

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		Comm report: To pass as amended
		Second reading

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 18B.01, subdivisions 8, 31, by adding subdivisions; 18B.03, subdivisions 1, 4;

1.6 18B.04; 18B.26, subdivision 1; 18B.28, subdivisions 1, 3; 18B.305, subdivision

1.7 1; 18B.37, subdivision 3; 18H.06, subdivision 2; 18H.07, subdivisions 2, 3; 21.111,

1.8 subdivisions 2, 3; 21.113; 21.117; 25.32; 25.33, subdivisions 5, 10, 21; 25.341,

1.9 subdivisions 1, 2; 25.35; 25.371, subdivision 2; 25.38; 25.39, subdivisions 1, 1a,

1.10 2, 3; 25.40, subdivision 2; 25.41, subdivisions 1, 2, 3, 5, 7a; 25.42; 25.43; 27.04;

1.11 27.041, subdivision 1; 28A.03, by adding a subdivision; 28A.04, subdivision 1;

1.12 28A.05; 28A.08, subdivision 3; 28A.15, by adding subdivisions; 28A.21,

1.13 subdivision 6; 31A.02, subdivision 4; 41B.03, subdivisions 2, 3; 223.17, subdivision

1.14 8; 232.22, subdivision 7; proposing coding for new law in Minnesota Statutes,

1.15 chapters 18B; 27; proposing coding for new law as Minnesota Statutes, chapter

1.16 32D; repealing Minnesota Statutes 2016, sections 18B.01, subdivisions 10a, 10b,

1.17 22a; 18B.285; 25.371, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15;

1.18 28A.15, subdivision 2; 32.01, subdivisions 1, 2, 6, 8, 9, 10, 11, 12; 32.021; 32.071;

1.19 32.072; 32.073; 32.074; 32.075; 32.076; 32.078; 32.10; 32.102; 32.103; 32.105;

1.20 32.106; 32.21; 32.212; 32.22; 32.25; 32.391, subdivisions 1, 1d, 1e, 1f, 1g, 2, 3;

1.21 32.392; 32.393; 32.394, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 8a, 8b, 8c, 8d, 8e, 9, 11,

1.22 12; 32.395; 32.397; 32.398, subdivision 1; 32.401, subdivisions 1, 2, 3, 5; 32.415;

1.23 32.416; 32.475; 32.481, subdivision 1; 32.482; 32.483; 32.484; 32.486; 32.55,

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

1.25 32.645; 32.70; 32.71; 32.72; 32.74; 32.745; 32.75; 32.90.

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

1.27 **ARTICLE 1**

1.28 **AGRICULTURAL POLICY**

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

1.30 **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 18B.01, subdivision 8, is amended to read:

5.6 Subd. 8. **Distribute.** "Distribute" means offer for sale, sell, barter, ship, deliver for
5.7 shipment, receive and deliver, and offer to deliver pesticides or treated seed in this state or
5.8 into this state.

5.9 Sec. 3. Minnesota Statutes 2016, section 18B.01, is amended by adding a subdivision to
5.10 read:

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

5.14 Sec. 4. Minnesota Statutes 2016, section 18B.01, is amended by adding a subdivision to
5.15 read:

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

5.19 Sec. 5. Minnesota Statutes 2016, section 18B.01, is amended by adding a subdivision to
5.20 read:

5.21 Subd. 30b. **Treated seed.** "Treated seed" means seed that has an agricultural pesticide
5.22 directly applied to the seed before planting and classified by the United States Environmental
5.23 Protection Agency as a "treated article or substance" under Code of Federal Regulations,
5.24 title 40, section 152.25(a).

5.25 Sec. 6. Minnesota Statutes 2016, section 18B.01, is amended by adding a subdivision to
5.26 read:

5.27 Subd. 30c. **Treated seed dealer.** "Treated seed dealer" means a person who distributes
5.28 treated seed in the state or into the state to a treated seed end user.

6.1 Sec. 7. Minnesota Statutes 2016, section 18B.01, is amended by adding a subdivision to
6.2 read:

6.3 Subd. 30d. **Treated seed distributor.** "Treated seed distributor" means a person that
6.4 applies an agricultural pesticide to seed and who distributes treated seed in the state or into
6.5 the state.

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

6.8 Subd. 30e. **Treated seed end user.** "Treated seed end user" means a person who plants
6.9 or intends to plant treated seed. A treated seed end user does not include a treated seed
6.10 dealer or a treated seed distributor.

6.11 Sec. 9. Minnesota Statutes 2016, section 18B.01, subdivision 31, is amended to read:

6.12 Subd. 31. **Unreasonable adverse effects on the environment.** "Unreasonable adverse
6.13 effects on the environment" means any unreasonable risk to humans or the environment,
6.14 taking into account the economic, social, and environmental costs and benefits of the use
6.15 of any pesticide or treated seed.

6.16 Sec. 10. Minnesota Statutes 2016, section 18B.03, subdivision 1, is amended to read:

6.17 Subdivision 1. **Administration by commissioner.** The commissioner shall administer,
6.18 implement, and enforce this chapter and the Department of Agriculture is the lead state
6.19 agency for the regulation of pesticides and treated seed. The commissioner has the sole
6.20 regulatory authority over the terrestrial application of pesticides, including, but not limited
6.21 to, the application of pesticides to agricultural crops, structures, and other nonaquatic
6.22 environments. Except as provided in subdivision 3, a state agency other than the Department
6.23 of Agriculture shall not regulate or require permits for the terrestrial or nonaquatic application
6.24 of pesticides.

6.25 Sec. 11. Minnesota Statutes 2016, section 18B.03, subdivision 4, is amended to read:

6.26 Subd. 4. **Pollinator enforcement.** The commissioner may take enforcement action under
6.27 chapter 18D for a violation of this chapter, or any rule adopted under this chapter, that results
6.28 in harm to pollinators, including but not limited to the use of treated seed, applying a pesticide
6.29 in a manner inconsistent with the pesticide product's label or labeling and resulting in
6.30 pollinator death or willfully applying pesticide in a manner inconsistent with the pesticide

7.1 product's label or labeling. The commissioner must deposit any penalty collected under this
 7.2 subdivision in the pesticide regulatory account in section 18B.05.

7.3 Sec. 12. Minnesota Statutes 2016, section 18B.04, is amended to read:

7.4 **18B.04 PESTICIDE IMPACT ON ENVIRONMENT.**

7.5 (a) The commissioner shall:

7.6 (1) determine the impact of pesticides on the environment, including the impacts on
 7.7 surface water and groundwater in this state;

7.8 (2) develop best management practices involving pesticide or treated seed distribution,
 7.9 storage, handling, use, and disposal; and

7.10 (3) cooperate with and assist other state agencies and local governments to protect public
 7.11 health, pollinators, and the environment from harmful exposure to pesticides or treated seed.

7.12 (b) The commissioner may assemble a group of experts under section 16C.10, subdivision
 7.13 2, to consult in the investigation of pollinator deaths or illnesses. The group of experts may
 7.14 include representatives from local, state, and federal agencies; academia, including the
 7.15 University of Minnesota; the state pollinator bank; or other professionals as deemed necessary
 7.16 by the commissioner. The amount necessary for the purposes of this paragraph, not to exceed
 7.17 \$100,000 per fiscal year, is appropriated from the pesticide regulatory account in section
 7.18 18B.05.

7.19 (c) The commissioner may engage the University of Minnesota and others in conducting
 7.20 research and demonstration projects related to treated seed, and developing recommended
 7.21 best management practices for the use of treated seed.

7.22 Sec. 13. Minnesota Statutes 2016, section 18B.26, subdivision 1, is amended to read:

7.23 Subdivision 1. **Requirement.** (a) Except as provided in paragraphs (b) to ~~(d)~~ (e), a person
 7.24 may not use or distribute a pesticide in this state unless it is registered with the commissioner.
 7.25 Pesticide registrations expire on December 31 of each year and may be renewed on or before
 7.26 that date for the following calendar year.

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

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

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

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

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

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

8.23 ~~(g)~~ (h) Every person who sells for use in the state a pesticide product that has been
8.24 registered by the commissioner shall pay to the commissioner the applicable registration
8.25 application fees, sales fees, and waste pesticide program surcharges. These sales expressly
8.26 include all sales made electronically, telephonically, or by any other means that result in a
8.27 pesticide product being shipped to or used in the state. There is a rebuttable presumption
8.28 that pesticide products that are sold or distributed in or into the state by any person are sold
8.29 or distributed for use in the state.

8.30 Sec. 14. Minnesota Statutes 2016, section 18B.28, subdivision 1, is amended to read:

8.31 Subdivision 1. **Requirement.** A person may not use or distribute an experimental use
8.32 pesticide product in the state until it is registered with the commissioner. Experimental use
8.33 pesticide product registrations expire on December 31 of each year and may be renewed

9.1 on or before that date. A substance or mixture of substances being tested only to determine
 9.2 its potential efficacy as a pesticide, or to determine its toxicity or other properties, and not
 9.3 requiring the issuance of an experimental use permit under United States Environmental
 9.4 Protection Agency criteria specified in federal regulations, is not required to be registered.

9.5 Sec. 15. Minnesota Statutes 2016, section 18B.28, subdivision 3, is amended to read:

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

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

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

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

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

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

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

9.17 (7) other information requested by the commissioner.

9.18 Sec. 16. Minnesota Statutes 2016, section 18B.305, subdivision 1, is amended to read:

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

9.24 (1) water quality protection;

9.25 (2) endangered species protection;

9.26 (3) minimizing pesticide residues in food and water;

9.27 (4) worker protection and applicator safety;

9.28 (5) chronic toxicity;

9.29 (6) integrated pest management and pest resistance;

10.1 (7) pesticide disposal;

10.2 (8) pesticide drift;

10.3 (9) treated seed;

10.4 ~~(9)~~ (10) relevant laws including pesticide labels and labeling and state and federal rules
10.5 and regulations; and

10.6 ~~(10)~~ (11) current science and technology updates.

10.7 (b) The commissioner shall appoint educational planning committees which must include
10.8 representatives of industry and applicators.

10.9 (c) Specific current regulatory concerns must be discussed and, if appropriate,
10.10 incorporated into each training session. Relevant changes to pesticide product labels or
10.11 labeling or state and federal rules and regulations may be included.

10.12 (d) The commissioner may approve programs from private industry, higher education
10.13 institutions, and nonprofit organizations that meet minimum requirements for education,
10.14 training, and certification.

10.15 Sec. 17. **[18B.306] TREATED SEED DISTRIBUTOR ENROLLMENT AND**
10.16 **REPORTING.**

10.17 Subdivision 1. Requirement. (a) A treated seed distributor must not distribute treated
10.18 seed for use in the state without first enrolling with the commissioner pursuant to subdivision
10.19 4.

10.20 (b) Each location or place of business from which a treated seed distributor distributes
10.21 treated seed for use in the state is required to have a separate treated seed distributor
10.22 enrollment.

10.23 Subd. 2. Exemption. A person who is a treated seed dealer or treated seed end user
10.24 under this chapter is exempt from the requirement of subdivision 1.

10.25 Subd. 3. Enrollment. A treated seed distributor's enrollment certification:

10.26 (1) is issued by the commissioner upon receipt and review of a completed initial or
10.27 renewal application;

10.28 (2) is valid for one year and expires on January 31 of each year;

10.29 (3) is not transferable from one location or place of business to another location or place
10.30 of business; and

11.1 (4) must be maintained at the treated seed distributor's place of business.

11.2 Subd. 4. **Application.** (a) A person must apply for enrollment of a treated seed distributor
11.3 location to the commissioner on forms and in a manner approved by the commissioner.

11.4 (b) The applicant must be the person in charge of each location or place of business from
11.5 which treated seed is distributed for use in the state.

11.6 (c) The commissioner may require that the applicant provide other information considered
11.7 pertinent by the commissioner.

11.8 (d) An enrolled treated seed distributor who changes the distributor's name, address, or
11.9 place of business must immediately notify the commissioner of the change.

11.10 (e) Beginning January 31, 2019, an application for renewal of a treated seed enrollment
11.11 is complete only when a satisfactory report under subdivision 6 is received by the
11.12 commissioner.

11.13 Subd. 5. **Records.** A person enrolled as a treated seed distributor must maintain for five
11.14 years at the person's principal place of business accurate records of distributions for use in
11.15 the state of treated seed, including those of its branch locations. The records shall be made
11.16 available for audit under this chapter and chapter 18D.

11.17 Subd. 6. **Report of treated seed distribution to commissioner.** A person who is a
11.18 treated seed distributor who distributes for use in the state treated seed shall, no later than
11.19 January 31 of each year, report to commissioner:

11.20 (1) the amount and type of each agricultural pesticide used to produce treated seed
11.21 distributed for use in the state. The commissioner shall specify the form of the report or
11.22 approve the method for submittal of the report and may require additional information
11.23 deemed necessary to determine the amount and type of agricultural pesticide annually
11.24 distributed for use in the state. The information required shall include the brand names,
11.25 United States Environmental Protection Agency registration numbers, and amount of each
11.26 agricultural pesticides applied to treated seed distributed for use in the state. The information
11.27 collected, if made public, shall be reported in a manner that does not identify a specific
11.28 brand name in the report.

11.29 Sec. 18. Minnesota Statutes 2016, section 18B.37, subdivision 3, is amended to read:

11.30 Subd. 3. **Structural pest control applicators.** (a) A structural pest control applicator
11.31 must maintain a record of each structural pest control application conducted by that person
11.32 or by the person's employees. The record must include the:

- 12.1 (1) date of structural pest control application;
- 12.2 (2) target pest;
- 12.3 (3) brand name of the pesticide, United States Environmental Protection Agency
- 12.4 registration number, and amount used;
- 12.5 (4) for fumigation, the temperature and exposure time;
- 12.6 (5) time the pesticide application was completed;
- 12.7 (6) name and address of the customer;
- 12.8 (7) name of structural pest control applicator, name of company and address of applicator
- 12.9 or company, and license number of applicator; and
- 12.10 (8) any other information required by the commissioner.
- 12.11 (b) All information for this record requirement must be contained in a document for
- 12.12 each pesticide application. An invoice containing the required information may constitute
- 12.13 the record.
- 12.14 (c) The record must be completed no later than five days after the application of the
- 12.15 pesticide.
- 12.16 (d) Records must be retained for five years after the date of treatment.
- 12.17 (e) A copy of the record must be given to a person who ordered the application that is
- 12.18 present at the site where the structural pest control application is conducted, placed in a
- 12.19 conspicuous location at the site where the structural pest control application is conducted
- 12.20 immediately after the application of the pesticides, or delivered to the person who ordered
- 12.21 an application or the owner of the site. The commissioner must make sample forms available
- 12.22 that meet the requirements of this subdivision.
- 12.23 (f) A structural applicator must post in a conspicuous place inside a renter's apartment
- 12.24 where a pesticide application has occurred a list of postapplication precautions contained
- 12.25 on the label of the pesticide that was applied in the apartment and any other information
- 12.26 required by the commissioner.

12.27 Sec. 19. Minnesota Statutes 2016, section 18H.06, subdivision 2, is amended to read:

12.28 Subd. 2. **Occasional sales.** (a) An individual may offer nursery stock for sale and be

12.29 exempt from the requirement to obtain a nursery stock certificate if:

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

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

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

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

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

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

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

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

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

13.17 Sec. 20. Minnesota Statutes 2016, section 18H.07, subdivision 2, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

14.9 Sec. 21. Minnesota Statutes 2016, section 18H.07, subdivision 3, is amended to read:

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

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

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

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

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

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

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

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

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

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

15.1 Sec. 22. Minnesota Statutes 2016, section 21.111, subdivision 2, is amended to read:

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

15.7 Sec. 23. Minnesota Statutes 2016, section 21.111, subdivision 3, is amended to read:

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

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

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

15.18 Sec. 24. Minnesota Statutes 2016, section 21.113, is amended to read:

15.19 **21.113 CERTIFICATES OF INSPECTION.**

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

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

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

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

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

16.1 Sec. 25. Minnesota Statutes 2016, section 21.117, is amended to read:

16.2 **21.117 APPLICATIONS FOR INSPECTIONS; WITHDRAWALS.**

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

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

16.11 Sec. 26. Minnesota Statutes 2016, section 25.32, is amended to read:

16.12 **25.32 COMMISSIONER'S DUTIES.**

16.13 The commissioner shall administer sections 25.31 to 25.43 ~~shall be administered by the~~
16.14 ~~commissioner.~~

16.15 Sec. 27. Minnesota Statutes 2016, section 25.33, subdivision 5, is amended to read:

16.16 Subd. 5. **Commercial feed.** "Commercial feed" means materials or combinations of
16.17 materials that are distributed or intended to be distributed for use as feed or for mixing in
16.18 feed, including feed for aquatic animals, unless the materials are specifically exempted.
16.19 Unmixed whole seeds and physically altered entire unmixed seeds, as identified in the
16.20 United States grain standards, if the whole or physically altered seeds are not chemically
16.21 changed, are not labeled as a feed or for use as feed, or are not adulterated within the meaning
16.22 of section 25.37, paragraph (a), are exempt. The commissioner by rule may exempt from
16.23 this definition, or from specific provisions of sections 25.31 to 25.43, commodities such as
16.24 hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or
16.25 substances if those commodities, compounds, or substances are not intermixed with other
16.26 materials, are not labeled as a feed or for use as feed, and are not adulterated within the
16.27 meaning of section 25.37, paragraph (a).

16.28 Sec. 28. Minnesota Statutes 2016, section 25.33, subdivision 10, is amended to read:

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

17.1 Sec. 29. Minnesota Statutes 2016, section 25.33, subdivision 21, is amended to read:

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

17.4 Sec. 30. Minnesota Statutes 2016, section 25.341, subdivision 1, is amended to read:

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

17.11 Sec. 31. Minnesota Statutes 2016, section 25.341, subdivision 2, is amended to read:

17.12 Subd. 2. **Application; fee; term.** A person who is required to have a commercial feed
17.13 license ~~shall~~ must submit an application on a form provided or approved by the commissioner
17.14 accompanied by ~~a~~ an application fee of \$75 paid to the commissioner for each location. A
17.15 license is not transferable from one person to another, from one ownership to another, or
17.16 from one location to another. The license year is the calendar year. A license expires on
17.17 December 31 of the year for which it is issued, except that a license is valid ~~through January~~
17.18 ~~31 of the next year or until the issuance of the renewal license, whichever comes first,~~ if
17.19 the licensee has filed a renewal application with the commissioner that has been received
17.20 by the commissioner on or before December 31 of the year for which the current license
17.21 was issued, or postmarked on or before December 31 of the year for which the current
17.22 license was issued. Any person who is required to have, but fails to obtain a license or a
17.23 licensee who fails to comply with license renewal requirements, ~~shall~~ must pay a \$100 late
17.24 fee in addition to the license fee.

17.25 Sec. 32. Minnesota Statutes 2016, section 25.35, is amended to read:

17.26 **25.35 LABELING.**

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

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

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

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

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

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

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

18.17 (7) a quantity statement.

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

18.20 (1) name and address of the manufacturer;

18.21 (2) name and address of the purchaser;

18.22 (3) date of delivery;

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

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

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

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

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

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

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

19.10 (9) a quantity statement.

19.11 (c) The manufacturer of a customer formula feed the formula of which is developed by
 19.12 someone other than the manufacturer is not responsible or liable for the nutritional adequacy
 19.13 or the nutritional suitability of the feed for its intended purpose if: (1) the manufacturer does
 19.14 not make a claim of nutritional adequacy for the customer formula feed and does not make
 19.15 a claim for nutritional suitability of the feed for its intended purpose; and (2) the manufacturer
 19.16 includes the disclaimer in paragraph (b), clause (8). A person other than the manufacturer
 19.17 who develops or recommends a formula for a customer formula feed is responsible for
 19.18 providing to the manufacturer of the feed the appropriate labeling information and for
 19.19 providing the appropriate use information to the feed manufacturer.

19.20 Sec. 33. Minnesota Statutes 2016, section 25.371, subdivision 2, is amended to read:

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

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

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

20.1 Sec. 34. Minnesota Statutes 2016, section 25.38, is amended to read:

20.2 **25.38 PROHIBITED ACTS.**

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

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

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

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

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

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

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

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

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

20.18 (1) no fee need be paid on:

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

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

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

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

21.4 (b) In the case of pet food or specialty pet food distributed in the state only in packages
 21.5 of ten pounds or less, a listing of distributor must register each product and submit a current
 21.6 label for each product ~~must be submitted~~ annually on forms provided by the commissioner
 21.7 ~~and~~₂ accompanied by an annual application fee of \$100 for each product in lieu of the
 21.8 inspection fee. This annual fee ~~is due by July 1~~ must be received by the commissioner on
 21.9 or before June 30 or postmarked on or before June 30. The inspection fee required by
 21.10 paragraph (a) applies to pet food or specialty pet food distributed in packages exceeding
 21.11 ten pounds.

21.12 ~~(e) In the case of specialty pet food distributed in the state only in packages of ten pounds~~
 21.13 ~~or less, a listing of each product and a current label for each product must be submitted~~
 21.14 ~~annually on forms provided by the commissioner and accompanied by an annual fee of~~
 21.15 ~~\$100 for each product in lieu of the inspection fee. This annual fee is due by July 1. The~~
 21.16 ~~inspection fee required by paragraph (a) applies to specialty pet food distributed in packages~~
 21.17 ~~exceeding ten pounds.~~

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

21.19 Sec. 36. Minnesota Statutes 2016, section 25.39, subdivision 1a, is amended to read:

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

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

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

22.1 Sec. 37. Minnesota Statutes 2016, section 25.39, subdivision 2, is amended to read:

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

22.14 Sec. 38. Minnesota Statutes 2016, section 25.39, subdivision 3, is amended to read:

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

22.23 Sec. 39. Minnesota Statutes 2016, section 25.40, subdivision 2, is amended to read:

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

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

23.5 Sec. 40. Minnesota Statutes 2016, section 25.41, subdivision 1, is amended to read:

23.6 Subdivision 1. **Authorization; limitation.** For the purpose of enforcement of sections
 23.7 25.31 to 25.43, and associated rules, in order to determine whether the provisions have been
 23.8 complied with, including whether or not any operations may be subject to such provisions,
 23.9 officers or employees duly designated by the commissioner or the commissioner's agent,
 23.10 upon presenting appropriate credentials, and a written notice to the owner, operator, or agent
 23.11 in charge, are authorized:

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

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

23.21 Sec. 41. Minnesota Statutes 2016, section 25.41, subdivision 2, is amended to read:

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

23.27 Sec. 42. Minnesota Statutes 2016, section 25.41, subdivision 3, is amended to read:

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

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

24.3 Sec. 43. Minnesota Statutes 2016, section 25.41, subdivision 5, is amended to read:

24.4 Subd. 5. **Entry of premises.** For the purpose of the enforcement of sections 25.31 to
 24.5 25.43, the commissioner or the commissioner's ~~duly designated~~ agent is authorized to enter
 24.6 upon any public or private premises including any vehicle of transport during regular business
 24.7 hours to have access to, and to obtain samples, and to examine and copy records relating
 24.8 to distribution of commercial feeds.

24.9 Sec. 44. Minnesota Statutes 2016, section 25.41, subdivision 7a, is amended to read:

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

24.15 Sec. 45. Minnesota Statutes 2016, section 25.42, is amended to read:

24.16 **25.42 DETAINED COMMERCIAL FEEDS.**

24.17 Subdivision 1. **Withdrawal from distribution order.** When the commissioner or the
 24.18 commissioner's ~~authorized~~ agent has reasonable cause to believe any lot of commercial feed
 24.19 is being distributed in violation of any of the provisions of sections 25.31 to 25.43 or of any
 24.20 of the prescribed rules under sections 25.31 to 25.43, the commissioner or the commissioner's
 24.21 agent may issue and enforce a written or printed "withdrawal from distribution" order,
 24.22 warning the distributor not to dispose of the lot of commercial feed in any manner until
 24.23 written permission is given by the commissioner or the court. The commissioner shall release
 24.24 the lot of withdrawn commercial feed ~~so withdrawn~~ when ~~said provisions and~~ sections 25.31
 24.25 to 25.43 and associated rules have been complied with. If compliance is not obtained within
 24.26 30 days, the commissioner may begin, or upon request of the distributor or license holder
 24.27 shall begin, proceedings for condemnation.

24.28 Subd. 2. **Seizure; disposition.** Any lot of commercial feed not in compliance with ~~said~~
 24.29 ~~provisions and~~ sections 25.31 to 25.43 and associated rules ~~shall be~~ is subject to seizure on
 24.30 complaint of the commissioner to the district court of the county in which ~~said~~ the commercial
 24.31 feed is located. In the event the court finds the commercial feed to be in violation of sections
 24.32 25.31 to 25.43 and orders the condemnation of ~~said~~ the commercial feed, ~~it shall~~ the

25.1 commercial feed must be disposed of in ~~any~~ a manner consistent with the quality of the
 25.2 commercial feed and the laws of the state; provided, that in no instance, shall the disposition
 25.3 of ~~said~~ the commercial feed be ordered by the court without first giving the claimant an
 25.4 opportunity to apply to the court for release of ~~said~~ the commercial feed or for permission
 25.5 to process or relabel ~~said~~ the commercial feed to bring it into compliance with sections
 25.6 25.31 to 25.43.

25.7 Sec. 46. Minnesota Statutes 2016, section 25.43, is amended to read:

25.8 **25.43 PENALTIES.**

25.9 Subdivision 1. **Misdemeanor.** Any person convicted of violating any of the provisions
 25.10 of sections 25.31 to 25.43 or who ~~shall impede, hinder~~ impedes, hinders, or otherwise ~~prevent~~
 25.11 prevents, or ~~attempt~~ attempts to prevent, ~~said~~ the commissioner or ~~duly authorized~~ the
 25.12 commissioner's agent in performance of a duty in connection with the provisions of sections
 25.13 25.31 to 25.43, ~~shall be~~ is guilty of a misdemeanor.

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

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

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

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

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

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

26.6 Subd. 6. **Administrative review.** If a person notifies the commissioner that the person
 26.7 intends to contest a citation or order issued under this chapter, the Office of Administrative
 26.8 Hearings shall conduct a hearing according to the applicable provisions of chapter 14 for
 26.9 hearings in contested cases.

26.10 Sec. 47. Minnesota Statutes 2016, section 27.04, is amended to read:

26.11 **27.04 APPLICATION FOR LICENSE.**

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

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

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

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

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

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

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

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

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

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

27.1 ~~(9)~~ (5) any other information relevant to the conduct of its business as a wholesale
27.2 produce dealer in the previous five years, as the commissioner may require.

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

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

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

27.9 Sec. 48. Minnesota Statutes 2016, section 27.041, subdivision 1, is amended to read:

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

27.17 (1) \$5,000 for wholesale produce dealers whose monthly purchases are \$35,000 or less;

27.18 (2) \$10,000 for wholesale produce dealers whose monthly purchases are more than
27.19 \$35,000 but not more than \$75,000;

27.20 (3) \$15,000 for wholesale produce dealers whose monthly purchases are more than
27.21 \$75,000 but not more than \$100,000;

27.22 (4) \$25,000 for wholesale produce dealers whose monthly purchases are more than
27.23 \$100,000 but not more than \$250,000;

27.24 (5) \$50,000 for wholesale produce dealers whose monthly purchases are more than
27.25 \$250,000 but not more than \$500,000;

27.26 (6) \$100,000 for wholesale produce dealers whose monthly purchases are more than
27.27 \$500,000 but not more than \$750,000;

27.28 (7) \$175,000 for wholesale produce dealers whose monthly purchases are more than
27.29 \$750,000 but not more than \$1,000,000;

27.30 (8) \$250,000 for wholesale produce dealers whose monthly purchases are more than
27.31 \$1,000,000 but not more than \$2,500,000;

28.1 (9) \$500,000 for wholesale produce dealers whose monthly purchases are more than
28.2 \$2,500,000 but not more than \$10,000,000;

28.3 (10) \$750,000 for wholesale produce dealers whose monthly purchases are more than
28.4 \$10,000,000 but not more than \$25,000,000; and

28.5 (11) \$1,000,000 for wholesale produce dealers whose gross annual purchases exceed
28.6 \$25,000,000.

28.7 (b) A wholesale produce dealer who has filed a bond with the commissioner before July
28.8 1, 2016, is not required to increase the amount of the bond to comply with this section until
28.9 July 1, 2017. The commissioner may postpone an increase in the amount of the bond until
28.10 July 1, 2018, if a licensee demonstrates that the increase will impose undue financial hardship
28.11 on the licensee, and that producers will not be harmed as a result of the postponement. The
28.12 commissioner may impose other restrictions on a licensee whose bond increase has been
28.13 postponed. The amount of the bond shall be based on the amount purchased or contracted
28.14 for from Minnesota farmers and other Minnesota dealers for produce during the previous
28.15 12 months.

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

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

28.25 (e) Bonds must be continuous until canceled. To cancel a bond, a surety must provide
28.26 60 days' written notice of the bond's termination date to the licensee and the commissioner.

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

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

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

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

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

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

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

29.9 (1) transacted within this state; or

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

29.12 Sec. 49. **[27.042] WRITTEN VOLUNTARY EXTENSION OF CREDIT**
29.13 **CONTRACTS; FORM.**

29.14 A written confirmation required under section 27.043, subdivision 2, and a written
29.15 voluntary extension of credit contract must include those items prescribed by the
29.16 commissioner by rule. A contract must include a statement of the legal and financial
29.17 responsibilities of wholesale produce dealers and sellers established in this chapter. A
29.18 contract must also include the following statement in not less than ten point, all capital type,
29.19 framed in a box with space provided for the seller's signature: "THIS CONTRACT
29.20 CONSTITUTES A VOLUNTARY EXTENSION OF CREDIT. THIS CONTRACT IS
29.21 NOT COVERED BY ANY WHOLESALE PRODUCE DEALER'S BOND." If a written
29.22 contract is provided at the time the produce is delivered to the licensee, the seller must sign
29.23 the contract in the space provided beneath the statement. A transaction that does not meet
29.24 the provisions of a voluntary extension of credit, including the issuance and signing of a
29.25 voluntary extension of credit contract, is a cash sale.

29.26 Sec. 50. **[27.043] PURCHASE BY VOLUNTARY EXTENSION OF CREDIT**
29.27 **CONTRACTS.**

29.28 Subdivision 1. **Indication of intention.** Every licensee who intends to purchase produce
29.29 by voluntary extension of credit contracts must indicate the intention to do so annually to
29.30 the commissioner on a form provided by the commissioner.

30.1 Subd. 2. **Oral contracts.** Any dealer entering into a voluntary extension of credit contract
30.2 orally or by telephone must give or mail to the seller a written confirmation conforming to
30.3 the requirements of section 27.042 before the close of the next business day.

30.4 Subd. 3. **Contracts reduced to writing.** A voluntary extension of credit contract must
30.5 be reduced to writing by the licensee and mailed or given to the seller before the close of
30.6 the next business day after the contract is entered into or, in the case of an oral or telephone
30.7 contract, after the written confirmation is received by the seller. The form of the contract
30.8 must comply with the requirements of section 27.042. A licensee may use an electronic
30.9 version of a voluntary extension of credit contract that contains the same information as a
30.10 written document and that conforms to the requirements of this chapter to which a seller
30.11 has applied an electronic signature in place of a written document. There must not at any
30.12 time be an electronic and paper voluntary extension of credit contract representing the same
30.13 lot of produce.

30.14 Subd. 4. **Transfer of title.** The title to produce delivered on a voluntary extension of
30.15 credit contract transfers to the licensee upon delivery.

30.16 Subd. 5. **Records.** A wholesale produce dealer must keep sufficiently detailed books
30.17 and records of voluntary extension of credit contracts. The commissioner or the
30.18 commissioner's authorized agent may inspect these books and records to determine whether
30.19 dealers are complying with the provisions of this chapter, and for this purpose the
30.20 commissioner may enter upon any public or private premises during regular business hours.

30.21 Sec. 51. Minnesota Statutes 2016, section 28A.03, is amended by adding a subdivision to
30.22 read:

30.23 Subd. 11. **Regularly engaged.** "Regularly engaged" means any person who operates a
30.24 food business over a period of time at uniform, consistent intervals.

30.25 Sec. 52. Minnesota Statutes 2016, section 28A.04, subdivision 1, is amended to read:

30.26 Subdivision 1. **Application; date of issuance.** (a) No person shall engage in the business
30.27 of manufacturing, processing, selling, handling, or storing food without having first obtained
30.28 from the commissioner a license for doing such business. Applications for such license shall
30.29 be made to the commissioner in such manner and time as required and upon such forms as
30.30 provided by the commissioner and shall contain the name and address of the applicant,
30.31 address or description of each place of business, and the nature of the business to be
30.32 conducted at each place, and such other pertinent information as the commissioner may
30.33 require.

31.1 (b) A retail or wholesale food handler license shall be issued for the period July 1 to
31.2 June 30 following and shall be renewed thereafter by the licensee on or before July 1 each
31.3 year, except that:

31.4 (1) licenses for all mobile food concession units and retail mobile units must be issued
31.5 for the period April 1 to March 31, and must be renewed thereafter by the licensee on or
31.6 before April 1 each year; and

31.7 (2) a license issued for a temporary food concession stand must have a license issuance
31.8 and renewal date consistent with appropriate statutory provisions.

31.9 A license for a food broker or for a food processor or manufacturer shall be issued for the
31.10 period January 1 to December 31 following and shall be renewed thereafter by the licensee
31.11 on or before January 1 of each year, except that a license for a wholesale food processor or
31.12 manufacturer operating only at the state fair shall be issued for the period July 1 to June 30
31.13 following and shall be renewed thereafter by the licensee on or before July 1 of each year.
31.14 A penalty for a late renewal shall be assessed in accordance with section 28A.08.

31.15 (c) A person applying for a new license up to 14 calendar days before the effective date
31.16 of the new license period under paragraph (b) must be issued a license for the 14 days and
31.17 the next license year as a single license and pay a single license fee as if the 14 days were
31.18 part of the upcoming license period.

31.19 (d) A custom exempt food handler license shall be issued for the period of July 1 to June
31.20 30 following and shall be renewed thereafter by the licensee on or before July 1 each year.
31.21 This license is for businesses that only conduct custom exempt operations and mark all
31.22 product as Not For Sale. Food handlers that conduct retail exempt operations or other
31.23 operations other than custom exempt processing or slaughter are not eligible for this license.

31.24 Sec. 53. Minnesota Statutes 2016, section 28A.05, is amended to read:

31.25 **28A.05 CLASSIFICATION.**

31.26 All persons required to have a license under section 28A.04 shall be classified into one
31.27 of the following classes of food handlers, according to their principal mode of business.

31.28 (a) Retail food handlers are persons who sell or process and sell food directly to the
31.29 ultimate consumer or who custom process meat or poultry. The term includes a person who
31.30 sells food directly to the ultimate consumer through the use of vending machines, and a
31.31 person who sells food for consumption on site or off site if the sale is conducted on the
31.32 premises that are part of a grocery or convenience store operation.

32.1 (b) Wholesale food handlers are persons who sell to others for resale. A person who
32.2 handles food in job lots (jobbers) is included in this classification.

32.3 (c) Wholesale food processors or manufacturers are persons who process or manufacture
32.4 raw materials and other food ingredients into food items, or who reprocess food items, or
32.5 who package food for sale to others for resale, or who commercially slaughter animals or
32.6 poultry. Included herein are persons who can, extract, ferment, distill, pickle, bake, freeze,
32.7 dry, smoke, grind, mix, stuff, pack, bottle, recondition, or otherwise treat or preserve food
32.8 for sale to others for resale, cold storage warehouse operators as defined in section 28.01,
32.9 subdivision 3, salvage food processors as defined in section 31.495, subdivision 1, and dairy
32.10 plants as defined in section ~~32.04~~ 32D.01, subdivision 6.

32.11 (d) Custom exempt food handlers are persons who are custom processors as defined in
32.12 section 28A.03, subdivision 8, and who slaughter animals or process meat in a facility where
32.13 retail or wholesale transactions occur.

32.14 ~~(d)~~ (e) A food broker is a person who buys and sells food and who negotiates between
32.15 a buyer and a seller of food, but who at no time has custody of the food being bought and
32.16 sold.

32.17 Sec. 54. Minnesota Statutes 2016, section 28A.08, subdivision 3, is amended to read:

32.18 **Subd. 3. Fees effective July 1, 2003.**

32.19		License Fee Effective July 1, 2003	Penalties Late Renewal	No License
32.20	Type of food handler			
32.21				
32.22				
32.23	1. Retail food handler			
32.24	(a) Having gross sales of only prepackaged			
32.25	nonperishable food of less than \$15,000 for			
32.26	the immediately previous license or fiscal			
32.27	year and filing a statement with the			
32.28	commissioner	\$ 50	\$ 17	\$ 33
32.29	(b) Having under \$15,000 gross sales or			
32.30	service including food preparation or having			
32.31	\$15,000 to \$50,000 gross sales or service			
32.32	for the immediately previous license or			
32.33	fiscal year	\$ 77	\$ 25	\$ 51
32.34	(c) Having \$50,001 to \$250,000 gross sales			
32.35	or service for the immediately previous			
32.36	license or fiscal year	\$155	\$ 51	\$102
32.37	(d) Having \$250,001 to \$1,000,000 gross			
32.38	sales or service for the immediately previous			
32.39	license or fiscal year	\$276	\$ 91	\$182

33.1	(e) Having \$1,000,001 to \$5,000,000 gross sales or service for the immediately previous license or fiscal year			
33.2				
33.3		\$799	\$264	\$527
33.4	(f) Having \$5,000,001 to \$10,000,000 gross sales or service for the immediately previous license or fiscal year			
33.5				
33.6		\$1,162	\$383	\$767
33.7	(g) Having \$10,000,001 to \$15,000,000 gross sales or service for the immediately previous license or fiscal year			
33.8				
33.9		\$1,376	\$454	\$908
33.10	(h) Having \$15,000,001 to \$20,000,000 gross sales or service for the immediately previous license or fiscal year			
33.11				
33.12		\$1,607	\$530	\$1,061
33.13	(i) Having \$20,000,001 to \$25,000,000 gross sales or service for the immediately previous license or fiscal year			
33.14				
33.15		\$1,847	\$610	\$1,219
33.16	(j) Having over \$25,000,001 gross sales or service for the immediately previous license or fiscal year			
33.17				
33.18		\$2,001	\$660	\$1,321
33.19	2. Wholesale food handler			
33.20	(a) Having gross sales or service of less than \$25,000 for the immediately previous license or fiscal year			
33.21				
33.22		\$ 57	\$ 19	\$ 38
33.23	(b) Having \$25,001 to \$250,000 gross sales or service for the immediately previous license or fiscal year			
33.24				
33.25		\$284	\$ 94	\$187
33.26	(c) Having \$250,001 to \$1,000,000 gross sales or service from a mobile unit without a separate food facility for the immediately previous license or fiscal year			
33.27				
33.28				
33.29		\$444	\$147	\$293
33.30	(d) Having \$250,001 to \$1,000,000 gross sales or service not covered under paragraph (c) for the immediately previous license or fiscal year			
33.31				
33.32				
33.33		\$590	\$195	\$389
33.34	(e) Having \$1,000,001 to \$5,000,000 gross sales or service for the immediately previous license or fiscal year			
33.35				
33.36		\$769	\$254	\$508
33.37	(f) Having \$5,000,001 to \$10,000,000 gross sales or service for the immediately previous license or fiscal year			
33.38				
33.39		\$920	\$304	\$607
33.40	(g) Having \$10,000,001 to \$15,000,000 gross sales or service for the immediately previous license or fiscal year			
33.41				
33.42		\$990	\$327	\$653
33.43	(h) Having \$15,000,001 to \$20,000,000 gross sales or service for the immediately previous license or fiscal year			
33.44				
33.45		\$1,156	\$381	\$763
33.46	(i) Having \$20,000,001 to \$25,000,000 gross sales or service for the immediately previous license or fiscal year			
33.47				
33.48		\$1,329	\$439	\$877

34.1	(j) Having over \$25,000,001 or more gross			
34.2	sales or service for the immediately previous			
34.3	license or fiscal year	\$1,502	\$496	\$991
34.4	3. Food broker	\$150	\$ 50	\$ 99
34.5	4. Wholesale food processor or manufacturer			
34.6	(a) Having gross sales or service of less than			
34.7	\$125,000 for the immediately previous			
34.8	license or fiscal year	\$169	\$ 56	\$112
34.9	(b) Having \$125,001 to \$250,000 gross sales			
34.10	or service for the immediately previous			
34.11	license or fiscal year	\$392	\$129	\$259
34.12	(c) Having \$250,001 to \$1,000,000 gross			
34.13	sales or service for the immediately previous			
34.14	license or fiscal year	\$590	\$195	\$389
34.15	(d) Having \$1,000,001 to \$5,000,000 gross			
34.16	sales or service for the immediately previous			
34.17	license or fiscal year	\$769	\$254	\$508
34.18	(e) Having \$5,000,001 to \$10,000,000 gross			
34.19	sales or service for the immediately previous			
34.20	license or fiscal year	\$920	\$304	\$607
34.21	(f) Having \$10,000,001 to \$15,000,000			
34.22	gross sales or service for the immediately			
34.23	previous license or fiscal year	\$1,377	\$454	\$909
34.24	(g) Having \$15,000,001 to \$20,000,000			
34.25	gross sales or service for the immediately			
34.26	previous license or fiscal year	\$1,608	\$531	\$1,061
34.27	(h) Having \$20,000,001 to \$25,000,000			
34.28	gross sales or service for the immediately			
34.29	previous license or fiscal year	\$1,849	\$610	\$1,220
34.30	(i) Having \$25,000,001 to \$50,000,000			
34.31	gross sales or service for the immediately			
34.32	previous license or fiscal year	\$2,090	\$690	\$1,379
34.33	(j) Having \$50,000,001 to \$100,000,000			
34.34	gross sales or service for the immediately			
34.35	previous license or fiscal year	\$2,330	\$769	\$1,538
34.36	(k) Having \$100,000,000 or more gross			
34.37	sales or service for the immediately previous			
34.38	license or fiscal year	\$2,571	\$848	\$1,697
34.39	5. Wholesale food processor of meat or poultry			
34.40	products under supervision of the U.S.			
34.41	Department of Agriculture			
34.42	(a) Having gross sales or service of less than			
34.43	\$125,000 for the immediately previous			
34.44	license or fiscal year	\$112	\$ 37	\$ 74
34.45	(b) Having \$125,001 to \$250,000 gross sales			
34.46	or service for the immediately previous			
34.47	license or fiscal year	\$214	\$ 71	\$141

35.1	(c) Having \$250,001 to \$1,000,000 gross sales or service for the immediately previous license or fiscal year			
35.2				
35.3		\$333	\$110	\$220
35.4	(d) Having \$1,000,001 to \$5,000,000 gross sales or service for the immediately previous license or fiscal year			
35.5				
35.6		\$425	\$140	\$281
35.7	(e) Having \$5,000,001 to \$10,000,000 gross sales or service for the immediately previous license or fiscal year			
35.8				
35.9		\$521	\$172	\$344
35.10	(f) Having over \$10,000,001 gross sales or service for the immediately previous license or fiscal year			
35.11				
35.12		\$765	\$252	\$505
35.13	(g) Having \$15,000,001 to \$20,000,000 gross sales or service for the immediately previous license or fiscal year			
35.14				
35.15		\$893	\$295	\$589
35.16	(h) Having \$20,000,001 to \$25,000,000 gross sales or service for the immediately previous license or fiscal year			
35.17				
35.18		\$1,027	\$339	\$678
35.19	(i) Having \$25,000,001 to \$50,000,000 gross sales or service for the immediately previous license or fiscal year			
35.20				
35.21		\$1,161	\$383	\$766
35.22	(j) Having \$50,000,001 to \$100,000,000 gross sales or service for the immediately previous license or fiscal year			
35.23				
35.24		\$1,295	\$427	\$855
35.25	(k) Having \$100,000,001 or more gross sales or service for the immediately previous license or fiscal year			
35.26				
35.27		\$1,428	\$471	\$942
35.28	6. Wholesale food processor or manufacturer operating only at the State Fair			
35.29		\$125	\$ 40	\$ 50
35.30	7. Wholesale food manufacturer having the permission of the commissioner to use the name Minnesota Farmstead cheese			
35.31				
35.32		\$ 30	\$ 10	\$ 15
35.33	8. Wholesale food manufacturer processing less than 700,000 pounds per year of raw milk			
35.34				
35.35		\$ 30	\$ 10	\$ 15
35.36	9. A milk marketing organization without facilities for processing or manufacturing that purchases milk from milk producers for delivery to a licensed wholesale food processor or manufacturer			
35.37				
35.38				
35.39				
35.40		\$ 50	\$ 15	\$ 25
35.41	<u>10. Custom exempt food handler</u>			
35.42	<u>(a) Having under \$50,000 gross service fees for the immediately previous license or fiscal year</u>			
35.43				
35.44		<u>\$77</u>	<u>\$25</u>	<u>\$51</u>
35.45	<u>(b) Having \$50,001 to \$250,000 gross service fees for the immediately previous license or fiscal year</u>			
35.46				
35.47		<u>\$155</u>	<u>\$51</u>	<u>\$102</u>

36.1	<u>(c) Having \$250,001 to \$1,000,000 gross</u>			
36.2	<u>service fees for the immediately previous</u>			
36.3	<u>license or fiscal year</u>	<u>\$276</u>	<u>\$91</u>	<u>\$182</u>
36.4	<u>(d) Having \$1,000,001 or more in gross</u>			
36.5	<u>service fees for the immediately previous</u>			
36.6	<u>license or fiscal year</u>	<u>\$799</u>	<u>\$264</u>	<u>\$527</u>

36.7 Sec. 55. Minnesota Statutes 2016, section 28A.15, is amended by adding a subdivision to
36.8 read:

36.9 Subd. 2a. **Sales by farmers.** (a) Persons selling the products of the farm or garden
36.10 occupied and cultivated by them. All persons regularly engaged in selling products of the
36.11 farm or garden must register annually with the commissioner according to the following
36.12 categories:

36.13 (1) produce;

36.14 (2) meat;

36.15 (3) poultry;

36.16 (4) eggs;

36.17 (5) honey;

36.18 (6) maple syrup; or

36.19 (7) other products prepared on the farm, provided all ingredients are products of the
36.20 farm.

36.21 (b) Persons registering under this subdivision must provide the commissioner with the
36.22 person's: (1) legal name; (2) complete mailing address; (3) gross annual sales of the products
36.23 being registered under this subdivision; and (4) the specific products, including a list of
36.24 each product's ingredients, that are being registered and offered for sale under this
36.25 subdivision.

36.26 (c) There is no fee for registration under this subdivision.

36.27 Sec. 56. Minnesota Statutes 2016, section 28A.15, is amended by adding a subdivision to
36.28 read:

36.29 Subd. 2b. **Others not in food business.** Persons not regularly engaged in the business
36.30 of manufacturing and selling food and who prepare food only on order of and for sale directly
36.31 to the ultimate consumer.

37.1 Sec. 57. Minnesota Statutes 2016, section 28A.15, is amended by adding a subdivision to
37.2 read:

37.3 Subd. 2c. **Educational, charitable, and religious organizations.** Educational, charitable,
37.4 and religious organizations not regularly engaged in the business of manufacturing,
37.5 processing, or selling food at their established educational, charitable, or religious institutions.
37.6 For purposes of this subdivision, charitable organization has the meaning given in section
37.7 309.50, subdivision 4.

37.8 Sec. 58. Minnesota Statutes 2016, section 28A.21, subdivision 6, is amended to read:

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

37.10 Sec. 59. Minnesota Statutes 2016, section 31A.02, subdivision 4, is amended to read:

37.11 Subd. 4. **Animals.** "Animals" means cattle, swine, sheep, goats, poultry, farmed Cervidae,
37.12 as defined in section 35.153, subdivision 3, llamas, as defined in section 17.455, subdivision
37.13 2, Ratitae, as defined in section 17.453, subdivision 3, horses, equines, and other ~~large~~
37.14 domesticated animals.

37.15 Sec. 60. Minnesota Statutes 2016, section 41B.03, subdivision 2, is amended to read:

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

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

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

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

37.29 (4) have a total net worth, including assets and liabilities of the borrower's spouse and
37.30 dependents, of less than ~~\$660,000 in 2004~~ \$1,700,000 in 2017 and an amount in subsequent

38.1 years which is adjusted for inflation by multiplying that amount by the cumulative inflation
38.2 rate as determined by the United States All-Items Consumer Price Index.

38.3 Sec. 61. Minnesota Statutes 2016, section 41B.03, subdivision 3, is amended to read:

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

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

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

38.13 (3) demonstrate a need for the loan;

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

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

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

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

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

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

38.28 Sec. 62. Minnesota Statutes 2016, section 223.17, subdivision 8, is amended to read:

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

39.1 5, including loss caused by failure to pay within the time required. The bond shall be
39.2 conditioned upon the grain buyer being duly licensed as provided herein.

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

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

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

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

39.20 Sec. 63. Minnesota Statutes 2016, section 232.22, subdivision 7, is amended to read:

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

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

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

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

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

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

40.15 Sec. 64. **REVISOR'S INSTRUCTION.**

40.16 The revisor of statutes shall renumber Minnesota Statutes, section 18B.01, subdivision
 40.17 9a, to Minnesota Statutes, section 18B.01, subdivision 9d, and correct any cross-references
 40.18 related to the renumbering.

40.19 Sec. 65. **REPEALER.**

40.20 Minnesota Statutes 2016, sections 18B.01, subdivisions 10a, 10b, and 22a; 18B.285;
 40.21 25.371, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15; and 28A.15, subdivision
 40.22 2, are repealed.

40.23 **ARTICLE 2**

40.24 **DAIRY LAW REORGANIZATION**

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

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

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

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

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

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

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

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

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

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

41.20 Subd. 8. **Fluid milk products.** "Fluid milk products" means yogurt, cream, sour cream,
41.21 half and half, reconstituted half and half, concentrated milk, concentrated milk products,
41.22 skim milk, nonfat milk, chocolate flavored milk, chocolate flavored dairy drink, chocolate
41.23 flavored reconstituted milk, chocolate flavored reconstituted dairy drink, buttermilk, cultured
41.24 buttermilk, cultured milk, vitamin D milk, reconstituted or recombined milk, reconstituted
41.25 cream, reconstituted skim milk, homogenized milk, and any other fluid milk product made
41.26 by the addition of any substance to milk or to any of the fluid milk products enumerated
41.27 under this subdivision or by rule adopted by the commissioner.

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

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

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

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

42.7 Subd. 13. **Minnesota farmstead cheese.** "Minnesota farmstead cheese" means cheese
42.8 manufactured in Minnesota on the same farm that the milk used in its manufacturing is
42.9 produced.

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

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

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

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

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

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

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

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

42.31 Subdivision 1. **Enforcement.** The commissioner is charged with the enforcement of this
42.32 chapter.

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

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

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

43.18 Subd. 5. **Inspection service.** To ensure compliance with the laws and rules governing
43.19 the production, handling, processing, and sale of milk and dairy products, the commissioner
43.20 is authorized, through a duly trained and qualified milk inspector, to inspect milk and milk
43.21 products and the premises and plants where milk and milk products are produced, handled,
43.22 and processed. Inspection services must acquaint the processor and producers with the
43.23 requirements for a Grade A or manufacturing grade milk supply for preliminary inspection
43.24 to determine if a processor has brought the processor's farms and plants to the state of
43.25 compliance that qualifies the processor's products for the Grade A or manufacturing grade
43.26 label, and for continuous inspection to ensure that a farm or plant and all products from a
43.27 farm or plant are in compliance with this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

45.12 Subd. 4. Fees and penalties. The fee for an initial or renewal bulk milk hauler and
45.13 sampler license is \$60. The fee shall be paid to the commissioner before the commissioner
45.14 issues an initial or renewal bulk milk hauler and sampler license. If a bulk milk hauler and
45.15 sampler license renewal is not applied for on or before January 1, a fee of \$30 shall be
45.16 imposed. A person who does not renew a bulk milk hauler and sampler license within one
45.17 year following its December 31 expiration date, except those persons who do not renew the
45.18 bulk milk hauler and sampler license while engaged in active military service, shall be
45.19 required to prove competency and qualification pursuant to section 32D.07 before a bulk
45.20 milk hauler and sampler license is issued. The commissioner may require any other person
45.21 who renews a bulk milk hauler and sampler license to prove competency and qualification
45.22 in the same manner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47.10 Subdivision 1. **Licensing.** A dairy plant must obtain a license as required under section
47.11 28A.04.

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

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

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

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

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

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

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

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

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

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

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

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

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

49.1 appropriated from the dairy services account to pay for the program authorized in this
49.2 paragraph.

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

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

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

49.9 (b) After commingling with other producer milk, the bacteria count must not exceed
49.10 300,000 per milliliter prior to pasteurization.

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

49.14 (b) The coliform count of Grade A pasteurized milk and fluid milk products must not
49.15 exceed ten bacteria per milliliter except that bulk tank transport shipments must not exceed
49.16 100 per milliliter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

51.25 (1) payment of a standard rate with uniform differentials for milk testing above or below
 51.26 3.5 percent milk fat;

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

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

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

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

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

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

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

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

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

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

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

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

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

52.19 (7) underreads the tests;

52.20 (8) falsifies the reading of the tests;

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

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

52.25 is guilty of a misdemeanor.

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

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

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

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

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

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

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

53.6 (3) is drawn from animals that are fed garbage or an unwholesome animal or vegetable
53.7 substance;

53.8 (4) is drawn from animals within two days after birthing;

53.9 (5) contains water in excess of that normally found in milk;

53.10 (6) contains a substance that is not a normal constituent of the milk except as allowed
53.11 in this chapter; or

53.12 (7) contains drug residues or other chemical or biological substances in amounts above
53.13 the tolerances or safe levels established by rule.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55.3 (4) the commissioner may, after evaluation of the severity and repetitive nature of the
55.4 adulteration, initiate additional enforcement action in the form of permit or certification
55.5 suspension for up to 30 days or in lieu of suspension, an administrative penalty of up to
55.6 \$1,000, or the value of the milk sold during the intended suspension period for each violation.

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

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

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

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

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

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

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

55.27 Immediately following pasteurization, all milk and fluid milk products shall be cooled
55.28 in properly operated equipment approved by the commissioner to a temperature of 45 degrees
55.29 Fahrenheit or lower, and maintained at 45 degrees Fahrenheit or lower until delivered;
55.30 provided, however, that if the milk or fluid milk product is to be cultured immediately after
55.31 pasteurization, then cooling may be delayed until after the culturing process is completed;

56.1 provided further that the commissioner may prescribe by rule standards more stringent than
56.2 those imposed by this section.

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

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

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

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

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

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

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

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

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

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

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

57.13 Subdivision 1. **Application.** The definitions in this section apply to sections 32D.24 to
57.14 32D.28.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

59.12 Subd. 2. Exceptions. The minimum processor, wholesaler, and retailer prices of
59.13 subdivision 1 do not apply:

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

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

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

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

59.20 A person injured by a violation of sections 32D.24 to 32D.28 may commence a legal
59.21 action based on the violation in a court of competent jurisdiction and may recover economic
59.22 damages and the costs of the action, including reasonable attorney fees. A person injured
59.23 or who is threatened with injury or loss by reason of violation of sections 32D.24 to 32D.28
59.24 may commence a legal action based on the violation and obtain injunctive relief in a court
59.25 of competent jurisdiction against persons involved in a violation or threatened violation of
59.26 sections 32D.24 to 32D.28 to prevent and restrain violations or threatened violations of
59.27 sections 32D.24 to 32D.28 without alleging or proving actual damages or that an adequate
59.28 remedy at law does not exist, so that injunctive relief can be obtained promptly and without
59.29 awaiting evidence of injury or actual damage. The injunctive relief does not abridge and is
59.30 not in lieu of any other civil remedy provided in sections 32D.24 to 32D.28.

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

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

60.4 Sec. 30. **REPEALER.**

60.5 Minnesota Statutes 2016, sections 32.01, subdivisions 1, 2, 6, 8, 9, 10, 11, and 12; 32.021;
60.6 32.071; 32.072; 32.073; 32.074; 32.075; 32.076; 32.078; 32.10; 32.102; 32.103; 32.105;
60.7 32.106; 32.21; 32.212; 32.22; 32.25; 32.391, subdivisions 1, 1d, 1e, 1f, 1g, 2, and 3; 32.392;
60.8 32.393; 32.394, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 8a, 8b, 8c, 8d, 8e, 9, 11, and 12; 32.395;
60.9 32.397; 32.398, subdivision 1; 32.401, subdivisions 1, 2, 3, and 5; 32.415; 32.416; 32.475;
60.10 32.481, subdivision 1; 32.482; 32.483; 32.484; 32.486; 32.55, subdivisions 1, 2, 3, 4, 5, 12,
60.11 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;
60.12 32.745; 32.75; and 32.90, are repealed.

APPENDIX
Article locations in 17-0077

ARTICLE 1	AGRICULTURAL POLICY	Page.Ln 1.27
ARTICLE 2	DAIRY LAW REORGANIZATION	Page.Ln 40.23

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).

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(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:

(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:

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(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:

(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.

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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.

28A.15 EXCLUSIONS.

Subd. 2. **Sales by farmers; others not in food business.** Persons selling the products of the farm or garden occupied and cultivated by them, or to persons not regularly engaged in the business of manufacturing and selling food and who prepare food only on order of and for sale directly to the ultimate consumer, or to educational, charitable or religious organizations not regularly engaged in the business of manufacturing, processing, or selling food at their established educational, charitable or religious institutions.

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

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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,

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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.

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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.

(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.

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(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.

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(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;
- (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,

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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;

(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

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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 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

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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 \$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.

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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 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.

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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.

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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:

(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

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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, 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

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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;

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- (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.

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

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(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 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.

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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

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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.