is appropriated  
3.9 from that fund to the agency collecting the fee for the purpose of conducting inspections  
3.10 under this section.

3.11 (e) Nothing in this section shall prohibit or interfere with an agency offering similar  
3.12 programs that allow independent audits or inspections, including the environmental  
3.13 improvement program under chapter 114C. If a person conducts a self-audit under chapter  
3.14 114C, the terms and conditions of this section do not apply. For advisory inspections  
3.15 conducted by the Pollution Control Agency, terms and conditions of sections 114C.20 to  
3.16 114C.28 shall be used instead of those in paragraphs (a) to (c) and (g).

3.17 (f) If agency staff resources are limited, an agency must give higher priority to the  
3.18 agency's regular inspections over advisory inspections under this section. Insofar as  
3.19 conducting advisory inspections reduces an agency's costs, the savings must be reflected  
3.20 in the charges for advisory inspections. Before hiring additional staff complement for  
3.21 purposes of this section, an agency must report to the chairs and ranking minority members  
3.22 of the legislative budget committees with jurisdiction over the agency documenting: (1) the  
3.23 demand for advisory inspections and why additional staff complement is needed to meet  
3.24 the demand; and (2) that the revenue generated by advisory inspections will cover the  
3.25 expenses of the additional staff complement. If a person requests an advisory inspection,  
3.26 but the agency does not have staff resources necessary to conduct the advisory inspection  
3.27 before a regular inspection is conducted, and the regular inspection results in findings that  
3.28 could make a person subject to a fine or penalty, the agency must take into account the  
3.29 person's request for an advisory inspection and the person's desire to take corrective action  
3.30 before taking any enforcement action against the person.

3.31 (g) This section does not apply to:

3.32 (1) criminal penalties;

3.33 (2) situations in which implementation of this section is prohibited by federal law or  
3.34 would result in loss of federal funding or in other federal sanctions or in which

4.1 implementation would interfere with multistate agreements, international agreements, or  
4.2 agreements between state and federal regulatory agencies;

4.3 (3) conduct constituting fraud;

4.4 (4) violations in a manner that endangers human life or presents significant risk of major  
4.5 injury or severe emotional harm to humans;

4.6 (5) violations that are part of a pattern that has occurred repeatedly and shows willful  
4.7 intent;

4.8 (6) violations for which it may be demonstrated that the alternative inspections process  
4.9 is being used to avoid enforcement;

4.10 (7) violations that occur within three years of violating an applicable law;

4.11 (8) the Department of Revenue;

4.12 (9) the Workers' Compensation Division at the Department of Labor and Industry;

4.13 (10) violations of vehicle size weight limits under sections 169.80 to 169.88;

4.14 (11) commercial motor vehicle inspections under section 169.781 and motor carrier  
4.15 regulations under chapter 221;

4.16 ~~(12) the Dairy and Food Inspection Division of the Department of Agriculture, if the~~  
4.17 ~~division provides free inspections similar to those under this section;~~

4.18 ~~(13)~~ (12) state inspections or surveys of hospitals, nursing homes, outpatient surgical  
4.19 centers, supervised living facilities, board and lodging with special services, home care,  
4.20 housing with services and assisted living settings, hospice, and supplemental nursing services  
4.21 agencies;

4.22 ~~(14)~~ (13) examinations of health maintenance organizations or county-based purchasing  
4.23 entities regulated under chapter 62D;

4.24 ~~(15)~~ (14) special transportation services under section 174.30; and

4.25 ~~(16)~~ (15) entities regulated by the Department of Commerce's Financial Institutions and  
4.26 Insurance Divisions for purposes of regulatory requirements of those divisions.

4.27 If an agency determines that this section does not apply due to situations specified in clause  
4.28 (2), the agency must report the basis for that determination to the chairs and ranking minority  
4.29 members of the legislative committees with jurisdiction over the agency.

4.30 (h) An agency may terminate an advisory inspection and proceed as if an inspection  
4.31 were a regular inspection if, in the process of conducting an advisory inspection, the agency

5.1 finds a situation that the agency determines: could lead to criminal penalties; endangers  
 5.2 human life or presents significant risk of major injury or severe emotional harm to humans;  
 5.3 presents a severe and imminent threat to animals, food, feed, crops, commodities, or the  
 5.4 environment; or evidences a pattern of willful violations.

5.5 Sec. 2. Minnesota Statutes 2016, section 17.119, subdivision 1, is amended to read:

5.6 Subdivision 1. **Grants; eligibility.** (a) The commissioner must award ~~cost-share~~ grants  
 5.7 to Minnesota farmers who retrofit eligible tractors and Minnesota schools that retrofit eligible  
 5.8 tractors with eligible rollover protective structures.

5.9 (b) Grants for farmers are limited to 70 percent of the farmer's or school's documented  
 5.10 cost to purchase, ship, and install an eligible rollover protective structure. The commissioner  
 5.11 must increase the a farmer's grant award amount over the 70 percent grant limitation  
 5.12 requirement if necessary to limit a farmer's or school's cost per tractor to no more than \$500.

5.13 (c) Schools are eligible for grants that cover the full amount of a school's documented  
 5.14 cost to purchase, ship, and install an eligible rollover protective structure.

5.15 ~~(b)~~ (d) A rollover protective structure is eligible if it meets or exceeds SAE International  
 5.16 standard J2194 is certified to appropriate national or international rollover protection structure  
 5.17 standards with a seat belt.

5.18 ~~(e)~~ (e) A tractor is eligible if the tractor was built before 1987.

5.19 **EFFECTIVE DATE.** This section is effective retroactively from July 1, 2016.

5.20 Sec. 3. Minnesota Statutes 2016, section 17.53, subdivision 2, is amended to read:

5.21 Subd. 2. **Agricultural commodity.** (a) Except as provided in paragraph (b), "agricultural  
 5.22 commodity" means any agricultural product, including, without limitation, animals and  
 5.23 animal products, grown, raised, produced, or fed within Minnesota for use as food, feed,  
 5.24 seed, or any industrial or chemurgic purpose.

5.25 (b) For wheat, barley, corn, and cultivated wild rice, "agricultural commodity" means  
 5.26 wheat, barley, and cultivated wild rice including, without limitation, wheat, barley, and  
 5.27 cultivated wild rice grown or produced within or outside Minnesota, for use as food, feed,  
 5.28 seed, or any industrial or chemurgic purpose.

5.29 Sec. 4. Minnesota Statutes 2016, section 17.53, subdivision 8, is amended to read:

5.30 Subd. 8. **First purchaser.** (a) Except as provided in paragraph (b), "first purchaser"  
 5.31 means any person that buys agricultural commodities for movement into commercial channels

6.1 from the producer; or any lienholder, secured party or pledgee, public or private, or assignee  
 6.2 of said lienholder, secured party or pledgee, who gains title to the agricultural commodity  
 6.3 from the producer as the result of exercising any legal rights by the lienholder, secured  
 6.4 party, pledgee, or assignee thereof, regardless of when the lien, security interest or pledge  
 6.5 was created and regardless of whether the first purchaser is domiciled within the state or  
 6.6 without. "First purchaser" does not mean the Commodity Credit Corporation when a  
 6.7 commodity is used as collateral for a federal nonrecourse loan unless the commissioner  
 6.8 determines otherwise.

6.9 (b) For wheat, barley, corn, and cultivated wild rice, "first purchaser" means a person  
 6.10 who buys, receives delivery of, or provides storage for the agricultural commodity from a  
 6.11 producer for movement into commercial channels; or a lienholder, secured party, or pledgee,  
 6.12 who gains title to the agricultural commodity from the producers as the result of exercising  
 6.13 any legal rights by the lienholder, secured party, pledgee, or assignee, regardless of when  
 6.14 the lien, security interest, or pledge was created and regardless of whether or not the first  
 6.15 purchaser is domiciled in the state. "First purchaser" does not mean the Commodity Credit  
 6.16 Corporation when the wheat, barley, or cultivated wild rice is used as collateral for a federal  
 6.17 nonrecourse loan unless the commissioner determines otherwise.

6.18 Sec. 5. Minnesota Statutes 2016, section 17.53, subdivision 13, is amended to read:

6.19 Subd. 13. **Producer.** (a) Except as provided in paragraph (b), "producer" means any  
 6.20 person who owns or operates an agricultural producing or growing facility for an agricultural  
 6.21 commodity and shares in the profits and risk of loss from such operation, and who grows,  
 6.22 raises, feeds or produces the agricultural commodity in Minnesota during the current or  
 6.23 preceding marketing year.

6.24 (b) For wheat, barley, corn, and cultivated wild rice, "producer" means in addition to  
 6.25 the meaning in paragraph (a) and for the purpose of the payment or the refund of the checkoff  
 6.26 fee paid pursuant to sections 17.51 to 17.69 only, a person who delivers into, stores within,  
 6.27 or makes the first sale of the agricultural commodity in Minnesota.

6.28 Sec. 6. Minnesota Statutes 2016, section 17.983, subdivision 1, is amended to read:

6.29 Subdivision 1. **Administrative penalties; citation.** If a person has violated a provision  
 6.30 of chapter 25, 31B, or ~~32~~ 32D, the commissioner may issue a written citation to the person  
 6.31 by personal service or by certified mail. The citation must describe the nature of the violation  
 6.32 and the statute or rule alleged to have been violated; state the time for correction, if  
 6.33 applicable; and the amount of any proposed fine. The citation must advise the person to

7.1 notify the commissioner in writing within 30 days if the person wishes to appeal the citation.  
7.2 If the person fails to appeal the citation, the citation is the final order and not subject to  
7.3 further review.

7.4 Sec. 7. Minnesota Statutes 2016, section 17.984, subdivision 1, is amended to read:

7.5 Subdivision 1. **Authority.** To carry out the commissioner's enforcement duties under  
7.6 chapter ~~32~~ 32D, the commissioner may, upon presenting appropriate credentials, during  
7.7 regular working hours and at other reasonable times, inspect premises subject to the  
7.8 commissioner's enforcement and licensing authority for reasons related to the commissioner's  
7.9 enforcement and licensing authority; request information from persons with information  
7.10 relevant to an inspection; and inspect relevant papers and records, including business records.  
7.11 The commissioner may issue notices in lieu of citations for minor violations if a notice is  
7.12 in the public interest.

7.13 Sec. 8. Minnesota Statutes 2016, section 18B.01, is amended by adding a subdivision to  
7.14 read:

7.15 Subd. 9b. **Experimental use permit.** "Experimental use permit" means a permit issued  
7.16 by the United States Environmental Protection Agency as authorized in Section 5 of the  
7.17 Federal Insecticide, Fungicide, and Rodenticide Act.

7.18 Sec. 9. Minnesota Statutes 2016, section 18B.01, is amended by adding a subdivision to  
7.19 read:

7.20 Subd. 9c. **Experimental use pesticide product.** "Experimental use pesticide product"  
7.21 means any federally registered or unregistered pesticide whose use is authorized by an  
7.22 experimental use permit issued by the United States Environmental Protection Agency.

7.23 Sec. 10. Minnesota Statutes 2016, section 18B.03, is amended by adding a subdivision to  
7.24 read:

7.25 Subd. 5. **Label compliance.** Unless explicitly required by the FIFRA, the commissioner  
7.26 must not require an applicator to demonstrate label compliance or need prior to applying a  
7.27 pesticide.

7.28 Sec. 11. Minnesota Statutes 2016, section 18B.26, subdivision 1, is amended to read:

7.29 Subdivision 1. **Requirement.** (a) Except as provided in paragraphs (b) to ~~(d)~~ (e), a person  
7.30 may not use or distribute a pesticide in this state unless it is registered with the commissioner.

8.1 Pesticide registrations expire on December 31 of each year and may be renewed on or before  
8.2 that date for the following calendar year.

8.3 (b) Registration is not required if a pesticide is shipped from one plant or warehouse to  
8.4 another plant or warehouse operated by the same person and used solely at the plant or  
8.5 warehouse as an ingredient in the formulation of a pesticide that is registered under this  
8.6 chapter.

8.7 (c) An unregistered pesticide that was previously registered with the commissioner may  
8.8 be used for a period of two years following the cancellation of the registration of the pesticide,  
8.9 unless the commissioner determines that the continued use of the pesticide would cause  
8.10 unreasonable adverse effects on the environment, or with the written permission of the  
8.11 commissioner. To use the unregistered pesticide at any time after the two-year period, the  
8.12 pesticide end user must demonstrate to the satisfaction of the commissioner, if requested,  
8.13 that the pesticide has been continuously registered under a different brand name or by a  
8.14 different manufacturer and has similar composition, or, the pesticide end user obtains the  
8.15 written permission of the commissioner.

8.16 (d) The commissioner may allow specific pesticide products that are not registered with  
8.17 the commissioner to be distributed in this state for use in another state.

8.18 (e) A substance or mixture of substances being tested only to determine its potential  
8.19 efficacy as a pesticide, or to determine its toxicity or other properties, and not requiring the  
8.20 issuance of an experimental use permit under United States Environmental Protection  
8.21 Agency criteria specified in federal regulations, is not required to be registered.

8.22 ~~(e)~~ (f) Each pesticide with a unique United States Environmental Protection Agency  
8.23 pesticide registration number or a unique brand name must be registered with the  
8.24 commissioner.

8.25 ~~(f)~~ (g) It is unlawful for a person to distribute or use a pesticide in the state, or to sell  
8.26 into the state for use in the state, any pesticide product that has not been registered by the  
8.27 commissioner and for which the applicable pesticide registration application fee, gross sales  
8.28 fee, or waste pesticide program surcharge is not paid pursuant to subdivisions 3 and 4.

8.29 ~~(g)~~ (h) Every person who sells for use in the state a pesticide product that has been  
8.30 registered by the commissioner shall pay to the commissioner the applicable registration  
8.31 application fees, sales fees, and waste pesticide program surcharges. These sales expressly  
8.32 include all sales made electronically, telephonically, or by any other means that result in a  
8.33 pesticide product being shipped to or used in the state. There is a rebuttable presumption

9.1 that pesticide products that are sold or distributed in or into the state by any person are sold  
 9.2 or distributed for use in the state.

9.3 Sec. 12. Minnesota Statutes 2016, section 18B.28, subdivision 1, is amended to read:

9.4 Subdivision 1. **Requirement.** A person may not use or distribute an experimental use  
 9.5 pesticide product in the state until it is registered with the commissioner. Experimental use  
 9.6 pesticide product registrations expire on December 31 of each year and may be renewed  
 9.7 on or before that date. A substance or mixture of substances being tested only to determine  
 9.8 its potential efficacy as a pesticide, or to determine its toxicity or other properties, and not  
 9.9 requiring the issuance of an experimental use permit under United States Environmental  
 9.10 Protection Agency criteria specified in federal regulations, is not required to be registered.

9.11 Sec. 13. Minnesota Statutes 2016, section 18B.28, subdivision 3, is amended to read:

9.12 Subd. 3. **Application.** A person must file an application for experimental use pesticide  
 9.13 product registration with the commissioner. An application to register an experimental use  
 9.14 pesticide product must include:

9.15 (1) the name and address of the applicant;

9.16 (2) a ~~federal~~ copy of the United States Environmental Protection Agency approval  
 9.17 document permit;

9.18 (3) a description of the purpose or objectives of the experimental use product;

9.19 (4) ~~an~~ a copy of the experimental use pesticide labeling accepted experimental use  
 9.20 pesticide product label by the United States Environmental Protection Agency;

9.21 (5) the name, address, and telephone number of cooperators or participants in this state;

9.22 (6) the amount of material to be shipped or used in this state; and

9.23 (7) other information requested by the commissioner.

9.24 Sec. 14. Minnesota Statutes 2016, section 18B.305, subdivision 1, is amended to read:

9.25 Subdivision 1. **Education and training.** (a) The commissioner, as the lead agency, shall  
 9.26 develop, implement or approve, and evaluate, in consultation with University of Minnesota  
 9.27 Extension, the Minnesota State Colleges and Universities system, and other educational  
 9.28 institutions, innovative educational and training programs addressing pesticide and pest  
 9.29 management concerns including:

9.30 (1) water quality protection;

- 10.1 (2) endangered species protection;
- 10.2 (3) minimizing pesticide residues in food and water;
- 10.3 (4) worker protection and applicator safety;
- 10.4 (5) chronic toxicity;
- 10.5 (6) integrated pest management and pest resistance;
- 10.6 (7) pesticide disposal;
- 10.7 (8) pesticide drift;
- 10.8 (9) relevant laws including pesticide labels and labeling and state and federal rules and
- 10.9 regulations; and
- 10.10 (10) current science and technology updates.
- 10.11 (b) The commissioner shall appoint educational planning committees which must include
- 10.12 representatives of industry and applicators.
- 10.13 (c) Specific current regulatory concerns must be discussed and, if appropriate,
- 10.14 incorporated into each training session. Relevant changes to pesticide product labels or
- 10.15 labeling or state and federal rules and regulations may be included.
- 10.16 (d) The commissioner may approve programs from private industry, higher education
- 10.17 institutions, and nonprofit organizations that meet minimum requirements for education,
- 10.18 training, and certification.
- 10.19 Sec. 15. Minnesota Statutes 2016, section 18B.37, subdivision 3, is amended to read:
- 10.20 Subd. 3. **Structural pest control applicators.** (a) A structural pest control applicator
- 10.21 must maintain a record of each structural pest control application conducted by that person
- 10.22 or by the person's employees. The record must include the:
- 10.23 (1) date of structural pest control application;
- 10.24 (2) target pest;
- 10.25 (3) brand name of the pesticide, United States Environmental Protection Agency
- 10.26 registration number, and amount used;
- 10.27 (4) for fumigation, the temperature and exposure time;
- 10.28 (5) time the pesticide application was completed;
- 10.29 (6) name and address of the customer;

11.1 (7) name of structural pest control applicator, name of company and address of applicator  
 11.2 or company, and license number of applicator; and

11.3 (8) any other information required by the commissioner.

11.4 (b) All information for this record requirement must be contained in a document for  
 11.5 each pesticide application. An invoice containing the required information may constitute  
 11.6 the record.

11.7 (c) The record must be completed no later than five days after the application of the  
 11.8 pesticide.

11.9 (d) Records must be retained for five years after the date of treatment.

11.10 (e) A copy of the record must be given to a person who ordered the application that is  
 11.11 present at the site where the structural pest control application is conducted, placed in a  
 11.12 conspicuous location at the site where the structural pest control application is conducted  
 11.13 immediately after the application of the pesticides, or delivered to the person who ordered  
 11.14 an application or the owner of the site. The commissioner must make sample forms available  
 11.15 that meet the requirements of this subdivision.

11.16 (f) A structural applicator must post in a conspicuous place inside a renter's apartment  
 11.17 where a pesticide application has occurred a list of postapplication precautions contained  
 11.18 on the label of the pesticide that was applied in the apartment and any other information  
 11.19 required by the commissioner.

11.20 Sec. 16. Minnesota Statutes 2016, section 18C.70, subdivision 5, is amended to read:

11.21 Subd. 5. **Expiration.** This section expires ~~January 8, 2017~~ June 30, 2020.

11.22 **EFFECTIVE DATE.** This section is effective retroactively from January 7, 2017.

11.23 Sec. 17. Minnesota Statutes 2016, section 18C.71, subdivision 4, is amended to read:

11.24 Subd. 4. **Expiration.** This section expires ~~January 8, 2017~~ June 30, 2020.

11.25 **EFFECTIVE DATE.** This section is effective retroactively from January 7, 2017.

11.26 Sec. 18. Minnesota Statutes 2016, section 18H.06, subdivision 2, is amended to read:

11.27 Subd. 2. **Occasional sales.** (a) An individual may offer nursery stock for sale and be  
 11.28 exempt from the requirement to obtain a nursery stock certificate if:

11.29 (1) the gross sales of all nursery stock in a calendar year do not exceed \$2,000;

12.1 (2) all nursery stock sold or distributed by the individual is intended for planting in  
 12.2 Minnesota;

12.3 (3) all nursery stock purchased or procured for resale or distribution was grown in  
 12.4 Minnesota and has been certified by the commissioner; and

12.5 (4) the individual conducts sales or distributions of nursery stock on ten or fewer days  
 12.6 in a calendar year.

12.7 (b) A municipality may offer certified nursery stock for sale and be exempt from the  
 12.8 requirement to obtain a nursery stock certificate if:

12.9 (1) all nursery stock offered for sale or distributed is intended for planting by residents  
 12.10 of the municipality on public property or public easements within the municipal boundary;

12.11 (2) all nursery stock purchased or procured for resale or distribution is grown in  
 12.12 Minnesota and has been certified by the commissioner; and

12.13 (3) the municipality submits to the commissioner before any sale or distribution of  
 12.14 nursery stock a list of all suppliers who provide the municipality with nursery stock.

12.15 ~~(b)~~ (c) The commissioner may prescribe the conditions of the exempt nursery sales under  
 12.16 this subdivision and may conduct routine inspections of the nursery stock offered for sale.

12.17 Sec. 19. Minnesota Statutes 2016, section 18H.07, subdivision 2, is amended to read:

12.18 Subd. 2. **Nursery stock grower certificate.** (a) A nursery stock grower must pay an  
 12.19 annual fee based on the area of all acreage on which nursery stock is grown as follows:

12.20 (1) less than one-half acre, \$150;

12.21 (2) from one-half acre to two acres, \$200;

12.22 (3) over two acres up to five acres, \$300;

12.23 (4) over five acres up to ten acres, \$350;

12.24 (5) over ten acres up to 20 acres, \$500;

12.25 (6) over 20 acres up to 40 acres, \$650;

12.26 (7) over 40 acres up to 50 acres, \$800;

12.27 (8) over 50 acres up to 200 acres, \$1,100;

12.28 (9) over 200 acres up to 500 acres, \$1,500; and

12.29 (10) over 500 acres, \$1,500 plus \$2 for each additional acre.

13.1 (b) In addition to the fees in paragraph (a), a penalty of ten percent of the fee due must  
13.2 be charged for each month, or portion thereof, that the fee is delinquent up to a maximum  
13.3 of 30 percent for any application for renewal not postmarked or electronically date stamped  
13.4 by December 31 of the current year.

13.5 (c) A nursery stock grower found operating without a valid nursery stock grower  
13.6 certificate cannot offer for sale or sell nursery stock until: (1) payment is received by the  
13.7 commissioner for (i) the certificate fee due, and (ii) a penalty equal to the certificate fee  
13.8 owed; and (2) a new certificate is issued to the nursery stock grower by the commissioner.

13.9 Sec. 20. Minnesota Statutes 2016, section 18H.07, subdivision 3, is amended to read:

13.10 Subd. 3. **Nursery stock dealer certificate.** (a) A nursery stock dealer must pay an annual  
13.11 fee based on the dealer's gross sales of certified nursery stock per location during the most  
13.12 recent certificate year. A certificate applicant operating for the first time must pay the  
13.13 minimum fee. The fees per sales location are:

13.14 (1) gross sales up to \$5,000, \$150;

13.15 (2) gross sales over \$5,000 up to \$20,000, \$175;

13.16 (3) gross sales over \$20,000 up to \$50,000, \$300;

13.17 (4) gross sales over \$50,000 up to \$75,000, \$425;

13.18 (5) gross sales over \$75,000 up to \$100,000, \$550;

13.19 (6) gross sales over \$100,000 up to \$200,000, \$675; and

13.20 (7) gross sales over \$200,000, \$800.

13.21 (b) In addition to the fees in paragraph (a), a penalty of ten percent of the fee due must  
13.22 be charged for each month, or portion thereof, that the fee is delinquent up to a maximum  
13.23 of 30 percent for any application for renewal not postmarked or electronically date stamped  
13.24 by December 31 of the current year.

13.25 (c) A nursery stock dealer found operating without a valid nursery stock dealer certificate  
13.26 cannot offer for sale or sell nursery stock until: (1) payment is received by the commissioner  
13.27 for (i) the certificate fee due, and (ii) a penalty equal to the certificate fee owed; and (2) a  
13.28 new certificate is issued to the nursery stock dealer by the commissioner.

14.1 Sec. 21. Minnesota Statutes 2016, section 21.111, subdivision 2, is amended to read:

14.2 Subd. 2. **Inspected.** "Inspected" means that the potato plants are examined in the field  
 14.3 and that the harvested potatoes produced by ~~such~~ the potato plants are examined by or under  
 14.4 the authority of the commissioner. For seed potatoes produced in a lab, inspected means  
 14.5 that the lab's records, including records related to the lab's procedures and protocols, as well  
 14.6 as the seed potatoes, have been examined under the authority of the commissioner.

14.7 Sec. 22. Minnesota Statutes 2016, section 21.111, subdivision 3, is amended to read:

14.8 Subd. 3. **Certified.** "Certified" means that the potatoes were inspected while growing  
 14.9 in the field and again after being harvested, and were thereafter duly certified by or under  
 14.10 the authority of the commissioner, as provided in sections 21.111 to 21.122, and as provided  
 14.11 by rules adopted and published by the commissioner. For seed potatoes produced in a lab,  
 14.12 certified means that:

14.13 (1) the seed potato lab facilities and the lab's procedures and protocols have been  
 14.14 examined under the authority of the commissioner; and

14.15 (2) the seed potatoes have been inspected after they have been harvested, removed, or  
 14.16 released from the lab, and were duly certified by or under the authority of the commissioner,  
 14.17 as provided in sections 21.111 to 21.122.

14.18 Sec. 23. Minnesota Statutes 2016, section 21.113, is amended to read:

14.19 **21.113 CERTIFICATES OF INSPECTION.**

14.20 (a) The commissioner shall ~~cause~~ issue certificates of inspection ~~to be issued~~ only when  
 14.21 seed potatoes have been inspected while growing in the field and again after being harvested.

14.22 (b) For seed potatoes produced in a lab, the commissioner shall issue certificates of  
 14.23 inspection only after:

14.24 (1) the seed potato lab facility and the lab's records have been inspected; and

14.25 (2) the seed potatoes have been inspected after they have been harvested, removed, or  
 14.26 released from the lab.

14.27 ~~Such~~ (c) Certificates of inspection under this section shall show the varietal purity and  
 14.28 the freedom from disease and physical injury of such potatoes and ~~shall contain such~~ any  
 14.29 other information as may be prescribed by rules adopted and published under sections 21.111  
 14.30 to 21.122.

15.1 Sec. 24. Minnesota Statutes 2016, section 21.117, is amended to read:

15.2 **21.117 APPLICATIONS FOR INSPECTIONS; WITHDRAWALS.**

15.3 (a) Any person may make application to the commissioner for inspection or certification  
 15.4 of seed potatoes growing or to be grown. Upon receiving such application and the required  
 15.5 fee and such other information as may be required, the commissioner shall cause such  
 15.6 potatoes to be inspected or certified in accordance with the provisions of sections 21.111  
 15.7 to 21.122 and the rules adopted and published thereunder.

15.8 (b) If a grower wishes to withdraw a field or lab after having made application for  
 15.9 inspection and such withdrawal is requested before the field or lab inspection has been  
 15.10 made, the fee paid shall be refunded to said grower.

15.11 Sec. 25. Minnesota Statutes 2016, section 25.32, is amended to read:

15.12 **25.32 COMMISSIONER'S DUTIES.**

15.13 The commissioner shall administer sections 25.31 to 25.43 ~~shall be administered by the~~  
 15.14 ~~commissioner.~~

15.15 Sec. 26. Minnesota Statutes 2016, section 25.33, subdivision 5, is amended to read:

15.16 Subd. 5. **Commercial feed.** "Commercial feed" means materials or combinations of  
 15.17 materials that are distributed or intended to be distributed for use as feed or for mixing in  
 15.18 feed, including feed for aquatic animals, unless the materials are specifically exempted.  
 15.19 Unmixed whole seeds and physically altered entire unmixed seeds, as identified in the  
 15.20 United States grain standards, if the whole or physically altered seeds are not chemically  
 15.21 changed, are not labeled as a feed or for use as feed, or are not adulterated within the meaning  
 15.22 of section 25.37, paragraph (a), are exempt. The commissioner by rule may exempt from  
 15.23 this definition, or from specific provisions of sections 25.31 to 25.43, commodities such as  
 15.24 hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or  
 15.25 substances if those commodities, compounds, or substances are not intermixed with other  
 15.26 materials, are not labeled as a feed or for use as feed, and are not adulterated within the  
 15.27 meaning of section 25.37, paragraph (a).

15.28 Sec. 27. Minnesota Statutes 2016, section 25.33, subdivision 10, is amended to read:

15.29 Subd. 10. **Manufacture.** "Manufacture" means to grind, mix ~~or~~ blend, ~~or further process,~~  
 15.30 package, or label a commercial feed for distribution.

16.1 Sec. 28. Minnesota Statutes 2016, section 25.33, subdivision 21, is amended to read:

16.2 Subd. 21. **Commissioner.** "Commissioner" means the commissioner of agriculture or  
16.3 ~~a designated representative~~ the commissioner's agent.

16.4 Sec. 29. Minnesota Statutes 2016, section 25.341, subdivision 1, is amended to read:

16.5 Subdivision 1. **Requirement.** Before a person may: (1) manufacture a commercial feed  
16.6 in the state; (2) distribute a commercial feed in or into the state; or (3) have the person's  
16.7 name appear on the label of a commercial feed as guarantor, the person must have a  
16.8 commercial feed license for each guarantor, or manufacturing or distributing facility. A  
16.9 person who makes only retail sales of commercial feed, guaranteed by another, is not required  
16.10 to obtain a license.

16.11 Sec. 30. Minnesota Statutes 2016, section 25.341, subdivision 2, is amended to read:

16.12 Subd. 2. **Application; fee; term.** A person who is required to have a commercial feed  
16.13 license ~~shall~~ must submit an application on a form provided or approved by the commissioner  
16.14 accompanied by ~~a~~ an application fee of \$75 paid to the commissioner for each location. A  
16.15 license is not transferable from one person to another, from one ownership to another, or  
16.16 from one location to another. The license year is the calendar year. A license expires on  
16.17 December 31 of the year for which it is issued, except that a license is valid ~~through January~~  
16.18 ~~31 of the next year or until the issuance of the renewal license, whichever comes first,~~ if  
16.19 the licensee has filed a renewal application with the commissioner that has been received  
16.20 by the commissioner on or before December 31 of the year for which the current license  
16.21 was issued, or postmarked on or before December 31 of the year for which the current  
16.22 license was issued. Any person who is required to have, but fails to obtain a license or a  
16.23 licensee who fails to comply with license renewal requirements, ~~shall~~ must pay a \$100 late  
16.24 fee in addition to the license fee.

16.25 Sec. 31. Minnesota Statutes 2016, section 25.35, is amended to read:

16.26 **25.35 LABELING.**

16.27 (a) A commercial feed, except a customer formula feed, must be accompanied by a label  
16.28 bearing the following information:

16.29 (1) the product name and the brand name, if any, under which the commercial feed is  
16.30 distributed;

17.1 (2) the guaranteed analysis, stated in terms the commissioner requires by rule, to advise  
17.2 the user of the composition of the feed or to support claims made in the labeling. The  
17.3 substances or elements must be determinable by laboratory methods such as the methods  
17.4 published by the AOAC International or other generally recognized methods;

17.5 (3) the common or usual name of each ingredient used in the manufacture of the  
17.6 commercial feed. The commissioner may by rule permit the use of a collective term for a  
17.7 group of ingredients which perform a similar function, or may exempt commercial feeds  
17.8 or any group of commercial feeds from this requirement on finding that an ingredient  
17.9 statement is not required in the interest of consumers;

17.10 (4) the name and principal mailing address of the manufacturer or the person responsible  
17.11 for distributing the commercial feed;

17.12 (5) adequate directions for use for all commercial feeds containing drugs and for such  
17.13 other feeds as the commissioner may require by rule as necessary for their safe and effective  
17.14 use;

17.15 (6) precautionary statements which the commissioner determines by rule are necessary  
17.16 for the safe and effective use of the commercial feed; and

17.17 (7) a quantity statement.

17.18 (b) A customer formula feed must be accompanied by a label, invoice, delivery slip, or  
17.19 other shipping document bearing the following information:

17.20 (1) name and address of the manufacturer;

17.21 (2) name and address of the purchaser;

17.22 (3) date of delivery;

17.23 (4) the product name and either (i) the quantity of each commercial feed and each other  
17.24 ingredient used in the mixture, or (ii) a guaranteed analysis and list of ingredients in paragraph  
17.25 (a), clauses (2) and (3);

17.26 (5) adequate directions for use for all customer formula feeds containing drugs and for  
17.27 other feeds the commissioner requires by rule as necessary for their safe and effective use;

17.28 (6) precautionary statements the commissioner determines by rule are necessary for the  
17.29 safe and effective use of the customer formula feed;

17.30 (7) if a product containing a drug is used:

17.31 (i) the purpose of the medication (claim statement); and

18.1 (ii) the established name of each active drug ingredient and the level of each drug used  
18.2 in the final mixture expressed in a manner required by the commissioner by rule; ~~and~~

18.3 (8) for a customer formula feed for which the formula is developed by someone other  
18.4 than the manufacturer, a disclaimer may be included on the label stating "THIS FEED IS  
18.5 A CUSTOMER FORMULA FEED DEVELOPED BY SOMEONE OTHER THAN THE  
18.6 MANUFACTURER. THE MANUFACTURER DOES NOT CLAIM, REPRESENT,  
18.7 WARRANT, OR GUARANTEE, AND IS NOT RESPONSIBLE FOR THE NUTRITIONAL  
18.8 ADEQUACY OF THIS FEED OR THE NUTRITIONAL SUITABILITY OF THIS FEED  
18.9 FOR ITS INTENDED PURPOSE."; and

18.10 (9) a quantity statement.

18.11 (c) The manufacturer of a customer formula feed the formula of which is developed by  
18.12 someone other than the manufacturer is not responsible or liable for the nutritional adequacy  
18.13 or the nutritional suitability of the feed for its intended purpose if: (1) the manufacturer does  
18.14 not make a claim of nutritional adequacy for the customer formula feed and does not make  
18.15 a claim for nutritional suitability of the feed for its intended purpose; and (2) the manufacturer  
18.16 includes the disclaimer in paragraph (b), clause (8). A person other than the manufacturer  
18.17 who develops or recommends a formula for a customer formula feed is responsible for  
18.18 providing to the manufacturer of the feed the appropriate labeling information and for  
18.19 providing the appropriate use information to the feed manufacturer.

18.20 Sec. 32. Minnesota Statutes 2016, section 25.371, subdivision 2, is amended to read:

18.21 Subd. 2. **Certificate application.** (a) A person may apply to the commissioner for a  
18.22 good manufacturing practices certificate for commercial feed and feed ingredients.

18.23 Application for good manufacturing practices certificates must be made on forms provided  
18.24 or approved by the commissioner. The commissioner shall conduct inspections of facilities  
18.25 for persons that have applied for or intend to apply for a good manufacturing practices  
18.26 certificate for commercial feed and feed ingredients from the commissioner. The  
18.27 commissioner shall not conduct an inspection under this ~~section~~ subdivision if the applicant  
18.28 has not paid in full the inspection fee for previous inspections. Certificate issuance shall be  
18.29 based on ~~compliance with subdivisions 3 to 14,~~ or United States Food and Drug  
18.30 Administration rules regarding preventive controls for animal feed.

18.31 (b) The commissioner may assess a fee for the inspection, service, and work performed  
18.32 in carrying out the issuance of a good manufacturing practices certificate for commercial  
18.33 feed and feed ingredients. The inspection fee must be based on mileage and the cost of  
18.34 inspection.

19.1 Sec. 33. Minnesota Statutes 2016, section 25.38, is amended to read:

19.2 **25.38 PROHIBITED ACTS.**

19.3 The following acts and causing the following acts in Minnesota are prohibited:

19.4 (1) manufacture or distribution of any commercial feed that is adulterated or misbranded;

19.5 (2) adulteration or misbranding of any commercial feed;

19.6 (3) distribution of agricultural commodities such as whole seed, hay, straw, stover, silage,  
19.7 cobs, husks, and hulls, which are adulterated within the meaning of section 25.37, paragraph  
19.8 (a);

19.9 (4) removal or disposal of a commercial feed in violation of an order under section 25.42;

19.10 (5) failure or refusal to obtain a commercial feed license under section 25.341 ~~or to~~  
19.11 ~~provide a small package listing under section 25.39;~~ or

19.12 (6) failure to pay inspection fees, to register a small package under section 25.39, or to  
19.13 file reports as required by section 25.39.

19.14 Sec. 34. Minnesota Statutes 2016, section 25.39, subdivision 1, is amended to read:

19.15 Subdivision 1. **Amount of fee.** (a) An inspection fee at the rate of 16 cents per ton must  
19.16 be paid to the commissioner on commercial feeds distributed in this state by the person who  
19.17 first distributes the commercial feed, except that:

19.18 (1) no fee need be paid on:

19.19 ~~(i) a commercial feed if the payment has been made by a previous distributor; or~~

19.20 ~~(ii) any feed ingredient in a customer formula feeds if the inspection fee is paid on the~~  
19.21 ~~commercial feeds which are used as ingredients~~ feed that has been directly furnished by the  
19.22 customer; or

19.23 ~~(2) a Minnesota feed distributor who can substantiate that greater than 50 percent of the~~  
19.24 ~~distribution of commercial feed is to purchasers outside the state may purchase commercial~~  
19.25 ~~feeds without payment of the inspection fee under a tonnage fee exemption permit issued~~  
19.26 ~~by the commissioner~~ no fee need be paid on a first distribution if made to a qualified buyer  
19.27 who, with approval from the commissioner, is responsible for the fee. Such location-specific  
19.28 license-specific tonnage-fee-exemption permits shall be issued on a calendar year basis to  
19.29 commercial feed distributors licensees who distribute feed or feed ingredients outside the  
19.30 state, and who submit a \$100 nonrefundable application fee and comply with rules adopted  
19.31 by the commissioner relative to record keeping, tonnage of commercial feed distributed in

20.1 Minnesota, total of all commercial feed tonnage distributed, and all other information which  
 20.2 the commissioner may require so as to ensure that proper inspection fee payment has been  
 20.3 made.

20.4 (b) In the case of pet food or specialty pet food distributed in the state only in packages  
 20.5 of ten pounds or less, a listing of distributor must register each product and submit a current  
 20.6 label for each product ~~must be submitted~~ annually on forms provided by the commissioner  
 20.7 ~~and~~<sub>2</sub> accompanied by an annual application fee of \$100 for each product in lieu of the  
 20.8 inspection fee. This annual fee ~~is due by July 1~~ must be received by the commissioner on  
 20.9 or before June 30 or postmarked on or before June 30. The inspection fee required by  
 20.10 paragraph (a) applies to pet food or specialty pet food distributed in packages exceeding  
 20.11 ten pounds.

20.12 ~~(e) In the case of specialty pet food distributed in the state only in packages of ten pounds~~  
 20.13 ~~or less, a listing of each product and a current label for each product must be submitted~~  
 20.14 ~~annually on forms provided by the commissioner and accompanied by an annual fee of~~  
 20.15 ~~\$100 for each product in lieu of the inspection fee. This annual fee is due by July 1. The~~  
 20.16 ~~inspection fee required by paragraph (a) applies to specialty pet food distributed in packages~~  
 20.17 ~~exceeding ten pounds.~~

20.18 ~~(d)~~ (c) The minimum inspection fee is \$75 per annual reporting period.

20.19 Sec. 35. Minnesota Statutes 2016, section 25.39, subdivision 1a, is amended to read:

20.20 Subd. 1a. **Containers of ten pounds or less.** A distributor who is subject to the annual  
 20.21 fee specified in subdivision 1, paragraph (b) ~~or (e)~~, ~~shall~~ must do the following:

20.22 (1) before beginning distribution, ~~file~~ register with the commissioner ~~a listing of the~~ pet  
 20.23 and specialty pet foods to be distributed in the state only in containers of ten pounds or less,  
 20.24 on forms provided by the commissioner. The listing registration under this clause must be  
 20.25 renewed annually on or before July 1 June 30 and is the basis for the payment of the annual  
 20.26 fee. New products added during the year must be submitted to the commissioner as a  
 20.27 supplement to the annual listing registration before distribution; and

20.28 (2) if the annual renewal of the listing registration is not received or postmarked on or  
 20.29 before July 1 June 30 or if an unlisted unregistered product is distributed, pay a late filing  
 20.30 fee of \$100 per product in addition to the normal charge for the listing registration. The late  
 20.31 filing fee under this clause is in addition to any other penalty under this chapter.

21.1 Sec. 36. Minnesota Statutes 2016, section 25.39, subdivision 2, is amended to read:

21.2 Subd. 2. **Annual statement.** A person who is liable for the payment of a fee under this  
 21.3 section ~~shall~~ must file with the commissioner on forms furnished by the commissioner an  
 21.4 annual statement setting forth the number of net tons of commercial feeds distributed in  
 21.5 this state during the calendar year. The report is due ~~by~~ on or before the 31st of each January  
 21.6 following the year of distribution. The inspection fee at the rate specified in subdivision 1  
 21.7 must accompany the statement. For each tonnage report not filed with the commissioner or  
 21.8 payment of inspection fees not ~~made on time~~ received by the commissioner on or before  
 21.9 January 31 or postmarked on or before January 31, a penalty of ten percent of the amount  
 21.10 due, with a minimum penalty of \$10, must be assessed against the license holder, and the  
 21.11 amount of fees due, plus penalty, is a debt and may be recovered in a civil action against  
 21.12 the license holder. The assessment of this penalty does not prevent the department from  
 21.13 taking other actions as provided in this chapter.

21.14 Sec. 37. Minnesota Statutes 2016, section 25.39, subdivision 3, is amended to read:

21.15 Subd. 3. **Records.** Each person required to pay an inspection fee or to report in accordance  
 21.16 with this section ~~shall~~ must keep records, as determined by the commissioner, accurately  
 21.17 detailing the tonnage of commercial feed distributed in this state. Records upon which the  
 21.18 tonnage is based must be maintained for six years and made available to the commissioner  
 21.19 for inspection, copying, and audit. A person who is located outside of this state must maintain  
 21.20 and make available records required by this section in this state or pay all costs incurred in  
 21.21 auditing of the records at another location. Unless required for the enforcement of this  
 21.22 chapter, the information in the records required by this subdivision is private or nonpublic.

21.23 Sec. 38. Minnesota Statutes 2016, section 25.40, subdivision 2, is amended to read:

21.24 Subd. 2. **Notice; public comment.** Before the issuance, amendment, or repeal of any  
 21.25 rule authorized by sections 25.31 to 25.43, the commissioner shall publish the proposed  
 21.26 rule, amendment, or notice to repeal an existing rule in a manner reasonably calculated to  
 21.27 give interested parties, including all current license holders, adequate notice and shall afford  
 21.28 all interested persons an opportunity to present their views orally or in writing, within a  
 21.29 reasonable period of time. After consideration of all views presented by interested persons,  
 21.30 the commissioner shall take appropriate action to issue the proposed rule or to amend or  
 21.31 repeal an existing rule. The provisions of this subdivision notwithstanding, if the  
 21.32 commissioner, pursuant to the authority of sections 25.31 to 25.43, adopts the official  
 21.33 definitions of feed ingredients ~~or~~ and official feed terms as adopted by the Association of

22.1 American Feed Control Officials, any amendment or modification adopted by the association  
 22.2 ~~shall be~~ is adopted automatically under sections 25.31 to 25.43 without regard to the  
 22.3 publication of the notice required by this subdivision unless the commissioner, by order  
 22.4 specifically determines that the amendment or modification shall not be adopted.

22.5 Sec. 39. Minnesota Statutes 2016, section 25.41, subdivision 1, is amended to read:

22.6 Subdivision 1. **Authorization; limitation.** For the purpose of enforcement of sections  
 22.7 25.31 to 25.43, and associated rules, in order to determine whether the provisions have been  
 22.8 complied with, including whether or not any operations may be subject to such provisions,  
 22.9 officers or employees duly designated by the commissioner or the commissioner's agent,  
 22.10 upon presenting appropriate credentials, and a written notice to the owner, operator, or agent  
 22.11 in charge, are authorized:

22.12 (1) to enter, during normal business hours, any factory, warehouse, or establishment  
 22.13 within the state in which commercial feeds are manufactured, processed, packed, or held  
 22.14 for distribution, or to enter any vehicle being used to transport or hold such feeds; and

22.15 (2) to inspect at reasonable times, within reasonable limits, and in a reasonable manner,  
 22.16 such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and  
 22.17 unfinished materials, containers, and labeling therein. The inspection may include the  
 22.18 verification of records and production and control procedures related to the manufacture,  
 22.19 distribution, storage, handling, or disposal of commercial feed as may be necessary to  
 22.20 determine compliance with this chapter.

22.21 Sec. 40. Minnesota Statutes 2016, section 25.41, subdivision 2, is amended to read:

22.22 Subd. 2. **Notification; promptness.** A separate notice ~~shall~~ must be given for each  
 22.23 inspection, but a notice ~~shall~~ is not be required for each entry made during the period covered  
 22.24 by the inspection. Each inspection ~~shall be commenced~~ must begin and be completed with  
 22.25 reasonable promptness. Upon completion of the inspection, the owner, operator, or agent  
 22.26 in charge of the facility or vehicle ~~shall~~ must be so notified.

22.27 Sec. 41. Minnesota Statutes 2016, section 25.41, subdivision 3, is amended to read:

22.28 Subd. 3. **Receipt for samples.** If the ~~officer or employee~~ commissioner or the  
 22.29 commissioner's agent making such inspection of a factory, warehouse, or other establishment  
 22.30 has obtained a sample in the course of the inspection, upon completion of the inspection  
 22.31 and prior to leaving the premises the ~~officer or employee~~ commissioner or the commissioner's

23.1 agent shall give to the owner, operator, or agent in charge a receipt describing the samples  
 23.2 obtained.

23.3 Sec. 42. Minnesota Statutes 2016, section 25.41, subdivision 5, is amended to read:

23.4 Subd. 5. **Entry of premises.** For the purpose of the enforcement of sections 25.31 to  
 23.5 25.43, the commissioner or the commissioner's ~~duly designated~~ agent is authorized to enter  
 23.6 upon any public or private premises including any vehicle of transport during regular business  
 23.7 hours to have access to, and to obtain samples, and to examine and copy records relating  
 23.8 to distribution of commercial feeds.

23.9 Sec. 43. Minnesota Statutes 2016, section 25.41, subdivision 7a, is amended to read:

23.10 Subd. 7a. **Manufacturer's report of investigation.** If the inspection and analysis of an  
 23.11 official sample indicates that a commercial feed has been adulterated or misbranded, the  
 23.12 person whose name appears on the label of the indicated commercial feed as guarantor ~~shall~~  
 23.13 must provide a manufacturer's report of investigation to the commissioner within 30 days  
 23.14 following the receipt of the official analysis.

23.15 Sec. 44. Minnesota Statutes 2016, section 25.42, is amended to read:

23.16 **25.42 DETAINED COMMERCIAL FEEDS.**

23.17 Subdivision 1. **Withdrawal from distribution order.** When the commissioner or the  
 23.18 commissioner's ~~authorized~~ agent has reasonable cause to believe any lot of commercial feed  
 23.19 is being distributed in violation of any of the provisions of sections 25.31 to 25.43 or of any  
 23.20 of the prescribed rules under sections 25.31 to 25.43, the commissioner or the commissioner's  
 23.21 agent may issue and enforce a written or printed "withdrawal from distribution" order,  
 23.22 warning the distributor not to dispose of the lot of commercial feed in any manner until  
 23.23 written permission is given by the commissioner or the court. The commissioner shall release  
 23.24 the lot of withdrawn commercial feed ~~so withdrawn~~ when ~~said provisions and sections 25.31~~  
 23.25 to 25.43 and associated rules have been complied with. If compliance is not obtained within  
 23.26 30 days, the commissioner may begin, or upon request of the distributor or license holder  
 23.27 shall begin, proceedings for condemnation.

23.28 Subd. 2. **Seizure; disposition.** Any lot of commercial feed not in compliance with ~~said~~  
 23.29 ~~provisions and sections 25.31 to 25.43 and associated~~ rules ~~shall be~~ is subject to seizure on  
 23.30 complaint of the commissioner to the district court of the county in which ~~said~~ the commercial  
 23.31 feed is located. In the event the court finds the commercial feed to be in violation of sections  
 23.32 25.31 to 25.43 and orders the condemnation of ~~said~~ the commercial feed, ~~it shall~~ the

24.1 commercial feed must be disposed of in ~~any~~ a manner consistent with the quality of the  
 24.2 commercial feed and the laws of the state; provided, that in no instance, shall the disposition  
 24.3 of ~~said~~ the commercial feed be ordered by the court without first giving the claimant an  
 24.4 opportunity to apply to the court for release of ~~said~~ the commercial feed or for permission  
 24.5 to process or relabel ~~said~~ the commercial feed to bring it into compliance with sections  
 24.6 25.31 to 25.43.

24.7 Sec. 45. Minnesota Statutes 2016, section 25.43, is amended to read:

24.8 **25.43 PENALTIES.**

24.9 Subdivision 1. **Misdemeanor.** Any person convicted of violating any of the provisions  
 24.10 of sections 25.31 to 25.43 or who ~~shall impede, hinder~~ impedes, hinders, or otherwise ~~prevent~~  
 24.11 prevents, or ~~attempt~~ attempts to prevent, ~~said~~ the commissioner or ~~duly authorized the~~  
 24.12 commissioner's agent in performance of a duty in connection with the provisions of sections  
 24.13 25.31 to 25.43, ~~shall be~~ is guilty of a misdemeanor.

24.14 Subd. 2. **Minor violations.** Nothing in sections 25.31 to 25.43 shall be construed as  
 24.15 requiring the commissioner or the commissioner's ~~representative agent~~ agent to: (1) report for  
 24.16 prosecution, or (2) institute seizure proceedings, or (3) issue a withdrawal from distribution  
 24.17 order, as a result of minor violations of sections 25.31 to 25.43, or when the commissioner  
 24.18 or ~~representative~~ the commissioner's agent believes the public interest will best be served  
 24.19 by suitable notice of warning in writing.

24.20 Subd. 3. **County attorney duties.** Each county attorney to whom any violation is reported  
 24.21 ~~shall~~ must cause appropriate proceedings to be instituted and prosecuted in the district court  
 24.22 or other court of competent jurisdiction without delay. Before the commissioner reports a  
 24.23 violation for such prosecution, an opportunity ~~shall~~ must be given the distributor to present  
 24.24 views to the commissioner.

24.25 Subd. 4. **Injunction.** The commissioner may apply to the district court for a temporary  
 24.26 or permanent injunction restraining any person from violating or continuing to violate any  
 24.27 of the provisions of sections 25.31 to 25.43 or any associated rule ~~promulgated under the~~  
 24.28 ~~act~~ notwithstanding the existence of other remedies at law.

24.29 Subd. 5. **Notice of appeal.** (a) Any person adversely affected by an act, order, citation,  
 24.30 or ruling made pursuant to the provisions of sections 25.31 to 25.43 ~~may seek judicial review~~  
 24.31 ~~in accordance with chapter 14.~~ has 30 days from receipt of the citation or order to notify  
 24.32 the commissioner in writing that the person intends to contest the citation or order through

25.1 a hearing. The hearing request must identify the order or citation being contested and state  
 25.2 the grounds for contesting it.

25.3 (b) If the person fails to notify the commissioner that the person intends to contest the  
 25.4 citation or order, the citation or order is final and not subject to further judicial or  
 25.5 administrative review.

25.6 Subd. 6. **Administrative review.** If a person notifies the commissioner that the person  
 25.7 intends to contest a citation or order issued under this chapter, the Office of Administrative  
 25.8 Hearings shall conduct a hearing according to the applicable provisions of chapter 14 for  
 25.9 hearings in contested cases and final decisions are subject to judicial review as provided in  
 25.10 chapter 14.

25.11 Sec. 46. Minnesota Statutes 2016, section 27.04, is amended to read:

25.12 **27.04 APPLICATION FOR LICENSE.**

25.13 Subdivision 1. **Issuance.** The commissioner shall issue a wholesale produce dealer's  
 25.14 license to engage in the business of a dealer at wholesale to persons submitting an application,  
 25.15 paying the prescribed fee, and complying with the conditions in this section.

25.16 Subd. 2. **Application contents.** (a) The application must be in writing, accompanied by  
 25.17 the prescribed fee, and state:

25.18 (1) the place or places where the applicant intends to carry on the business for which  
 25.19 the license is desired;

25.20 (2) the estimated amount of business to be done monthly;

25.21 (3) the amount of business done during the preceding year, if any;

25.22 (4) the full names of the persons constituting the firm for a partnership, and for a  
 25.23 corporation the names of the officers of the corporation and where incorporated; and

25.24 ~~(5) a financial statement showing the value and character of the assets and the amount~~  
 25.25 ~~of liabilities of the applicant;~~

25.26 ~~(6) the income and expenses for the most recent year;~~

25.27 ~~(7) the names and addresses of all shareholders who own at least five percent of a~~  
 25.28 ~~corporate applicant's shares of stock;~~

25.29 ~~(8) whether the applicant or any of its officers, partners, or agents have been involved~~  
 25.30 ~~in any litigation relating to the business of a wholesale produce dealer in the previous five~~  
 25.31 ~~years; and~~

26.1 ~~(9)~~ (5) any other information relevant to the conduct of its business as a wholesale  
26.2 produce dealer in the previous five years, as the commissioner may require.

26.3 (b) If a contract is used in a transaction, a copy of the contract must also be filed with  
26.4 the commissioner.

26.5 (c) Financial data required of an applicant under this section is classified as private data  
26.6 with regard to data on individuals and as nonpublic data with regard to data not on individuals  
26.7 under section 13.02.

26.8 Subd. 3. **Filing.** Applications shall be filed annually.

26.9 Sec. 47. Minnesota Statutes 2016, section 27.041, subdivision 1, is amended to read:

26.10 Subdivision 1. **Bonds.** (a) ~~The applicant required to be bonded shall execute and file~~  
26.11 ~~with the commissioner a surety bond to the state of Minnesota to be approved by the~~  
26.12 ~~commissioner, the amount, form, and effective date to be determined by the commissioner~~  
26.13 ~~with the maximum not to exceed \$1,000,000. In lieu of the surety bond, the commissioner~~  
26.14 ~~may accept a duly executed letter of credit. Before a wholesale produce dealer's license is~~  
26.15 ~~issued, the applicant for the license must file with the commissioner a bond in a penal sum~~  
26.16 ~~prescribed by the commissioner but not less than the following amounts:~~

26.17 (1) \$5,000 for wholesale produce dealers whose monthly purchases are \$35,000 or less;

26.18 (2) \$10,000 for wholesale produce dealers whose monthly purchases are more than  
26.19 \$35,000 but not more than \$75,000;

26.20 (3) \$15,000 for wholesale produce dealers whose monthly purchases are more than  
26.21 \$75,000 but not more than \$100,000;

26.22 (4) \$25,000 for wholesale produce dealers whose monthly purchases are more than  
26.23 \$100,000 but not more than \$250,000;

26.24 (5) \$50,000 for wholesale produce dealers whose monthly purchases are more than  
26.25 \$250,000 but not more than \$500,000;

26.26 (6) \$100,000 for wholesale produce dealers whose monthly purchases are more than  
26.27 \$500,000 but not more than \$750,000;

26.28 (7) \$175,000 for wholesale produce dealers whose monthly purchases are more than  
26.29 \$750,000 but not more than \$1,000,000;

26.30 (8) \$250,000 for wholesale produce dealers whose monthly purchases are more than  
26.31 \$1,000,000 but not more than \$2,500,000;

27.1 (9) \$500,000 for wholesale produce dealers whose monthly purchases are more than  
27.2 \$2,500,000 but not more than \$10,000,000;

27.3 (10) \$750,000 for wholesale produce dealers whose monthly purchases are more than  
27.4 \$10,000,000 but not more than \$25,000,000; and

27.5 (11) \$1,000,000 for wholesale produce dealers whose gross annual purchases exceed  
27.6 \$25,000,000.

27.7 (b) A wholesale produce dealer who has filed a bond with the commissioner before July  
27.8 1, 2016, is not required to increase the amount of the bond to comply with this section until  
27.9 July 1, 2017. The commissioner may postpone an increase in the amount of the bond until  
27.10 July 1, 2018, if a licensee demonstrates that the increase will impose undue financial hardship  
27.11 on the licensee, and that producers will not be harmed as a result of the postponement. The  
27.12 commissioner may impose other restrictions on a licensee whose bond increase has been  
27.13 postponed. The amount of the bond shall be based on the amount purchased or contracted  
27.14 for from Minnesota farmers and other Minnesota dealers for produce during the previous  
27.15 12 months.

27.16 (c) A first-time applicant for a wholesale produce dealer's license shall file a \$10,000  
27.17 bond with the commissioner. This bond shall remain in effect for the first year of the license.  
27.18 Thereafter, the licensee shall comply with the applicable bonding requirements in paragraph  
27.19 (a), clauses (1) to (11).

27.20 (d) In lieu of the bond required by this subdivision, the applicant may deposit with the  
27.21 commissioner of management and budget cash; a certified check; a cashier's check; a postal,  
27.22 bank, or express money order; assignable bonds or notes of the United States; an assignment  
27.23 of a bank savings account or investment certificate; or an irrevocable bank letter of credit  
27.24 as defined in section 336.5-102, in the same amount as would be required for a bond.

27.25 (e) Bonds must be continuous until canceled. To cancel a bond, a surety must provide  
27.26 60 days' written notice of the bond's termination date to the licensee and the commissioner.

27.27 (f) The bond or letter of credit shall be conditioned on the faithful performance of the  
27.28 applicant's duties as a dealer at wholesale, including:

27.29 (1) the observance of all laws relating to the carrying on of the business of a dealer at  
27.30 wholesale;

27.31 (2) payment when due, unless it appears to the commissioner that a voluntary extension  
27.32 of credit has been given on the produce by the seller to the licensee beyond the due date;

28.1 (3) the prompt settlement and payment of all claims and charges due the state for services  
 28.2 rendered or otherwise;

28.3 (4) the prompt reporting of sales as required by law to all persons consigning produce  
 28.4 to the licensee for sale on commission; and

28.5 (5) the prompt payment to the persons entitled thereto of the proceeds of the sales, less  
 28.6 lawful charges, disbursements, and commissions.

28.7 ~~(b)~~ (g) The bond shall cover all wholesale produce business subject to the protection  
 28.8 outlined in section 27.001 which is:

28.9 (1) transacted within this state; or

28.10 (2) transacted in part within this state and in part within the states and provinces  
 28.11 contiguous with this state and sold by Minnesota sellers.

28.12 (h) Wholesale produce dealers who are retail merchants shall be required to file a bond  
 28.13 under paragraph (a) based on the dollar amount of produce purchased directly from farmers.

28.14 Sec. 48. Minnesota Statutes 2016, section 28A.21, subdivision 6, is amended to read:

28.15 Subd. 6. **Expiration.** This section expires June 30, ~~2017~~ 2027.

28.16 Sec. 49. Minnesota Statutes 2016, section 31A.02, subdivision 4, is amended to read:

28.17 Subd. 4. **Animals.** "Animals" means cattle, swine, sheep, goats, poultry, farmed Cervidae,  
 28.18 as defined in section 35.153, subdivision 3, llamas, as defined in section 17.455, subdivision  
 28.19 2, Ratitae, as defined in section 17.453, subdivision 3, horses, equines, and other ~~large~~  
 28.20 domesticated animals.

28.21 Sec. 50. Minnesota Statutes 2016, section 32C.02, subdivision 2, is amended to read:

28.22 Subd. 2. **Facility design; development and operation.** The authority may enter into  
 28.23 management contracts, lease agreements, or both, with a Minnesota nonprofit corporation  
 28.24 to design, develop, and operate a facility to further the purposes of this chapter at the site  
 28.25 determined by the board and on the terms that the board finds desirable. The board must  
 28.26 identify ~~and acquire~~ a site that will accommodate, where practicable, the following facilities  
 28.27 and activities:

28.28 (1) housing for bred and lactating animals;

28.29 (2) milking parlor;

28.30 (3) automatic milking systems;

- 29.1 (4) cross-ventilated and natural-ventilated housing;
- 29.2 (5) transition cow housing;
- 29.3 (6) special needs and hospital housing;
- 29.4 (7) classrooms and a conference room;
- 29.5 (8) dairy processing facility with retail;
- 29.6 (9) visitors' center;
- 29.7 (10) student housing;
- 29.8 (11) laboratory facilities;
- 29.9 (12) space to accommodate installation of an anaerobic digester system to research
- 29.10 energy production from feedstock produced on site or from off-site sources; and
- 29.11 (13) space for feed storage to allow for research capabilities at the facility.

29.12 Notwithstanding the provisions of section 32C.01, subdivision 7, relating to conflict of

29.13 interest, a director or officer of the authority who is also a director, officer, or member of

29.14 a nonprofit corporation with which the authority enters into management contracts or lease

29.15 agreements may participate in and vote on the decision of the board as to the terms and

29.16 conditions of management contracts or lease agreements between the Minnesota nonprofit

29.17 corporation and the authority.

29.18 Sec. 51. Minnesota Statutes 2016, section 32C.06, is amended to read:

29.19 **32C.06 EXPIRATION.**

29.20 If by August 1, ~~2017~~ 2020, the authority board has not identified ~~and acquired~~ a site for

29.21 a facility, as provided in section 32C.02, subdivision 2, sections 32C.01 to 32C.05 and this

29.22 section are repealed on that date. The Department of Agriculture shall notify the revisor of

29.23 statutes if the repealer under this section becomes effective.

29.24 Sec. 52. Minnesota Statutes 2016, section 34A.01, subdivision 1, is amended to read:

29.25 Subdivision 1. **Applicability.** The definitions in this section and chapters 28, 28A, 29,

29.26 30, 31, 31A, ~~32~~ 32D, and 34 apply to this chapter. The definitions in this section apply to

29.27 chapter ~~32~~ 32D.

30.1 Sec. 53. Minnesota Statutes 2016, section 41B.03, subdivision 2, is amended to read:

30.2 Subd. 2. **Eligibility for restructured loan.** In addition to the eligibility requirements  
30.3 of subdivision 1, a prospective borrower for a restructured loan must:

30.4 (1) have received at least 50 percent of average annual gross income from farming for  
30.5 the past three years or, for homesteaded property, received at least 40 percent of average  
30.6 gross income from farming in the past three years, and farming must be the principal  
30.7 occupation of the borrower;

30.8 (2) have projected annual expenses, including operating expenses, family living, and  
30.9 interest expenses after the restructuring, that do not exceed 95 percent of the borrower's  
30.10 projected annual income considering prior production history and projected prices for farm  
30.11 production, except that the authority may reduce the 95 percent requirement if it finds that  
30.12 other significant factors in the loan application support the making of the loan;

30.13 (3) demonstrate substantial difficulty in meeting projected annual expenses without  
30.14 restructuring the loan; and

30.15 (4) have a total net worth, including assets and liabilities of the borrower's spouse and  
30.16 dependents, of less than ~~\$660,000 in 2004~~ \$1,700,000 in 2017 and an amount in subsequent  
30.17 years which is adjusted for inflation by multiplying that amount by the cumulative inflation  
30.18 rate as determined by the United States All-Items Consumer Price Index.

30.19 Sec. 54. Minnesota Statutes 2016, section 41B.03, subdivision 3, is amended to read:

30.20 Subd. 3. **Eligibility for beginning farmer loans.** (a) In addition to the requirements  
30.21 under subdivision 1, a prospective borrower for a beginning farm loan in which the authority  
30.22 holds an interest, must:

30.23 (1) have sufficient education, training, or experience in the type of farming for which  
30.24 the loan is desired;

30.25 (2) have a total net worth, including assets and liabilities of the borrower's spouse and  
30.26 dependents, of less than ~~\$350,000 in 2004~~ \$800,000 in 2017 and an amount in subsequent  
30.27 years which is adjusted for inflation by multiplying that amount by the cumulative inflation  
30.28 rate as determined by the United States All-Items Consumer Price Index;

30.29 (3) demonstrate a need for the loan;

30.30 (4) demonstrate an ability to repay the loan;

30.31 (5) certify that the agricultural land to be purchased will be used by the borrower for  
30.32 agricultural purposes;

31.1 (6) certify that farming will be the principal occupation of the borrower;

31.2 (7) agree to participate in a farm management program approved by the commissioner  
31.3 of agriculture for at least the first three years of the loan, if an approved program is available  
31.4 within 45 miles from the borrower's residence. The commissioner may waive this requirement  
31.5 for any of the programs administered by the authority if the participant requests a waiver  
31.6 and has either a four-year degree in an agricultural program or certification as an adult farm  
31.7 management instructor; and

31.8 (8) agree to file an approved soil and water conservation plan with the Natural Resources  
31.9 Conservation Service office in the county where the land is located.

31.10 (b) If a borrower fails to participate under paragraph (a), clause (7), the borrower is  
31.11 subject to penalty as determined by the authority.

31.12 Sec. 55. Minnesota Statutes 2016, section 41B.043, subdivision 5, is amended to read:

31.13 Subd. 5. **Total net worth limit.** A prospective borrower for an agricultural improvement  
31.14 loan in which the authority holds an interest must have a total net worth, including assets  
31.15 and liabilities of the borrower's spouse and dependents, of less than ~~\$350,000 in 2004~~  
31.16 \$800,000 in 2017 and an amount in subsequent years which is adjusted for inflation by  
31.17 multiplying that amount by the cumulative inflation rate as determined by the United States  
31.18 All-Items Consumer Price Index.

31.19 Sec. 56. Minnesota Statutes 2016, section 41B.045, subdivision 2, is amended to read:

31.20 Subd. 2. **Loan participation.** The authority may participate in a livestock expansion  
31.21 loan with an eligible lender to a livestock farmer who meets the requirements of section  
31.22 41B.03, subdivision 1, clauses (1) and (2), and who are actively engaged in a livestock  
31.23 operation. A prospective borrower must have a total net worth, including assets and liabilities  
31.24 of the borrower's spouse and dependents, of less than ~~\$660,000 in 2004~~ \$1,700,000 in 2017  
31.25 and an amount in subsequent years which is adjusted for inflation by multiplying that amount  
31.26 by the cumulative inflation rate as determined by the United States All-Items Consumer  
31.27 Price Index.

31.28 Participation is limited to 45 percent of the principal amount of the loan or \$525,000,  
31.29 whichever is less. The interest rates and repayment terms of the authority's participation  
31.30 interest may be different from the interest rates and repayment terms of the lender's retained  
31.31 portion of the loan.

32.1 Sec. 57. Minnesota Statutes 2016, section 41C.02, subdivision 12, is amended to read:

32.2 Subd. 12. **Low or moderate net worth.** "Low or moderate net worth" means:

32.3 (1) for an individual, an aggregate net worth of the individual and the individual's spouse  
32.4 and minor children of less than ~~\$350,000 in 2004~~ \$800,000 in 2017 and an amount in  
32.5 subsequent years which is adjusted for inflation by multiplying that amount by the cumulative  
32.6 inflation rate as determined by the United States All-Items Consumer Price Index; or

32.7 (2) for a partnership, an aggregate net worth of all partners, including each partner's net  
32.8 capital in the partnership, and each partner's spouse and minor children of less than twice  
32.9 the amount set for an individual in clause (1). However, the aggregate net worth of each  
32.10 partner and that partner's spouse and minor children may not exceed the amount set for an  
32.11 individual in clause (1).

32.12 Sec. 58. Minnesota Statutes 2016, section 116V.01, subdivision 1, is amended to read:

32.13 Subdivision 1. **Establishment.** The Agricultural Utilization Research Institute is  
32.14 established as a nonprofit corporation under section 501(c)(3) of the Internal Revenue Code  
32.15 of 1986, as amended. The Agricultural Utilization Research Institute shall conduct onsite  
32.16 and applied research, promote the establishment of new products and product uses and the  
32.17 expansion of existing markets for the state's agricultural commodities and products, including  
32.18 direct financial and technical assistance for ~~Minnesota~~ entrepreneurs. The institute must  
32.19 establish or maintain facilities and work with private and public entities to leverage the  
32.20 resources available to achieve maximum results for Minnesota agriculture.

32.21 Sec. 59. Minnesota Statutes 2016, section 116V.01, subdivision 2, is amended to read:

32.22 Subd. 2. **Board of directors.** The board of directors of the Agricultural Utilization  
32.23 Research Institute is comprised of:

32.24 (1) the chairs of the senate and the house of representatives standing committees with  
32.25 jurisdiction over agriculture finance or the chair's designee;

32.26 (2) two representatives of statewide farm organizations;

32.27 (3) two representatives of agribusiness; ~~and~~

32.28 (4) three representatives of the commodity promotion councils; and

32.29 (5) two at-large representatives.

33.1 Sec. 60. Minnesota Statutes 2016, section 116V.01, subdivision 3, is amended to read:

33.2 Subd. 3. **Duties.** (a) The Agricultural Utilization Research Institute shall:

33.3 (1) identify development opportunities for agricultural products;

33.4 (2) implement a program that identifies techniques to meet those opportunities;

33.5 (3) monitor and coordinate research among the public and private organizations and  
33.6 individuals specifically addressing procedures to transfer new technology to businesses,  
33.7 farmers, and individuals;

33.8 ~~(4) provide research grants to public and private educational institutions and other~~  
33.9 ~~organizations that are undertaking basic and applied research to promote the development~~  
33.10 ~~of emerging agricultural industries;~~

33.11 ~~(5)~~ (5) assist organizations and individuals with market analysis and product marketing  
33.12 implementations;

33.13 ~~(6)~~ (5) to the extent possible earn and receive revenue from contracts, patents, licenses,  
33.14 royalties, grants, fees-for-service, and memberships;

33.15 ~~(7)~~ (6) work with the Department of Agriculture, the United States Department of  
33.16 Agriculture, the Department of Employment and Economic Development, and other agencies  
33.17 to maximize marketing opportunities locally, nationally, and internationally; and

33.18 ~~(8)~~ (7) leverage available funds from federal, state, and private sources to develop new  
33.19 markets and value added opportunities for Minnesota agricultural products.

33.20 (b) The Agricultural Utilization Research Institute board of directors shall have the sole  
33.21 approval authority for establishing agricultural utilization research priorities, requests for  
33.22 proposals to meet those priorities, awarding of grants, hiring and direction of personnel,  
33.23 and other expenditures of funds consistent with the adopted and approved mission and goals  
33.24 of the Agricultural Utilization Research Institute. The actions and expenditures of the  
33.25 Agricultural Utilization Research Institute are subject to audit. The institute shall annually  
33.26 report by February 1 to the senate and house of representatives standing committees with  
33.27 jurisdiction over agricultural policy and funding. The report must list projects initiated,  
33.28 progress on projects, and financial information relating to expenditures, income from other  
33.29 sources, and other information to allow the committees to evaluate the effectiveness of the  
33.30 institute's activities.

34.1 (c) The Agricultural Utilization Research Institute shall convene a Renewable Energy  
34.2 Roundtable, the purpose of which shall be to further the state's leadership on bioenergy  
34.3 issues.

34.4 (i) The Renewable Energy Roundtable shall consist of one representative appointed by  
34.5 the commissioner of the Minnesota Department of Agriculture, one appointed by the  
34.6 commissioner of the Minnesota Department of Commerce, one appointed by the chancellor  
34.7 of the Minnesota State Colleges and Universities, and one appointed by the president of the  
34.8 University of Minnesota. The appointees must have expertise relevant to bioenergy.

34.9 (ii) The board shall oversee the activities and shall provide staff to assist the Renewable  
34.10 Energy Roundtable.

34.11 (iii) The Renewable Energy Roundtable will engage professionals and experts from  
34.12 private, government, academic, and nonprofit entities across the state to identify bioenergy  
34.13 opportunities and collaborate with a broad group of interested parties to identify future  
34.14 alternative courses of action the state can take to sustain a long-term competitive position  
34.15 in renewable energy through the year 2025. The Renewable Energy Roundtable will consult,  
34.16 advise, and review projects and initiatives funded by the state as directed by the  
34.17 administration and the legislature.

34.18 Sec. 61. Minnesota Statutes 2016, section 116V.01, subdivision 4, is amended to read:

34.19 Subd. 4. **Staff.** The board of directors shall hire ~~staff~~ an executive director for the  
34.20 Agricultural Utilization Research Institute. Persons employed by the Agricultural Utilization  
34.21 Research Institute are not state employees and may participate in state retirement, deferred  
34.22 compensation, insurance, or other plans that apply to state employees generally and are  
34.23 subject to regulation by the state Campaign Finance and Public Disclosure Board.

34.24 Sec. 62. Minnesota Statutes 2016, section 116V.01, subdivision 7, is amended to read:

34.25 Subd. 7. **Bylaws.** The board of directors shall adopt bylaws necessary for the conduct  
34.26 of the business of the institute consistent with this section. The corporation must publish  
34.27 bylaws and amendments to the bylaws ~~in the State Register~~ on the board's Web site.

34.28 Sec. 63. Minnesota Statutes 2016, section 116V.01, subdivision 10, is amended to read:

34.29 Subd. 10. **Meetings.** The board of directors shall meet at least twice each year and may  
34.30 hold additional meetings upon giving notice in accordance with the bylaws of the institute.  
34.31 Board meetings are subject to chapter 13D, except section 13D.01, subdivision 6, as it  
34.32 pertains to financial information, business plans, income and expense projections, customer

35.1 lists, market and feasibility studies, and trade secret information as defined by section 13.37,  
35.2 subdivision 1, paragraph (b). For the purposes of section 13D.015, the board of directors is  
35.3 a state board.

35.4 Sec. 64. Minnesota Statutes 2016, section 116V.01, subdivision 11, is amended to read:

35.5 Subd. 11. **Conflict of interest.** A director, employee, or officer of the institute may not  
35.6 ~~participate in~~ advocate for or vote on a decision of the board relating to an organization in  
35.7 which the director, employee, or officer has either a direct or indirect financial interest.

35.8 Sec. 65. Minnesota Statutes 2016, section 116V.01, subdivision 13, is amended to read:

35.9 Subd. 13. **Funds.** The institute may accept and use gifts, grants, or contributions from  
35.10 any source. Unless otherwise restricted by the terms of a gift or bequest, the board may sell,  
35.11 exchange, or otherwise dispose of and invest or reinvest the money, securities, or other  
35.12 property given or bequested to it. The principal of these funds, the income from them, and  
35.13 all other revenues received by it from any nonstate source ~~must be placed in the depositories~~  
35.14 ~~the board determines and is~~ are subject to expenditure for the board's purposes. Receipts  
35.15 and expenditures of more than \$25,000 \$50,000 must be approved by the ~~full~~ board.

35.16 Sec. 66. Minnesota Statutes 2016, section 116V.01, subdivision 14, is amended to read:

35.17 Subd. 14. **Accounts; audits.** The institute may establish funds and accounts that it finds  
35.18 convenient. The board shall provide for and pay the cost of an ~~independent annual~~ audit of  
35.19 its official books and records by the legislative auditor subject to sections 3.971 and 3.972.  
35.20 In addition, the board shall provide and pay for the cost of an annual financial audit of its  
35.21 official books and records by an independent audit firm. A copy of this the annual financial  
35.22 audit shall be filed with the secretary of state Office of the Attorney General, Charities  
35.23 Division.

35.24 For purposes of this section, "institute" means the Agricultural Utilization Research  
35.25 Institute established under this section and "board of directors" means the board of directors  
35.26 of the Agricultural Utilization Research Institute.

35.27 Sec. 67. Minnesota Statutes 2016, section 223.17, subdivision 8, is amended to read:

35.28 Subd. 8. **Bond disbursement.** (a) The bond required under subdivision 4 shall provide  
35.29 for payment of loss caused by the grain buyer's failure to pay, upon the owner's demand,  
35.30 the purchase price of grain sold to the grain buyer in the manner provided by subdivision

36.1 5, including loss caused by failure to pay within the time required. The bond shall be  
36.2 conditioned upon the grain buyer being duly licensed as provided herein.

36.3 (b) The commissioner shall promptly determine the validity of all claims filed and notify  
36.4 the claimants of the determination. An aggrieved party may appeal the commissioner's  
36.5 determination by requesting, within 15 days, that the commissioner initiate a contested case  
36.6 proceeding. In the absence of such a request, or following the issuance of a final order in a  
36.7 contested case, the surety company shall issue payment promptly to those claimants entitled  
36.8 to payment. The commissioner may apply to the district court for an order appointing a  
36.9 trustee or receiver to manage and supervise the operations of the grain buyer in default. The  
36.10 commissioner may participate in any resulting court proceeding as an interested party.

36.11 (c) If a grain buyer has become liable to more than one producer by reason of breaches  
36.12 of the conditions of the bond and the amount of the bond is insufficient to pay the entire  
36.13 liability to all producers entitled to the protection of the bond, the proceeds of the bond shall  
36.14 be apportioned among the bona fide claimants.

36.15 (d) The bond shall not be cumulative from one licensing period to the next. The maximum  
36.16 liability of the bond shall be its face value for the licensing period.

36.17 (e) The bond disbursement shall occur 200 days from the date the commissioner publishes  
36.18 a public notice of a claim. At the end of this time period, the commissioner shall initiate  
36.19 bond payments on all valid claims received by the commissioner.

36.20 Sec. 68. Minnesota Statutes 2016, section 232.22, subdivision 7, is amended to read:

36.21 Subd. 7. **Bond disbursement.** (a) The bond of a public grain warehouse operator must  
36.22 be conditioned that the public grain warehouse operator issuing a grain warehouse receipt  
36.23 is liable to the depositor for the delivery of the kind, grade and net quantity of grain called  
36.24 for by the receipt.

36.25 (b) Upon notification of default, the commissioner shall determine the validity of all  
36.26 claims and notify all parties having filed claims. Any aggrieved party may appeal the  
36.27 commissioner's determination by requesting, within 15 days, that the commissioner initiate  
36.28 a contested case proceeding. In the absence of such a request, or following the issuance of  
36.29 a final order in a contested case, the surety company shall issue payment to those claimants  
36.30 entitled to payment. If the commissioner determines it is necessary, the commissioner may  
36.31 apply to the district court for an order appointing a trustee or receiver to manage and supervise  
36.32 the operations of the grain warehouse operator in default. The commissioner may participate  
36.33 in any resulting court proceeding as an interested party.

37.1 (c) For the purpose of determining the amount of bond disbursement against all valid  
 37.2 claims under a condition one bond, all grain owned or stored in the public grain warehouse  
 37.3 shall be sold and the combined proceeds deposited in a special fund. Payment shall be made  
 37.4 from the special fund satisfying the valid claims of grain warehouse receipt holders.

37.5 (d) If a public grain warehouse operator has become liable to more than one depositor  
 37.6 or producer by reason of breaches of the conditions of the bond and the amount of the bond  
 37.7 is insufficient to pay, beyond the proceeds of the special fund, the entire liability to all valid  
 37.8 claimants, the proceeds of the bond and special fund shall be apportioned among the valid  
 37.9 claimants on a pro rata basis.

37.10 (e) A bond is not cumulative from one licensing period to the next. The maximum  
 37.11 liability of the bond shall be its face value for the licensing period.

37.12 (f) The bond disbursement shall occur 200 days from the date the commissioner publishes  
 37.13 a public notice of a claim. At the end of this time period, the commissioner shall initiate  
 37.14 bond payments on all valid claims received by the department.

37.15 Sec. 69. **REVISOR'S INSTRUCTION.**

37.16 The revisor of statutes shall renumber Minnesota Statutes, section 18B.01, subdivision  
 37.17 9a, to Minnesota Statutes, section 18B.01, subdivision 9d, and correct any cross-references  
 37.18 related to the renumbering.

37.19 Sec. 70. **REPEALER.**

37.20 Minnesota Statutes 2016, sections 18B.01, subdivisions 10a, 10b, and 22a; 18B.285;  
 37.21 25.371, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15; and 41D.01, subdivision  
 37.22 4, are repealed.

## 37.23 **ARTICLE 2**

### 37.24 **DAIRY LAW REORGANIZATION**

37.25 Section 1. Minnesota Statutes 2016, section 13.6435, subdivision 8, is amended to read:

37.26 Subd. 8. **Dairy products.** Financial and production information obtained by the  
 37.27 commissioner of agriculture to administer chapter ~~32~~ 32D are classified under section ~~32.71,~~  
 37.28 ~~subdivision 2~~ 32D.25, subdivision 2.

37.29 Sec. 2. **[32D.01] DEFINITIONS.**

37.30 Subdivision 1. **Scope.** The definitions in this section apply to this chapter.

38.1 Subd. 2. **Adulterated.** "Adulterated" means an item is covered by section 34A.02.

38.2 Subd. 3. **Cheese.** "Cheese" includes all varieties of cheese, cheese spreads, cheese foods,  
38.3 cheese compounds, or processed cheese made or manufactured in whole or in part from  
38.4 milk.

38.5 Subd. 4. **Commissioner.** "Commissioner" means the commissioner of agriculture.

38.6 Subd. 5. **Dairy farm.** "Dairy farm" means a place or premises where one or more lactating  
38.7 animals, including cows, goats, sheep, water buffalo, camels, or other hoofed mammals,  
38.8 are kept, and from which all or a portion of the milk produced at the place or premises is  
38.9 delivered, sold, or offered for sale.

38.10 Subd. 6. **Dairy plant.** "Dairy plant" means any place where a dairy product is  
38.11 manufactured, processed, or handled and includes milk-receiving stations, creameries,  
38.12 cheese factories, condenseries, milk plants, transfer stations, and marketing organizations  
38.13 that purchase milk and cream directly from producers for resale and other establishments,  
38.14 as those terms are used in this chapter and chapters 17, 27, and 31; but does not include any  
38.15 place where dairy products are not processed but sold at whole or retail only.

38.16 Subd. 7. **Dairy product.** "Dairy product" means milk as defined by Code of Federal  
38.17 Regulations, title 21, cream, any product or by-product of either, or any commodity among  
38.18 the principal constituents or ingredients of which is one or a combination of two or more  
38.19 of them, as determined by standards, grades, or rules adopted by the commissioner.

38.20 Subd. 8. **Fluid milk products.** "Fluid milk products" means yogurt, cream, sour cream,  
38.21 half and half, reconstituted half and half, concentrated milk, concentrated milk products,  
38.22 skim milk, nonfat milk, chocolate flavored milk, chocolate flavored dairy drink, chocolate  
38.23 flavored reconstituted milk, chocolate flavored reconstituted dairy drink, buttermilk, cultured  
38.24 buttermilk, cultured milk, vitamin D milk, reconstituted or recombined milk, reconstituted  
38.25 cream, reconstituted skim milk, homogenized milk, and any other fluid milk product made  
38.26 by the addition of any substance to milk or to any of the fluid milk products enumerated  
38.27 under this subdivision or by rule adopted by the commissioner.

38.28 Subd. 9. **Goat milk.** "Goat milk" means a whole, fresh, clean lacteal secretion free from  
38.29 colostrum, obtained by the complete milking of one or more healthy goats.

38.30 Subd. 10. **Milk.** "Milk" means the normal lacteal secretion, practically free of colostrum,  
38.31 obtained by the milking of one or more healthy hoofed mammals. Hoofed mammals include  
38.32 but are not limited to cattle, water buffalo, sheep, goats, yaks, and camels.

39.1 Subd. 11. **Milk for manufacturing purposes.** "Milk for manufacturing purposes" means  
39.2 milk produced for processing and manufacturing into products for human consumption but  
39.3 not subject to Grade A or comparable requirements.

39.4 Subd. 12. **Milk-receiving station.** "Milk-receiving station" means a dairy plant where  
39.5 raw milk for pasteurization or for manufacture is received, handled, or prepared for  
39.6 processing or for resale as unpasteurized milk or fluid milk products.

39.7 Subd. 13. **Minnesota farmstead cheese.** "Minnesota farmstead cheese" means cheese  
39.8 manufactured in Minnesota on the same farm that the milk used in its manufacturing is  
39.9 produced.

39.10 Subd. 14. **Misbranded or misbranding.** "Misbranded" or "misbranding" means an item  
39.11 is covered by section 34A.03.

39.12 Subd. 15. **Pasteurization or pasteurized.** (a) "Pasteurization," "pasteurized," and similar  
39.13 terms mean:

39.14 (1) the process of heating every particle of milk or dairy product in properly operated  
39.15 equipment approved by the commissioner to a temperature of at least 145 degrees Fahrenheit  
39.16 and holding the temperature for at least 30 minutes;

39.17 (2) the process of heating every particle of milk or dairy product in properly operated  
39.18 equipment approved by the commissioner to a temperature of at least 161 degrees Fahrenheit  
39.19 and holding the temperature for at least 15 seconds; or

39.20 (3) the process of heating every particle of milk or dairy product in properly operated  
39.21 equipment approved by the commissioner to the temperatures and holding for the times as  
39.22 the commissioner may prescribe by rule, containing standards more stringent than those  
39.23 imposed by this subdivision.

39.24 (b) Nothing in this subdivision shall be construed as excluding any other process that  
39.25 has been demonstrated to be equally efficient and is approved by the commissioner.

39.26 Subd. 16. **Recombinant bovine growth hormone or rBGH.** "Recombinant bovine  
39.27 growth hormone" or "rBGH" means a growth hormone intended for use in bovine animals  
39.28 that has been produced through recombinant DNA techniques, described alternately as  
39.29 recombinant bovine somatotropin or rBST.

39.30 Sec. 3. **[32D.02] INSPECTION AUTHORITY AND DUTIES.**

39.31 Subdivision 1. **Enforcement.** The commissioner is charged with the enforcement of this  
39.32 chapter.

40.1 Subd. 2. **Power and authority.** For the purpose of enforcing this chapter, the  
40.2 commissioner and the commissioner's assistants, agents, and employees have the power  
40.3 and authority granted under sections 31.02 to 31.171.

40.4 Subd. 3. **Inspection of dairies.** At times the commissioner determines proper, the  
40.5 commissioner shall inspect all places where dairy products are made, stored, or served as  
40.6 food for purchase, and all places where hoofed mammals are kept by persons engaged in  
40.7 the sale of milk, and shall require the correction of all unsanitary conditions and practices.

40.8 Subd. 4. **Refusal of inspection.** A refusal or physical threat that prevents the completion  
40.9 of an inspection or neglect to obey a lawful direction of the commissioner or the  
40.10 commissioner's agent given while carrying out this section may result in the suspension of  
40.11 the offender's permit or certification or other enforcement as deemed appropriate by the  
40.12 commissioner. The offender is required to meet with a representative of the offender's plant  
40.13 or marketing organization and a representative of the commissioner within 48 hours of  
40.14 receiving notice, excluding holidays or weekends, or the suspension or enforcement action  
40.15 shall take effect. A producer may request a hearing before the commissioner or the  
40.16 commissioner's agent if a serious concern exists relative to the retention of the offender's  
40.17 permit or certification to sell milk.

40.18 Subd. 5. **Inspection service.** To ensure compliance with the laws and rules governing  
40.19 the production, handling, processing, and sale of milk and dairy products, the commissioner  
40.20 is authorized, through a duly trained and qualified milk inspector, to inspect milk and milk  
40.21 products and the premises and plants where milk and milk products are produced, handled,  
40.22 and processed. Inspection services must acquaint the processor and producers with the  
40.23 requirements for a Grade A or manufacturing grade milk supply for preliminary inspection  
40.24 to determine if a processor has brought the processor's farms and plants to the state of  
40.25 compliance that qualifies the processor's products for the Grade A or manufacturing grade  
40.26 label, and for continuous inspection to ensure that a farm or plant and all products from a  
40.27 farm or plant are in compliance with this chapter.

40.28 Subd. 6. **Field service.** Grade A or manufacturing grade processors shall provide a  
40.29 continuous field service to assist producers who sell their milk to the processor's plant to  
40.30 attain and maintain compliance with this chapter. A person who performs field service must  
40.31 first obtain a permit from the commissioner. A person desiring to secure a permit must apply  
40.32 on a form provided by the commissioner, and before a permit is issued the commissioner  
40.33 shall determine that the applicant is competent and qualified to perform field service. The  
40.34 permit is not transferable to another person and may be revoked for due cause after the  
40.35 holder of the permit has been given the opportunity for a hearing. The permit holder must

41.1 be given a notice in writing of the time and place of the hearing at least seven days before  
41.2 the date of the hearing.

41.3 Subd. 7. **Enforcement standards.** The standards in this chapter and rules adopted under  
41.4 this chapter by the commissioner shall be the only standards for use in Minnesota. No  
41.5 municipality or other subdivision of state government shall provide, by ordinance, more  
41.6 stringent or comprehensive standards than are contained in this chapter and rules adopted  
41.7 by the commissioner under this chapter.

41.8 Subd. 8. **Rules.** (a) The commissioner shall by rule adopt identity, production, and  
41.9 processing standards for both Grade A and manufacturing grade milk and dairy products.

41.10 (b) In the exercise of the authority to establish requirements for Grade A milk and milk  
41.11 products, the commissioner adopts definitions, standards of identity, and requirements for  
41.12 production and processing contained in the most current version of the Grade A Pasteurized  
41.13 Milk Ordinance, and its associated documents, of the United States Department of Health  
41.14 and Human Services in a manner provided for and not in conflict with law.

41.15 (c) Producers of milk, other than Grade A, shall conform to the standards contained in  
41.16 subparts B, C, D, E, and F of the United States Department of Agriculture Agricultural  
41.17 Marketing Service Recommended Requirements for Milk for Manufacturing Purposes and  
41.18 its Production and Processing, except that the commissioner shall develop methods by which  
41.19 producers are able to comply with the standards without violation of religious beliefs.

41.20 Subd. 9. **Certified industry inspection.** Industry personnel may be certified to perform  
41.21 any inspection, to the extent allowed by federal law and provided that performance of the  
41.22 inspections is consistent with rules adopted in subdivision 8.

41.23 Subd. 10. **Fees; dairy services account.** (a) All fees and penalties collected under this  
41.24 chapter shall be deposited into the dairy services account in the agricultural fund and used  
41.25 for the purposes of administering this chapter.

41.26 (b) Unless otherwise noted, all fees are payable by a processor or marketing organization  
41.27 and are invoiced on July 1 of each year for Grade A and January 1 of each year for  
41.28 manufacturing grade, and if not paid within 30 days of the due date, inspection service may  
41.29 be discontinued. If a farm discontinues the production of milk within six months of the  
41.30 billing date, a request for a refund based on inspection services not received may be made  
41.31 by the processor or by the marketing organization on behalf of its patrons. This request must  
41.32 be made in writing by June 30 for manufacturing grade or by December 31 for Grade A.  
41.33 Upon approval by the commissioner, refunds must be made to the processor or marketing  
41.34 organization.

42.1 Sec. 4. **[32D.03] BULK MILK HAULER AND SAMPLER LICENSE.**

42.2 Subdivision 1. License requirement. A person collecting milk from a dairy farm and  
42.3 transporting the milk by bulk pickup and not in individual containers from farm to plant  
42.4 must obtain a bulk milk hauler and sampler license.

42.5 Subd. 2. Application. A person desiring to secure a bulk milk hauler and sampler license  
42.6 must apply on a form provided by the commissioner. Before the license is issued, the  
42.7 commissioner shall determine that the applicant is competent and qualified.

42.8 Subd. 3. Term of license; transferability. An initial bulk milk hauler and sampler  
42.9 license issued by the commissioner expires on the following December 31 and is not  
42.10 transferable. A renewal bulk milk hauler and sampler license is not transferable, is valid for  
42.11 two years, and expires on December 31 of the second year.

42.12 Subd. 4. Fees and penalties. The fee for an initial or renewal bulk milk hauler and  
42.13 sampler license is \$60. The fee shall be paid to the commissioner before the commissioner  
42.14 issues an initial or renewal bulk milk hauler and sampler license. If a bulk milk hauler and  
42.15 sampler license renewal is not applied for on or before January 1, a fee of \$30 shall be  
42.16 imposed. A person who does not renew a bulk milk hauler and sampler license within one  
42.17 year following its December 31 expiration date, except those persons who do not renew the  
42.18 bulk milk hauler and sampler license while engaged in active military service, shall be  
42.19 required to prove competency and qualification pursuant to section 32D.07 before a bulk  
42.20 milk hauler and sampler license is issued. The commissioner may require any other person  
42.21 who renews a bulk milk hauler and sampler license to prove competency and qualification  
42.22 in the same manner.

42.23 Subd. 5. Suspension or cancellation. The commissioner is empowered to conduct  
42.24 enforcement action, suspend, or cancel any bulk milk hauler and sampler license pursuant  
42.25 to section 34A.06.

42.26 Sec. 5. **[32D.04] MILK TANK TRUCKS.**

42.27 All farm bulk milk pickup tankers, milk transports, and tankers used to transport milk  
42.28 products must be inspected and obtain a permit issued by the commissioner at least once  
42.29 every 12 months. The owner or operator must pay a \$25 permit fee per tanker to the  
42.30 commissioner. The commissioner may appoint a person the commissioner deems qualified  
42.31 to make inspections.

43.1 Sec. 6. **[32D.05] GRADE A DAIRY FARM PERMITTING; WATER WELL**  
43.2 **DISTANCE REQUIREMENT.**

43.3 (a) No milk producer may sell or distribute milk from a dairy farm as Grade A milk  
43.4 without a valid Grade A dairy farm permit issued by the commissioner.

43.5 (b) A dairy farmer who wishes to be permitted to produce Grade A milk may not be  
43.6 denied the Grade A permit solely because of provisions in rules adopted by the commissioner  
43.7 requiring a minimum distance between a water well and dairy farm. To be eligible for a  
43.8 Grade A permit, the following conditions must be met:

43.9 (1) the water well must have been in place prior to January 1, 1974;

43.10 (2) the water well must comply with all other rules applicable to the well, other than the  
43.11 distance requirement; and

43.12 (3) water from the well must be tested at least once every 12 months. More frequent  
43.13 testing may be required in compliance with guidelines established by the commissioner if  
43.14 water test results fail to meet water quality requirements.

43.15 Sec. 7. **[32D.06] GRADE A DAIRY FARM INSPECTION; FEES.**

43.16 (a) As provided in section 32D.02, subdivision 4, the commissioner shall provide  
43.17 inspection service to any milk producer who wishes to market Grade A milk and is in  
43.18 compliance with the requirement for the production of Grade A milk. Grade A inspections  
43.19 shall be completed at least once every six months.

43.20 (b) The fee for inspections must be no more than \$50 per farm, paid annually by the  
43.21 processor or by the marketing organization on behalf of its patrons.

43.22 (c) For a farm requiring a reinspection in addition to the required biannual inspections,  
43.23 an additional fee must be paid by the processor or by the marketing organization on behalf  
43.24 of its patrons. The fee for reinspection of a farm with fewer than 100 hooved milk-producing  
43.25 animals is \$60 per reinspection. The fee for reinspection of a farm with 100 or more hooved  
43.26 milk-producing animals is \$150 per reinspection.

43.27 Sec. 8. **[32D.07] MANUFACTURING GRADE DAIRY FARM CERTIFICATION.**

43.28 A producer who wishes to sell milk for manufacturing purposes must obtain from the  
43.29 commissioner an annual Grade B farm certification.

44.1 Sec. 9. **[32D.08] MANUFACTURING GRADE DAIRY FARM INSPECTION; FEES.**

44.2 (a) A producer selling milk for manufacturing purposes must be inspected at least once  
44.3 every 12 months.

44.4 (b) The fee for the certification inspection must not be more than \$25 per producer, to  
44.5 be paid annually by the processor or the marketing organization on behalf of its patrons.

44.6 (c) For a producer requiring more than one inspection for certification, a reinspection  
44.7 fee of \$45 must be paid by the processor or by the marketing organization on behalf of its  
44.8 patrons.

44.9 Sec. 10. **[32D.09] DAIRY PLANT LICENSING AND PERMITTING.**

44.10 Subdivision 1. **Licensing.** A dairy plant must obtain a license as required under section  
44.11 28A.04.

44.12 Subd. 2. **Permitting.** No person shall operate a dairy plant in this state unless the dairy  
44.13 plant, equipment, and water supply and plumbing system have been first approved by the  
44.14 commissioner and a permit issued to operate the same. A permit may be revoked by the  
44.15 commissioner for due cause pursuant to section 34A.06.

44.16 Subd. 3. **Approval.** At the time of filing the application for a permit, the applicant shall  
44.17 submit to the commissioner duplicate floor plans of the plant that show the placement of  
44.18 equipment, the source of water supply and method of distribution, a detailed pasteurization  
44.19 flow chart, and the location of the plumbing system, including the disposal of wastes. New  
44.20 construction or alteration of an existing dairy plant shall be made only with the approval of  
44.21 the commissioner and duplicate plans for the construction or alteration shall be submitted  
44.22 to the commissioner for approval. The fee for approval services is \$45 per hour of department  
44.23 staff time spent in the approval process.

44.24 Subd. 4. **Farmstead cheese.** (a) The commissioner or the commissioner's designee shall  
44.25 issue an additional permit to a dairy plant that desires to use the name "Minnesota farmstead  
44.26 cheese" upon application made by the dairy plant for use of the name, provided the cheese  
44.27 meets the definition in section 32D.01, subdivision 13.

44.28 (b) No cheese or packaged cheese that is sold, offered or exposed for sale, or held in  
44.29 possession with intent to sell at either retail or wholesale in this state may be labeled or  
44.30 described as "Minnesota farmstead cheese" unless it meets the criteria in section 32D.01,  
44.31 subdivision 13, and the manufacturer has obtained the designated permit.

45.1 Sec. 11. [32D.10] INSPECTIONS.

45.2 (a) Inspections of Grade A plants must be completed at least once every three months.  
45.3 A pasteurization plant requesting Grade A inspection must pay an annual inspection fee of  
45.4 no more than \$500.

45.5 (b) Inspections of manufacturing plants that process milk or milk products other than  
45.6 Grade A must be completed at least once every six months. A manufacturing plant that  
45.7 pasteurizes milk or milk by-products must pay an annual fee based on the number of  
45.8 pasteurization units. The fee must not exceed \$140 per unit.

45.9 Sec. 12. [32D.11] PROCUREMENT FEE.

45.10 A dairy plant operator in this state must pay to the commissioner on or before the 18th  
45.11 of each month a fee of 1.1 cents per hundredweight of milk purchased the previous month.  
45.12 If a milk producer in this state ships milk out of the state for sale, the producer must pay  
45.13 the fee to the commissioner unless the purchaser voluntarily pays the fee. Producers who  
45.14 ship milk out of state and processors must submit to the commissioner monthly reports  
45.15 related to milk purchases along with the appropriate procurement fee. The commissioner  
45.16 shall have access to all relevant purchase or sale records as necessary to verify compliance  
45.17 with this section and may require the producer or purchaser to produce records as necessary  
45.18 to determine compliance.

45.19 Sec. 13. [32D.12] SELECTED PRODUCTS FEE.

45.20 (a) A manufacturer must pay to the commissioner a fee for fluid milk processed and  
45.21 milk used in the manufacture of fluid milk products sold for retail sale in Minnesota in an  
45.22 amount not less than five cents and not more than nine cents per hundredweight as set by  
45.23 the commissioner's order. No change within any 12-month period may be in excess of one  
45.24 cent per hundredweight.

45.25 (b) A processor must report quantities of milk processed under paragraph (a) on forms  
45.26 provided by the commissioner. Processor fees must be paid monthly. The commissioner  
45.27 may require the production of records as necessary to determine compliance with this  
45.28 paragraph.

45.29 (c) The commissioner may create within the department a dairy consulting program to  
45.30 provide assistance to dairy producers who are experiencing problems meeting the sanitation  
45.31 and quality requirements of the dairy laws and rules. The commissioner may use money

46.1 appropriated from the dairy services account to pay for the program authorized in this  
46.2 paragraph.

46.3 **Sec. 14. [32D.13] MILK QUALITY STANDARDS.**

46.4 **Subdivision 1. Visible adulteration or odors.** Milk shall not be visibly adulterated, or  
46.5 have any objectionable odor, or be abnormal in appearance or consistency.

46.6 **Subd. 2. Grade A raw milk.** (a) The bacterial count of Grade A raw milk from producers  
46.7 must not exceed 100,000 bacteria per milliliter prior to commingling with other producer  
46.8 milk.

46.9 (b) After commingling with other producer milk, the bacteria count must not exceed  
46.10 300,000 per milliliter prior to pasteurization.

46.11 **Subd. 3. Grade A pasteurized milk and fluid milk products.** (a) The bacterial count  
46.12 of Grade A pasteurized milk and fluid milk products, at any time after pasteurization until  
46.13 delivery, must not exceed 20,000 bacteria per milliliter.

46.14 (b) The coliform count of Grade A pasteurized milk and fluid milk products must not  
46.15 exceed ten bacteria per milliliter except that bulk tank transport shipments must not exceed  
46.16 100 per milliliter.

46.17 **Subd. 4. Raw milk, other than Grade A.** The bacterial count of raw milk from producers  
46.18 must not exceed 500,000 bacteria per milliliter prior to commingling with other producer  
46.19 milk.

46.20 **Subd. 5. Pasteurized milk, other than Grade A.** The bacterial count of pasteurized  
46.21 milk other than Grade A pasteurized milk, at any time after pasteurization until delivery,  
46.22 must not exceed 20,000 bacteria per milliliter.

46.23 **Subd. 6. Exceptions.** Bacterial count standards do not apply to sour cream, cultured  
46.24 buttermilk, and other cultured fluid milk products.

46.25 **Subd. 7. Rules and standards.** The commissioner may prescribe standards and rules  
46.26 adopted in accordance with law more stringent than those imposed by this section.

46.27 **Subd. 8. Somatic cell count.** (a) The somatic cell count, as determined by a direct  
46.28 microscopic somatic cell count or an electronic somatic cell count, must not exceed 750,000  
46.29 cells per milliliter for Grade A raw milk and raw milk other than Grade A. Notwithstanding  
46.30 any federal standard, the somatic cell count of goat milk must not exceed 1,500,000 cells  
46.31 per milliliter.

47.1 (b) The commissioner may prescribe standards and rules adopted in accordance with  
47.2 law more stringent than those imposed by this subdivision.

47.3 Subd. 9. **Temperature.** If milk is received or collected from a dairy farm more than two  
47.4 hours after the most recent milking, the temperature of the milk shall not exceed 45 degrees  
47.5 Fahrenheit (7 degrees Celsius). If the milk consists of a blend of milk from two or more  
47.6 milking, and the milk is received or collected less than two hours after the most recent  
47.7 milking, the blend temperature shall not exceed 50 degrees Fahrenheit (10 degrees Celsius).

47.8 Subd. 10. **Industry enforcement.** A dairy plant is not required to reject milk shipments  
47.9 in response to a violation of subdivisions 2 to 9 unless the commissioner suspends or revokes  
47.10 the dairy plant permit or milk producer's Grade A permit or manufacturing grade certification.

47.11 **Sec. 15. [32D.14] OFFICIAL PRODUCER SAMPLES.**

47.12 (a) An official producer sample for each producer must be analyzed for bacteria, somatic  
47.13 cell count, temperature, and antibiotic residues at least once per month in four out of every  
47.14 six months. Official producer samples must be collected and analyzed without providing  
47.15 the producer with prior notification of the sampling date.

47.16 (b) Official producer sample results must be inclusive of all animals from which milk  
47.17 is collected and sold on the day of sampling.

47.18 (c) Official producer sample results must be collected by a licensed sampler.

47.19 **Sec. 16. [32D.15] MONTHLY REPORTING.**

47.20 (a) In at least four out of every six months, the dairy plant that procures milk from the  
47.21 producer must report to the commissioner at least one representative test result for bacteria,  
47.22 somatic cell count, temperature, and antibiotic residues. The result shall be reported within  
47.23 seven days after the laboratory obtains the test results.

47.24 (b) A laboratory that performs the tests required under this section for a dairy plant may  
47.25 report the test results for the dairy plant.

47.26 (c) A dairy plant or laboratory shall report test results under this section in an electronic  
47.27 form approved by the department or using an approved alternative.

47.28 **Sec. 17. [32D.16] ENFORCEMENT.**

47.29 The commissioner shall suspend a producer's permit or certification if three of the last  
47.30 five official producer samples exceed the applicable standard. The commissioner shall

48.1 provide warning of a pending suspension when two of the last four producer samples exceed  
48.2 the applicable standard.

48.3 **Sec. 18. [32D.17] LABORATORY CERTIFICATION.**

48.4 (a) A laboratory and its methods are required to be approved or certified prior to testing  
48.5 Grade A milk samples. The results of approved or certified laboratories may be used by  
48.6 official regulatory agencies in enforcement of requirements for milk and milk products. The  
48.7 approval or certification remains valid unless suspended or revoked by the commissioner  
48.8 for failure to comply with the requirements of this chapter.

48.9 (b) Certified or approved laboratories must receive a permit from the commissioner.  
48.10 The permit remains valid without renewal unless suspended or revoked by the commissioner  
48.11 for failure to comply with the requirements of this chapter.

48.12 (c) Satisfactory analytical procedures and results for split samples, the nature, number,  
48.13 and frequency of which shall be in accordance with rules established by the commissioner,  
48.14 shall be required of a certified laboratory for retention of its certification and permit.

48.15 (d) An application for initial certification or biennial recertification, or for recertification  
48.16 following suspension or revocation of a permit, shall be accompanied by an annual fee  
48.17 based on the number of analyses approved and the number of specific tests for which they  
48.18 are approved. The fee must not be less than \$150 nor more than \$200 for each analysis  
48.19 approved and not less than \$35 nor more than \$50 for each test approved. The commissioner  
48.20 may annually adjust assessments within the limits established by this subdivision to meet  
48.21 the cost recovery of the services required by this section.

48.22 **Sec. 19. [32D.18] MILK BOUGHT BY WEIGHT; TESTING METHODS.**

48.23 Subdivision 1. **Milk fat, protein, and solids not fat bases of payment; tests.** (a) Milk  
48.24 must be purchased from producers using a formula based on one or more of the following:

48.25 (1) payment of a standard rate with uniform differentials for milk testing above or below  
48.26 3.5 percent milk fat;

48.27 (2) payment of a standard rate for the pounds of milk fat contained in the milk;

48.28 (3) payment of a standard rate for the pounds of protein contained in the milk;

48.29 (4) payment of a standard rate for the pounds of nonfat solids contained in the milk; or

48.30 (5) payment of standard rates based on other attributes of value in the milk.

49.1 (b) In addition, an adjustment may be made on the basis of milk quality and other  
 49.2 premiums. Testing procedures for determining the percentages of milk fat, protein, and  
 49.3 nonfat solids must comply with the methods approved by the Association of Analytical  
 49.4 Chemists or be as adopted by rule.

49.5 Subd. 2. **Apparatus to conform to specifications.** Glassware, test bottles, pipettes, acid  
 49.6 measures, chemicals, scales, and other apparatus used in the operation of these tests shall  
 49.7 conform to the specifications for the particular test method.

49.8 Subd. 3. **Penalties for violations.** A person who:

49.9 (1) employs any test other than those tests authorized by rule adopted by the  
 49.10 commissioner, or any methods other than the standard official methods for determining the  
 49.11 milk fat content of milk or cream;

49.12 (2) incorrectly samples milk or cream purchased or sold;

49.13 (3) incorrectly weighs milk or cream purchased or sold;

49.14 (4) incorrectly grades milk or cream purchased or sold;

49.15 (5) makes a false entry of the weight, test result, or grade of any milk or cream purchased  
 49.16 or sold;

49.17 (6) incorrectly samples, weighs, tests, or records or reports weights or tests of skim milk  
 49.18 or buttermilk purchased or sold;

49.19 (7) underreads the tests;

49.20 (8) falsifies the reading of the tests;

49.21 (9) manipulates the reading of the tests; or

49.22 (10) falsely states, certifies, or uses in the purchase or sale of milk or cream a misreading  
 49.23 of such tests, whether the tests or actual reading have been made by the person or by any  
 49.24 other person,

49.25 is guilty of a misdemeanor.

49.26 Sec. 20. **[32D.19] ADULTERATED DAIRY PRODUCTS.**

49.27 Subdivision 1. **Purchase and sale prohibition.** A person may not sell or knowingly  
 49.28 buy adulterated dairy products.

49.29 Subd. 2. **Manufacture of food for human consumption from adulterated milk or**  
 49.30 **cream prohibited.** An article of food for human consumption may not be manufactured

50.1 from adulterated milk or cream, except as provided in the Federal Food, Drug, and Cosmetic  
50.2 Act, United States Code, title 21, section 301 et seq., and related federal regulations.

50.3 Subd. 3. **Adulterated milk.** For purposes of this section, milk is adulterated if it:

50.4 (1) is drawn in a filthy or unsanitary place;

50.5 (2) is drawn from unhealthy or diseased animals;

50.6 (3) contains water in excess of that normally found in milk;

50.7 (4) contains a substance that is not a normal constituent of the milk except as allowed  
50.8 in this chapter; or

50.9 (5) contains drug residues or other chemical or biological substances in amounts above  
50.10 the tolerances or safe levels established by rule.

50.11 Subd. 4. **Drug residues.** (a) Before processing milk, all bulk milk pickup tankers must  
50.12 be tested for the presence of beta lactam drug residues and for other residues as determined  
50.13 necessary by the commissioner. Milk received from a producer in other than a bulk milk  
50.14 pickup tanker is also subject to this section.

50.15 (b) Bulk milk tankers that confirm positive for beta lactam drug residues or other residues  
50.16 must follow up with producer sample testing of all producers contained on the positive load.

50.17 (c) Individual producer samples must be tested for the presence of beta lactam drug  
50.18 residues at least once a month for four out of every six-month period. Results of these tests  
50.19 must be reported to the commissioner as official producer sample results using established  
50.20 electronic reporting procedures.

50.21 (d) Drug residue testing methods must be those approved by the Food and Drug  
50.22 Administration (FDA) and the National Conference of Interstate Milk Shipments or listed  
50.23 in the FDA's current version of M-a-85.

50.24 (e) All drug residue samples testing positive must be reported to the commissioner or  
50.25 the commissioner's designee within 24 hours. The report must include how and where the  
50.26 milk was disposed of, and the volume, the responsible producer, and the possible cause of  
50.27 the violative residue. All milk sample residue results must be recorded and retained for six  
50.28 months by the receiving plant for examination by the commissioner or the commissioner's  
50.29 designee.

50.30 Subd. 5. **Penalties.** (a) The permit or certification of a milk producer identified as having  
50.31 a positive drug residue is immediately suspended. The producer must not ship milk while  
50.32 the permit or certification is suspended.

51.1 (b) The producer's permit or certification may be reinstated after being sampled by the  
51.2 commissioner or the commissioner's designee and testing negative on the sample.

51.3 (c) A milk producer may not change plants within 30 days, without permission of the  
51.4 commissioner, after receiving notification from the commissioner of a residue violation.

51.5 (d) The producer that is identified with the drug residue violation is responsible for the  
51.6 value of all milk on any load that tests positive for drug residues and any costs associated  
51.7 with its disposal. Payment shall be made to the purchaser of the milk.

51.8 (e) For the first and second violation within a 12-month period, the dairy producer must,  
51.9 within 30 days of the date of the residue:

51.10 (1) meet with the dairy inspector to review potential causes of the adulteration; and

51.11 (2) complete the designated drug residue prevention educational program with a licensed  
51.12 veterinarian and submit the signed certificate to the commissioner.

51.13 (f) Failure to comply with the requirements for the first and second violation listed in  
51.14 paragraph (e) may result in suspension of the producer's permit or certification until the  
51.15 conditions in paragraph (e) are met.

51.16 (g) For the third or subsequent violation within a 12-month period, the commissioner  
51.17 may initiate proceedings for further enforcement action, that may include a penalty of up  
51.18 to a 30-day permit or certification suspension. In lieu of a suspension, the producer may be  
51.19 assessed an administrative penalty of up to \$1,000 or the value of milk sold during the  
51.20 intended suspension period.

51.21 Subd. 6. **Other forms of adulteration.** A milk producer who violates subdivision 3 is  
51.22 subject to any of the following penalties:

51.23 (1) the permit or certification of a milk producer identified as having adulterated milk  
51.24 is immediately suspended. The producer may not ship milk while the permit or certification  
51.25 is suspended;

51.26 (2) the producer that is identified with the adulterated milk violation is responsible for  
51.27 the value of all milk on any load that is contaminated by the adulterant and any costs  
51.28 associated with its disposal. Payment shall be made to the purchaser of the milk;

51.29 (3) the producer's permit or certification may be reinstated after the commissioner receives  
51.30 adequate verification that the milk is no longer adulterated; and

51.31 (4) the commissioner may, after evaluation of the severity and repetitive nature of the  
51.32 adulteration, initiate additional enforcement action in the form of permit or certification

52.1 suspension for up to 30 days or in lieu of suspension, an administrative penalty of up to  
 52.2 \$1,000, or the value of the milk sold during the intended suspension period for each violation.

52.3 Subd. 7. **Civil penalty.** A person other than a milk producer who causes milk to be  
 52.4 adulterated is subject to a civil penalty of up to \$1,000.

52.5 Subd. 8. **Appeals.** A dairy producer may appeal an adulteration violation by sending  
 52.6 written notice to the commissioner within ten days of receipt of the notice of a violation.  
 52.7 The appeal must contain a description of why the producer wishes to appeal the violation.

52.8 Sec. 21. **[32D.20] LIMITATION ON SALE.**

52.9 Subdivision 1. **Pasteurization.** No milk or fluid milk products shall be sold, offered or  
 52.10 exposed for sale, or held in possession for sale for the purpose of human consumption in  
 52.11 fluid form in this state unless the milk or fluid milk product has been pasteurized and cooled,  
 52.12 as defined in section 32D.01, subdivision 15, provided that this section shall not apply to  
 52.13 milk, cream, or skim milk occasionally secured or purchased for personal use by a consumer  
 52.14 at the place or farm where the milk is produced.

52.15 Subd. 2. **Labels.** (a) Pasteurized milk or fluid milk products offered or exposed for sale  
 52.16 or held in possession for sale shall be labeled or otherwise designated as pasteurized milk  
 52.17 or pasteurized fluid milk products, and in the case of fluid milk products the label shall also  
 52.18 state the name of the specific product.

52.19 (b) Milk and dairy products must be labeled with the plant number where the product  
 52.20 was produced, or if produced in a state where official plant numbers are not assigned, the  
 52.21 name of the manufacturer and the address of the plant where it was manufactured.

52.22 Sec. 22. **[32D.21] COOLING AFTER PASTEURIZATION.**

52.23 Immediately following pasteurization, all milk and fluid milk products shall be cooled  
 52.24 in properly operated equipment approved by the commissioner to a temperature of 45 degrees  
 52.25 Fahrenheit or lower, and maintained at 45 degrees Fahrenheit or lower until delivered;  
 52.26 provided, however, that if the milk or fluid milk product is to be cultured immediately after  
 52.27 pasteurization, then cooling may be delayed until after the culturing process is completed;  
 52.28 provided further that the commissioner may prescribe by rule standards more stringent than  
 52.29 those imposed by this section.

53.1 Sec. 23. **[32D.22] MANUFACTURE OF CHEESE; REQUIREMENTS IN PROCESS.**

53.2 No person, firm, or corporation shall manufacture, transport, sell, offer, or expose for  
53.3 sale or have in possession with intent to sell at retail to a consumer any cheese that has not  
53.4 been (1) manufactured from milk or milk products that have been pasteurized; (2) subjected  
53.5 to a heat treatment equivalent to pasteurization during the process of manufacturing or  
53.6 processing; or (3) subjected to an aging process where it has been kept for at least 60 days  
53.7 after manufacture at a temperature no lower than 35 degrees Fahrenheit.

53.8 Sec. 24. **[32D.23] RECOMBINANT BOVINE GROWTH HORMONE LABELING.**

53.9 Subdivision 1. **Labeling.** Products offered for wholesale or retail sale in this state that  
53.10 contain milk, cream, or any product or by-product of milk or cream that have been processed  
53.11 and handled pursuant to this section may be labeled with an rBGH statement that is not  
53.12 false or misleading and in accordance with the federal labeling standards. Products offered  
53.13 for wholesale or retail sale in this state need not contain any further label information relative  
53.14 to the use of rBGH in milk production.

53.15 Subd. 2. **Affidavit; records.** (a) A dairy plant purchasing milk or cream to be used in  
53.16 products labeled with rBGH claims pursuant to subdivision 1 must provide an affidavit  
53.17 from each producer that states that all cows used in the producer's dairy operations have  
53.18 not and will not be treated with rBGH, without advanced written notice of at least 30 days.

53.19 (b) The affidavit must be signed by the producer or authorized representative. Affidavits  
53.20 must be kept on file for not less than two years after receiving written notice that rBGH use  
53.21 status will change.

53.22 (c) If a plant chooses to process and handle only milk or milk products sourced from  
53.23 cows who have not been treated with rBGH, the plant, as an alternative to providing  
53.24 individual producer affidavits, may provide one affidavit to certify that the plant has  
53.25 procedures in place to verify that all producers are not using rBGH. A copy of the written  
53.26 procedure that describes this verification process must also be provided with the plant  
53.27 affidavit.

53.28 (d) All affidavits and corresponding records must be available for inspection by the  
53.29 commissioner.

53.30 (e) Dairy plants supplying milk or cream to a processor or manufacturer of a product to  
53.31 be labeled pursuant to subdivision 1, for use in that product, shall supply a certification to  
53.32 that processor or manufacturer stating that producers of the supplied milk or cream have  
53.33 executed and delivered affidavits pursuant to this subdivision.

54.1 Subd. 3. **Separation of nontreated cows and milk.** Milk or cream from  
54.2 non-rBGH-treated cows used in manufacturing or processing of products labeled pursuant  
54.3 to subdivision 1 must be kept fully separate from any other milk or cream through all stages  
54.4 of storage, transportation, and processing until the milk or resulting dairy products are in  
54.5 final packaged form in a properly labeled container. Records of the separation must be kept  
54.6 by the dairy plant and product processor or manufacturer at all stages and made available  
54.7 to the commissioner for inspection.

54.8 Sec. 25. [32D.24] DAIRY TRADE PRACTICES; DEFINITIONS.

54.9 Subdivision 1. **Application.** The definitions in this section apply to sections 32D.24 to  
54.10 32D.28.

54.11 Subd. 2. **Basic cost.** (a) "Basic cost," for a processor, means the actual cost of the raw  
54.12 milk plus 75 percent of the actual processing and handling costs for a selected class I or  
54.13 class II dairy product.

54.14 (b) Basic cost, for a wholesaler, means the actual cost of the selected class I or class II  
54.15 dairy product purchased from the processor or another wholesaler.

54.16 (c) Basic cost, for a retailer, means the actual cost of the selected class I or class II dairy  
54.17 product purchased from a processor or wholesaler.

54.18 Subd. 3. **Bona fide charity.** "Bona fide charity" means a corporation, trust, fund, or  
54.19 foundation organized and operated exclusively for religious, charitable, scientific, literary,  
54.20 or educational purposes.

54.21 Subd. 4. **Processor.** "Processor" means a person engaged in manufacturing or processing  
54.22 selected class I or class II dairy products in the person's own plant for sale in Minnesota.

54.23 Subd. 5. **Producer.** "Producer" means a person who operates a dairy herd or herds in  
54.24 Minnesota producing milk or cream commercially and whose milk or cream is sold to, or  
54.25 received or handled by, a distributor or processor. Producer does not include an incorporated  
54.26 or unincorporated association of producers.

54.27 Subd. 6. **Responsible person.** "Responsible person" means the business entity that  
54.28 makes payment to an individual Grade A or Grade B milk producer.

54.29 Subd. 7. **Selected class I dairy products.** "Selected class I dairy products" means milk  
54.30 for human consumption in fluid form and all other class I dairy products as defined by the  
54.31 Upper Midwest Milk Marketing Order, Code of Federal Regulations, title 7, part 1030.40,  
54.32 or successor orders.

55.1 Subd. 8. **Selected class II dairy products.** "Selected class II dairy products" means  
 55.2 milk for human consumption processed into fluid cream, eggnog, yogurt, and all other class  
 55.3 II dairy products as defined by the Upper Midwest Milk Marketing Order, Code of Federal  
 55.4 Regulations, title 7, part 1030.40, or successor orders.

55.5 Subd. 9. **Sell at retail; sale at retail; retail sales.** "Sell at retail," "sale at retail," or  
 55.6 "retail sales" means a retail sale or offer for retail sale of a selected class I or class II dairy  
 55.7 product for ultimate consumption or use.

55.8 Subd. 10. **Sell at wholesale; sale at wholesale; wholesale sales.** "Sell at wholesale,"  
 55.9 "sale at wholesale," or "wholesale sales" means sale or offer for sale of a selected class I  
 55.10 dairy product for purposes of resale or further processing or manufacturing but does not  
 55.11 include a producer selling or delivering milk to a processor.

55.12 Subd. 11. **Wholesaler.** "Wholesaler" means a person including a distributor in the  
 55.13 business of making sales of selected class I or class II dairy products at wholesale in  
 55.14 Minnesota. In the case of a person making sales at both retail and wholesale, wholesaler  
 55.15 applies only to the sales at wholesale.

55.16 Sec. 26. **[32D.25] DUTIES AND POWERS OF COMMISSIONER; DATA PRIVACY.**

55.17 Subdivision 1. **Duties; rules.** The commissioner shall adopt rules to implement and  
 55.18 administer sections 32D.24 to 32D.28.

55.19 Subd. 2. **Data privacy.** Financial and production information received by the  
 55.20 commissioner on processors, wholesalers, or retailers, including but not limited to financial  
 55.21 statements, fee reports, price schedules, cost documentation, books, papers, records, or other  
 55.22 documentation for the purpose of administration and enforcement of this chapter is classified  
 55.23 private data or nonpublic data pursuant to chapter 13. The classification shall not limit the  
 55.24 use of the information in the preparation, institution, or conduct of a legal proceeding by  
 55.25 the commissioner in enforcing this chapter.

55.26 Sec. 27. **[32D.26] SALES BELOW COST PROHIBITED; EXCEPTIONS.**

55.27 Subdivision 1. **Policy; processors; wholesalers; retailers.** (a) It is the intent of the  
 55.28 legislature to accomplish partial deregulation of milk marketing with a minimum negative  
 55.29 impact on small-volume retailers.

55.30 (b) A processor or wholesaler may not sell or offer for sale selected class I or class II  
 55.31 dairy products at a price lower than the processor's or wholesaler's basic cost.

56.1 (c) A retailer may not sell or offer for sale selected class I or class II dairy products at  
 56.2 a retail price lower than (1) 105 percent of the retailer's basic cost until June 30, 1994; and  
 56.3 (2) the retailer's basic cost beginning July 1, 1994, and thereafter. A retailer may not use  
 56.4 any method or device in the sale or offer for sale of a selected dairy product that results in  
 56.5 a violation of this section.

56.6 Subd. 2. **Exceptions.** The minimum processor, wholesaler, and retailer prices of  
 56.7 subdivision 1 do not apply:

56.8 (1) to a sale complying with section 325D.06;

56.9 (2) to a retailer giving away selected class I and class II dairy products for free if the  
 56.10 customer is not required to make a purchase; or

56.11 (3) to a processor, wholesaler, or retailer giving away selected class I and class II dairy  
 56.12 products for free or at a reduced cost to a bona fide charity.

56.13 **Sec. 28. [32D.27] REDRESS FOR INJURY OR THREATENED INJURY.**

56.14 A person injured by a violation of sections 32D.24 to 32D.28 may commence a legal  
 56.15 action based on the violation in a court of competent jurisdiction and may recover economic  
 56.16 damages and the costs of the action, including reasonable attorney fees. A person injured  
 56.17 or who is threatened with injury or loss by reason of violation of sections 32D.24 to 32D.28  
 56.18 may commence a legal action based on the violation and obtain injunctive relief in a court  
 56.19 of competent jurisdiction against persons involved in a violation or threatened violation of  
 56.20 sections 32D.24 to 32D.28 to prevent and restrain violations or threatened violations of  
 56.21 sections 32D.24 to 32D.28 without alleging or proving actual damages or that an adequate  
 56.22 remedy at law does not exist, so that injunctive relief can be obtained promptly and without  
 56.23 awaiting evidence of injury or actual damage. The injunctive relief does not abridge and is  
 56.24 not in lieu of any other civil remedy provided in sections 32D.24 to 32D.28.

56.25 **Sec. 29. [32D.28] ANNUAL SUSPENSION OF DAIRY TRADE PRACTICES ACT.**

56.26 The provisions of section 32D.26 are suspended during the month of June each year in  
 56.27 honor of "Dairy Month."

56.28 **Sec. 30. REPEALER.**

56.29 Minnesota Statutes 2016, sections 32.01, subdivisions 1, 2, 6, 8, 9, 10, 11, and 12; 32.021;  
 56.30 32.071; 32.072; 32.073; 32.074; 32.075; 32.076; 32.078; 32.10; 32.102; 32.103; 32.105;  
 56.31 32.106; 32.21; 32.212; 32.22; 32.25; 32.391, subdivisions 1, 1d, 1e, 1f, 1g, 2, and 3; 32.392;

- 57.1 32.393; 32.394, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 8a, 8b, 8c, 8d, 8e, 9, 11, and 12; 32.395;
- 57.2 32.397; 32.398, subdivision 1; 32.401, subdivisions 1, 2, 3, and 5; 32.415; 32.416; 32.475;
- 57.3 32.481, subdivision 1; 32.482; 32.483; 32.484; 32.486; 32.55, subdivisions 1, 2, 3, 4, 5, 12,
- 57.4 13, and 14; 32.555; 32.56; 32.61; 32.62; 32.63; 32.64; 32.645; 32.70; 32.71; 32.72; 32.74;
- 57.5 32.745; 32.75; and 32.90, are repealed.

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Article locations in SF1674-1

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ARTICLE 2 DAIRY LAW REORGANIZATION..... Page.Ln 37.23

### 18B.01 DEFINITIONS.

Subd. 10a. **Genetic engineering.** "Genetic engineering" means the modification of the genetic composition of an organism using molecular techniques. This does not include selective breeding, hybridization, or nondirected mutagenesis.

Subd. 10b. **Genetically engineered pesticide.** "Genetically engineered pesticide" means an organism that has been modified through the use of genetic engineering, intended to prevent, destroy, repel, or mitigate a pest, and an organism that has been modified through the use of genetic engineering, intended for use as a plant regulator, defoliant, or desiccant.

Subd. 22a. **Release.** "Release" means the placement or use of a genetically engineered organism outside a contained laboratory, greenhouse, building, structure, or other similar facility or under other conditions not specifically determined by the commissioner to be adequately contained.

### 18B.285 EXPERIMENTAL GENETICALLY ENGINEERED PESTICIDE PRODUCT REGISTRATION.

Subdivision 1. **Requirement.** (a) A person may not use, distribute, or conduct release experiments with a genetically engineered pesticide in any amount in the state until it is registered under this section or section 18B.26. Use, distribution, or release of a genetically engineered pesticide must be registered under this section until the commissioner determines by rule or order that the genetically engineered pesticide may be subject to section 18B.26. Experimental genetically engineered pesticide product registrations expire on December 31 of each year and may be renewed on or before that date.

(b) After reviewing a completed application, the commissioner may issue an experimental genetically engineered pesticide product registration if the commissioner determines that the applicant has adequately demonstrated that the proposed release does not have the potential for unreasonable adverse effects on the environment. The commissioner may prescribe terms and conditions, including, but not limited to, the period for the experimental genetically engineered pesticide product registration, the amount or number of genetically engineered pesticide product to be used, monitoring activities, department inspection schedules, reporting of experiment results, and experiment termination procedures. A person may not violate terms or conditions of a registration issued under this section. After an experimental genetically engineered pesticide product registration is issued, the commissioner may revoke or change the registration at any time if the commissioner finds that its terms or conditions are being violated or are inadequate to avoid unreasonable adverse effects on the environment.

(c) The commissioner may deny issuance of an experimental genetically engineered pesticide product registration if the commissioner determines that the use to be made of the pesticide under the proposed terms and conditions may cause unreasonable adverse effects on the environment.

Subd. 2. **Application.** A person must file an application for experimental genetically engineered pesticide product registration with the commissioner. An application to register an experimental genetically engineered pesticide product must include:

- (1) the name and address of the applicant;
- (2) any United States Environmental Protection Agency regulatory application or approval document required under federal law or rule;
- (3) the purpose or objectives of the product;
- (4) an experimental genetically engineered pesticide product use label;
- (5) the name, address, and telephone number of cooperators or participants in this state;
- (6) the amount of material to be shipped or used in this state; and
- (7) other information requested by the commissioner.

Subd. 3. **Application fee.** An application for registration of an experimental genetically engineered pesticide product must be accompanied by a nonrefundable application fee of \$125.

**25.371 GOOD MANUFACTURING PRACTICES CERTIFICATE FOR COMMERCIAL FEED AND FEED INGREDIENTS.**

Subdivision 1. **Definition of words and terms.** In addition to the definitions in section 25.33, for the purpose of this section, the terms defined in this subdivision have the meanings given them.

(a) "Adulteration" means the presence of any poisonous or deleterious substance at a level that may render feed or feed ingredients injurious to human or animal health, as provided in section 25.37, paragraph (a).

(b) "Establishment" includes, but is not limited to, buildings, structures, facilities, equipment, and conveyances that receive, store, manufacture, process, package, label, transport, or distribute feed or feed ingredients.

(c) "Pest" means any objectionable animal, including, but not limited to, bats, birds, rodents, insects, and insect larvae.

Subd. 3. **Personnel.** (a) Persons working in direct contact with feed and feed ingredients must conform to good hygienic practices to minimize the risk of adulteration.

(b) Persons who receive, store, manufacture, process, package, label, sample, transport, or distribute feed or feed ingredients must be trained for the persons' areas of responsibility.

Subd. 4. **Establishments.** (a) Establishments must be of a size, construction, and design to facilitate routine maintenance and cleaning.

(b) The grounds of establishments must be maintained in a condition that minimizes pest infestation of feed or feed ingredients.

Subd. 5. **Maintenance and housekeeping.** (a) Establishments must be kept in sufficient repair and condition to minimize the risk of adulteration.

(b) Establishments must be cleaned in a manner and at a frequency that minimizes the risk of adulteration.

(c) Establishments must implement procedures that are effective in minimizing pest infestation of feed or feed ingredients.

(d) Substances not approved for use in feed or feed ingredients must be received, stored, and used in a manner that minimizes the risk of adulteration, and in accordance with applicable laws and regulations. These substances must be physically separated from work areas and equipment used for the production or storage of feed and feed ingredients.

Subd. 6. **Equipment.** (a) All equipment, including scales, metering devices, and mixers must be of a suitable size, design, construction, precision, and accuracy for the equipment's intended purpose, and to minimize the risk of adulteration.

(b) All equipment, including scales, metering devices, and mixers must be designed to facilitate inspection and cleaning, and must be properly maintained and operated to minimize the risk of adulteration.

(c) All equipment must be constructed and maintained so as to minimize the risk of lubricants and coolants becoming adulterants in feed or feed ingredients.

(d) All scales and metering devices must be tested for accuracy upon installation and at least annually thereafter.

(e) All mixers must be tested to demonstrate the capability of the equipment to produce a homogeneous mix upon installation and periodically thereafter to ensure proper function. Mixers must be operated utilizing procedures that provide for proper mixing and proper mixing times as demonstrated by testing.

(f) Records sufficient to document the testing of equipment identified in paragraphs (d) and (e) must be maintained until a subsequent test is conducted or for one year from the date of the test, whichever is longer.

Subd. 7. **Receiving and storage for further manufacture.** Specifications and procedures effective in minimizing the risk of adulteration must be established and implemented to govern the acceptance, rejection, and storage of inbound feed or feed ingredients intended for further manufacturing of feed or feed ingredients. The procedures must include the following:

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(1) feed or feed ingredients must be visually inspected during receiving to confirm identity and check required labeling;

(2) feed or feed ingredients to be used in the further manufacture of feed or feed ingredients must be stored in a manner that maintains the identity and minimizes the risk of adulteration;

(3) cleanout procedures must be established and implemented for equipment, conveyances, and storage structures or containers that are effective in minimizing the risk of adulteration of feed or feed ingredients;

(4) inventory practices, including inventory rotation, must be established and implemented for feed or feed ingredients to minimize the risk of adulteration; and

(5) records must be maintained identifying the immediate previous source, quantity, type or name, and date received for each feed or feed ingredient for at least one year from the date of disposition.

Subd. 8. **Manufacturing.** (a) A feed or feed ingredient that is considered adulterated must not be used in the manufacture of feed or feed ingredients unless made safe for the feed or feed ingredient's intended use.

(b) Procedures effective in minimizing the risk of adulteration and ensuring safety and identity must be established and implemented for the manufacture of feed or feed ingredients. The procedures must include the following:

(1) a description of the manufacturing operation, which may include, but is not limited to, feed or feed ingredient formulation, mixing, and production practices;

(2) measures effective in minimizing manufacturing errors that may result in adulteration of feed or feed ingredients. The measures must include, but are not limited to:

(i) cleanout practices, which may include sequencing, flushing, or other methods; and

(ii) measures to minimize the inclusion of physical adulterants, including metal, in feed or feed ingredients.

(c) Records sufficient to document the production history of the feed or feed ingredient manufactured in the establishment must be maintained for at least one year from the date of disposition.

Subd. 9. **Packaging.** (a) Packaged feed or feed ingredients must be packaged in a manner that maintains identity and minimizes the risk of adulteration.

(b) Bags and totes used as packaging for feed or feed ingredients must not be reused unless cleaned using effective and documented cleanout procedures.

(c) Records sufficient to document these cleanout procedures must be maintained for at least one year from the date of disposition.

Subd. 10. **Labeling.** (a) A label or other unique identifier must be affixed to, or accompany feed or feed ingredients to maintain identity and facilitate safe and effective use.

(b) Labels must be stored, handled, and used in a manner that minimizes errors.

(c) Obsolete labels must be discarded promptly.

Subd. 11. **Storage of finished feed or feed ingredients.** (a) Finished feed or feed ingredients must be stored in a manner that minimizes the risk of adulteration. The bin, bulk tank, or other location where feed or feed ingredients are stored must be clearly identified.

(b) Inventory practices, including inventory rotation, must be established and implemented for feed or feed ingredients to minimize the risk of adulteration.

Subd. 12. **Inspection, sampling, and testing of incoming and finished feed or feed ingredients for adulterants.** (a) Finished feed or feed ingredients must be visually inspected for the presence of visible adulterants and verification of identity.

(b) When sampling and testing of feed or feed ingredients is performed by the establishment to monitor for adulteration, test results must be reviewed by trained personnel. Test results that indicate feed or feed ingredients are adulterated must be investigated by the establishment. Investigations may include, but are not limited to, review of:

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- (1) ingredient specifications used in the development of the formula;
- (2) formula;
- (3) production records; and
- (4) sampling and testing methods.

(c) Records must be kept for at least one year after the investigation and review of test results for adulterants, and of any corrective action or actions taken when adulterants are detected. Records must not be used as the sole basis for official enforcement actions or penalties by the commissioner.

Subd. 13. **Transportation of feed or feed ingredients.** Feed or feed ingredients must be transported utilizing methods that minimize the risk of adulterations, including, but not limited to, the following:

- (1) conveyances used to transport feed or feed ingredients must be inspected for cleanliness and structural integrity prior to loading;
- (2) feed, feed ingredients, or other materials or substances that may pose a risk of adulterating feed or feed ingredients must not be loaded onto the same conveyance unless measures are taken to minimize risk; and
- (3) records must be maintained for each feed or feed ingredient identifying the immediate subsequent recipient, quantity, type or name, unique identifier if available, and date shipped for at least one year from the date of disposition.

Subd. 14. **Voluntary recall; withdrawal.** (a) Sufficient records and other information concerning the identity and disposition of feed or feed ingredients must be maintained for at least one year from the date of disposition to permit the rapid and effective recall from the marketplace or withdrawal from feeding if a feed or feed ingredient is found to be adulterated.

(b) Voluntary recalls of feed or feed ingredients should be guided by procedures outlined by the United States Food and Drug Administration in the Code of Federal Regulations, title 21, section 7.

Subd. 15. **Expiration.** Subdivisions 1 and 3 to 14 expire upon the United States Food and Drug Administration's adoption of rules regarding preventative controls for animal feed.

### 32.01 DEFINITIONS.

Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the words defined in this section, shall for the purposes of this chapter, have the meanings given to them.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subd. 6. **Dairy plant.** "Dairy plant" means any place where a dairy product is manufactured, processed, or handled and includes milk-receiving stations, creameries, cheese factories, condenseries, milk plants, transfer stations, cream stations, marketing organizations not operating dairy plants, but purchasing milk and cream directly from producers for resale, and other establishments, as those terms are used in this chapter and chapters 17, 27, 31, and 33; but does not include a dairy farm or an establishment where no dairy products are processed, but dairy products are sold at wholesale or retail only.

Subd. 8. **Overrun.** "Overrun" is the difference between the weight of any given amount of pure butterfat and the weight of the butter manufactured therefrom; and this difference, ascertained in any case, divided by the given amount of pure butterfat in such case and multiplied by 100, is the "percentage of overrun" in the manufacture of butter.

Subd. 9. **Milk-receiving station.** "Milk-receiving station" means any dairy plant where raw milk for pasteurization or for manufacture is received, handled, or prepared for processing or for resale as unpasteurized milk or fluid milk products.

Subd. 10. **Dairy product.** "Dairy product" means milk as defined by Code of Federal Regulations, title 21, cream, any product or by-product of either, or any commodity among the principal constituents or ingredients of which is one or a combination of two or more of them, as determined by standards, grades, or rules duly adopted by the commissioner.

Subd. 11. **Adulterated.** "Adulterated" means an item is covered by section 34A.02.

Subd. 12. **Misbranded.** "Misbranded" or "misbranding" means an item is covered by section 34A.03.

### **32.021 DUTIES AND POWERS OF COMMISSIONER.**

Subdivision 1. **Enforcement.** The commissioner shall be charged with the enforcement of the provisions of this chapter.

Subd. 2. **Power and authority.** For the purpose of enforcing the provisions of chapter 32 and amendatory acts the commissioner and the commissioner's assistants, agents, and employees, shall have the power and authority granted under the provisions of sections 31.02 to 31.171.

### **32.071 MILK AND CREAM BUYER AND TESTER, LICENSE.**

No person shall operate a milk or cream testing apparatus for the purpose of determining the percentage of butterfat in milk or cream, and no person shall grade milk or cream either by apparatus or by an organoleptic method for the purpose of purchasing the same either personally or for others without first securing a license from the commissioner as hereinafter provided.

### **32.072 APPLICATION FOR LICENSE.**

Any person desiring to secure such license shall make application therefor on forms to be prepared and provided by the commissioner, and before a license is issued the commissioner shall determine that the applicant is competent and qualified to use such testing apparatus and to make accurate tests with them, and to make accurate organoleptic tests. No person who is not a resident of the United States shall be licensed under the provisions of sections 32.071 to 32.078.

### **32.073 LICENSES; EXAMINATIONS, QUALIFICATIONS.**

A grading and testing license shall be issued by the commissioner to a person making application therefor, after the commissioner has determined that the applicant is competent and qualified to grade and test milk and cream, and that the applicant understands and is familiar with the provisions of sections 32.01 to 32.486. Any conviction for violating sections 32.01 to 32.486 or the standards, grades, and rules adopted by the commissioner shall be taken into consideration in determining whether or not the applicant is competent and qualified.

### **32.074 LICENSED DAIRY PLANT; LICENSED PERSON TO GRADE AND TEST.**

Every milk and cream buyer shall maintain at each licensed dairy plant where milk and cream is purchased, a licensed person to grade and test milk and cream. Any person gathering cream or milk and transporting it by bulk pickup and not in individual containers from farm to plant shall have a license to grade and sample such milk and cream.

### **32.075 TERM OF LICENSE; TRANSFERABILITY; FEES AND PENALTIES.**

An initial license issued by the commissioner expires on the following December 31st and is not transferable. A renewal license is valid for two years and expires on December 31 of the second year. The fee for an initial or renewal license is \$60. The fee shall be paid to the commissioner before the commissioner issues an initial or renewal license. If a license renewal is not applied for on or before January 1 of each year, a penalty of \$30 shall be imposed. A person who does not renew a license within one year following its December 31 expiration date, except those persons who do not renew such license while engaged in active military service, shall be required to prove competency and qualification pursuant to section 32.073, before a license is issued. The commissioner may require any other person who renews a license to prove competency and qualification in the same manner. All license fees and penalties received by the commissioner shall be deposited in the dairy services account in the agricultural fund.

### **32.076 OFFENSES.**

The grading or testing of each lot of milk and cream by an unlicensed person shall constitute a separate offense.

**32.078 SUSPENSION OR CANCELLATION.**

The commissioner is empowered to suspend or cancel any license issued pursuant to the provisions of sections 32.071 to 32.076 after a hearing upon written notice containing the grounds therefor, which notice shall be served personally upon the licensee or the licensee's agent at least five days prior to such hearing.

**32.10 LICENSES; SUSPENSION, REVOCATION.**

When any person licensed under sections 28A.04 and 32.10 shall have been convicted of a violation of any provision of any law of this state relating to the manufacture or sale of butter or cheese or other dairy products, or the operation of dairy plants, or other establishments in which dairy products or goat milk, as defined in section 32.391, subdivision 1, are manufactured, processed, or handled, or for transportation, or of any provision of any rule of the commissioner made and promulgated under the provisions of law or there has been a continued course of conduct by such licensee or any agent, representative or employee of such licensee which deceives or defrauds producers or consumers, the license (1) may be suspended for the time stated in order of suspension, (2) may be revoked or canceled by the commissioner, or (3) upon application for a renewal license, the commissioner may refuse to issue the same, upon ten days' written notice with opportunity to be heard. The commissioner shall promulgate procedural rules governing the notice, hearing, evidence, findings, order, and record to be kept in such hearings, in the manner provided by law. Upon conviction of a second or any subsequent offense, the commissioner may revoke and cancel such license with or without notice of hearing, in the commissioner's discretion, and in such case the commissioner shall not issue another license for the operation of such plant or establishment for a term of one year from the date of such cancellation or revocation.

**32.102 PROSECUTIONS.**

It shall be the duty of every prosecuting officer to whom the commissioner shall report any violation of sections 28A.04 and 32.10 to cause appropriate proceedings to be instituted and to be prosecuted in the proper courts, without delay, for the enforcement as in such cases therein provided. All fines imposed and paid thereunder shall be paid into the state treasury.

**32.103 INSPECTION OF DAIRIES.**

(a) At times the commissioner determines proper, the commissioner shall cause to be inspected all places where dairy products are made, stored, or served as food for pay, and all places where cows are kept by persons engaged in the sale of milk, and shall require the correction of all insanitary conditions and practices found. During routine inspections or as necessary, the commissioner shall inspect for:

(1) evidence of use of rBGH in violation of section 32.75, by producers providing affidavits of nontreatment under that section; and

(2) mercury manometers in violation of section 116.92.

(b) A refusal or physical threat that prevents the completion of an inspection or neglect to obey a lawful direction of the commissioner or the commissioner's agent given while carrying out this section may result in the suspension of the offender's permit or certification. The offender is required to meet with a representative of the offender's plant or marketing organization and a representative of the commissioner within 48 hours excluding holidays or weekends or the suspension will take effect. A producer may request a hearing before the commissioner or the commissioner's agent if a serious concern exists relative to the retention of the offender's permit or certification to sell milk.

**32.105 MILK PROCUREMENT FEE.**

Each dairy plant operator within the state must pay to the commissioner on or before the 18th of each month a fee of 1.1 cents per hundredweight of milk purchased the previous month. If a milk producer within the state ships milk out of the state for sale, the producer must pay the fee to the commissioner unless the purchaser voluntarily pays the fee.

Producers who ship milk out of state or processors must submit monthly reports as to milk purchases along with the appropriate procurement fee to the commissioner. The commissioner may have access to all relevant purchase or sale records as necessary to verify compliance with this

section and may require the producer or purchaser to produce records as necessary to determine compliance.

The fees collected under this section must be deposited in the dairy services account in the agricultural fund. Money in the account, including interest earned, is appropriated to the commissioner to administer this chapter.

### **32.106 MULTIUSE DAIRY PRODUCT CONTAINERS.**

Subdivision 1. **Cleaning.** Before being reused, dairy product containers which may be used more than once shall be cleaned in accordance with rules promulgated in the manner provided by law by the commissioner, except, that in no instance shall such rules serve to eliminate any producers product from the market, whose present method of production, bears no evidence of endangering the health of the consumers. All rules heretofore adopted by the commissioner relating to the cleaning of dairy product containers which are in effect at the time Laws 1961, chapter 147, article 4, section 1 takes effect and which are not in conflict with this section, shall remain in effect until amended, modified, or repealed by the commissioner.

Subd. 2. **Return.** Every person, receiving any dairy product in containers which may be used more than once and which are to be returned to the sender or seller shall cause such containers to be promptly emptied, thoroughly cleansed as required by rules promulgated by the commissioner, and immediately returned.

### **32.21 ADULTERATED DAIRY PRODUCTS.**

Subdivision 1. **Purchase and sale prohibition.** A person may not sell or knowingly buy adulterated dairy products.

Subd. 2. **Manufacture of food for human consumption from adulterated milk or cream prohibited.** An article of food for human consumption may not be manufactured from adulterated milk or cream, except as provided in section 32.22 or the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 301 et seq., and related federal regulations.

Prior to processing milk, all bulk milk pickup tankers must be tested for the presence of beta lactum drug residues and for other residues as determined necessary by the commissioner. Test methods must be those approved by the Association of Analytical Chemists (AOAC) or under the AOAC C2 program. Bulk milk tankers testing positive must be reported to the commissioner or the commissioner's agent within 24 hours. This report must include how and where the milk was disposed of, the volume, the responsible producer, and the possible cause of the violative residue. All milk sample residue results must be recorded and retained for examination by the commissioner or the commissioner's agent for six months by the receiving plant. Milk received from a producer in other than a bulk milk pickup tanker is also subject to this section.

Subd. 3. **Adulterated milk.** For purposes of this section and section 32.22, milk is adulterated if it:

- (1) is drawn in a filthy or unsanitary place;
- (2) is drawn from unhealthy or diseased cows;
- (3) is drawn from cows that are fed garbage or an unwholesome animal or vegetable substance;
- (4) is drawn from cows within 15 days before calving, or five days after calving;
- (5) contains water in excess of that normally found in milk;
- (6) contains a substance that is not a normal constituent of the milk except as allowed in this chapter; or
- (7) contains drug residues or other chemical or biological substances in amounts above the tolerances or safe levels established by rule or under section 32.415.

Subd. 4. **Penalties.** (a) A person, other than a milk producer, who violates this section is guilty of a misdemeanor or subject to a civil penalty up to \$1,000.

(b) A milk producer may not change milk plants within 30 days, without permission of the commissioner, after receiving notification from the commissioner under paragraph (c) or (d) that the milk producer has violated this section.

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(c) A milk producer who violates subdivision 3, clause (1), (2), (3), (4), or (5), is subject to clauses (1) to (3) of this paragraph.

(1) Upon notification of the first violation in a 12-month period, the producer must meet with the qualified dairy sanitarian to initiate corrective action within 30 days.

(2) Upon the second violation within a 12-month period, the producer is subject to a civil penalty of \$300. The commissioner shall notify the producer by certified mail stating the penalty is payable in 30 days, the consequences of failure to pay the penalty, and the consequences of future violations.

(3) Upon the third violation within a 12-month period, the producer is subject to an additional civil penalty of \$300 and possible revocation of the producer's permit or certification. The commissioner shall notify the producer by certified mail that all civil penalties owed must be paid within 30 days and that the commissioner is initiating administrative procedures to revoke the producer's permit or certification to sell milk for at least 30 days.

(d) The producer's shipment of milk must be immediately suspended if the producer is identified as an individual source of milk containing residues causing a bulk load of milk to test positive in violation of subdivision 3, clause (6) or (7). The Grade A or manufacturing grade permit must be converted to temporary status for not more than 30 days and shipment may resume only after subsequent milk has been sampled by the commissioner or the commissioner's agent and found to contain no residues above established tolerances or safe levels.

The Grade A or manufacturing grade permit may be restored if the producer completes the "Milk and Dairy Beef Residue Prevention Protocol" with a licensed veterinarian, displays the signed certificate in the milkhouse, and sends verification to the commissioner within the 30-day temporary permit status period. If the producer does not comply within the temporary permit status period, the Grade A or manufacturing grade permit must be suspended. A milk producer whose milk supply is in violation of subdivision 3, clause (6) or (7), and has caused a bulk load to test positive is subject to clauses (1) to (3) of this paragraph.

(1) For the first violation in a 12-month period, the penalty is the value of all milk on the contaminated load plus any costs associated with the disposition of the contaminated load. Future pickups are prohibited until subsequent testing reveals the milk is free of drug residue. A farm inspection must be completed by a qualified dairy sanitarian and the producer to determine the cause of the residue and actions required to prevent future violations.

(2) For the second violation in a 12-month period, the penalty is the value of all milk on the contaminated load plus any costs associated with the disposition of the contaminated load. Future pickups are prohibited until subsequent testing reveals the milk is free of drug residue. A farm inspection must be completed by a qualified dairy sanitarian to determine the cause of the residue and actions required to prevent future violations.

(3) For the third or subsequent violation in a 12-month period, the penalty is the value of all milk on the contaminated load plus any costs associated with the disposition of the contaminated load. Future pickups are prohibited until subsequent testing reveals the milk is free of drug residue. The commissioner or the commissioner's agent shall also notify the producer by certified mail that the commissioner is initiating administrative procedures to revoke the producer's permit or certification to sell milk for a minimum of 30 days.

(4) If a bulk load of milk tests negative for residues and there is a positive producer sample on the load, no civil penalties may be assessed to the producer. The plant must report the positive result within 24 hours and reject further milk shipments from that producer until the producer's milk tests negative. A farm inspection must be completed by a qualified dairy sanitarian to determine the cause of the residue and actions required to prevent future violations. The department shall suspend the producer's permit and count the violation on the producer's record. The Grade A or manufacturing grade permit must be converted to temporary status for not more than 30 days during which time the producer must review the "Milk and Dairy Beef Residue Prevention Protocol" with a licensed veterinarian, display the signed certificate in the milkhouse, and send verification to the commissioner. If these conditions are met, the Grade A or manufacturing grade permit must be reinstated. If the producer does not comply within the temporary permit status period, the Grade A or manufacturing grade permit must be suspended.

(e) A milk producer that has been certified as completing the "Milk and Dairy Beef Residue Prevention Protocol" within 12 months of the first violation of subdivision 3, clause (7), need only review the cause of the violation with a field service representative within three days to maintain

Grade A or manufacturing grade permit and shipping status if all other requirements of this section are met.

(f) Civil penalties collected under this section must be deposited in the milk inspection services account established in this chapter.

### **32.212 MILK HOUSES FOR BULK TANKS.**

Any producer using a bulk tank for cooling and storage of milk to be used for manufacturing purposes shall have an enclosed milk room which shall conform to the standards provided by this section. The floor shall be constructed of concrete or other impervious material, maintained in good repair, and graded to provide proper drainage. The walls and ceilings of the room shall be sealed and constructed of smooth easily cleaned material. All windows shall be screened and doors shall be self-closing. It shall be well ventilated and must meet the following requirements:

- (1) The bulk tank shall not be located over a drain or under a ventilator.
- (2) The hose port shall be located in an exterior wall and fitted with a tight self-closing door.
- (3) Each milk room shall have an adequate supply of water readily accessible with facilities for heating the water, to insure the cleaning and sanitizing of the bulk tank, utensils and equipment and the keeping of the milk room clean.
- (4) No lights shall be placed directly over the bulk tank.
- (5) The bulk tank shall be properly located in the milk room for easy access to all areas for cleaning and servicing.
- (6) The milkhouse shall be used only for storage of milk, milk utensils, and supplies incidental to the production of milk.
- (7) This section is effective for all bulk tanks for milk produced for manufacturing purposes.
- (8) No milk processor shall buy milk from any producer of milk using a bulk tank to be used for manufacturing purposes unless such producer has complied with the provisions of this section.
- (9) After July 1, 1965, no person shall install a bulk tank except in a milk room or milkhouse which complies with the provisions of this section.
- (10) The enforcement of this section shall be administered by the Minnesota Department of Agriculture.
- (11) Any person violating any provisions of this section shall be punished by a fine of not more than \$50.

### **32.22 SKIMMED MILK.**

Notwithstanding the provisions of section 32.21, milk from which the cream has been removed, if such milk is otherwise wholesome and unadulterated, may be sold as such to makers of skimmed milk cheese, and by licensed dealers; but in the latter case only from vessels legibly marked "skimmed milk" in plain, common black letters upon a light colored background, each letter being at least one inch high and one-half inch wide, and these words being placed on the top or side of such vessel. These requirements shall not apply to skimmed or separated milk delivered to any patron of a creamery who furnishes milk thereto, but all skimmed milk from creameries and all whey from cheese factories so delivered to patrons shall first be pasteurized at a minimum temperature of 145 degrees Fahrenheit for not less than 30 minutes, or at a minimum temperature of 180 degrees Fahrenheit for continuous flow pasteurization.

### **32.25 MILK, CREAM, SKIM MILK, AND BUTTERMILK BOUGHT BY WEIGHT; TESTING METHODS.**

Subdivision 1. **Milk fat, protein, and solids not fat bases of payment; tests.** Milk must be purchased from producers using a formula based on one or more of the following:

- (1) payment of a standard rate with uniform differentials for milk testing above or below 3.5 percent milk fat;
- (2) payment of a standard rate for the pounds of milk fat contained in the milk;

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- (3) payment of a standard rate for the pounds of protein contained in the milk;
- (4) payment of a standard rate for the pounds of solids not fat contained in the milk; or
- (5) payment of standard rates based on other attributes of value in the milk.

In addition, an adjustment may be made on the basis of milk quality and other premiums.

Testing procedures for determining the percentages of milk fat, protein, and solids not fat must comply with the Association of Analytical Chemists approved methods or be as adopted by rule.

Subd. 2. **Apparatus to conform to specifications.** All glassware, test bottles, pipettes, acid measures, chemicals, scales, and other apparatus used in the operation of these tests shall conform to the specifications set forth for the particular test method.

Subd. 3. **Penalties for violations.** Any person

- (1) who shall employ any test other than those tests authorized by rule promulgated by the commissioner, or any methods other than the standard official methods for determining the milk fat content of milk or cream, or
- (2) who shall incorrectly sample milk or cream purchased or sold, or
- (3) who shall incorrectly weigh milk or cream purchased or sold, or
- (4) who shall incorrectly grade milk or cream purchased or sold, or
- (5) who shall make a false entry of the weight, or test result, or grade of any milk or cream purchased or sold, or
- (6) who shall incorrectly sample, weigh, test, or record or report weights or tests of skim milk or buttermilk purchased or sold, or
- (7) who shall underread the tests, or
- (8) who shall falsify the reading of the tests, or
- (9) who shall manipulate the reading of the tests, or
- (10) who shall falsely state, certify, or use in the purchase or sale of milk or cream a misreading of such tests, whether the tests or actual reading shall have been made by such person or by any other person, shall be guilty of a misdemeanor.

### **32.391 DEFINITIONS.**

Subdivision 1. **Application.** The definitions in this section apply to this chapter.

Subd. 1d. **Milk solids-not-fat.** "Milk solids-not-fat" is the portion of a milk product that is not water and is not fat as determined by procedures outlined in Standard Methods For The Examination Of Dairy Products (current edition).

Subd. 1e. **Fluid milk products.** "Fluid milk products" means cream, sour cream, half and half, reconstituted half and half, concentrated milk, concentrated milk products, skim milk, nonfat milk, chocolate flavored milk, chocolate flavored drink, chocolate flavored reconstituted milk, chocolate flavored reconstituted drink, buttermilk, cultured buttermilk, cultured milk, vitamin D milk, reconstituted or recombined milk, reconstituted cream, reconstituted skim milk, homogenized milk, and any other fluid milk product made by the addition of any substance to milk or to any of the above enumerated fluid milk products, when the same is declared to be a fluid milk product by rule promulgated by the commissioner.

Subd. 1f. **Goat milk.** "Goat milk" is a whole, fresh, clean lacteal secretion free from colostrum, obtained by the complete milking of one or more healthy goats.

Subd. 1g. **Sheep milk.** "Sheep milk" is a whole, fresh, clean lacteal secretion free from colostrum, obtained by the complete milking of one or more healthy sheep.

Subd. 2. **Pasteurization.** (a) The terms "pasteurization," "pasteurized," and similar terms mean:

- (1) the process of heating every particle of milk, fluid milk products, goat milk, or sheep milk, in properly operated equipment approved by the commissioner, to a temperature of at least 145 degrees Fahrenheit and holding the temperature for at least 30 minutes;

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(2) the process of heating every particle of milk, fluid milk products, goat milk, or sheep milk, in properly operated equipment approved by the commissioner, to a temperature of at least 161 degrees Fahrenheit and holding the temperature for at least 15 seconds; or

(3) the process of heating every particle of milk, fluid milk products, goat milk, or sheep milk, in properly operated equipment approved by the commissioner, to the temperatures and holding for the times as the commissioner may prescribe by rule adopted in accordance with law containing standards more stringent than those imposed by this subdivision.

(b) Nothing contained in this definition shall be construed as excluding any other process which has been demonstrated to be equally efficient and is approved by the commissioner.

Subd. 3. **Cooling after pasteurization.** Immediately following pasteurization, all milk, fluid milk products, goat milk, and sheep milk shall be cooled, in properly operated equipment approved by the commissioner, to a temperature of 45 degrees Fahrenheit or lower, and maintained at 45 degrees Fahrenheit or lower until delivered; provided, however, that if the milk, fluid milk products, goat milk, or sheep milk is to be cultured immediately after pasteurization, then such cooling may be delayed until after the culturing process is completed; provided further that the commissioner may prescribe by rule adopted in accordance with law standards more stringent than those imposed by this subdivision.

### **32.392 APPROVAL OF DAIRY PLANTS.**

No person shall operate a dairy plant in this state unless the dairy plant, and the equipment, water supply and plumbing system connected therewith shall have been first approved by the commissioner and a permit issued to operate the same. At the time of filing the application for a permit, the applicant shall submit to the commissioner duplicate floor plans of such plant which shall show the placement of equipment, the source of water supply and method of distribution, and the location of the plumbing system, including the disposal of wastes. All new construction or alteration of any existing dairy plants shall be made only with the approval of the commissioner and duplicate plans for such construction or alteration shall be submitted to the commissioner for approval. Any permit may be revoked by the commissioner for due cause after the holder of the permit has been given the opportunity for a hearing, in which case the holder of the permit shall be notified in writing, at least seven days prior to the date of such hearing, of the time and place of such hearing.

The fee for approval services is \$45 per hour of department staff time spent in the approval process. The fees must be deposited in the dairy services account in the agricultural fund. Money in the account, including interest earned, is appropriated to the commissioner to administer this chapter.

### **32.393 LIMITATION ON SALE.**

Subdivision 1. **Pasteurization.** No milk, fluid milk products, goat milk, or sheep milk shall be sold, advertised, offered or exposed for sale or held in possession for sale for the purpose of human consumption in fluid form in this state unless the same has been pasteurized and cooled, as defined in section 32.391; provided, that this section shall not apply to milk, cream, skim milk, goat milk, or sheep milk occasionally secured or purchased for personal use by any consumer at the place or farm where the milk is produced.

Subd. 2. **Labels.** All pasteurized milk, fluid milk products, goat milk, or sheep milk sold, offered or exposed for sale or held in possession for sale shall be labeled or otherwise designated as pasteurized milk, pasteurized fluid milk products, pasteurized goat milk, or pasteurized sheep milk, and in case of pasteurized fluid milk products the label shall also state the name of the specific product.

### **32.394 GRADE A PASTEURIZED MILK.**

Subdivision 1. **Grade A pasteurized bacteria counts.** Grade A pasteurized milk, fluid milk products and goat milk are Grade A raw milk, fluid milk products and goat milk for pasteurization which have been pasteurized, cooled and prepared for distribution in a dairy plant approved by the commissioner, the bacterial count of which at no time after pasteurization and until delivery exceeds 20,000 bacteria per milliliter. The coliform count must not exceed ten per milliliter except that bulk tank transport shipments must not exceed 100 per milliliter. The standard plate count standard shall be omitted in the case of sour cream, cultured buttermilk, other cultured fluid milk products and

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cultured goat milk; provided further that the commissioner may prescribe standards and rules adopted in accordance with law more stringent than those imposed by this subdivision.

Subd. 2. **Grade A raw bacteria counts.** Grade A raw milk or goat milk for pasteurization purposes is raw milk or goat milk which complies with all the requirements for its production, the bacterial count of which does not exceed 100,000 bacteria per milliliter prior to commingling with other producer milk at which time the bacteria count must not exceed 300,000 per milliliter prior to pasteurization. The commissioner may prescribe standards and rules adopted in accordance with law more stringent than those imposed by this subdivision.

Subd. 3. **Exemption.** Nothing in this section shall be construed to mean compulsory grading of pasteurized milk, pasteurized fluid milk products, pasteurized goat milk, raw milk for pasteurization, or raw goat milk for pasteurization; such grade shall apply only to pasteurized milk, pasteurized fluid milk products, pasteurized goat milk, raw milk for pasteurization, or raw goat milk for pasteurization on which the grade is declared on the label.

Subd. 4. **Rules.** The commissioner shall by rule adopt identity, production, and processing standards for milk, milk products, and goat milk which are intended to bear the Grade A label.

In the exercise of the authority to establish requirements for Grade A milk, milk products, and goat milk, the commissioner adopts definitions, standards of identity, and requirements for production and processing contained in the "Grade A Pasteurized Milk Ordinance" of the United States Department of Health and Human Services, in a manner provided for and not in conflict with law.

Subd. 5. **Sales as Grade A milk.** No person shall sell, offer or expose for sale, any milk, milk products or goat milk labeled Grade A, unless the milk, milk products or goat milk have been produced and processed in accordance with the requirements of Minnesota law and rule. Any processor desiring to use the Grade A label on milk, milk products or goat milk shall make application for a permit to the commissioner on a form prescribed and furnished by the commissioner. The permit shall be issued by the commissioner when the commissioner has determined that the applicant has complied with the requirements of Minnesota law and rule. Permits shall not be transferable with respect to person or location. A permit may be suspended by the commissioner upon failure by the holder of the permit to comply with any of the terms of Minnesota law and rule or for interference with inspection, and may be revoked by the commissioner for due cause after the holder of the permit has been given the opportunity for a hearing, in which case the holder of the permit shall be given a notice in writing of the time and place of such hearing at least seven days before the date of such hearing.

Subd. 6. **Inspection service.** To assure compliance with the laws and rules governing the production, handling, processing, and sale of Grade A milk, Grade A milk products and Grade A goat milk, the commissioner is hereby authorized to provide a service to be performed by trained and duly qualified milk sanitarians, for the inspection of such milk, milk products and goat milk, and of the premises and plants where such milk, milk products and goat milk are produced, handled and processed. Such service shall be for acquainting the processor and producers with the requirements for a Grade A milk supply, for preliminary inspection to determine if a processor has brought the processor's farms and plant to the state of compliance which will qualify the processor's products for the Grade A label, and for continuous inspection to assure that any farms and plants so accepted and all products therefrom so labeled shall remain in compliance. Said Grade A processor shall provide a continuous field service to assist the producers, who sell their milk to the processor's plant, to attain and to maintain compliance with Grade A requirements. Any person who performs such field service for such Grade A processor first shall obtain a permit therefor from the commissioner. Any person desiring to secure such permit shall make application therefor on a form provided by the commissioner, and before a permit is issued the commissioner shall determine that the applicant is competent and qualified to perform such field service. Said permit shall not be transferable and may be revoked for due cause after the holder of the permit has been given the opportunity for a hearing in which case the holder of the permit shall be given a notice in writing of the time and place of such hearing at least seven days before the date of such hearing.

Subd. 7. **Availability.** The aforesaid state service shall be available to all processors who wish to use the Grade A label on their milk, milk products and goat milk and who have not available to them substantially equivalent service, imposed with equal effectiveness by a city within the state.

Subd. 8. **Grade A inspection fees.** A processor or marketing organization of milk, milk products, sheep milk, or goat milk who wishes to market Grade A milk or use the Grade A label must apply for Grade A inspection service from the commissioner. A pasteurization plant requesting Grade A inspection service must hold a Grade A permit and pay an annual inspection fee of no more than

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\$500. For Grade A farm inspection service, the fee must be no more than \$50 per farm, paid annually by the processor or by the marketing organization on behalf of its patrons. For a farm requiring a reinspection in addition to the required biannual inspections, an additional fee must be paid by the processor or by the marketing organization on behalf of its patrons. The fee for reinspection of a farm with fewer than 100 cows is \$60 per reinspection. The fee for reinspection of a farm with 100 or more cows is \$150 per reinspection.

Subd. 8a. **Laboratory certification.** A laboratory, before conducting a test the results of which are to be used in the enforcement of requirements for distribution of milk, milk products or goat milk under the Grade A label, must be certified as meeting the requirements for laboratory approval that are established by rule of the commissioner, and must receive a permit from the commissioner. The permit shall remain valid without renewal unless suspended or revoked by the commissioner for failure to comply with the requirements. Satisfactory analytical procedures and results for split samples, the nature, number and frequency of which shall be in accordance with rules established by the commissioner, shall be required of a certified laboratory for retention of its certification and permit.

An application for initial certification or biennial recertification, or for recertification following suspension or revocation of a permit shall be accompanied by an annual fee based on the number of analysts approved and the number of specific tests for which they are approved. The fee is not less than \$150 or more than \$200 for each analyst approved and not less than \$35 or more than \$50 for each test approved. The commissioner may annually adjust assessments within the limits established by this subdivision to meet the cost recovery of the services required by this subdivision.

Subd. 8b. **Manufacturing grade farm certification.** A processor or marketing organization of milk, milk products, sheep milk, or goat milk who wishes to market other than Grade A milk must apply for a manufacturing grade farm certification inspection from the commissioner. A manufacturing plant that pasteurizes milk or milk by-products must pay an annual fee based on the number of pasteurization units. This fee must not exceed \$140 per unit. The fee for farm certification inspection must not be more than \$25 per farm to be paid annually by the processor or by the marketing organization on behalf of its patrons. For a farm requiring more than the one inspection for certification, a reinspection fee of \$45 must be paid by the processor or by the marketing organization on behalf of its patrons.

Subd. 8c. **Grade A or manufacturing grade raw milk.** Grade A or manufacturing grade raw milk must not have been stored longer than 72 hours when it is picked up at the farm by the receiving plant. The commissioner or an agent of the commissioner may waive the 72-hour time limit in a case of hardship, emergency, or natural disaster. On farms permitted or certified for bulk tank storage, the milk may only be picked up from approved bulk milk tanks in proper working order.

Subd. 8d. **Processor assessment.** (a) A manufacturer shall pay to the commissioner a fee for fluid milk processed and milk used in the manufacture of fluid milk products sold for retail sale in Minnesota in an amount not less than five cents and not more than nine cents per hundredweight as set by the commissioner's order except that beginning July 1, 2003, the fee is set at seven cents per hundredweight and thereafter no change within any 12-month period may be in excess of one cent per hundredweight.

(b) Processors must report quantities of milk processed under paragraph (a) on forms provided by the commissioner. Processor fees must be paid monthly. The commissioner may require the production of records as necessary to determine compliance with this subdivision.

(c) The commissioner may create within the department a dairy consulting program to provide assistance to dairy producers who are experiencing problems meeting the sanitation and quality requirements of the dairy laws and rules.

The commissioner may use money appropriated from the dairy services account created in subdivision 9 to pay for the program authorized in this paragraph.

Subd. 8e. **Farm bulk milk pickup tankers.** Farm bulk milk pickup tankers, milk transports, and tankers used to transport milk products must be inspected and obtain a permit issued by the commissioner annually by July 1. The owner or operator must pay a \$25 permit fee per tanker to the commissioner. The commissioner may appoint such persons as the commissioner deems qualified to make inspections.

Subd. 9. **Payments; refunds; disposition.** Fees are payable by a processor or marketing organization by July 1 of each year for Grade A, and by January 1 of each year for manufacturing grade, and if not paid within 30 days of the due date, the service must be discontinued, and permission

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to market manufacturing grade or Grade A milk or milk products or use the Grade A label must be withdrawn. A processor may terminate payment and service without loss of the Grade A label if written notice of that intention is given prior to the due date of the payment of an assessment and if the continuous inspection of the plant is assumed by a city whose milk control ordinance is substantially equivalent to Minnesota law and rule and is enforced with equal effectiveness. If a farm discontinues the production of milk within six months of the billing date, a request for a refund based on inspection services not received may be made by the processor or by the marketing organization on behalf of its patrons. This request must be made in writing by July 1 for manufacturing grade, or by December 31 for Grade A, and on approval by the commissioner refunds must be made to the processor or marketing organization.

The fees for services performed by the activities of this section must be deposited in the agricultural fund and constitute a separate account to be known as the dairy services account, which is hereby created. Money in the account, including interest earned, is appropriated to the commissioner to administer this chapter.

**Subd. 11. Waiver of rules; water well distance requirement.** A dairy farmer who wishes to be permitted to produce grade A milk may not be denied the grade A permit solely because of provisions in rules adopted by the commissioner of health requiring a minimum distance between a water well and a dairy barn. To be eligible for a grade A permit, the following conditions must be met:

(1) the water well must have been in place prior to January 1, 1974;

(2) the water well must comply with all rules of the commissioner of health other than the minimum distance requirement; and

(3) water from the well must be tested at least once every six months in compliance with guidelines established by the commissioner of agriculture unless the water from the well meets water quality requirements for three consecutive years, in which case the water must be tested only once every 12 months until the water fails to meet water quality requirements during one of the tests.

**Subd. 12. Water testing guidelines.** The commissioner of agriculture, in consultation with the commissioner of health, shall establish guidelines for the testing required under section 32.394, subdivision 11, clause (3).

### **32.395 MILK OTHER THAN GRADE A.**

**Subdivision 1. Pasteurized milk, fluid milk products and goat milk, other than Grade A.** Pasteurized milk, fluid milk products and goat milk, other than Grade A, are raw milk, fluid milk products and goat milk for pasteurization which have been pasteurized, cooled and prepared for distribution in a plant approved by the commissioner, the bacterial count of which at no time after pasteurization and until delivery, exceeds 50,000 bacteria per milliliter, standard plate count, as determined by averaging the logarithms of the results of the last four consecutive tests of samples taken on separate days, except that such average may be over 50,000 bacteria per milliliter if the last individual result is 50,000 bacteria per milliliter or lower, and not more than one of the last four coliform counts of which shall exceed ten per milliliter unless the last individual result is ten per milliliter or lower; provided that the standard plate count standard shall be omitted in the case of sour cream, cultured buttermilk, other cultured fluid milk products and cultured goat milk.

**Subd. 2. Raw milk or raw goat milk for pasteurization purposes, other than Grade A.** Raw milk or raw goat milk for pasteurization purposes, other than Grade A, is raw milk or raw goat milk which complies with all the requirements for its production, the bacterial count of which does not exceed 500,000 bacteria per milliliter, standard plate count or direct microscopic clump count, as determined by averaging the logarithms of the results of the last four consecutive tests of samples taken on separate days, except that such average may be over 500,000 bacteria per milliliter if the last individual result is 500,000 bacteria per milliliter or lower.

**Subd. 3. Rules.** The commissioner is authorized to promulgate by rule production and processing standards for pasteurized milk, pasteurized fluid milk products, pasteurized goat milk, raw milk for pasteurization and raw goat milk for pasteurization.

**Subd. 4. Other methods.** The commissioner may authorize, in respect to raw milk or raw goat milk for pasteurization purposes, any other method or methods of determining bacterial count.

### **32.397 ENFORCEMENT STANDARDS.**

The standards set forth in sections 32.391 to 32.398 and rules adopted thereunder by the commissioner shall be the only such standards for use in the state of Minnesota. No municipality or other subdivision of state government shall provide, by ordinance more stringent or comprehensive standards than are contained in sections 32.391 to 32.398 and rules adopted thereunder by the commissioner.

### **32.398 ENFORCEMENT AND VIOLATIONS.**

Subdivision 1. **Enforcement.** The commissioner shall enforce the provisions of sections 32.391 to 32.398.

### **32.401 MILK AND CREAM FOR MANUFACTURING.**

Subdivision 1. **Standards, grades, and price differentials.** In order to protect the public health and welfare, to promote the interests of the dairy industry in Minnesota, and to secure uniformity, the commissioner of agriculture may adopt standards, grades and price differentials between various grades of milk and cream for milk and cream purchased for manufacturing purposes. Before adopting any standards, grades, or price differentials for milk and cream, the commissioner shall hold a public hearing thereon, as provided by law. Until such standards, grades and price differentials are made and filed, the standards, grades, and price differential heretofore made by the commissioner remain in effect except as otherwise prescribed by law.

Subd. 2. **Statement of purchases furnished to seller.** All milk or cream purchased for manufacturing purposes shall be purchased on the basis of the standards, grades, and price differentials between grades so adopted. Every purchaser of milk or cream for manufacturing purposes shall, at time of payment therefor, furnish the person from whom purchased a statement showing the date of grading, the grade, and the price paid therefor. The statement may be included on the check delivered by the purchaser to the seller in payment of the milk or cream.

Subd. 3. **Enforcement.** The commissioner of agriculture shall enforce the provisions of this section.

Subd. 5. **Application.** This section shall not apply to any action now pending in any of the courts of this state, or to any cause of action arising, or violation which occurred, prior to April 18, 1955.

### **32.415 MILK FOR MANUFACTURING; QUALITY STANDARDS.**

(a) The commissioner may adopt rules to provide uniform quality standards, and producers of milk used for manufacturing purposes shall conform to the standards contained in Subparts B, C, D, E, and F of the United States Department of Agriculture Consumer and Marketing Service Recommended Requirements for Milk for Manufacturing Purposes and its Production and Processing, except that the commissioner shall develop methods by which producers can comply with the standards without violation of religious beliefs.

(b) The commissioner shall perform or contract for the performance of the inspections necessary to implement this section or shall certify dairy industry personnel to perform the inspections.

(c) The commissioner and other employees of the department shall make every reasonable effort to assist producers in achieving the milk quality standards at minimum cost and to use the experience and expertise of the University of Minnesota and the Agricultural Extension Service to assist producers in achieving the milk quality standards in the most cost-effective manner.

(d) The commissioner shall consult with producers, processors, and others involved in the dairy industry in order to prepare for the implementation of this section including development of informational and educational materials, meetings, and other methods of informing producers about the implementation of standards under this section.

### **32.416 SOMATIC CELL COUNT, GOAT MILK.**

Notwithstanding any federal standard incorporated by reference in this chapter, the maximum allowable somatic cell count for raw goat milk is 1,500,000 cells per milliliter.

### **32.475 BUTTER, GRADING AND LABELING.**

Subdivision 1. **Definitions.** As used in this section, score or grade means the grading of butter by its examination for flavor and aroma, body and texture, color, and salt, and by the use of other tests or procedures approved by the commissioner of agriculture, for ascertaining the quality of butter in whole or in part.

Subd. 2. **Minnesota grades.** It is unlawful to sell, offer or expose for sale, or have in possession with intent to sell any butter at retail unless it has been graded and labeled with such grades as follows:

- (a) Grade, Minnesota, AA -- U.S. Grade AA
- (b) Grade, Minnesota, A -- U.S. Grade A
- (c) Grade, Minnesota, B -- U.S. Grade B
- (d) Grade, Minnesota, undergrade -- all butter below Minnesota B.

For the purposes of this section "sale at retail" shall include all sales to a restaurant or eating establishment that serves butter to its patrons or that uses butter in the preparation of any food which is served to its patrons.

Subd. 3. **United States grades.** United States AA, A and B grades, or as such grades may be amended or as they may be administered by the United States Department of Agriculture, shall be accepted in lieu of the corresponding Minnesota AA, A and B grades, but all United States grades below B shall, for the purpose of this section, correspond to Minnesota undergrade.

Subd. 4. **Methods and procedures, promulgation by commissioner of agriculture.** Methods and procedures to be used for ascertaining quality, grades, grading, labeling, and for arbitrating disputes with respect to grades may be promulgated by the commissioner of agriculture.

Subd. 5. **Foreign butter.** Butter from outside of the state of Minnesota sold within this state shall comply with the state grade and labeling standards provided in this section; and, unless marked with United States AA, A, and B grades, shall indicate the grade in a manner equivalent to the requirements for butter manufactured and sold within this state.

Subd. 6. **Advertisement for retail sale, indication of grade.** Any advertisement of butter offered for sale at retail to the public at a given price shall plainly and conspicuously indicate the grade of such butter.

Subd. 7. **Penalty.** Any person violating any provision of this section shall be guilty of a misdemeanor.

### **32.481 CHEESE.**

Subdivision 1. **Definition.** "Cheese" as used in sections 32.481 to 32.484 includes all varieties of cheese, cheese spreads, cheese foods, cheese compounds, or processed cheese, made or manufactured in whole or in part from cow's, goat's, or sheep's milk.

### **32.482 MANUFACTURE OF CHEESE, REQUIREMENTS IN PROCESS.**

No person, firm, or corporation shall manufacture, transport, sell, offer, or expose for sale or have in possession with intent to sell, at retail to a consumer any cheese which has not been (1) manufactured from milk or milk products which have been pasteurized in accordance with sections 32.391 and 32.392, (2) subjected to a heat treatment equivalent to pasteurization during the process of manufacture or processing, or (3) subjected to an aging process whereby it has been kept for at least 60 days after manufacture at a temperature not lower than 35 degrees Fahrenheit. Any cheese which has been made from unpasteurized milk and which has been repackaged, handled or processed in any manner so as to obliterate or destroy its date of manufacture shall be labeled to show the true date of manufacture or in lieu thereof bear a statement that such cheese is more than 60 days of age.

### **32.483 STATEMENT BY MANUFACTURER.**

Each cheese or packaged cheese sold, offered, or exposed for sale or held in possession with intent to sell at either retail or wholesale, within this state, shall have affixed thereto by the manufacturer a statement clearly setting forth:

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(1) the factory number where manufactured, or in states where official factory numbers are not assigned, the name of the manufacturer and address of the plant where manufactured; provided, however, that in case of process cheese, cheese spreads, cheese foods and cheese compounds, the name and address of the jobber or distributor may be substituted for the name of the manufacturer and address of the plant where manufactured;

(2) the name of the variety or the distinctive name of the product and the word "Pasteurized" if made from pasteurized milk;

(3) the name of the variety or the distinctive name of the product and the date of manufacture if made from unpasteurized milk; and

(4) the name of the variety or the distinctive name of the product and the word "Pasteurized" if made from milk which is pasteurized in the curd form during the making process.

When a cheese is repackaged or divided into wholesale cuts, the distributor shall affix to each package or cut a label containing the information required in clause (2) or (3), which appears on the original cheese, together with the name and address of the distributor. When selling cheese to the consumer, that portion to which the label is affixed shall be sold last.

### **32.484 ENFORCEMENT.**

The commissioner of agriculture shall be charged with the enforcement of sections 32.481 to 32.483 and shall have authority to promulgate in the manner provided by law all such rules as are necessary to the enforcement thereof.

### **32.486 CULTURED DAIRY FOOD; FARMSTEAD CHEESE.**

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Cultured dairy food" means a dairy product other than a grade A cultured dairy product.

(c) "Minnesota farmstead cheese" means cheese manufactured within the state of Minnesota on the same farm on which the milk is produced that is used in the manufacture.

Subd. 1a. **Processing requirements.** (a) Milk used to manufacture Minnesota farmstead cheese may not be more than 48 hours old when used.

(b) Before requiring pasteurization, the commissioner shall provide a plan at least 60 days before the next inspection to the manufacturer to assist the manufacturer in meeting the processing and facility requirements. The commissioner may require pasteurization if test samples demonstrate cheese and cultured dairy foods are not free of pathogens. The commissioner must inspect facilities at least four times each year.

Subd. 2. **Use of name restricted.** No cheese or packaged cheese that is sold, offered, or exposed for sale or held in possession with intent to sell at either retail or wholesale within this state may be labeled or described as "Minnesota farmstead cheese" unless it meets the criteria set forth in subdivision 1, and the manufacturer has obtained a written permit to use the name from the commissioner of agriculture, or the commissioner's designate.

Subd. 3. **Permit.** The commissioner or the commissioner's designate shall issue a permit authorizing the use of the name "Minnesota farmstead cheese" upon application made therefor on forms furnished by the commissioner, if the commissioner or the commissioner's designate is satisfied that the cheese manufactured by the applicant meets the requirements prescribed by subdivision 1. The commissioner or the commissioner's designated agents shall inspect the farm at reasonable times to insure compliance with subdivision 1. The permit may be suspended or revoked by the commissioner if the commissioner finds that the permittee is not in compliance with subdivision 1.

### **32.55 DEFINITIONS; FROZEN DAIRY FOODS.**

Subdivision 1. **Terms.** For the purposes of subdivisions 2 to 13 and sections 32.56 to 32.645, and acts amendatory thereof, the terms defined in subdivisions 2 to 13, and acts amendatory thereof, have the meanings given them.

Subd. 2. **Frozen food.** "Frozen foods" means ice cream, frozen custard, French ice cream, French custard ice cream, ice milk, fruit sherbets, water ices, frozen malted milk, frozen milk shakes,

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frozen malts, frozen yogurt, frozen low-fat yogurt, frozen nonfat yogurt, reduced-fat ice cream, low-fat ice cream, nonfat ice cream, or any frozen food for which the commissioner has established a standard of identity, but shall not include frozen vegetables, fruits, meats, poultry, or bakery products.

Subd. 3. **Milk products.** "Milk products" means pure, clean, and wholesome cream, dried cream, plastic cream -- sometimes known as concentrated milk fat, butter, butter oil, milk, concentrated milk, evaporated milk, sweetened condensed milk, superheated condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed skim milk, sweetened condensed part-skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, whey, concentrated whey, and dry whey, and shall include any of the foregoing products from which lactose has been wholly or partially removed.

Subd. 4. **Mix, ice cream mix.** "Mix" means the unfrozen combination of all ingredients of a frozen food with or without fruit, fruit juices, candy, nut meats, flavoring, or coloring. "Ice cream mix" means the mix from which ice cream is frozen, made from a combination of milk products and such other ingredients in such quantities as are consistent with such ingredients and quantities in definitions and standards established by the commissioner. Ice cream mix in concentrated or condensed form shall contain such relative amounts of ingredients that, when diluted according to directions, it shall comply with the definition of ice cream mix.

Subd. 5. **Mix base; ice cream mix base.** "Mix base" means mix powder or dry base and is the product resulting from the removal of water from mix and contains not more than five percent of moisture.

"Ice cream mix base" means ice cream powder or dry ice cream mix and is the product resulting from the removal of water from ice cream mix and contains not more than five percent of moisture.

Subd. 12. **Imitation ice cream.** "Imitation ice cream" means any frozen substance, mixture or compound regardless of the name under which it is represented, which is made in imitation or semblance of ice cream, or is prepared or frozen as ice cream is customarily prepared or frozen and which is not a frozen food as provided for in this section.

Subd. 13. **Manufacture.** "Manufacture" means processing or freezing, or both.

Subd. 14. **Frozen yogurt; frozen low-fat yogurt; frozen nonfat yogurt.** "Frozen yogurt," "frozen low-fat yogurt," or "frozen nonfat yogurt" means a frozen dairy food made from a mix containing safe and suitable ingredients including, but not limited to, milk products. All or a part of the milk products must be cultured with a characterizing live bacterial culture that contains the lactic acid producing bacteria *Lactobacillus bulgaricus* and *Streptococcus thermophilus* and may contain other lactic acid producing bacteria.

### **32.555 COMPLIANCE WITH FEDERAL REGULATIONS.**

(a) Frozen yogurt, frozen low-fat yogurt, and frozen nonfat yogurt must comply with Code of Federal Regulations, title 21, and sections 32.55 to 32.90.

(b) Reduced-fat ice cream, low-fat ice cream, and nonfat ice cream must comply with the frozen dessert provisions in Code of Federal Regulations, title 21, part 135.

### **32.56 MANUFACTURERS OF FROZEN FOODS TO OBTAIN LICENSE.**

No person shall manufacture frozen foods, mix, ice cream mix, mix base, or ice cream mix base for resale, without first having obtained a license therefor from the Department of Agriculture, which is charged with the duty and power of administering and enforcing the provisions of sections 32.56 to 32.64. The commissioner shall establish standards in the manner provided in section 31.10, and acts amendatory thereof, for frozen foods for which no Minnesota standards exist. In the exercise of the authority to establish standards for frozen foods, the commissioner shall adopt definitions and standards of identity established pursuant to the Federal Food, Drug and Cosmetic Act insofar as said definitions and standards do not conflict with law. Nothing in sections 32.56 to 32.64 shall apply to educational institutions or to charitable, fraternal or religious organizations not regularly engaged in the manufacture of frozen foods, mix, ice cream mix, mix base, or ice cream mix base or to private homes manufacturing for their own use.

### **32.61 LICENSES; REVOCATION, SUSPENSION.**

The Department of Agriculture shall have the power to suspend or revoke any license or certificate of registration thus granted, for failure to comply with the provisions of sections 32.56 to 32.64, or rules made thereunder.

### **32.62 CONTAINERS, LABELS.**

Subdivision 1. **Contents of labels.** All cans or containers used in the sale or distribution of mix, ice cream mix, mix base, or ice cream mix base shall bear a label attached to the same giving the following information:

- (1) Name of product;
- (2) Percentage of milk fat contained in product;
- (3) Percentage of total solids in products;
- (4) Statement of net contents; and
- (5) Name and address of manufacturer or distributor.

Every package of frozen foods packed by the manufacturer shall bear a label. The label shall give the name of the product, the name and address of the manufacturer or distributor, a statement of the net contents, and such other information as the commissioner may require pursuant to section 31.12, and acts amendatory thereof. When the name and address of the distributor is given on the label of mix, ice cream mix, mix base, ice cream mix base or frozen foods, the name and address of the manufacturer also shall be given or in lieu of the name and address of the manufacturer an identification number or code assigned by the commissioner of agriculture may be used to represent such manufacturer.

Subd. 2. **Frozen foods, restrictions.** (1) No person shall sell, advertise or expose for sale, or offer for sale a frozen food, or mix, or mix base therefor, unless it conforms to a standard of identity prescribed by the commissioner in accordance with law.

(2) When ice milk is sold, offered or exposed for sale in a package form, there shall be conspicuously printed thereon in ink upon a contrasting background, in type not less than 24-point Gothic capitals, the words "ice milk." When ice milk is served to a consumer, the owner, operator or manager of such retail establishment shall have signs conspicuously posted on the inside of such retail establishment with lettering large enough to be distinctly seen and read containing the words "ice milk sold here." Such signs shall remain posted so long as ice milk is sold or offered for sale to consumers.

(3) No person shall sell, advertise or offer or expose for sale any imitation ice cream.

(4) No person shall sell, offer for sale or advertise for sale any frozen food or mix, or mix base therefor, if the brand name of the frozen food, or mix, or mix base or label upon it, or the advertising accompanying it, shall give a false indication of origin, character, composition, name of manufacturer, or is otherwise false or misleading in any particular.

### **32.63 PLANTS KEPT SANITARY.**

Any plant or establishment for the manufacture of frozen foods, mix, ice cream mix, mix base, or ice cream mix base operated under the provisions of sections 32.56 to 32.64 shall be so located, constructed, and equipped that it may be kept in a clean and sanitary condition, in accordance with the rules promulgated by the commissioner in the manner provided by law.

### **32.64 PASTEURIZATION.**

Subdivision 1. **Requirement; definition.** All mix or ice cream mix shall be pasteurized. Pasteurization is hereby defined as the process of heating every particle of mix or ice cream mix in properly operated equipment approved by the commissioner to such temperatures and holding for such times as have been recognized by the United States Public Health Service and which have been adopted by the commissioner in accordance with law. Nothing contained in this definition shall be construed as excluding any other process which has been demonstrated to be equally efficient and is approved by the commissioner.

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Subd. 2. **Cooling.** Immediately after pasteurization such mix or ice cream mix shall be cooled in properly operated equipment approved by the commissioner to such temperature as the commissioner shall prescribe by rule and held at or below that temperature until frozen.

Subd. 3. **Record chart.** A recording thermometer record chart, properly dated, of each batch of mix or ice cream mix pasteurized for use in the manufacture of frozen foods, mix base, or ice cream mix base, shall be available at the plant of pasteurization at all reasonable times, for inspection by the Department of Agriculture.

Subd. 4. **Bacterial count tests.** At no time after pasteurization shall frozen foods, mix, ice cream mix, reconstituted mix base, or reconstituted ice cream mix base have a bacterial count or a coliform count exceeding standards set forth in rules adopted by the commissioner in accordance with law. Such tests shall be made of a representative sample of frozen foods, mix, ice cream mix, mix base, reconstituted mix base, ice cream mix base, or reconstituted ice cream mix base taken from an unbroken package in the possession of the manufacturer, but in the event that no unbroken package is available when sample is requested, then it shall be taken from a broken package in the possession of the manufacturer.

### 32.645 PENALTIES.

Subdivision 1. **Gross misdemeanor; license revocation.** Any person licensed under the provisions of sections 28A.04, 28A.14, and 32.56 who knowingly violates, or who directs or knowingly permits any officer, agent, or employee to violate, section 32.62, subdivision 2, clause (1) or (3), is guilty of a gross misdemeanor. For each subsequent offense, in addition to any fine or imprisonment imposed under this subdivision, upon conviction thereof, the commissioner of agriculture shall revoke or withhold issuing to such offender any license required under the provisions of sections 28A.04, 28A.14, and 32.56.

Subd. 2. **Lesser penalties.** Any person violating section 32.62, subdivision 2, clause (2) or (4), for each first offense is guilty of a petty misdemeanor and for each subsequent offense, is guilty of a misdemeanor.

### 32.70 DEFINITIONS.

Subdivision 1. **Application.** The definitions in this section apply to sections 32.70 to 32.74.

Subd. 2. **Basic cost.** (a) "Basic cost" for a processor means the actual cost of the raw milk plus 75 percent of the actual processing and handling costs for a selected class I or class II dairy product.

(b) "Basic cost" for a wholesaler means the actual cost of the selected class I or class II dairy product purchased from the processor or another wholesaler.

(c) "Basic cost" for a retailer means the actual cost of the selected class I or class II dairy product purchased from a processor or wholesaler.

Subd. 3. **Bona fide charity.** "Bona fide charity" means a corporation, trust, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes.

Subd. 4. **Processor.** "Processor" means a person engaged in manufacturing or processing selected class I or class II dairy products in the person's own plant for sale in Minnesota.

Subd. 5. **Producer.** "Producer" means a person who operates a dairy herd or herds in Minnesota producing milk or cream commercially and whose milk or cream is sold to, or received or handled by, a distributor or processor. "Producer" does not include an incorporated or unincorporated association of producers.

Subd. 6. **Responsible person.** "Responsible person" means the business entity that makes payment to an individual Grade A or Grade B milk producer.

Subd. 7. **Selected class I dairy products.** "Selected class I dairy products" means milk for human consumption in fluid form and all other class I dairy products as defined by the Upper Midwest Milk Marketing Order, Code of Federal Regulations, title 7, part 1030.40, or successor orders.

Subd. 8. **Selected class II dairy products.** "Selected class II dairy products" means milk for human consumption processed into fluid cream, eggnog, yogurt, and all other class II dairy products

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as defined by the Upper Midwest Milk Marketing Order, Code of Federal Regulations, title 7, part 1030.40, or successor orders.

Subd. 9. **Sell at retail; sale at retail; retail sales.** "Sell at retail," "sale at retail," and "retail sales" mean a retail sale or offer for retail sale of a selected class I or class II dairy product for ultimate consumption or use.

Subd. 10. **Sell at wholesale; sale at wholesale; wholesale sales.** "Sell at wholesale," "sale at wholesale," and "wholesale sales" mean sale or offer for sale of a selected class I dairy product for purposes of resale or further processing or manufacturing, but does not include a producer selling or delivering milk to a processor.

Subd. 11. **Wholesaler.** "Wholesaler" means a person including a distributor in the business of making sales of selected class I or class II dairy products, at wholesale in Minnesota. In the case of a person making sales at both retail and wholesale, "wholesaler" applies only to the sales at wholesale.

### **32.71 DUTIES AND POWERS OF THE COMMISSIONER; DATA PRIVACY.**

Subdivision 1. **Duties; rules.** The commissioner shall adopt rules to implement and administer sections 32.70 to 32.74 as necessary.

Subd. 2. **Data privacy.** Financial and production information received by the commissioner on processors, wholesalers, or retailers including, but not limited to, financial statements, fee reports, price schedules, cost documentation, books, papers, records, or other documentation for the purpose of administration and enforcement of this chapter shall be classified private data or nonpublic data pursuant to chapter 13. That classification shall not limit the use of the information in the preparation, institution, or conduct of a legal proceeding by the commissioner in enforcing this chapter.

### **32.72 SALES BELOW COST PROHIBITED; EXCEPTIONS.**

Subdivision 1. **Policy; processors; wholesalers; retailers.** (a) It is the intent of the legislature to accomplish partial deregulation of milk marketing with a minimum negative impact upon small volume retailers.

(b) A processor or wholesaler may not sell or offer for sale selected class I or class II dairy products at a price lower than the processor's or wholesaler's basic cost.

(c) A retailer may not sell or offer for sale selected class I or class II dairy products at a retail price lower than (1) 105 percent of the retailer's basic cost until June 30, 1994; and (2) the retailer's basic cost beginning July 1, 1994, and thereafter. A retailer may not use any method or device in the sale or offer for sale of a selected dairy product that results in a violation of this section.

Subd. 2. **Exceptions.** The minimum processor, wholesaler, and retailer prices of subdivision 1 do not apply:

(i) to a sale complying with section 325D.06, clauses (1) to (4);

(ii) to a retailer giving away selected class I and class II dairy products free if the customer is not required to make a purchase; or

(iii) to a processor, wholesaler, or retailer giving away selected class I and class II dairy products free or at a reduced cost to a bona fide charity.

### **32.74 REDRESS FOR INJURY OR THREATENED INJURY.**

A person injured by a violation of sections 32.70 to 32.74 may commence a legal action based on the violation in a court of competent jurisdiction and may recover economic damages and the costs of the action, including reasonable attorneys' fees. A person injured or who is threatened with injury or loss by reason of violation of sections 32.70 to 32.74 may commence a legal action based on the violation and obtain injunctive relief in a court of competent jurisdiction against persons involved in a violation or threatened violation of sections 32.70 to 32.74 to prevent and restrain violations or threatened violations of sections 32.70 to 32.74 without alleging or proving actual damages or that an adequate remedy at law does not exist, so that injunctive relief can be obtained promptly and without awaiting evidence of injury or actual damage. This injunctive relief does not abridge and is not in lieu of any other civil remedy provided in sections 32.70 to 32.74.

**32.745 ANNUAL SUSPENSION OF DAIRY TRADE PRACTICES ACT.**

The provisions of section 32.72 are suspended during the months of June, July, and August 1997, and for the month of June each year thereafter in honor of "Dairy Month."

**32.75 RECOMBINANT BOVINE GROWTH HORMONE LABELING.**

Subdivision 1. **Definition.** For purposes of this section and sections 32.103, 151.01, and 151.15, "recombinant bovine growth hormone" or "rBGH" means a growth hormone, intended for use in bovine animals, that has been produced through recombinant DNA techniques, described alternately as recombinant bovine somatotropin, or rBST.

Subd. 2. **Labeling.** (a) Products offered for wholesale or retail sale in this state which contain milk, cream, or any product or by-product of milk or cream, which have been processed and handled pursuant to the requirements of this section, may be labeled: "Milk in this product is from cows not treated with rBGH." Labeling of dairy products under this section which are offered for sale within this state may also include an indication that the milk used is "farmer certified rBGH-free." Products offered for wholesale or retail sale in this state need not contain any further label information relative to the use of rBGH in milk production.

(b) The label described in paragraph (a) may appear on the principal display panel, as defined in section 31.01, subdivision 22, of a packaged product, be conspicuously attached to the container of a bulk product, or appear in any advertisement, as defined in section 31.01, subdivision 26, for a product, including media advertising, or displays or placards posted in retail stores.

Subd. 3. **Affidavit; records.** (a) A dairy plant purchasing milk or cream to be used in products labeled pursuant to subdivision 2 shall require an affidavit approved by the commissioner from producers supplying such milk. This affidavit must be signed by the producer or authorized representative and state that all cows used in the producer's dairy operations have not and will not be treated with rBGH, without advanced written notice of at least 30 days to the dairy plant.

(b) Dairy plants shall keep original affidavits on file for a period of not less than two years after receiving written notice from the producer of anticipated rBGH use, as provided in paragraph (a). These affidavits and corresponding records must be made available for inspection by the commissioner. Dairy plants supplying milk or cream to a processor or manufacturer of a product to be labeled pursuant to subdivision 2, for use in that product, shall supply a certification to that processor or manufacturer stating that producers of the supplied milk or cream have executed and delivered affidavits pursuant to paragraph (a).

Subd. 4. **Separation of nontreated cows and milk.** All milk or cream from non-rBGH-treated cows used in manufacturing or processing of products labeled pursuant to subdivision 2, or milk or cream supplied by a producer under an affidavit pursuant to subdivision 3, must be kept fully separate from any other milk or cream through all stages of storage, transportation, and processing until the milk or resulting dairy products are in final packaged form in a properly labeled container. Records of the separation must be kept by the dairy plant and product processor or manufacturer at all stages and made available to the commissioner for inspection.

**32.90 PENALTY.**

Any person, firm, corporation, association or copartnership violating any of the provisions of this chapter or any amendatory act for which no specific penalty is provided shall be guilty of a misdemeanor.

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Subd. 4. **Expiration.** This section expires on June 30, 2018.