

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2720

03/27/2019

Authored by Poppe

The bill was read for the first time and referred to the Agriculture and Food Finance and Policy Division

1.1 A bill for an act

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

1.3 provisions including provisions related to aquaculture, pesticide control, food

1.4 handlers, eggs, milk, cheese, incentive programs, loan programs, soil, agriculture

1.5 basins, and other agriculture provisions; amending Minnesota Statutes 2018,

1.6 sections 17.494; 17.4982, by adding subdivisions; 18B.34, subdivision 5; 25.33,

1.7 subdivision 8; 28A.04, subdivision 1; 28A.05; 28A.08, subdivision 3; 29.26;

1.8 32D.13, by adding a subdivision; 32D.20, subdivision 2; 32D.22; 34A.11,

1.9 subdivision 7; 41A.15, subdivision 10, by adding a subdivision; 41A.16,

1.10 subdivisions 1, 2, 4; 41A.17, subdivisions 1, 2, 3; 41A.18, subdivisions 1, 3;

1.11 41B.02, subdivision 10a; 41B.0391, subdivision 1; 41B.047, subdivisions 1, 3;

1.12 41B.049, subdivision 5; 41B.055, subdivision 3; 41B.056, subdivision 2; 41B.057,

1.13 subdivision 3; 116.0714; proposing coding for new law in Minnesota Statutes,

1.14 chapters 17; 103F; repealing Minnesota Statutes 2018, section 41A.15, subdivisions

1.15 2a, 2b.

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

1.17 Section 1. Minnesota Statutes 2018, section 17.494, is amended to read:

1.18 **17.494 AQUACULTURE PERMITS; RULES.**

1.19 (a) The commissioner shall act as permit or license coordinator for aquatic farmers and
1.20 shall assist aquatic farmers to obtain licenses or permits.

1.21 ~~By July 1, 1992,~~ (b) A state agency issuing multiple permits or licenses for aquaculture
1.22 shall consolidate the permits or licenses required for every aquatic farm location. The
1.23 Department of Natural Resources transportation permits are exempt from this requirement.
1.24 State agencies shall adopt rules or issue commissioner's orders that establish permit and
1.25 license requirements, approval timelines, and compliance standards. Saltwater aquatic farms,
1.26 as defined in section 17.4982, and processing facilities for saltwater aquatic life, as defined

2.1 in section 17.4982, must be classified as agricultural operations for purposes of any
2.2 construction, discharge, or other permit issued by the Pollution Control Agency.

2.3 Nothing in this section modifies any state agency's regulatory authority over aquaculture
2.4 production.

2.5 Sec. 2. Minnesota Statutes 2018, section 17.4982, is amended by adding a subdivision to
2.6 read:

2.7 Subd. 20a. **Saltwater aquaculture.** "Saltwater aquaculture" means the commercial
2.8 propagation and rearing of saltwater aquatic life primarily for consumption as human food.

2.9 Sec. 3. Minnesota Statutes 2018, section 17.4982, is amended by adding a subdivision to
2.10 read:

2.11 Subd. 20b. **Saltwater aquatic farm.** "Saltwater aquatic farm" means a facility used for
2.12 saltwater aquaculture including but not limited to artificial ponds, vats, tanks, raceways,
2.13 and other facilities that an aquatic farmer owns or has exclusive control of for the sole
2.14 purpose of producing saltwater aquatic life.

2.15 Sec. 4. Minnesota Statutes 2018, section 17.4982, is amended by adding a subdivision to
2.16 read:

2.17 Subd. 20c. **Saltwater aquatic life.** "Saltwater aquatic life" means aquatic species that
2.18 are saltwater obligates or perform optimally when raised in salinities closer to that of natural
2.19 seawater and need saltwater to survive. Saltwater aquatic life includes but is not limited to
2.20 crustaceans.

2.21 Sec. 5. **[17.499] TRANSPORTATION OR IMPORTATION OF SALTWATER**
2.22 **AQUATIC LIFE; QUARANTINE REQUIREMENT.**

2.23 Subdivision 1. **Purpose.** The legislature finds that it is in the public interest to increase
2.24 private saltwater aquaculture production and processing in this state under the coordination
2.25 of the commissioner of agriculture. Additional private production will reduce dependence
2.26 on foreign suppliers and benefit the rural economy by creating new jobs and economic
2.27 activity.

2.28 Subd. 2. **Transportation permit.** (a) Notwithstanding the requirements in section
2.29 17.4985, saltwater aquatic life transportation and importation requirements are governed
2.30 by this section. A transportation permit is required before importation or intrastate
2.31 transportation of saltwater aquatic life not exempted under subdivision 3. A transportation

3.1 permit may be used for multiple shipments within the 30-day term of the permit if the source
3.2 and the destination are the same. Transportation permits must be obtained from the
3.3 commissioner before shipment of saltwater aquatic life.

3.4 (b) An application for a transportation permit must be made in the form required by the
3.5 commissioner. The commissioner may reject an incomplete application.

3.6 (c) An application for a transportation permit must be accompanied by satisfactory
3.7 evidence, as determined by the commissioner, that the shipment is free of any nonindigenous
3.8 species of animal other than the saltwater aquatic species and either:

3.9 (1) the facility from which the saltwater aquatic life originated has provided
3.10 documentation of 36 or more consecutive months of negative testing by an approved
3.11 laboratory as free of any disease listed by OIE - the World Organisation for Animal Health
3.12 for that species following the testing guidelines outlined in the OIE Aquatic Animal Health
3.13 Code for crustaceans or the AFS Fish Health Blue Book for other species, as appropriate;
3.14 or

3.15 (2) the saltwater aquatic life to be imported or transported includes documentation of
3.16 negative testing for that specific lot by an approved laboratory as free of any disease listed
3.17 by OIE - the World Organisation for Animal Health for crustaceans or in the AFS Fish
3.18 Health Blue Book for other species, as appropriate.

3.19 If a shipment authorized by the commissioner under clause (1) includes saltwater aquatic
3.20 life that originated in a foreign country, the shipment must be quarantined at the receiving
3.21 facility according to a quarantine plan approved by the commissioner. A shipment authorized
3.22 by the commissioner under clause (2) must be quarantined at the receiving facility according
3.23 to a quarantine plan approved by the commissioner.

3.24 (d) For purposes of this subdivision, "approved laboratory" means a laboratory approved
3.25 by the commissioner or the United States Department of Agriculture, Animal and Plant
3.26 Health Inspection Services.

3.27 (e) No later than 14 calendar days after a completed transportation permit application
3.28 is received, the commissioner shall approve or deny the transportation permit application.

3.29 (f) A copy of the transportation permit must accompany a shipment of saltwater aquatic
3.30 life while in transit and must be available for inspection by the commissioner.

3.31 (g) A vehicle used by a licensee for transporting aquatic life must be identified with the
3.32 license number and the licensee's name and town of residence as it appears on the license.
3.33 A vehicle used by a licensee must have identification displayed so that it is readily visible

4.1 from either side of the vehicle in letters and numbers not less than 2-1/2 inches high and
 4.2 three-eighths inch wide. Identification may be permanently affixed to vehicles or displayed
 4.3 on removable plates or placards placed on opposite doors of the vehicle or on the tanks
 4.4 carried on the vehicle.

4.5 (h) An application to license a vehicle for brood stock or larvae transport or for use as
 4.6 a saltwater aquatic life vendor that is received by the commissioner is a temporary license
 4.7 until approved or denied by the commissioner.

4.8 Subd. 3. Exemptions. (a) A transportation permit is not required to transport or import
 4.9 saltwater aquatic life:

4.10 (1) previously processed for use as food or other purposes unrelated to propagation;

4.11 (2) transported directly to an outlet for processing as food or for other food purposes if
 4.12 accompanied by shipping documents;

4.13 (3) that is being exported if accompanied by shipping documents;

4.14 (4) that is being transported through the state if accompanied by shipping documents;

4.15 or

4.16 (5) transported intrastate within or between facilities licensed for saltwater aquaculture
 4.17 by the commissioner if accompanied by shipping documents.

4.18 (b) Shipping documents required under paragraph (a) must include the place of origin,
 4.19 owner or consignee, destination, number, species, and satisfactory evidence, as determined
 4.20 by the commissioner, of the disease-free certification required under subdivision 2, paragraph
 4.21 (c), clauses (1) and (2).

4.22 Sec. 6. Minnesota Statutes 2018, section 18B.34, subdivision 5, is amended to read:

4.23 Subd. 5. Fees. (a) A person initially applying for or renewing a noncommercial applicator
 4.24 license must pay a nonrefundable application fee of \$50, except an applicant who ~~is~~ uses
 4.25 pesticides in the course of performing official duties as: (1) a government employee; (2) a
 4.26 contractor providing rest area custodial services for the commissioner of transportation; or
 4.27 (3) a Conservation Corps Minnesota employee ~~who uses pesticides in the course of~~
 4.28 performing official duties must pay a nonrefundable application fee of \$10.

4.29 (b) A license renewal application received after March 1 in the year for which the license
 4.30 is to be issued is subject to a penalty fee of 50 percent of the application fee. The penalty
 4.31 fee must be paid before the renewal license may be issued.

5.1 (c) An application for a duplicate noncommercial applicator license must be accompanied
5.2 by a nonrefundable application fee of \$10.

5.3 Sec. 7. Minnesota Statutes 2018, section 25.33, subdivision 8, is amended to read:

5.4 Subd. 8. **Drug.** "Drug" means (1) any article intended for use in the diagnosis, cure,
5.5 mitigation, treatment, or prevention of disease in animals other than humans; and (2) articles
5.6 other than feed intended to affect the structure or any function of the animal body.

5.7 Sec. 8. Minnesota Statutes 2018, section 28A.04, subdivision 1, is amended to read:

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

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

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

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

5.24 (c) A custom exempt food handler license shall be issued for the period July 1 to June
5.25 30 following and shall be renewed thereafter by the licensee on or before July 1 each year.
5.26 The custom exempt food handler license is for businesses that only conduct custom exempt
5.27 operations and mark all products as "Not For Sale." Food handlers that conduct retail exempt
5.28 operations or other operations other than custom exempt processing or slaughter are not
5.29 eligible for this license.

5.30 (d) A license for a food broker or for a food processor or manufacturer shall be issued
5.31 for the period January 1 to December 31 following and shall be renewed thereafter by the
5.32 licensee on or before January 1 of each year, except that a license for a wholesale food

6.1 processor or manufacturer operating only at the state fair shall be issued for the period July
6.2 1 to June 30 following and shall be renewed thereafter by the licensee on or before July 1
6.3 of each year. A penalty for a late renewal shall be assessed in accordance with section
6.4 28A.08.

6.5 ~~(e)~~ (e) A person applying for a new license up to 14 calendar days before the effective
6.6 date of the new license period under paragraph (b) must be issued a license for the 14 days
6.7 and the next license year as a single license and pay a single license fee as if the 14 days
6.8 were part of the upcoming license period.

6.9 Sec. 9. Minnesota Statutes 2018, section 28A.05, is amended to read:

6.10 **28A.05 CLASSIFICATION.**

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

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

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

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

6.28 (d) Custom exempt food handlers are persons who only conduct custom exempt
6.29 processing as defined in section 31A.02, subdivision 5. A retail or wholesale transaction
6.30 may not take place in a facility operated by a person with a custom exempt food handler
6.31 license.

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

7.4 Sec. 10. Minnesota Statutes 2018, section 28A.08, subdivision 3, is amended to read:

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

7.6			Penalties	
7.7	Type of food handler	License Fee	Late	No
7.8		Effective	Renewal	License
7.9		July 1, 2003		
7.10	1. Retail food handler <u>or custom exempt food</u>			
7.11	<u>handler</u>			
7.12	(a) Having gross sales of only prepackaged			
7.13	nonperishable food of less than \$15,000 for			
7.14	the immediately previous license or fiscal			
7.15	year and filing a statement with the			
7.16	commissioner	\$ 50	\$ 17	\$ 33
7.17	(b) Having under \$15,000 gross sales or			
7.18	service including food preparation or having			
7.19	\$15,000 to \$50,000 gross sales or service			
7.20	for the immediately previous license or			
7.21	fiscal year	\$ 77	\$ 25	\$ 51
7.22	(c) Having \$50,001 to \$250,000 gross sales			
7.23	or service for the immediately previous			
7.24	license or fiscal year	\$155	\$ 51	\$102
7.25	(d) Having \$250,001 to \$1,000,000 gross			
7.26	sales or service for the immediately previous			
7.27	license or fiscal year	\$276	\$ 91	\$182
7.28	(e) Having \$1,000,001 to \$5,000,000 gross			
7.29	sales or service for the immediately previous			
7.30	license or fiscal year	\$799	\$264	\$527
7.31	(f) Having \$5,000,001 to \$10,000,000 gross			
7.32	sales or service for the immediately previous			
7.33	license or fiscal year	\$1,162	\$383	\$767
7.34	(g) Having \$10,000,001 to \$15,000,000			
7.35	gross sales or service for the immediately			
7.36	previous license or fiscal year	\$1,376	\$454	\$908
7.37	(h) Having \$15,000,001 to \$20,000,000			
7.38	gross sales or service for the immediately			
7.39	previous license or fiscal year	\$1,607	\$530	\$1,061
7.40	(i) Having \$20,000,001 to \$25,000,000			
7.41	gross sales or service for the immediately			
7.42	previous license or fiscal year	\$1,847	\$610	\$1,219
7.43	(j) Having over \$25,000,001 gross sales or			
7.44	service for the immediately previous license			
7.45	or fiscal year	\$2,001	\$660	\$1,321

8.1	2. Wholesale food handler			
8.2	(a) Having gross sales or service of less than			
8.3	\$25,000 for the immediately previous			
8.4	license or fiscal year	\$ 57	\$ 19	\$ 38
8.5	(b) Having \$25,001 to \$250,000 gross sales			
8.6	or service for the immediately previous			
8.7	license or fiscal year	\$284	\$ 94	\$187
8.8	(c) Having \$250,001 to \$1,000,000 gross			
8.9	sales or service from a mobile unit without			
8.10	a separate food facility for the immediately			
8.11	previous license or fiscal year	\$444	\$147	\$293
8.12	(d) Having \$250,001 to \$1,000,000 gross			
8.13	sales or service not covered under paragraph			
8.14	(c) for the immediately previous license or			
8.15	fiscal year	\$590	\$195	\$389
8.16	(e) Having \$1,000,001 to \$5,000,000 gross			
8.17	sales or service for the immediately previous			
8.18	license or fiscal year	\$769	\$254	\$508
8.19	(f) Having \$5,000,001 to \$10,000,000 gross			
8.20	sales or service for the immediately previous			
8.21	license or fiscal year	\$920	\$304	\$607
8.22	(g) Having \$10,000,001 to \$15,000,000			
8.23	gross sales or service for the immediately			
8.24	previous license or fiscal year	\$990	\$327	\$653
8.25	(h) Having \$15,000,001 to \$20,000,000			
8.26	gross sales or service for the immediately			
8.27	previous license or fiscal year	\$1,156	\$381	\$763
8.28	(i) Having \$20,000,001 to \$25,000,000			
8.29	gross sales or service for the immediately			
8.30	previous license or fiscal year	\$1,329	\$439	\$877
8.31	(j) Having over \$25,000,001 or more gross			
8.32	sales or service for the immediately previous			
8.33	license or fiscal year	\$1,502	\$496	\$991
8.34	3. Food broker	\$150	\$ 50	\$ 99
8.35	4. Wholesale food processor or manufacturer			
8.36	(a) Having gross sales or service of less than			
8.37	\$125,000 for the immediately previous			
8.38	license or fiscal year	\$169	\$ 56	\$112
8.39	(b) Having \$125,001 to \$250,000 gross sales			
8.40	or service for the immediately previous			
8.41	license or fiscal year	\$392	\$129	\$259
8.42	(c) Having \$250,001 to \$1,000,000 gross			
8.43	sales or service for the immediately previous			
8.44	license or fiscal year	\$590	\$195	\$389
8.45	(d) Having \$1,000,001 to \$5,000,000 gross			
8.46	sales or service for the immediately previous			
8.47	license or fiscal year	\$769	\$254	\$508

9.1	(e) Having \$5,000,001 to \$10,000,000 gross			
9.2	sales or service for the immediately previous			
9.3	license or fiscal year	\$920	\$304	\$607
9.4	(f) Having \$10,000,001 to \$15,000,000			
9.5	gross sales or service for the immediately			
9.6	previous license or fiscal year	\$1,377	\$454	\$909
9.7	(g) Having \$15,000,001 to \$20,000,000			
9.8	gross sales or service for the immediately			
9.9	previous license or fiscal year	\$1,608	\$531	\$1,061
9.10	(h) Having \$20,000,001 to \$25,000,000			
9.11	gross sales or service for the immediately			
9.12	previous license or fiscal year	\$1,849	\$610	\$1,220
9.13	(i) Having \$25,000,001 to \$50,000,000			
9.14	gross sales or service for the immediately			
9.15	previous license or fiscal year	\$2,090	\$690	\$1,379
9.16	(j) Having \$50,000,001 to \$100,000,000			
9.17	gross sales or service for the immediately			
9.18	previous license or fiscal year	\$2,330	\$769	\$1,538
9.19	(k) Having \$100,000,000 or more gross			
9.20	sales or service for the immediately previous			
9.21	license or fiscal year	\$2,571	\$848	\$1,697
9.22	5. Wholesale food processor of meat or poultry			
9.23	products under supervision of the U.S.			
9.24	Department of Agriculture			
9.25	(a) Having gross sales or service of less than			
9.26	\$125,000 for the immediately previous			
9.27	license or fiscal year	\$112	\$ 37	\$ 74
9.28	(b) Having \$125,001 to \$250,000 gross sales			
9.29	or service for the immediately previous			
9.30	license or fiscal year	\$214	\$ 71	\$141
9.31	(c) Having \$250,001 to \$1,000,000 gross			
9.32	sales or service for the immediately previous			
9.33	license or fiscal year	\$333	\$110	\$220
9.34	(d) Having \$1,000,001 to \$5,000,000 gross			
9.35	sales or service for the immediately previous			
9.36	license or fiscal year	\$425	\$140	\$281
9.37	(e) Having \$5,000,001 to \$10,000,000 gross			
9.38	sales or service for the immediately previous			
9.39	license or fiscal year	\$521	\$172	\$344
9.40	(f) Having over \$10,000,001 gross sales or			
9.41	service for the immediately previous license			
9.42	or fiscal year	\$765	\$252	\$505
9.43	(g) Having \$15,000,001 to \$20,000,000			
9.44	gross sales or service for the immediately			
9.45	previous license or fiscal year	\$893	\$295	\$589
9.46	(h) Having \$20,000,001 to \$25,000,000			
9.47	gross sales or service for the immediately			
9.48	previous license or fiscal year	\$1,027	\$339	\$678

10.1	(i) Having \$25,000,001 to \$50,000,000			
10.2	gross sales or service for the immediately			
10.3	previous license or fiscal year	\$1,161	\$383	\$766
10.4	(j) Having \$50,000,001 to \$100,000,000			
10.5	gross sales or service for the immediately			
10.6	previous license or fiscal year	\$1,295	\$427	\$855
10.7	(k) Having \$100,000,001 or more gross			
10.8	sales or service for the immediately previous			
10.9	license or fiscal year	\$1,428	\$471	\$942
10.10	6. Wholesale food processor or manufacturer			
10.11	operating only at the State Fair	\$125	\$ 40	\$ 50
10.12	7. Wholesale food manufacturer having the			
10.13	permission of the commissioner to use the			
10.14	name Minnesota Farmstead cheese	\$ 30	\$ 10	\$ 15
10.15	8. Wholesale food manufacturer processing			
10.16	less than 700,000 pounds per year of raw			
10.17	milk	\$ 30	\$ 10	\$ 15
10.18	9. A milk marketing organization without			
10.19	facilities for processing or manufacturing			
10.20	that purchases milk from milk producers for			
10.21	delivery to a licensed wholesale food			
10.22	processor or manufacturer	\$ 50	\$ 15	\$ 25

10.23 Sec. 11. Minnesota Statutes 2018, section 29.26, is amended to read:

10.24 **29.26 EGGS IN POSSESSION OF RETAILER.**

10.25 All eggs sold or offered for sale at retail must have been candled and graded and must
 10.26 be clearly labeled according to Minnesota consumer grades as established by rule under
 10.27 section 29.23. No eggs shall be sold or offered for sale as "ungraded," "unclassified," or by
 10.28 any other name that does not clearly designate the grade. All eggs in possession of the
 10.29 retailer, either in temporary storage or on display, must be held at a temperature not to
 10.30 exceed 45 degrees Fahrenheit (7 degrees Celsius).

10.31 ~~Candled and graded~~ Grade AA eggs held 31 days past the coded pack date for Grade
 10.32 AA eggs, or Grade A eggs held 46 days past the coded pack date for Grade A eggs, lose
 10.33 their grades and must be removed from sale.

10.34 Sec. 12. Minnesota Statutes 2018, section 32D.13, is amended by adding a subdivision to
 10.35 read:

10.36 Subd. 11. Milk storage requirement. (a) A milk hauler must not pick up milk from a
 10.37 farm that has a bulk tank that is not in proper working order.

10.38 (b) Milk must not be stored for longer than 72 hours at a farm before the milk is picked
 10.39 up by a milk hauler for transport to a plant. The commissioner or an agent of the

11.1 commissioner may waive the 72-hour time limit in the case of hardship, emergency, or
11.2 natural disaster.

11.3 Sec. 13. Minnesota Statutes 2018, section 32D.20, subdivision 2, is amended to read:

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

11.8 (b) Milk and dairy products must be labeled (1) with the plant number where the product
11.9 was produced; (2) if produced in a state where official plant numbers are not assigned,
11.10 with the name and address of the manufacturer ~~and the address of the plant where it was~~
11.11 ~~manufactured~~ or distributor.

11.12 Sec. 14. Minnesota Statutes 2018, section 32D.22, is amended to read:

11.13 **32D.22 MANUFACTURE OF CHEESE; REQUIREMENTS IN PROCESS.**

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

11.20 (b) Any cheese described in paragraph (a), clause (3), that has been made from
11.21 unpasteurized milk must be labeled with a statement that the cheese is more than 60 days
11.22 of age.

11.23 Sec. 15. Minnesota Statutes 2018, section 34A.11, subdivision 7, is amended to read:

11.24 Subd. 7. **Emergency powers.** After an emergency declaration issued under chapter 12,
11.25 chapter 35, or the federal Stafford Act, the commissioner may restrict the movement of food
11.26 if the commissioner has probable cause to believe that the movement of food may: threaten
11.27 the agricultural economy; transport a dangerous, infectious, or communicable disease; or
11.28 threaten the health of animals. The commissioner may provide for the issuance of permits
11.29 to allow for the continued movement of food upon meeting the ~~disease~~ control measures
11.30 established by the commissioner.

12.1 Sec. 16. Minnesota Statutes 2018, section 41A.15, is amended by adding a subdivision to
12.2 read:

12.3 Subd. 2e. **Biomass.** "Biomass" means any organic matter that is available on a renewable
12.4 or recurring basis, including agricultural crops and trees, wood and wood waste and residues,
12.5 plants including aquatic plants, grasses, residues, fibers, animal waste, and the organic
12.6 portion of solid wastes.

12.7 Sec. 17. Minnesota Statutes 2018, section 41A.15, subdivision 10, is amended to read:

12.8 Subd. 10. **Renewable chemical.** "Renewable chemical" means a chemical ~~with biobased~~
12.9 ~~content,~~ polymer, monomer, plastic, or composite material that is entirely produced from
12.10 biomass.

12.11 Sec. 18. Minnesota Statutes 2018, section 41A.16, subdivision 1, is amended to read:

12.12 Subdivision 1. **Eligibility.** (a) A facility eligible for payment under this section must
12.13 source from Minnesota at least 80 percent ~~raw materials from Minnesota.~~ of the biomass
12.14 used to produce an advanced biofuel, except that if a facility is sited 50 miles or less from
12.15 the state border, ~~raw materials~~ biomass used to produce an advanced biofuel may be sourced
12.16 from outside of Minnesota, but only if at least 80 percent of the biomass is sourced from
12.17 within a 100-mile radius of the facility or from within Minnesota. ~~Raw materials must be~~
12.18 ~~from agricultural or forestry sources or from solid waste.~~ The facility must be located in
12.19 Minnesota, must begin production at a specific location by June 30, 2025, and must not
12.20 begin operating above 23,750 MMbtu of quarterly advanced biofuel production before July
12.21 1, 2015. Eligible facilities include existing companies and facilities that are adding advanced
12.22 biofuel production capacity, or retrofitting existing capacity, as well as new companies and
12.23 facilities. Production of conventional corn ethanol and conventional biodiesel is not eligible.
12.24 Eligible advanced biofuel facilities must produce at least ~~23,750~~ 1,500 MMbtu of advanced
12.25 biofuel quarterly.

12.26 (b) No payments shall be made for advanced biofuel production that occurs after June
12.27 30, 2035, for those eligible biofuel producers under paragraph (a).

12.28 (c) An eligible producer of advanced biofuel shall not transfer the producer's eligibility
12.29 for payments under this section to an advanced biofuel facility at a different location.

12.30 (d) A producer that ceases production for any reason is ineligible to receive payments
12.31 under this section until the producer resumes production.

13.1 (e) Renewable chemical production for which payment has been received under section
 13.2 41A.17, and biomass thermal production for which payment has been received under section
 13.3 41A.18, are not eligible for payment under this section.

13.4 (f) Biobutanol is eligible under this section.

13.5 Sec. 19. Minnesota Statutes 2018, section 41A.16, subdivision 2, is amended to read:

13.6 Subd. 2. **Payment amounts; limits.** (a) The commissioner shall make payments to
 13.7 eligible producers of advanced biofuel. The amount of the payment for each eligible
 13.8 producer's annual production is \$2.1053 per MMbtu for advanced biofuel production from
 13.9 cellulosic biomass, and \$1.053 per MMbtu for advanced biofuel production from sugar ~~or~~₂
 13.10 starch, oil, or animal fat at a specific location for ten years after the start of production.

13.11 (b) Total payments under this section to an eligible biofuel producer in a fiscal year may
 13.12 not exceed the amount necessary for 2,850,000 MMbtu of biofuel production. Total payments
 13.13 under this section to all eligible biofuel producers in a fiscal year may not exceed the amount
 13.14 necessary for 17,100,000 MMbtu of biofuel production. The commissioner shall award
 13.15 payments on a first-come, first-served basis within the limits of available funding.

13.16 (c) For purposes of this section, an entity that holds a controlling interest in more than
 13.17 one advanced biofuel facility is considered a single eligible producer.

13.18 Sec. 20. Minnesota Statutes 2018, section 41A.16, subdivision 4, is amended to read:

13.19 Subd. 4. **Cellulosic forestry biomass requirements.** All forestry-derived cellulosic
 13.20 biomass must be produced using Minnesota ~~state~~ forest biomass harvesting guidelines or
 13.21 the equivalent. All cellulosic biomass from brushlands must be produced using Minnesota
 13.22 brushland ~~harvesting~~ biomass ~~harvest~~ harvesting guidelines or the equivalent.

13.23 Forestry-derived cellulosic biomass that comes from land parcels greater than 160 acres
 13.24 must be certified by the Forest Stewardship Council, the Sustainable Forestry Initiative, or
 13.25 the American Tree Farm System. Uncertified land from parcels of 160 acres or less and
 13.26 federal land must be harvested by a logger who has completed training for biomass harvesting
 13.27 from the Minnesota logger education program or the equivalent and have a forest ~~stewardship~~
 13.28 management plan, as defined in section 290C.02, subdivision 7, or its equivalent.

13.29 Sec. 21. Minnesota Statutes 2018, section 41A.17, subdivision 1, is amended to read:

13.30 Subdivision 1. **Eligibility.** (a) A facility eligible for payment under this ~~program~~ section
 13.31 must source from Minnesota at least 80 percent ~~biobased content from Minnesota.~~ of the
 13.32 biomass used to produce a renewable chemical, except that if a facility is sited 50 miles or

14.1 less from the state border, ~~biobased content must~~ biomass used to produce a renewable
 14.2 chemical may be sourced from outside of Minnesota, but only if at least 80 percent of the
 14.3 biomass is sourced from within a 100-mile radius of the facility or from within Minnesota.
 14.4 ~~Biobased content must be from agricultural or forestry sources or from solid waste.~~ The
 14.5 facility must be located in Minnesota, must begin production at a specific location by June
 14.6 30, 2025, and must not begin production of ~~750,000~~ 250,000 pounds of chemicals quarterly
 14.7 before January 1, 2015. Eligible facilities include existing companies and facilities that are
 14.8 adding production capacity, or retrofitting existing capacity, as well as new companies and
 14.9 facilities. Eligible renewable chemical facilities must produce at least ~~750,000~~ 250,000
 14.10 pounds of renewable chemicals quarterly. Renewable chemicals produced through processes
 14.11 that are fully commercial before January 1, 2000, are not eligible.

14.12 (b) No payments shall be made for renewable chemical production that occurs after June
 14.13 30, 2035, for those eligible renewable chemical producers under paragraph (a).

14.14 (c) An eligible producer of renewable chemicals shall not transfer the producer's eligibility
 14.15 for payments under this section to a renewable chemical facility at a different location.

14.16 (d) A producer that ceases production for any reason is ineligible to receive payments
 14.17 under this section until the producer resumes production.

14.18 (e) Advanced biofuel production for which payment has been received under section
 14.19 41A.16, and biomass thermal production for which payment has been received under section
 14.20 41A.18, are not eligible for payment under this section.

14.21 Sec. 22. Minnesota Statutes 2018, section 41A.17, subdivision 2, is amended to read:

14.22 Subd. 2. **Payment amounts; bonus; limits.** (a) The commissioner shall make payments
 14.23 to eligible producers of renewable chemicals located in the state. The amount of the payment
 14.24 for each producer's annual production is \$0.03 per pound of sugar-derived renewable
 14.25 chemical, \$0.03 per pound of cellulosic sugar, and \$0.06 per pound of cellulosic-derived
 14.26 renewable chemical produced at a specific location for ten years after the start of production.

14.27 (b) An eligible facility producing renewable chemicals using agricultural cellulosic
 14.28 biomass is eligible for a 20 percent bonus payment for each pound produced from agricultural
 14.29 biomass that is derived from perennial crop or cover crop biomass.

14.30 (c) Total payments under this section to an eligible renewable chemical producer in a
 14.31 fiscal year may not exceed the amount necessary for 99,999,999 pounds of renewable
 14.32 chemical production. Total payments under this section to all eligible renewable chemical
 14.33 producers in a fiscal year may not exceed the amount necessary for 599,999,999 pounds of

15.1 renewable chemical production. The commissioner shall award payments on a first-come,
15.2 first-served basis within the limits of available funding.

15.3 (d) An eligible facility may blend renewable chemicals with other chemicals that are
15.4 not renewable chemicals, but only the percentage attributable to renewable chemicals in
15.5 the blended product is eligible to receive payment.

15.6 ~~(d)~~ (e) For purposes of this section, an entity that holds a controlling interest in more
15.7 than one renewable chemical production facility is considered a single eligible producer.

15.8 Sec. 23. Minnesota Statutes 2018, section 41A.17, subdivision 3, is amended to read:

15.9 Subd. 3. **Cellulosic forestry biomass requirements.** All forestry-derived cellulosic
15.10 biomass must be produced using Minnesota ~~state forest~~ biomass harvesting guidelines or
15.11 the equivalent. All cellulosic biomass from brushlands must be produced using Minnesota
15.12 brushland ~~harvesting~~ biomass ~~harvest~~ harvesting guidelines or the equivalent.
15.13 Forestry-derived cellulosic biomass that comes from land parcels greater than 160 acres
15.14 must be certified by the Forest Stewardship Council, the Sustainable Forestry Initiative, or
15.15 the American Tree Farm System. Uncertified land from parcels of 160 acres or less and
15.16 federal land must be harvested by a logger who has completed training for biomass harvesting
15.17 from the Minnesota logger education program or the equivalent and have a forest ~~stewardship~~
15.18 management plan, as defined in section 290C.02, subdivision 7, or its equivalent.

15.19 Sec. 24. Minnesota Statutes 2018, section 41A.18, subdivision 1, is amended to read:

15.20 Subdivision 1. **Eligibility.** (a) A facility eligible for payment under this section must
15.21 source from Minnesota at least 80 percent ~~raw materials from Minnesota.~~ of the biomass
15.22 used for biomass thermal production, except that if a facility is sited 50 miles or less from
15.23 the state border, raw materials should biomass used for biomass thermal production may
15.24 be sourced from outside of Minnesota, but only if at least 80 percent of the biomass is
15.25 sourced from within a 100-mile radius of the facility or from within Minnesota. ~~Raw materials~~
15.26 Biomass must be from agricultural or forestry sources. The facility must be located in
15.27 Minnesota, must have begun production at a specific location by June 30, 2025, and must
15.28 not begin before July 1, 2015. Eligible facilities include existing companies and facilities
15.29 that are adding production capacity, or retrofitting existing capacity, as well as new
15.30 companies and facilities. Eligible biomass thermal production facilities must produce at
15.31 least 250 MMbtu of biomass thermal quarterly.

15.32 (b) No payments shall be made for biomass thermal production that occurs after June
15.33 30, 2035, for those eligible biomass thermal producers under paragraph (a).

16.1 (c) An eligible producer of biomass thermal production shall not transfer the producer's
16.2 eligibility for payments under this section to a biomass thermal production facility at a
16.3 different location.

16.4 (d) A producer that ceases production for any reason is ineligible to receive payments
16.5 under this section until the producer resumes production.

16.6 (e) Biofuel production for which payment has been received under section 41A.16, and
16.7 renewable chemical production for which payment has been received under section 41A.17,
16.8 are not eligible for payment under this section.

16.9 Sec. 25. Minnesota Statutes 2018, section 41A.18, subdivision 3, is amended to read:

16.10 Subd. 3. **Cellulosic forestry biomass requirements.** All forestry-derived cellulosic
16.11 biomass must be produced using Minnesota ~~state forest~~ biomass harvesting guidelines or
16.12 the equivalent. All cellulosic biomass from ~~brushland~~ brushlands must be produced using
16.13 Minnesota brushland ~~harvesting~~ biomass harvesting guidelines or the equivalent.
16.14 Forestry-derived cellulosic biomass that comes from land parcels greater than 160 acres
16.15 must be certified by the Forest Stewardship Council, the Sustainable Forestry Initiative, or
16.16 the American Tree Farm System. Uncertified land from parcels of 160 acres or less and
16.17 federal land must be harvested by a logger who has completed training for biomass harvesting
16.18 from the Minnesota logger education program or the equivalent and have a forest ~~stewardship~~
16.19 management plan, as defined in section 290C.02, subdivision 7, or its equivalent.

16.20 Sec. 26. Minnesota Statutes 2018, section 41B.02, subdivision 10a, is amended to read:

16.21 Subd. 10a. **Livestock expansion.** "Livestock expansion" means the purchase of a
16.22 livestock farm or improvements to a livestock operation, including the purchase and
16.23 construction or installation of improvements to land, buildings, and other permanent
16.24 structures, including equipment incorporated in or permanently affixed to the land, buildings,
16.25 or structures, which are useful for and intended to be used for the purpose of raising livestock.

16.26 Sec. 27. Minnesota Statutes 2018, section 41B.0391, subdivision 1, is amended to read:

16.27 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have
16.28 the meanings given.

16.29 (b) "Agricultural assets" means agricultural land, livestock, facilities, buildings, and
16.30 machinery used for farming in Minnesota.

16.31 (c) "Beginning farmer" means an individual who:

- 17.1 (1) is a resident of Minnesota;
- 17.2 (2) is seeking entry, or has entered within the last ten years, into farming;
- 17.3 (3) intends to farm land located within the state borders of Minnesota;
- 17.4 (4) is not and whose spouse is not a family member of the owner of the agricultural
17.5 assets from whom the beginning farmer is seeking to purchase or rent agricultural assets;
- 17.6 (5) is not and whose spouse is not a family member of a partner, member, shareholder,
17.7 or trustee of the owner of agricultural assets from whom the beginning farmer is seeking to
17.8 purchase or rent agricultural assets; and
- 17.9 (6) meets the following eligibility requirements as determined by the authority:
- 17.10 (i) has a net worth that does not exceed the limit provided under section 41B.03,
17.11 subdivision 3, paragraph (a), clause (2);
- 17.12 (ii) provides the majority of the day-to-day physical labor and management of the farm;
- 17.13 (iii) has, by the judgment of the authority, adequate farming experience or demonstrates
17.14 knowledge in the type of farming for which the beginning farmer seeks assistance from the
17.15 authority;
- 17.16 (iv) demonstrates to the authority a profit potential by submitting projected earnings
17.17 statements;
- 17.18 (v) asserts to the satisfaction of the authority that farming will be a significant source
17.19 of income for the beginning farmer;
- 17.20 (vi) ~~participates in~~ is enrolled in or has completed within ten years of their first year of
17.21 farming a financial management program approved by the authority or the commissioner
17.22 of agriculture;
- 17.23 (vii) agrees to notify the authority if the beginning farmer no longer meets the eligibility
17.24 requirements within the three-year certification period, in which case the beginning farmer
17.25 is no longer eligible for credits under this section; and
- 17.26 (viii) has other qualifications as specified by the authority.
- 17.27 The commissioner may waive the requirement in item (vi) if the participant requests a waiver
17.28 and has a four-year degree in an agricultural program or related field, reasonable agricultural
17.29 job-related experience, or certification as an adult farm management instructor.
- 17.30 (d) "Family member" means a family member within the meaning of the Internal Revenue
17.31 Code, section 267(c)(4).

18.1 (e) "Farm product" means plants and animals useful to humans and includes, but is not
 18.2 limited to, forage and sod crops, oilseeds, grain and feed crops, dairy and dairy products,
 18.3 poultry and poultry products, livestock, fruits, and vegetables.

18.4 (f) "Farming" means the active use, management, and operation of real and personal
 18.5 property for the production of a farm product.

18.6 (g) "Owner of agricultural assets" means an individual, trust, or pass-through entity that
 18.7 is the owner in fee of agricultural land or has legal title to any other agricultural asset. Owner
 18.8 of agricultural assets does not mean an equipment dealer, livestock dealer defined in section
 18.9 17A.03, subdivision 7, or comparable entity that is engaged in the business of selling
 18.10 agricultural assets for profit and that is not engaged in farming as its primary business
 18.11 activity. An owner of agricultural assets approved and certified by the authority under
 18.12 subdivision 4 must notify the authority if the owner no longer meets the definition in this
 18.13 paragraph within the three year certification period and is then no longer eligible for credits
 18.14 under this section.

18.15 (h) "Resident" has the meaning given in section 290.01, subdivision 7.

18.16 (i) "Share rent agreement" means a rental agreement in which the principal consideration
 18.17 given to the owner of agricultural assets is a predetermined portion of the production of
 18.18 farm products produced from the rented agricultural assets and which provides for sharing
 18.19 production costs or risk of loss, or both.

18.20 **EFFECTIVE DATE.** This section is effective January 1, 2020.

18.21 Sec. 28. Minnesota Statutes 2018, section 41B.047, subdivision 1, is amended to read:

18.22 Subdivision 1. **Establishment.** The authority shall establish and implement a disaster
 18.23 recovery loan program to help farmers:

18.24 (1) clean up, repair, or replace farm structures and septic and water systems, as well as
 18.25 replace seed, other crop inputs, feed, and livestock, ~~when damaged by high winds, hail,~~
 18.26 ~~tornado, or flood;~~

18.27 (2) purchase watering systems, irrigation systems, and other drought mitigation systems
 18.28 and practices when drought is the cause of the purchase;

18.29 (3) restore farmland; or

18.30 (4) replace flocks, make building improvements, or cover the loss of revenue when the
 18.31 replacement, improvements, or loss of revenue is due to the confirmed presence of the

19.1 highly pathogenic avian influenza in a commercial poultry or game flock located in
19.2 Minnesota.

19.3 Sec. 29. Minnesota Statutes 2018, section 41B.047, subdivision 3, is amended to read:

19.4 Subd. 3. **Eligibility.** To be eligible for this program, a borrower must:

19.5 (1) meet the requirements of section 41B.03, subdivision 1;

19.6 (2) certify that the damage or loss was (i) sustained within a county that was the subject
19.7 of a state or federal disaster declaration ~~or~~; (ii) due to the confirmed presence of the highly
19.8 pathogenic avian influenza in a commercial poultry or game flock located in Minnesota; or
19.9 (iii) a market disaster or emergency as determined by the authority;

19.10 (3) demonstrate an ability to repay the loan; and

19.11 (4) have received at least 50 percent of average annual gross income from farming for
19.12 the past three years.

19.13 Sec. 30. Minnesota Statutes 2018, section 41B.049, subdivision 5, is amended to read:

19.14 Subd. 5. **Loan criteria.** (a) To be eligible, a borrower must be a resident of Minnesota
19.15 or an entity that is not prohibited from owning agricultural land under section 500.24.

19.16 (b) State participation in a participation loan is limited to 45 percent of the principal
19.17 amount of the loan. A direct loan or loan participation may not exceed \$250,000.

19.18 (c) Loans under this program may be used as a match for federal loans or grants.

19.19 ~~(d) A borrower who has previously received a loan under subdivision 1 is prohibited~~
19.20 ~~from receiving another methane digester loan under subdivision 1.~~

19.21 Sec. 31. Minnesota Statutes 2018, section 41B.055, subdivision 3, is amended to read:

19.22 Subd. 3. **Loans.** (a) The authority may participate in a livestock equipment loan equal
19.23 to 90 percent of the purchased equipment value with an eligible lender to a farmer who is
19.24 eligible under subdivision 2. Participation is limited to 45 percent of the principal amount
19.25 of the loan or ~~\$40,000~~ \$100,000, whichever is less. The interest rates and repayment terms
19.26 of the authority's participation interest may differ from the interest rates and repayment
19.27 terms of the lender's retained portion of the loan, but the authority's interest rate must not
19.28 exceed three percent. The authority may review the interest annually and make adjustments
19.29 as necessary.

20.1 (b) Standards for loan amortization must be set by the Rural Finance Authority and must
20.2 not exceed ten years.

20.3 (c) Security for a livestock equipment loan must be a personal note executed by the
20.4 borrower and whatever other security is required by the eligible lender or the authority.

20.5 (d) Refinancing of existing debt is not an eligible purpose.

20.6 (e) The authority may impose a reasonable, nonrefundable application fee for a livestock
20.7 equipment loan. The authority may review the fee annually and make adjustments as
20.8 necessary. The initial application fee is \$50. Application fees received by the authority must
20.9 be deposited in the Rural Finance Authority administrative account established in section
20.10 41B.03.

20.11 (f) Loans under this program must be made using money in the revolving loan account
20.12 established in section 41B.06.

20.13 Sec. 32. Minnesota Statutes 2018, section 41B.056, subdivision 2, is amended to read:

20.14 Subd. 2. **Definitions.** (a) The definitions in this subdivision apply to this section.

20.15 (b) "Intermediary" means any lending institution or other organization of a for-profit or
20.16 nonprofit nature that is in good standing with the state of Minnesota that has the appropriate
20.17 business structure and trained personnel suitable to providing efficient disbursement of loan
20.18 funds and the servicing and collection of loans.

20.19 (c) "Specialty crops" means crops produced in an aquaculture system and agricultural
20.20 crops, such as annuals, flowers, perennials, and other horticultural products, that are
20.21 intensively cultivated.

20.22 (d) "Eligible livestock" means fish produced in an aquaculture system, beef cattle, dairy
20.23 cattle, swine, poultry, goats, mules, farmed Cervidae, Ratitae, bison, sheep, horses, and
20.24 llamas.

20.25 Sec. 33. Minnesota Statutes 2018, section 41B.057, subdivision 3, is amended to read:

20.26 Subd. 3. **Loan participation.** The authority may participate in a farm opportunity loan
20.27 with an eligible lender, as defined in section 41B.02, subdivision 8, to a farmer or a group
20.28 of farmers on joint projects who are eligible under subdivision 2, paragraph (c), and who
20.29 are actively engaged in farming. Participation is limited to 45 percent of the principal amount
20.30 of the loan or ~~\$45,000~~ \$100,000 per individual, whichever is less. For loans to a group made
20.31 up of four or more individuals, participation is limited to 45 percent of the principal amount

21.1 of the loan or ~~\$180,000~~ \$250,000, whichever is less. The interest rate on the loans must not
21.2 exceed six percent.

21.3 Sec. 34. **[103F.452] APPLICABILITY.**

21.4 The provisions of sections 103F.415 to 103F.455 are not applicable without the adoption
21.5 of an ordinance by the county or local government unit.

21.6 Sec. 35. Minnesota Statutes 2018, section 116.0714, is amended to read:

21.7 **116.0714 NEW OPEN-AIR SWINE BASINS.**

21.8 (a) The commissioner of the Pollution Control Agency or a county board shall not
21.9 approve any permits for the construction of new open-air swine basins, except that existing
21.10 facilities may use one basin of less than 1,000,000 gallons as part of a permitted waste
21.11 treatment program for resolving pollution problems or to allow conversion of an existing
21.12 basin of less than 1,000,000 gallons to a different animal type, provided all standards are
21.13 met. This section expires June 30, 2022.

21.14 (b) This section does not apply to basins used solely for wastewater from truck-washing
21.15 facilities.

21.16 Sec. 36. **REPEALER.**

21.17 Minnesota Statutes 2018, section 41A.15, subdivisions 2a and 2b, are repealed.

APPENDIX
Repealed Minnesota Statutes: 19-2465

41A.15 DEFINITIONS.

Subd. 2a. **Biobased content.** "Biobased content" means a chemical, polymer, monomer, or plastic that is not sold primarily for use as food, feed, or fuel and that has a biobased percentage of at least 51 percent as determined by testing representative samples using American Society for Testing and Materials specification D6866.

Subd. 2b. **Biobased formulated product.** "Biobased formulated product" means a product that is not sold primarily for use as food, feed, or fuel and that has a biobased content percentage of at least ten percent as determined by testing representative samples using American Society for Testing and Materials specification D6866, or that contains a biobased chemical constituent that displaces a known hazardous or toxic constituent previously used in the product formulation.