

CHAPTER 1525

DEPARTMENT OF AGRICULTURE

DAIRY INDUSTRY

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DAIRY TRADE PRACTICES

1525.0010 DEFINITIONS.

Subpart 1. **Applicability.** When used in the following rules, unless the context otherwise clearly requires, the terms defined in this part have the meanings given them.

Subp. 2. **Cost.** "Cost" shall mean the price paid by the manufacturer, wholesaler, branch distributor, or distributor for the class or grade of milk or milk products used in each selected dairy product which the manufacturer, wholesaler, branch distributor, or distributor thereof sells at wholesale, in addition to the price paid for other ingredients in each such selected dairy product, plus packaging and other costs of doing business, which costs shall include but shall not be limited to all costs of labor; salaries, bonuses, commissions, or other forms of compensation to executives, officers, employees, agents, or other representatives; rent; interest; depreciation; maintenance; advertising and selling costs; transportation and delivery expenses; credit losses; all types of permits and license fees; taxes and insurance costs of all kinds; costs of workers' compensation; unemployment compensation, social security, health and welfare, pension, and retirement; and all other costs or expenses, whether fixed or incidental, of the particular manufacturer, wholesaler, branch distributor, or distributor processing, manufacturing, packaging, selling, or distributing one or more selected dairy products. Such costs determinants shall be allocated by each manufacturer, wholesaler, or distributor strictly in accordance with the accepted practices in the dairy industry. These practices shall be determined from time to time and prescribed by the commissioner after consultation with representatives of the industry and such other groups or associations as the commissioner deems desirable. The commissioner's determinations shall be given publication in the form of a notice to all members of the industry.

Subp. 3. **Distributor.** "Distributor" as used in this chapter shall mean any manufacturer, wholesaler, or distributor that sells at wholesale to retailers, and does not include retailers. Minnesota Statutes 1961, section 32A.03, subdivision 8.

Subp. 4. **Dock delivery sale.** "Dock delivery sale" means any sale or other transfer of title to a selected dairy product in this state by the manufacturer, wholesaler, or distributor thereof in the ordinary course of trade or the usual conduct of the seller's business by delivering or causing to be delivered such selected dairy product to the dock or place of business of another manufacturer, wholesaler, distributor, or to a retailer for the purpose of resale, either at retail or at wholesale by the purchaser thereof. The term "dock delivery sale" shall include any transfer or physical movement of any selected dairy product in the manner last stated where title thereto is retained by the seller as security for the payment of the purchase price thereof.

Subp. 5. **Dock sale.** "Dock sale" means any sale or other transfer of title to a selected dairy product in the state of Minnesota by the manufacturer, wholesaler, or distributor thereof in the ordinary course of trade or the usual conduct of the seller's business to another manufacturer, wholesaler, distributor, or retailer where the delivery of such selected dairy product is made at the seller's dock to the purchaser for the purpose of resale either at retail or wholesale by the purchaser thereof. A "dock sale" shall include any transfer of any selected

dairy product in the manner last stated where the title thereto is retained by the seller as security for the payment of the purchased price by the purchaser thereof.

Statutory Authority: *MS s 32A.05 subd 3*

History: *17 SR 1279*

1525.0040 SALES PROMOTION.

Minnesota Statutes, section 32A.04, subdivision 1, clause (1), shall be interpreted in which a sample of a selected dairy product manufactured or sold by the manufacturer, wholesaler, or distributor may be used in connection with such sales promotion programs. Such samples shall conform and be made in accordance with parts 1525.0050 and 1525.0060.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0050 SAMPLES.

The sample shall not be more than a single portion of the product and not larger than can be consumed by an individual person on the premises of the retailer where such promotion takes place. The manufacturer, wholesaler, or distributor must make such samples or sampling of products available to all retailers purchasing from such manufacturer, wholesaler, or distributor and may distribute directly to the consumer upon the premises of the retailer or such distribution may be made by the retailer providing the samples are plainly marked as samples with the statement that they are not to be sold and may be used only for the purpose for which they were prepared.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0060 COUPONS, PREMIUMS, OR SPECIAL INDUCEMENT.

Coupons, premiums, or any program which gives a special inducement to consumers such as tie in sales or any other similar program are changes in the wholesale price to retailers and must be posted and filed in accordance with the requirements of the Minnesota Dairy Industry Unfair Trade Practices Act.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0070 REFERENCE TO RETAILER BY DISTRIBUTOR.

No distributor shall advertise for or on behalf of, or grant any advertising allowance to any retailer as authorized in Minnesota Statutes, section 32A.04 unless such advertisement or advertising allowance is offered to all retailer customers of such distributor on proportionately equal terms.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0080 COOPERATIVE ADVERTISING.

Minnesota Statutes, section 32A.04, subdivision 1, clause (i), permits reimbursement by a manufacturer, wholesaler, or distributor to a retailer for advertising one or more of its selected dairy products in a newspaper advertisement, handbills, or other forms of printed advertising put out by the retailer or for the time actually so used in any radio or television program sponsored by a retailer. To carry out the above provision of the Minnesota Dairy Industry Unfair Trade Practices Act such reimbursement may be made only under the following circumstances:

A. The retailer shall submit to the manufacturer, wholesaler, or distributor a copy of the script properly dated showing the space or time actually used to advertise by name the selected dairy product of the manufacturer, wholesaler, or distributor.

B. Invoice or certified copy from the advertising medium showing the rate charged the retailer and the amount of money paid for the entire advertising.

C. Invoice of the retailer for the exact amount payable by the manufacturer, wholesaler, or distributor for the exact space and time used for the selected dairy products of the manufacturer, wholesaler, or distributor at the exact rate charged without profit to the retailer.

D. Certificate by the retailer or if the retailer is a corporation by an officer of such corporation that the invoice as submitted conforms to the requirements of items A, B, and C.

Statutory Authority: *MS s 32A.05 subd 3*

History: *17 SR 1279*

1525.0090 APPLICATION OF COOPERATIVE ADVERTISING PROVISIONS.

Part 1525.0080 and this part shall apply to all types and forms of advertising and sales promotions of a selected dairy product in Minnesota and shall include the sale, marketing, and distribution of any selected dairy product, including private brands, private labels, and all other types or forms of sales, marketing, or distribution of any selected dairy product.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0100 DEMONSTRATION TO RETAILER.

A distributor may demonstrate the distributor's own milk, cream, and dairy products to a retailer in accordance with the provisions of this part and parts 1525.0110 to 1525.0140. The distributor may exhibit to the retailer any of the distributor's own milk, cream, and dairy products and discuss such products with the retailer. In addition the distributor may permit the retailer to taste and consume a portion of any such product, provided that: such consumption occurs in the presence of the distributor's representative and at the time of the demonstration; and the size of the portion used in the demonstration is not in excess of a quantity sufficient to acquaint the retailer with the quality of the product involved. As used throughout parts 1525.0100 to 1525.0140, unless the context otherwise requires, the term "retailer" shall include employees of any retailer.

Statutory Authority: *MS s 32A.05 subd 3*

History: *17 SR 1279*

1525.0110 SAMPLE PACKAGE OR CONTAINER.

The distributor shall not give to or leave the retailer or any employee thereof any sample package or container of milk, cream, or dairy product used in a demonstration, but may leave with the retailer the bona fide unused portion from any such package or container which the retailer has tasted but has not consumed completely; provided, however, that such package or container shall not be larger than the smallest customary unit.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0120 APPLICATION OF RULES.

The provisions of parts 1525.0010 to 1525.0460 shall apply with equal force to any milk, cream, or dairy product of a distributor whether such product is in fluid, frozen, packaged, or other form.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0130 DISTRIBUTOR'S EMPLOYMENT OF PROSPECTIVE RETAILER OR RETAILER'S EMPLOYEE OR REPRESENTATIVE.

A distributor may not employ or engage, with or without compensation, a present or prospective retailer or any employee or representative thereof to demonstrate or assist in demonstrating to such retailer or to any other retailer any of the distributor's milk, cream, or dairy products, whether or not such demonstration is performed in a retailer's place of business.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0140 DEMONSTRATION, SAMPLE, OR REBATE.

Except as specifically permitted by these rules, a distributor shall not give to a retailer or prospective retailer, for the purpose of securing or retailing the milk, cream, or dairy products business of such retailer, any demonstration whatever of any milk, cream, or dairy product of the distributor or any sample of any milk, cream, or dairy product or any other product sold by the distributor, or any rebate of any kind. Minnesota Statutes 1961, section 32A.04, and parts 1525.0040 to 1525.0060.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0150 DEMONSTRATION TO CONSUMER BY DISTRIBUTOR.

In accordance with parts 1525.0040 to 1525.0060, and in accordance with this part and parts 1525.0160 to 1525.0190.

The distributor may exhibit to the consumer any of the distributor's own milk, cream, and dairy products and discuss such products with the consumer. In addition the distributor

may permit the consumer to taste and consume a portion of any such product provided that such consumption occurs in the presence of the distributor's representative and at the time of the demonstration, and the size of the portion used in the demonstration is not in excess of a quantity sufficient to acquaint the consumer with the quality of the product involved.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0160 SAMPLE PACKAGE OR CONTAINER.

The distributor shall not give to or leave with the consumer any sample package of milk, cream, or dairy product, but may leave with the consumer the bona fide unused portion in any such package or container which the consumer has tasted but has not consumed completely; provided, however, that such package or container shall not be larger than the smallest customary unit.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0170 APPLICATION OF PROVISIONS.

The provisions shall apply to all consumers whatever, regardless of their location, whether they are retail home consumers or whether they purchase the distributor's products at any kind of store, depot, producer's ranch, or other location. The provisions of these rules shall apply with equal force to any milk, cream, or dairy product of a distributor whether such product is in fluid, frozen, packaged, or other form.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0180 DISTRIBUTOR'S EMPLOYMENT OF PROSPECTIVE RETAILER OR RETAILER'S EMPLOYEE OR REPRESENTATIVE.

A distributor may not employ or engage, with or without compensation, a present or prospective retailer or any employee or representative of the latter to demonstrate or assist in demonstrating to a consumer any of the distributor's milk, cream, or dairy product, whether or not such demonstration is performed in the retailer's place of business.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0190 DEMONSTRATION, SAMPLE, OR REBATE.

Except as specifically permitted by these rules, a distributor shall not give to a consumer, for the purpose of securing or retaining the milk, cream, or dairy product business of a consumer, any demonstration whatever of any milk, cream, or dairy product of the distributor, or any sample of any milk, cream, or dairy product or any other product sold by the distributor, or any rebate of any kind. Minnesota Statutes 1961, section 32A.04, subdivision 1, clause (1); and parts 1525.0040 to 1525.0060.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0200 SALE UNDER PRIVATE LABEL OR BRAND NAME.

The sale of any selected dairy product under a private label or brand name where the particular selected dairy product is of the same kind, quality, size, weight, and packaging as a like product of the manufacturer, wholesaler, or distributor supplying such product to the retailer for resale at a price less than that charged by the manufacturer, wholesaler, or distributor for the same selected dairy product when sold under the trademark, trade name, brand, or name of the manufacturer, wholesaler, or distributor packaging for or selling such selected dairy product to the retailer for resale under a private label or brand name shall be deemed a method or device intending to defeat the policy of the act or to defeat or evade the provisions of the act or this part. No price differential except those based on filed cost justification will be recognized or accepted by the commissioner on any price schedule for any type or class of selected dairy product where the sole basis of differentiation in price for such selected dairy product is the private label, trademark, trade name, or other identifying designation of the purchaser acquiring such selected dairy product for resale at retail.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0210 PRICES FILED.

All manufacturers, wholesalers, or distributors selling at wholesale to retailers shall file one price schedule as required by the Minnesota Dairy Industry Unfair Trade Practices Act

which shall be the highest price at which any selected dairy product shall be sold at wholesale to retailers within the state of Minnesota by such manufacturer, wholesaler, or distributor. A manufacturer, wholesaler, or distributor may meet a bona fide competitive price in any area which is less than such manufacturers, wholesalers, or distributors filed price schedule. Such sale at less than the price schedule shall be reported as a deviated sale to this department.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0220 REPORT OF DEVIATED SALE.

Reports of deviated sale made under Minnesota Statutes 1961, section 32A.06, subdivision 4, shall be made only on the prescribed forms furnished by the commissioner. Price schedules do not constitute a report of deviated sales and shall not be accepted as such.

If a sale of selected dairy products is made by a manufacturer, wholesaler, or distributor at other than its filed price, a report of deviated sales must be filed with the commissioner of agriculture. When a manufacturer, wholesaler, or distributor does not have evidence of a price or condition at which selected dairy products are being sold at wholesale to retailers and before a manufacturer, wholesaler, or distributor shall sell at any price other than the price on file and of record in the department of agriculture, such manufacturer, wholesaler, or distributor may contact the office of the commissioner of agriculture to determine whether or not there is a legal price or condition to which a deviation may be made. The department of agriculture will immediately upon receipt of such an inquiry, determine whether or not there is a legal price or condition to which a deviation may be made, and inform the inquiring manufacturer, wholesaler, or distributor the price or condition to which a deviation may legally be made.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0230 CONTENTS OF REPORT OF DEVIATED SALE.

Reports of deviated sales shall show the name and address of the retailer purchasing the selected dairy product from the manufacturer, wholesaler, or distributor who has made such deviated sale. The report shall also show the name and address of the competitor whose competition is being met and what the competitive price is. If a manufacturer, wholesaler, or distributor is deviating to a lawful competitive condition, the report shall precisely state the nature and details of that condition.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0240 FAILURE TO REPORT DEVIATIONS IN SALES PRICE.

Failure to report deviations in sales price in accordance with the provisions of Minnesota Statutes 1961, section 32A.06, subdivision 4, parts 1525.0220, 1525.0230, and this part shall be deemed a method or device intending to defeat the policy of the act or to defeat or evade the provisions of the act or parts 1525.0220, 1525.0230, or this part and shall be deemed an unfair trade practice. A report of deviated sales form prescribed by the commissioner shall provide two boxes which may be checked by the reporting party. Box No. 1 will indicate individual deviated sale. Box No. 2 will indicate continuing deviated sales. Continuing deviated sales will be recognized by the commissioner as satisfying the reporting requirements under the law for a period of 180 days from and after the date of the report form. After the expiration of the 180 day period, continuing deviated sales must again be reported provided, however, that if any time during said 180 day period the competitive price or competitive condition is changed or terminated, the manufacturer, distributor, or wholesaler filing the report of continuing deviated sale must return to the filed price or file a new report of deviated sale if a competitive price or condition exists to which the manufacturer, distributor, or wholesaler may lawfully deviate.

Statutory Authority: *MS s 32A.05 subd 3*

History: *17 SR 1279*

1525.0250 MEETING COMPETITION BY A DISTRIBUTOR.

A distributor who meets or has met in good faith a lawful competitive price or a lawful competitive condition relating to selected dairy products shall file with the commissioner information detailing the circumstances surrounding the lawful competitive price or condition.

Such information shall include the name and address of the distributor, the name and address of the customer involved, the competitive price or condition met, the effective date of such price or condition, and the name and address of the distributor whose price or condition is being met. If such information is accompanied by a written statement from the customer that such competitive price or condition has been offered or made available to the customer, such statement shall be considered by the commissioner as evidence that a distributor is meeting such competitive price or condition in good faith. Minnesota Statutes 1961, section 32A.04, subdivision 1, paragraph (n).

Statutory Authority: *MS s 32A.05 subd 3*

History: *17 SR 1279*

1525.0260 EQUIPMENT.

Every manufacturer, wholesaler, or distributor shall report within 24 hours on forms furnished by the commissioner the installation of any equipment for display or sale of selected dairy products furnished to a retailer by the manufacturer, wholesaler, or distributor, or by any other person at the request of or for the account of a manufacturer, wholesaler, or distributor.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0270 STORAGE EQUIPMENT.

Minnesota Statutes, section 32A.08, subdivision 2, permits the furnishing of storage equipment where such equipment is used exclusively for the storage of selected dairy products. To comply with the Minnesota Dairy Industry Unfair Trade Practices Act, a wholesaler must limit the size or capacity of any storage equipment furnished to a retailer to a size or capacity reasonably required, taking into consideration the volume of selected dairy products sold by such retailer, the schedule of deliveries and any other information pertinent to show the size or capacity required to reasonably satisfy the needs of such retailer.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0280 EXAMINATION OF STORAGE EQUIPMENT.

To determine whether or not the size or capacity of the storage equipment furnished is reasonable, a representative of the Department of Agriculture, dairy industry section, will examine the storage equipment to determine whether or not there is compliance. Providing such examination discloses that the storage equipment is being used by the retailer for storage of commodities other than the selected dairy products manufactured or distributed by the wholesaler, such manufacturer, wholesaler, or distributor will be notified of such fact. Upon such notification by the Department of Agriculture the manufacturer, wholesaler, or distributor shall immediately see that any unauthorized use of the storage equipment is discontinued. In the event it is not discontinued, the manufacturer, wholesaler, or distributor shall sell the storage equipment to the retailer or bring an action to repossess. In all cases, storage equipment furnished by the manufacturer, wholesaler, or distributor to a retailer shall be plainly marked in a conspicuous place with the name of the owner and the limitations on the use of such equipment as provided in the Minnesota Dairy Industry Unfair Trade Practices Act.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0290 NOTICE OF INSTALLATION OF REFRIGERATION FACILITIES.

Any distributor furnishing refrigeration facilities to a retailer free of charge, pursuant to the act, shall file within 24 hours after the installation of such facilities a notice of such installation on forms furnished by the commissioner. Minnesota Statutes 1961, section 32A.08, subdivision 2.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0300 REMOVAL OF REFRIGERATION FACILITIES.

If after investigation by the commissioner or the commissioner's agents it is determined that such refrigeration facilities are installed or used in violation of the act, the distributor shall be notified in writing of such fact and the commissioner may commence proceedings to issue a cease and desist order. Minnesota Statutes 1961, section 32A.08, subdivision 2.

Statutory Authority: *MS s 32A.05 subd 3*

History: *17 SR 1279*

1525.0310 LOANS.

No distributor shall make, extend, or renew any money loans to any retailer or prospective retailer. Minnesota Statutes 1961, section 32A.04, subdivision 1, paragraphs (c) and (j).

Statutory Authority: *MS s 32A.05 subd 3*

1525.0320 PROHIBITED FINANCIAL ACCOMMODATIONS.

No distributor shall provide financial accommodations to a customer by guaranteeing the payment of any obligation of any customer or by acting as a cosigner on a promissory note or other obligation of such customer or by depositing money or collateral with persons or organizations in order that such persons or organizations will lend money or extend credit to any retailer. Minnesota Statutes 1961, section 32A.04, subdivision 1, paragraph (d).

Statutory Authority: *MS s 32A.05 subd 3*

1525.0330 MAKING LOAN TO CUSTOMER.

No distributor shall acquire any promissory note, bond, stock, debenture, mortgage, deed or trust, or any indebtedness of any retailer, where such acquisition constitutes making a loan to a customer. Minnesota Statutes 1961, section 32A.04, subdivision 1, paragraph (f).

Statutory Authority: *MS s 32A.05 subd 3*

1525.0340 LIMITATION OF CREDIT.

No distributor shall extend credit to a retailer in excess of the limitation provided in Minnesota Statutes 1965, section 32A.04, subdivision 1, paragraph (g).

The giving of any promissory note does not constitute payment within the meaning of this part. Minnesota Statutes 1965, section 32A.04, subdivision 1, paragraph (g).

Statutory Authority: *MS s 32A.05 subd 3*

1525.0350 DEFAULT OF OBLIGATIONS.

A distributor shall immediately place upon a cash basis any retailer who has failed to pay for any delivery of any dairy products within 40 days after delivery, or is in default for 40 days in any other obligations to such distributor. Minnesota Statutes 1961, section 32A.04, subdivision 1, paragraph (g).

Statutory Authority: *MS s 32A.05 subd 3*

1525.0360 LIMITATION OF CREDIT ON OTHER MERCHANDISE.

A distributor shall not extend credit to a retailer on merchandise other than dairy products except as provided in section 32A.07 on more favorable terms and conditions than those extended by comparable sellers of such merchandise to comparable buyers of such merchandise in the same area who do not have the relationship between them of distributor and retailer, as said terms are defined in the act. Minnesota Statutes 1961, section 32A.04, subdivision 1, paragraph (c).

Statutory Authority: *MS s 32A.05 subd 3*

1525.0370 TRANSFER OF RETAILER ACCOUNTS.

In the transfer of a retailer's account from one distributor to another, the distributor accepting the account may assume the retailer's obligations to the other distributor. Whether or not the new supplier assumes such obligation, the new supplier may thereafter extend credit to the retailer only if such credit extension, together with the obligation to the prior supplier does not exceed the limitations set forth in the act. Minnesota Statutes 1961, section 32A.04, subdivision 1, paragraph (c).

Statutory Authority: *MS s 32A.05 subd 3*

History: *17 SR 1279*

1525.0380 ALLOWANCE FOR TRADE IN EQUIPMENT OR PROPERTY.

In accepting any equipment or property from a retailer in part payment of any equipment, a distributor shall not give an allowance or credit in excess of the fair market value of such equipment or property. Minnesota Statutes 1961, section 32A.04, subdivision 1, paragraph (b).

Statutory Authority: *MS s 32A.05 subd 3*

1525.0385 PROHIBITION AGAINST GIFTS AND FREE SERVICES.

No distributor shall give any free gifts or free services to customers or prospective customers for the purpose of securing or retaining their milk, cream, or dairy products business. "Gifts and free services" include, but are not limited to the following (Minnesota Statutes 1961, section 32A.04, subdivision 1, paragraph (1):

A. preparation of tax returns (Minnesota Statutes 1961, section 32A.04, subdivision 1, paragraph (c);

B. taking of inventory of the customer (Minnesota Statutes 1961, section 32A.04, subdivision 1, paragraph (c); and

C. stocking grocer shelves with products other than those distributed by the distributor (Minnesota Statutes 1961, section 32A.04, subdivision 1, paragraph (c).

The usual holiday remembrances are not prohibited providing such remembrances are not used to discriminate and such remembrance has a reasonable cost and is in conformity with usual practice. Minnesota Statutes 1961, section 32A.04, subdivision 1, paragraph (c).

Statutory Authority: *MS s 32A.05 subd 3*

1525.0390 TIE IN SALES.

No distributor shall offer or extend to any retailer or consumer any special service or any variance from the wholesale price schedule for dairy products or any special price for any dairy product or other commodity wherein such special service, wholesale price variance, or special price is conditioned upon or is to be effective only upon the securing or retaining of selected dairy products business. Minnesota Statutes 1961, section 32A.04, subdivision 1, paragraph (m).

Statutory Authority: *MS s 32A.05 subd 3*

History: *17 SR 1279*

1525.0400 DEVICE OR METHOD TO DEFEAT ACT.

Minnesota Statutes, section 32A.04, subdivision 1, paragraph (m), prohibits the use of any device or method in the sales of selected dairy products intending to defeat the policy of the act or to defeat or evade any provision, order, or ruling issued by the commissioner thereunder.

The question as to whether or not the scheme and device is adopted and used for the prohibited purpose will be based upon the net return of the manufacturer, wholesaler, or distributor from the sale of such selected dairy products. Where a lease or other agreement is entered into with a retailer and the net return to the manufacturer is less after taking into consideration all of the additional expenses in connection with the retail sale and distribution of such products is less than the posted and filed price, the scheme or device used by such manufacturer, wholesaler, or distributor shall be considered to be for the prohibited purpose.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0410 PROHIBITED PRACTICES.

No distributor shall engage in any of the following practices in connection with the sale of selected dairy products: the extension of any services or special prices on any commodity or product to customers who purchase selected dairy products from the said distributor, which services or prices are not extended to other customers. Minnesota Statutes 1961, section 32A.04, subdivision 1, paragraph (n).

Statutory Authority: *MS s 32A.05 subd 3*

1525.0420 VIOLATIONS BY OR THROUGH SUBSIDIARY OR AFFILIATE CORPORATION.

A manufacturer, wholesaler, distributor, or retailer shall be considered to have violated the provisions of the act and the rules promulgated by the commissioner by engaging in such violations either directly or indirectly or by or through any subsidiary or affiliate corporation or by any officer, director, stockholder, employee, partner, agent, or representative. For the purpose of this rule, a "subsidiary or affiliated corporation" includes but is not limited to a company or corporation controlled either directly or indirectly by a manufacturer, wholesaler,

er, distributor, or retailer involved in any such violation whether through ownership of capital stock, accumulative voting rights, voting trust agreements, or by any other plan, agreement, or device.

Statutory Authority: *MS s 32A.05 subd 3*

1525.0430 RETENTION OF DOCUMENTS.

A distributor shall keep on file a copy of each contract of sale, deed of trust, mortgage, lease agreement, and any other document executed in connection with the sale or lease of real property to a retailer for a period of two years after the expiration of the lease or the payment of the purchase price. Minnesota Statutes 1961, sections 32A.04, subdivision 1, paragraph (b), and 32A.07, subdivision 1, paragraph (a).

Statutory Authority: *MS s 32A.05 subd 3*

1525.0440 CONFIDENTIALITY OF RECORDS AND REPORTS.

Any record or report made to the commissioner pursuant to the provisions of Minnesota Statutes 1965, section 32A.06, or any information secured by any employee of the department while engaged in performing duties shall be confidential and shall not be divulged except when necessary for the proper determination of any court proceeding or investigational hearing before the commissioner.

Statutory Authority: *MS s 32A.05 subd 3*

History: 17 SR 1279

1525.0450 MEETING COMPETITION BY RETAILER.

Failure to notify the commissioner before reducing a price to meet competition shall be evidence of not acting in good faith to meet legal competition. However, a retailer may meet any retail price for selected dairy products and frozen foods advertised or offered by a competitor if such retailer notifies the commissioner or the commissioner's duly authorized representative before meeting such price and is not notified by the commissioner at once of the fact that such price being met is illegal.

Statutory Authority: *MS s 32A.05 subd 3*

History: 17 SR 1279

1525.0460 JOBBER OR DISTRIBUTOR.

Minnesota Statutes, section 32A.04, prohibits the use of any scheme or device as stated in part 1525.0400. The commissioner of the department of agriculture has the responsibility to determine in every case where the sale by a manufacturer of selected dairy products is through a wholesaler or distributor. Such sales must conform to the Minnesota Dairy Industry Unfair Trade Practices Act and to other acts prohibiting discrimination or any other unfair trade practices. Every manufacturer shall file with the department a list of the wholesalers and distributors selling at wholesale to retailers selected dairy products packaged by such manufacturer. The commissioner shall verify the bona fides of all such transactions to determine whether or not they are a scheme or device for the purpose of evading the requirements of the Minnesota Dairy Industry Unfair Trade Practices Act or any other Minnesota laws.

Statutory Authority: *MS s 32A.05 subd 3*

DAIRY INDUSTRY

1525.0470 BEVERAGES COMPOSED OF MILK PRODUCTS AND FLAVORINGS.

A beverage composed of milk, cream, skimmed milk, or buttermilk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated or any of the fluid derivatives of any of them, to or with which has been added chocolate or cocoa or a mixture of both, with or without sugar, dextrose, corn syrup or corn syrup solids, shall bear a plain and conspicuous statement of percentage of milk fat present; provided, that a milk beverage to which chocolate or cocoa flavoring has been added shall contain not less than 3.25 percent milk fat, which milk fat content need not appear on the label. A product of this type cannot be sold under a name suggestive of whole milk and chocolate unless it is composed of these ingredi-

ents. A beverage containing a substantial portion of cocoa may be labeled "Chocolate Flavored."

Statutory Authority: *MS s 31.101; 32.021*

1525.0480 CONTROL OF MILK AND FLUID MILK PRODUCTS SERVED, SOLD, LABELED, BOTTLED.

All milk and cream and products derived therefrom, served or sold at a restaurant, hotel, lunch counter, or in any public eating place whatever, shall be considered as coming under the provisions of the dairy and food law and rules and standards effective thereunder.

Statutory Authority: *MS s 31.101; 32.021*

1525.0490 CREAM.

All cream, whether served separately or with coffee, cereal, or fruit or as a part of a meal or upon an order for cream, and whether the word "cream" be named on the bill of fare or not, shall be considered as coming under the provisions of the dairy and food law and rules and standards effective thereunder.

Statutory Authority: *MS s 31.101; 32.021*

1525.0500 MILK OR CREAM SERVED WITH MEAL.

Milk or cream served with a meal without additional charge is sold as part of the meal and therefore comes within the provisions of the dairy and food law and rules and standards effective thereunder.

Statutory Authority: *MS s 31.101; 32.021*

1525.0510 [Repealed, 13 SR 980]

1525.0520 [Repealed, 13 SR 980]

1525.0530 PASTEURIZED MILK, CREAM, OR FLUID MILK PRODUCTS.

All milk, cream, or fluid milk products which have been pasteurized in accordance with the provisions of Minnesota Statutes, sections 32.392 to 32.395, and acts amendatory thereof shall be bottled at the plant of pasteurization and shall bear a label declaring same to be pasteurized together with the name of the product and the name and address of the pasteurizer and bottler. Net contents shall be stated on the label unless it appears elsewhere on the container.

Statutory Authority: *MS s 31.101; 32.021*

1525.0540 ESTABLISHMENTS SELLING OR SERVING MILK OR MILK PRODUCTS.

Hotels, soda fountains, restaurants, groceries, and similar establishments selling or serving any milk or milk product shall sell or serve it in the original container in which it was received from the distributor or from an approved bulk container which has its cover sealed in place at two points spaced at 180 degrees by use of two seals embossed with the identity of the plant where filled and which is equipped with an approved dispensing device that thoroughly and automatically mixes the product each time it is dispensed, unless the product is homogenized; provided, that this requirement shall not apply to cream consumed on the premises, which may be served from the original bottle or from a dispenser approved by the commissioner for such purpose. Skim milk served from such a dispenser is exempt from the homogenization and mixing requirements.

Statutory Authority: *MS s 31.101; 32.021*

1525.0550 [Repealed, 13 SR 980]

1525.0560 ICE CREAM PRODUCTION REPORTS.

Every person manufacturing ice cream and frozen desserts under a license or certificate of registration issued by the commissioner shall on or before March 1 of each year and at such other time as the commissioner may fix, send to the commissioner a full and accurate report of the amount of business done during the year preceding, together with such statistical information as the commissioner may require.

Statutory Authority: *MS s 31.101; 32.021*

History: 17 SR 1279

1525.0570 ICE CREAM FLAVORED WITH ARTIFICIAL OR SYNTHETIC FLAVORS OR FRUIT ETHERS.

Ice cream flavored with artificial or synthetic fruit flavors or fruit ethers to imitate natural fruit, as strawberry, banana, pineapple, etc., is not fruit ice cream and is misbranded if sold under a name implying the presence of fruit.

Statutory Authority: *MS s 31.101; 32.021*

1525.0580 ICE CREAM FLAVORED WITH ARTIFICIAL OR SYNTHETIC FLAVOR.

Ice cream flavored with an artificial or synthetic flavor to imitate a natural flavor is misbranded if sold under a name implying that the product is a natural flavored ice cream.

Statutory Authority: *MS s 31.101; 32.021*

1525.0585 CALCULATION OF OVERRUN IN MANUFACTURE OF BUTTER.

The amount of overrun is the difference between the amount of pure butterfat and the amount of butter manufactured from that given amount of fat. This difference, divided by the amount of fat and multiplied by 100, will give the percentage of overrun. The calculation of the overrun in the creamery should always be made from the fat basis on which the patrons are being paid and from the butter sold.

Statutory Authority: *MS s 31.101; 32.021*

1525.0590 CONTAINERS FOR DRY MILK PRODUCTS.

All dry milk products intended for human consumption shall be packed at the time and place of manufacture in new wooden barrels or metal drums or such other containers as may be approved by the commissioner of agriculture, providing equal protection and of such character as to prevent contamination by dust and dirt or the absorption of moisture and foreign odors. All such containers shall be properly lined and sealed. All barrels shall be properly headed. All drums shall have a tight fitting cover. Burlap bags shall not be used for marketing dry milk products for human consumption.

Statutory Authority: *MS s 31.101; 32.021*

1525.0600 LABEL AND FACTORY OR PLANT IDENTIFICATION NUMBER.

Packages and containers used for marketing all dried dairy products for human consumption shall bear a label giving the following information: name of product; statement indicating process by which product was manufactured such as "spray," "vacuum drum," or "roller;" statement of net weight; and the name and address of the manufacturer, jobber, or distributor. Each and every barrel or package must bear on the side of the barrel or package near the top in such position that it will not be destroyed when the container is opened, a factory or plant identification number of the manufacturer that has been assigned by the department of agriculture. All bags and packages containing dried skimmed milk, dried buttermilk, or dried whey not manufactured for human consumption and not meeting specific standards for human consumption shall be stenciled in bold faced type not less than one inch in height, "For Animal Food."

Statutory Authority: *MS s 31.101; 32.021*

1525.0610 PERMIT AND PLANT IDENTIFICATION NUMBER.

No person, partnership, corporation, or association shall manufacture dry milk products for human consumption without first having obtained a permit therefor from the commissioner of agriculture. Any person, partnership, corporation, or association desiring to manufacture dry milk products for human consumption shall apply to the commissioner of agriculture for a permit for each plant or establishment in such form as may be required by said commissioner. On finding that the applicant maintains a proper place and sanitary equipment, the commissioner shall issue to the applicant a permit therefor and assign a plant identification number to each such plant.

Statutory Authority: *MS s 31.101; 32.021*

History: *17 SR 1279*

1525.0620 REUSE OF BUTTER TUBS AND CONTAINERS AND CHEESE BOXES.

All butter tubs and containers and cheese boxes that have been used as containers for butter and cheese, before being used again in the marketing or transporting of butter and

cheese, shall be reconditioned so as to be in good repair, clean and sanitary, and free from adhering material, objectionable odors, and mold.

Statutory Authority: *MS s 31.101; 32.021*

1525.0630 INVOICES.

Every person who buys or receives any used butter tubs or containers and cheese boxes for the reuse of the same for their original purpose shall keep available for inspection by the department all invoices of all used butter tubs and containers and cheese boxes bought or received.

Statutory Authority: *MS s 31.101; 32.021*

History: 17 SR 1279

1525.0640 CANS USED FOR MILK AND CREAM.

The cans ordinarily used for the hauling of milk and cream from the farm to a dairy plant shall not be used for hauling or delivering of skimmed milk, buttermilk, or whey from a dairy plant to the farm. Farmers and producers shall equip themselves with extra cans or other containers for the above mentioned purpose. Cans used for handling milk and cream should not be used for other purposes.

Statutory Authority: *MS s 31.101; 32.021*

1525.0650 LABELING OF DAIRY PRODUCTS.

All bottles, cans, packages, and other containers enclosing dairy products shall, in addition to other required information, be labeled plainly with the name and address of the manufacturer or distributor. When the name and address of the distributor appears on the label, it shall be identified as such. The identity of the manufacturer also shall be given. By identity of the manufacturer is meant: the actual name and address of the manufacturer, or an identification code or number consisting of the number from the IBM Numerical Code of States representing the state of origin followed by a hyphen and the plant number corresponding to a permanent list of numbers assigned by the state regulatory agency having jurisdiction.

Statutory Authority: *MS s 31.101; 32.021*

1525.0660 FURTHER PROCESSING OR PACKAGING.

If a dairy product is removed from the container in which it was placed by the manufacturer for further processing or packaging by another dairy plant, the identity of the dairy plant performing such further processing and packaging shall be given in lieu of the identity of the manufacturer on all labels bearing the name and address of a distributor. Such number may be printed, embossed, or stamped on the container. If the manufacturer cannot be identified because of misuse of the identity code, the product shall be deemed to be misbranded.

Statutory Authority: *MS s 31.101; 32.021*

1525.0661 DAIRY INSPECTION FEES.

Subpart 1. Purpose; authority. The purpose of this part is to set dairy inspection service fees for Grade A dairy plant inspection, Grade A dairy farm inspection, and farm certification inspection for other than Grade A pursuant to Minnesota Statutes, section 32.394, subdivisions 8 and 8b.

Subp. 2. Fees. The fees for annual inspection by the commissioner of agriculture for Grade A dairy plants, Grade A dairy farms, and farm certification for other than Grade A are as follows:

- A. Grade A dairy plant inspection, \$400;
- B. Grade A dairy farm inspection, \$50; and
- C. Farm certification inspection for other than Grade A, \$25.

These fees are payable to the commissioner within 30 days of receipt of an invoice requesting payment.

Statutory Authority: *MS s 32.394*

History: 8 SR 1948

DAIRY PLANTS

1525.0670 SANITATION REQUIREMENTS.

No dairy product, goat milk, or frozen food or mix or mix base therefor, as defined in Minnesota Statutes, chapter 32, or in rules promulgated thereunder, may be processed or manufactured in this state unless plans showing the details of the plant, location of equipment and water supply and plumbing systems connected with such plant shall have been submitted to and approved by the commissioner of agriculture and are on file in the commissioner's office.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

History: *17 SR 1279*

1525.0680 CONSTRUCTION OR ALTERATION OF PLANTS.

All construction or alteration of such 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.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

History: *17 SR 1279*

1525.0690 INSTRUCTIONS FOR PREPARING AND SUBMITTING PLANS.

In order to promote uniformity of compliance, the commissioner shall make available instructions for preparing and submitting such plans.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0700 DAIRY PRODUCT.

The term "dairy product" as used hereinafter, shall mean and include milk, goat milk, milkfat or butterfat, cream, homogenized cream, sour cream, cultured cream, light cream, coffee cream, table cream, whipped light cream, coffee cream or table cream, whipping cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, half and half, sour half and half or cultured half and half, concentrated and dried milk products, dry milk or dry milk solids, nonfat dry milk or dried skim milk or skim milk powder, instant nonfat dry milk, condensed skim milk or evaporated skim milk, concentrated skim milk, sweetened condensed skim milk, dry buttermilk, dry whey, malted milk or powdered malted milk, evaporated milk, concentrated milk or plain condensed milk, sweetened condensed milk, condensed milk which contains corn sirup, evaporated cream or clotted cream, fluid milk products containing less than 3.25 percent milkfat, lowfat milk, skim milk, nonfat milk, buttermilk, flavored milk products, chocolate flavored milk, chocolate flavored lowfat milk, chocolate flavored skim milk or chocolate flavored drink, chocolate flavored reconstituted milk, chocolate flavored reconstituted lowfat milk, chocolate flavored reconstituted skim milk or chocolate flavored reconstituted drink, eggnog, eggnog flavored milk, eggnog flavored lowfat milk, eggnog flavored skim milk, cultured milk products, cultured buttermilk, cultured milk or cultured whole milk buttermilk, cottage cheese, creamed cottage cheese, fortified milk and milk products, vitamin D milk and milk products, vitamin and/or mineral fortified milk products, reconstituted milk products, reconstituted milk, reconstituted cream, reconstituted skim milk, sterilized milk or milk products, homogenized milk or milk products, concentrated milk and milk products, acidified milk and milk products, butter, cheese, frozen foods, frozen food mix, frozen food mix base, whey, condensed whey, and any other product made by the addition of any approved substance to any of these dairy products and used for similar purposes and which, when designated as a dairy product by the commissioner, is known by its common or designated name.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0710 COLIFORM STANDARD.

The coliform standard, but not the standard plate count standard, for milk and fluid milk products set forth in Minnesota Statutes, chapter 32, shall apply to cottage cheese, creamed cottage cheese, and all other cultured dairy products.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0720 ITEMS OF SANITATION.

Dairy plants shall conform to all of the items of sanitation described below; provided, that receiving stations shall conform to the requirements of parts 1525.0730 to 1525.1030, 1525.1110 to 1525.1130, 1525.1200 and 1525.1260 to 1525.1370, and to 1525.1360 and 1525.1370, except that the partitioning requirements of parts 1525.0770 to 1525.0830 shall not apply; provided further, that transfer stations shall comply with parts 1525.0730, 1525.0760 to 1525.1010, 1525.1030, 1525.1200, and 1525.1260 to 1525.1370 and to 1525.1360 and 1525.1370; and as climatic and operating conditions require, the applicable provisions of parts 1525.0740 and 1525.0750; provided, that in every case, overhead protection shall be provided.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0730 FLOORS.

The floors of all rooms in which dairy products are handled or stored or in which utensils are washed, but not including rooms in which packaged dry milk products are stored, shall be constructed of concrete or other equally impervious and easily cleanable material and shall be smooth, sloped to drain properly, properly drained, provided with trapped drains which are so constructed that clogging is minimized and so installed and operated that no sewage can back up and flood the floor and shall be kept clean and in good repair; provided, that cold storage rooms need not be equipped with drains; provided further, that in frozen foods plants which purchase and freeze mix or mix base for sale only at retail on the premises, the construction requirements of this part shall be waived if the portion of the room in which the freezer is installed and the room in which containers or utensils are washed have impervious floors or solid floors covered with tightly sealed, approved, washable material. Floors of rooms used for storage of packaged dry milk products shall be kept clean, dry, and in good repair.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0740 WALLS AND CEILINGS.

Walls and ceilings of rooms in which dairy products or their ingredients are handled or stored or in which containers or utensils are washed, shall have smooth, washable, light colored surfaces constructed of cement plaster or other equally impervious material and shall be kept clean and in good repair; provided, that in frozen foods establishments which purchase and freeze mix or mix base for sale only at retail on the premises, the construction requirements of this part shall be waived if the walls and ceilings have smooth, washable, light colored surfaces and are kept clean and in good repair. The construction requirements for the walls and ceilings of storage rooms for packaged dry milk products are waived, but such walls and ceilings shall be kept clean and in good repair.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0750 DOORS AND WINDOWS.

Unless other effective means are provided to prevent the access of flies, all openings to the outer air shall be screened effectively and doors shall be self closing. Doors shall not lead directly from the outdoors into the rooms where pasteurization, cooling, freezing, packaging, or other processing are performed except as provided under the exception for part 1525.0780.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0760 LIGHTING AND VENTILATION.

All rooms in which dairy products or their ingredients are handled or stored or in which utensils are washed, shall be provided with adequate natural or artificial light or both and all such rooms shall be ventilated so as to avoid odors, dust, and excessive moisture conditions.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0770 MISCELLANEOUS PROTECTION FROM CONTAMINATION.

The various plant operations shall be located and conducted so as to prevent any contamination of the dairy products, their ingredients, cleaned equipment or containers. All

means necessary for the elimination of flies, other insects, and rodents shall be used. Only insecticides and rodenticides approved by the commissioner for use in food plants may be used.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0780 SEPARATE ROOMS.

Subpart 1. Operations. To aid in the prevention of contamination, there shall be separate rooms for:

- A. the receiving of raw milk and fluid milk products;
- B. the pasteurizing, processing, cooling, freezing, and packaging operations;
- C. the processing and packaging of dry milk products; and
- D. the washing and bactericidal treatment of containers for pasteurized products.

Subp. 2. Exceptions. Provided that subpart 1, item A, may be satisfied if raw milk or fluid milk products:

- A. are conducted through sanitary piping directly from tank transports into storage tanks or pasteurization vats located in the processing room;
- B. are received into a separate room in producer cans, dumped into a receiving vat, and pumped into storage vats or pasteurization vats located in the processing room; or
- C. are received into a room separate from the processing room in containers other than producers' cans and then dumped directly or conducted through sanitary piping, into storage tanks or pasteurization vats located in the process room.

Subp. 3. Frozen food establishments. Provided further that in frozen food establishments which purchase and freeze mix or mix base for sale only at retail on the premises and in which the freezing equipment is located in a room to which the public has access, subpart 1, item B, may be satisfied if all the mixing, freezing, and packaging processes, but not necessarily the hardening and storage compartments, are enclosed or protected by a tight glass or other sanitary enclosure which is open only on the side farthest from the public and which has a dust tight top extending over the entire freezer, or a shield which protects the freezer openings from dust, drip, droplet, and other contamination.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0790 DUST TIGHT PANELS.

In frozen food establishments which purchase and freeze mix and mix base for sale only at retail on the premises and in which the freezing equipment is located in a room not accessible to the public but from which the public is served through service openings, such openings shall be provided with movable or hinged dust tight panels which are to be opened only during use for service.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0800 UNLOADING OF CONTAINERS.

Containers of ingredients for frozen foods shall not be unloaded directly into the room or rooms used for pasteurization and subsequent processes.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0810 USES OF PLANT CONTAINERS, UTENSILS, AND EQUIPMENT.

The plant containers, utensils, and equipment used for pasteurization, handling, storage, or manufacturing of dairy products or their ingredients shall be used for no purpose other than said pasteurization, handling, storage, or manufacturing and the operations incident thereto, except as may be approved by the commissioner.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0820 HANDLING OR STORAGE ROOMS.

Rooms in which dairy products, cleaned utensils, or containers are handled or stored shall not open directly into any stable or living quarters.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0830 BASEMENT OR BELOW GRADE LEVEL.

Manufacturing processes shall not be conducted in a basement or below grade level; provided, that such processes so located at the time of the adoption of this part shall be al-

lowed to continue in such location, but only as long as flooding or sewer back up does not occur or until major alterations are made.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0840 TOILET FACILITIES.

Every dairy plant shall be provided with toilet facilities conforming to the state plumbing code. No privies or earth closets are permitted. Toilet rooms shall not open directly into any room in which dairy products, their ingredients, equipment, or containers are handled or stored. The doors to all toilet rooms shall be self closing. Toilet rooms shall be kept in a clean condition, in good repair, and shall be provided with mechanical ventilation.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0850 NOTIFICATION OF DISEASE.

Subpart 1. Requirement. A placard containing the "Notification of Disease" in part 1525.0850 instructions and a sign directing employees to wash their hands before returning to work shall be posted in all toilet rooms used by employees.

Subp. 2. Content of notification of disease notice. In order to protect the public health, no person who is affected with any disease in a communicable form or who is a carrier of such disease shall work in any capacity which will bring the person in contact with dairy products, their ingredients, containers, or equipment at any place where dairy products or their ingredients are manufactured, handled, or dispensed.

To further protect the public health, any processor, distributor, or dispenser of dairy products or their ingredients, in whose plant any communicable disease occurs or who suspects that any employee has contracted any disease in communicable form or has become a carrier of such disease, shall notify the agent of a board of health as authorized under Minnesota Statutes, section 145A.04 immediately.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

History: *L 1987 c 309 s 24; 17 SR 1279*

1525.0860 WATER SUPPLY.

The water supply used in the dairy operation shall be easily accessible, adequate, and of a safe sanitary quality and shall comply with the standards for location, construction, and operation prescribed by the Minnesota Department of Health and as adopted by the commissioner of agriculture; provided, that condensing water used only for refrigerator compressors or for milk evaporators may be from unapproved sources when accepted by the commissioner for these uses, but only when the following conditions are met:

A. The unapproved supply system is inaccessible to the approved supply system,
or

B. If the unapproved system cannot be made inaccessible, its entire exposed portion shall be painted a bright color different from the color used on all other piping systems. It shall be plainly labeled with the letter "U," not less than 1-1/2 inches high and one inch wide in a contrasting color, such label to be applied at intervals of approximately eight feet, either directly on the pipe or on substantially constructed signs attached thereto.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0870 SERVICE OUTLETS.

No service outlets shall be installed on the distribution system of the unapproved water supply except connections as are necessary to supply the condensers and compressors with this water.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0880 MILK EVAPORATORS.

The milk evaporators shall be constructed or controlled so as to preclude contamination of the evaporators or their contents by condensing water. The following include accepted means of preventing such contamination, but other means found acceptable to the commissioner are not excluded: use of a surface type condenser in which the condensing water is

separated physically from the vapors and condensate, or use of reliable safeguards to prevent the overflow of condensing water from the condenser into the evaporators which are constructed so as to prevent the entrance of condensing water into the product by splash or entrainment. Such accepted safeguards include: a barometric leg extending at least 35 feet vertically from the invert of the outgoing condensing water line to the free level at which the leg discharges, or a safety shut off valve, located in the water feed line to the condenser, automatically actuated by a control which will shut off the inflowing water when the water level rises above a predetermined point in the condenser. This valve may be actuated by water, air, or electricity and shall be designed so that failure of the primary motivating power will stop automatically and immediately the flow of water into the condenser.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0890 CONNECTION OF CONDENSER TO SEWER LINE.

No condenser shall be connected directly to a sewer line unless such sewer line is suitably vented to prevent back siphonage, is properly trapped, and is equipped with a check valve to prevent backflow.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0900 SUSPENSION OF ACTIVITIES.

If at any time it is found that a water supply for a condenser is gaining entrance to the product or that unapproved water is being used in the dairy plant for any purpose other than authorized herein, the plant operator may be required to suspend operations until the defect is remedied.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0910 HAND WASHING FACILITIES.

Hand washing facilities, including hot and cold or warm running water, soap, and approved sanitary towels, shall be provided and shall be convenient to all operations. Lavatories shall be vented and shall have permanent sewer connections. Hand washing facilities shall be kept clean. The use of a common towel is prohibited. No employee shall resume work after using the toilet without first washing his or her hands.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

History: *17 SR 1279*

1525.0920 SANITARY PIPING.

All piping used to conduct dairy products and their ingredients shall be "sanitary milk piping" of a type which has been approved by the commissioner and which can be cleaned easily. Pasteurized milk and milk products shall be conducted from one piece of equipment to another only through sanitary milk piping.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0930 CONSTRUCTION AND REPAIR OF CONTAINERS AND EQUIPMENT.

All multiuse containers and equipment with which dairy products come in contact shall be of smooth, impervious, noncorrodible, nontoxic material, shall be constructed and located so as to be cleaned easily and shall be kept in good repair.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0940 COMPLIANCE.

All such multiuse containers and equipment which are purchased after the adoption of parts 1525.0670 to 1525.1350 shall be considered to be in compliance with parts 1525.0670 to 1525.1350 if they conform to the sanitary design and construction standards of the existing 3A Sanitary Standards or their equivalent, Serial Nos. 0100-2600, together with 3A Accepted Practices for the Sanitary Construction, Installation, Testing and Operation of High Temperature Short Time Pasteurizers, Revised, dated July 11, 1966, which have been formulated by International Association of Milk, Food and Environmental Sanitarians, United States Public Health Service and the Dairy Industry Committee and which are adopted by the commissioner of agriculture.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0950 SINGLE SERVICE ARTICLES.

All single service containers, closures, gaskets, and other single service articles used shall have been manufactured, packaged, transported, and handled in a sanitary manner.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0960 SURROUNDINGS FOR PLUMBING AND DISPOSAL OF WASTES.

All wastes shall be disposed of properly. All plumbing and equipment shall be designed and installed so as to prevent contamination of the water supply, dairy products, and dairy product equipment by backflow, leakage, or condensation. The immediate surroundings of the dairy plant shall be kept in a neat, clean condition. No trash nor garbage shall be present on the plant premises except in fully covered containers.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0970 SURFACE AREAS FOR LOADING OR UNLOADING OF TANK TRUCKS OR TANK CARS.

The surface areas where tank trucks or tank cars are loaded or unloaded at dairy plants shall be constructed of concrete or equally impervious material, shall be smooth, shall be sloped to drain properly, and shall be kept clean and in good repair. If product spillage is such that frequent flushing becomes necessary for its removal, such spillage and flushings shall be drained into a proper trapped drain connected to a sanitary sewer.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0980 CLEANING AND BACTERICIDAL TREATMENT OF CONTAINERS AND EQUIPMENT.

All dairy product containers and equipment, except single service containers, shall be cleaned thoroughly after each usage. All such cleaned containers and equipment shall be subjected, immediately before usage, to a bactericidal treatment approved by the commissioner.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.0990 DAIRY PRODUCT PIPELINES.

Dairy product pipelines intended to be cleaned in place shall be considered to be in compliance with parts 1525.0670 to 1525.1350 if the equipment and procedures used conform to the applicable requirements of 3A Accepted Practices for Permanently Installed Sanitary Product Pipelines and Cleaning Systems, June 9, 1966, or their equivalent, which have been formulated by International Association of Milk, Food and Environmental Sanitarians, United States Public Health Service and the Dairy Industry Committee and which are adopted by the commissioner of agriculture.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1000 MULTIUSE DAIRY PRODUCT CONTAINERS.

When empty and before being returned by a dairy plant to a producer or to another dairy plant, each multiuse dairy product container shall be cleaned effectively and subjected to an effective draining and drying process.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1010 STORAGE OF CONTAINERS AND EQUIPMENT.

After bactericidal treatment, all bottles, cans, and other multiuse dairy product containers and equipment shall be stored in such manner as to be protected from contamination.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1020 HANDLING OF CONTAINERS AND EQUIPMENT.

Between bactericidal treatment and usage and during usage, containers and equipment shall not be handled or operated in such manner as to permit contamination of dairy products. Pasteurized dairy products or their ingredients shall not be permitted to come in contact with equipment with which unpasteurized dairy products have been in contact, unless the equipment first has been cleaned thoroughly and subjected to a bactericidal treatment approved by the commissioner. No grade A dairy products shall be permitted to come in contact with

equipment with which a lower grade of dairy products has been in contact, unless the equipment first has been cleaned thoroughly and subjected to such bactericidal treatment.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1030 STORAGE AND HANDLING OF SINGLE SERVICE CONTAINERS AND OTHER SINGLE SERVICE MATERIALS.

Single service containers and materials shall be purchased and stored only in sanitary packages, shall be kept therein in a clean, dry place above the floor until used, and shall be handled in a sanitary manner.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1040 PASTEURIZATION.

The terms "pasteurization," "pasteurized," and similar terms shall mean the process of heating every particle of milk or milk product to a temperature of not less than 145 degrees Fahrenheit, and holding it continuously at or above this temperature for not less than 30 minutes, or to not less than 161 degrees Fahrenheit, and holding it continuously at or above this temperature for not less than 15 seconds, in equipment which is properly operated and approved by the commissioner; provided, that milk products which have a higher milkfat content than milk and/or contain added sweeteners shall be heated to not less than 150 degrees Fahrenheit, and held continuously at or above this temperature for not less than 30 minutes, or to not less than 166 degrees Fahrenheit, and held continuously at or above this temperature for not less than 15 seconds, in equipment which is properly operated and approved by the commissioner; provided further, that eggnog and frozen food mix shall be heated to not less than 155 degrees Fahrenheit, and held continuously at or above this temperature for not less than 30 minutes, or to a temperature of not less than 175 degrees Fahrenheit, and held continuously at or above this temperature for not less than 25 seconds, in equipment which is properly operated and approved by the commissioner. Nothing in this definition shall be construed as excluding any other pasteurization process which has been recognized by the United States Public Health Service to be equally efficient and which is approved by the commissioner.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1050 PASTEURIZATION OF MILK AND MILK PRODUCTS PRIOR TO ENTRANCE INTO EVAPORATOR OR CONDENSING EQUIPMENT.

All milk and milk products shall be pasteurized prior to entrance of said milk and milk products into the evaporator or condensing equipment.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1060 PASTEURIZATION OF CONDENSED MILK AND MILK PRODUCTS TO BE DRIED AT PLANT AT WHICH THEY ARE DRIED.

All condensed milk and milk products to be dried, except as provided in part 1525.1070, shall be pasteurized at the plant at which they are dried. This shall not be construed as banning the transportation of pasteurized condensed milk or milk products to another drying plant for repasteurization and drying.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1070 TRANSPORTING CONDENSED WHEY.

Whey which has been pasteurized in accordance with parts 1525.1040 to 1525.1100 and which subsequently is condensed to contain more than 40 percent solids may be transported to another plant and dried without being repasteurized; provided, that approval first is granted by the commissioner; and, provided further, that the condensed whey is transported in sealed and tagged sanitary transport tanks and is handled at all times in a manner approved by the commissioner.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1080 THERMOMETERS.

Each pasteurization vat or pasteurizer shall be equipped with an approved indicating thermometer and an approved recording thermometer, and each vat type pasteurizer shall be equipped with an approved air space thermometer.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1090 TEMPERATURE.

Means shall be provided and used in pasteurization vats and pockets to keep the air space above the product at a temperature of not less than five degrees Fahrenheit higher than the product temperature during the heating period and not less than five degrees Fahrenheit higher than the required temperature of pasteurization during the holding period.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1100 RECORDER CHARTS.

Recorder charts shall be provided for each batch or run of dairy product showing the name of the product, the date, readings of the various thermometers, signature of the operator, and such other information as the commissioner may require, shall not be used for more than one day and shall be kept available for three months for the information of the commissioner or the commissioner's duly authorized representative.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

History: *17 SR 1279*

1525.1110 COOLING.

All milk received for fluid use or for use in Grade A products, unless it is to be pasteurized within two hours of receipt, must be cooled immediately to a temperature of 45 degrees Fahrenheit or lower, in properly operated equipment approved by the commissioner and maintained at 45 degrees Fahrenheit or lower, until pasteurized; except, that mixed milk from two or more consecutive milkings must be at a temperature of 45 degrees Fahrenheit or lower, when received.

Statutory Authority: *MS s 31.11*

History: *13 SR 980*

1525.1120 COOLING OF DAIRY PRODUCTS FOR MANUFACTURING.

Dairy products for manufacturing purposes which are held in bulk storage in receiving stations or processing plants, unless they are to be pasteurized or otherwise manufactured within two hours of receipt, shall be kept at a temperature of 45 degrees Fahrenheit or lower, until pasteurized or otherwise manufactured.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1130 COOLING FOLLOWING PASTEURIZATION.

Immediately following pasteurization, all dairy products shall be cooled to a temperature of 45 degrees Fahrenheit, or lower in properly operated equipment approved by the commissioner and maintained at 45 degrees Fahrenheit, or lower, until delivered, as determined in the case of grade A milk and milk products in accordance with the requirements of Department of Agriculture rules, parts 1530.0720 to 1530.0810, Grade A Requirements for Milk, Milk Products, and Goat Milk; provided, however, that if the dairy products are to be cultured or dried immediately after pasteurization, then such cooling may be delayed until the culturing or drying process is completed and dried dairy products must be cooled to 110 degrees Fahrenheit, or lower following the drying process; provided further, that frozen foods mix shall be cooled to 45 degrees Fahrenheit, or lower until frozen.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1140 BOTTLING AND PACKAGING.

Bottling and packaging of dairy products shall be done in a sanitary manner by methods approved by the commissioner.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1150 BOTTLING AND PACKAGING OF MILK AND FLUID MILK PRODUCTS.

Milk and fluid milk products shall be bottled or packaged at the place of pasteurization in approved mechanical equipment.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1160 DRY MILK PRODUCTS PACKAGING.

Dry milk products shall be packaged at the place of manufacture in new containers. Such containers shall be sufficiently substantial to protect the contents from impairment of sanitary quality, contamination, and moisture during customary handling. When permitted by the commissioner, dry milk products may be packaged temporarily, at the place of manufacture, in clean, used fibre drums having new, single service liners or in clean, sanitary, multiservice containers, with repackaging performed by approved methods and at a place conforming to the requirements of these rules. Such used fiber drums and multiservice containers may be used to transport dry milk products to food processors and may be returned to the place of manufacture for refilling; provided, that they are kept free of insect infestation and are otherwise in a reusable condition as set forth in parts 1525.1010 to 1525.1030.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1170 PACKAGING OF BUTTER AND CHEESE.

Butter and cheese shall be protected from contamination during the packaging operation.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1180 PREPARATION OF FROZEN FOOD MIX, FROZEN FOODS, AND THEIR INGREDIENTS.

Packaging, cutting, molding, and other preparations of frozen food mix, frozen foods, and their ingredients shall be done in a manner to protect them from contamination. Containers shall be covered adequately immediately after filling. Caps or covers shall be handled in a manner which will prevent contamination of the contents of the package.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1190 CONTAINERS OF COTTAGE CHEESE.

Containers of cottage cheese shall be protected during filling and consumer packages shall be filled by approved mechanical equipment.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1200 OVERFLOW OR SPILLAGE.

Dairy products which have overflowed or spilled shall not be sold for human consumption. Returned milk and milk products shall not be used for grade A milk or milk products.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1210 CAPPING OF MILK, FLUID MILK PRODUCTS, AND COTTAGE CHEESE.

Capping of milk, fluid milk products, and cottage cheese shall be done in a sanitary manner by mechanical equipment approved by the commissioner. Hand capping is prohibited. The cap or cover shall protect the pouring lip to at least its largest diameter in the case of milk and fluid milk products and shall extend over the top edge of the cottage cheese container.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1220 RETURN OF MIX AND FROZEN FOODS.

After having been delivered, mix and frozen foods in broken and open containers may be returned to plant for inspection, but shall not be used for making mix or frozen foods.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1230 IDENTITY OF CHEESE.

Cheese shall be identified in accordance with Minnesota Statutes, section 32.483, as amended.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1240 PRINTING.

Butter shall be printed in a sanitary manner.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1250 FACTORY OR PLANT IDENTIFICATION NUMBER.

Each package or other container of dry milk products shall be properly sealed and shall bear a factory or plant identification number as required in parts 1525.0590 to 1525.0610 for dried dairy products.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1260 PERSONNEL HEALTH.

At the discretion of the commissioner, the agent of a board of health as authorized under Minnesota Statutes, section 145A.04 or physician authorized by him or her shall examine and take a careful morbidity history of each person connected with a dairy plant or about to be employed by one, whose work brings the person in contact with the processing, handling, storage, or transportation of dairy products, their ingredients, containers, or equipment. If such examination or history should suggest that such person may be a carrier of or infected with the organisms of typhoid or paratyphoid fever or any other communicable disease likely to be transmitted through dairy products or their ingredients, the authorized agent or a physician authorized by him or her shall secure appropriate specimens of body discharges and cause them to be examined in a laboratory approved by him or her or by the state health authority for such examinations, and if the results justify, such person shall be barred from such employment.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

History: *L 1987 c 309 s 24; 17 SR 1279*

1525.1270 INFORMATION, PHYSICAL EXAMINATIONS, AND LABORATORY SPECIMENS.

Such person shall furnish such information, submit to such physical examinations, and submit such laboratory specimens as the agent of a board of health as authorized under Minnesota Statutes, section 145A.04 may require for the purpose of determining freedom from infection. A copy of the results of examination of such person shall be kept on file in such plant for the information of the commissioner.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

History: *L 1987 c 309 s 24*

1525.1280 INFECTED CUT OR LESION.

No person with an infected cut or lesion on the hands or arms shall handle dairy products, their ingredients, containers, or equipment.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

History: *17 SR 1279*

1525.1290 PERSONNEL CLEANLINESS.

All persons who handle dairy products, their ingredients, containers, or equipment shall wear clean outer garments and shall keep their hands clean at all times while engaged in such work.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1300 VEHICLES.

All vehicles used for the transportation of dairy products or their ingredients shall be constructed and operated so as to protect their contents from the sun, from freezing, and from contamination. Such vehicles shall be kept clean, and no substance capable of contaminating dairy products or their ingredients shall be transported therewith in such manner as to permit contamination.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1310 NAME OF DISTRIBUTOR.

All vehicles used for the final distribution of dairy products shall have the name of the distributor prominently displayed in letters not less than two inches in height.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1320 WASHING AND BACTERICIDAL TREATMENT OF MILK CANS AND TANK TRUCKS.

Milk tank cars and tank trucks shall comply with construction, cleaning, bactericidal treatment, storage, and handling requirements of parts 1525.0770 to 1525.0830, 1525.0920 to 1525.0950, and 1525.0980 to 1525.1020. Suitable facilities, either in a separate building or separate facilities within the dairy plant, shall be provided for the washing and bactericidal treatment of tank trucks and tank cars.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1330 SEALING AND LABELING, BILLS OF LADING.

While containing milk, cream, or milk products, they shall be sealed and labeled in a manner approved by the commissioner. For each tank shipment, a bill of lading or other means of identification containing the identity of the product, the amount shipped, the grade, the receiving point, the shipping point, the shipper's name, the consignee's name, and whether the product is raw, pasteurized, or heat treated, shall be prepared in triplicate and shall be kept on file by the shipper, the consignee, and the carrier for a period of six months for the information of the commissioner.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1340 CONTAINERS OF MIX.

All mix which is not frozen at the plant at which it is pasteurized shall be transported to the place of manufacturing or freezing in sealed containers and the mix shall be handled in a sanitary manner. All containers of mix shall be labeled in accordance with Minnesota Statutes, section 32.62.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1350 COTTAGE CHEESE, CREAMED CHEESE, AND PASTEURIZED DAIRY PRODUCTS USED IN CREAMING OF COTTAGE CHEESE.

Cottage cheese, creamed cottage cheese, and pasteurized dairy products used in the creaming of cottage cheese may be transported from one dairy plant to another for the completion of processing and packaging but only in sealed containers. Each such container shall bear a label giving the identity of the product, the name and address of the pasteurization plant, the grade if the product is grade A, and the net contents of the container, unless it is a standard container, so embossed.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1360 NOTICE OF DISEASE.

In order to protect the public health, no person who is affected with any disease in a communicable form or who is a carrier of such disease shall work in any capacity which will bring the person in contact with dairy products, their ingredients, containers, or equipment at any place where dairy products or their ingredients are manufactured, handled, or dispensed. To further protect the public health, any processor, distributor, or dispenser of dairy products or their ingredients in whose plant any communicable disease occurs or who suspects that any employee has contracted any disease in communicable form or has become a carrier of such disease, shall notify the agent of a board of health as authorized under Minnesota Statutes, section 145A.04 immediately.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

History: *L 1987 c 309 s 24; 17 SR 1279*

1525.1370 PROCEDURE WHEN INFECTION IS SUSPECTED.

When reasonable cause exists to suspect the possibility of transmission of infection from any person concerned with the handling of dairy products or their ingredients, the agent of a board of health as authorized under Minnesota Statutes, section 145A.04 is authorized to require any or all of the following measures: the immediate exclusion of that person from handling dairy products, their ingredients, equipment, or containers; the immediate exclusion of such products concerned from distribution and use; and adequate medical and bacteriological examination of the person, the person's associates, and their body discharges.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

History: *L 1987 c 309 s 24; 17 SR 1279*

1525.1380 BACTERIAL PLATE COUNT, COLIFORM COUNT.

The bacterial count of frozen foods, mix, or mix base therefor shall not exceed 50,000 bacteria per gram, standard plate count nor ten per gram coliform count in more than two of any four consecutive samples taken on separate days.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1390 INGREDIENTS.

All ingredients for mix and frozen foods shall be clean, have a fresh wholesome flavor and odor and a normal appearance, be of satisfactory quality, and shall be handled or processed in an approved manner.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1400 RAW MILK AND MILK PRODUCTS FOR MANUFACTURING PURPOSES.

Raw milk and milk products to be used in the preparation of raw mix for pasteurization shall conform to standards and grades for raw milk and milk products for manufacturing purposes as set forth in Minnesota Statutes, chapter 32, and rules promulgated thereunder.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1410 SANITARY QUALITY OF INGREDIENTS OTHER THAN MILK AND MILK PRODUCTS.

In determining the sanitary quality of ingredients other than milk and milk products, the commissioner shall employ the methods set forth in the current editions of Standard Methods for the Examination of Dairy Products of the American Public Health Association and the Official Methods of Analysis of the Association of Official Analytical Chemists and may be guided by tentative standards recommended for ingredients other than milk and milk products by the United States Public Health Service in its Frozen Desserts Ordinance and Code.

Statutory Authority: *MS s 31.11*

History: *13 SR 980*

1525.1420 TRANSFERRING AND DISPENSING FROZEN FOODS.

No person shall transfer frozen foods from one container to another or package or prepare the same on the street or in any vehicle or in any place except a sanitary room under approved conditions.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1430 ROADSIDE STANDS OR CONCESSIONS.

Part 1525.1420 shall not prevent the direct sale of frozen foods in unwrapped packages or cones to the consumer at roadside stands or concessions where the sanitary conditions are approved by the commissioner.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1440 MULTISERVICE APPARATUS.

Between uses, all multiservice spoons, spatulas, dippers, scoops, and similar apparatus shall be kept either in running water, with washing and bactericidal treatment applied just prior to the beginning of each day's operation, or washed and stored dry with bactericidal treatment applied prior to the next usage.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1450 UNFILLED CARTONS AND OTHER SINGLE SERVICE MATERIALS OR CONTAINERS.

Unfilled cartons and other single service materials or containers used in dispensing frozen foods shall be stored in a clean, dry place and shall be handled in a sanitary manner.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

1525.1460 RIGHTS OF INSPECTION.

In determining whether frozen foods are being dispensed in a sanitary manner, the commissioner shall have all rights of inspection set forth in Minnesota Statutes, chapter 32, and

such frozen foods shall conform to all standards and definitions prescribed for them by laws, and rules.

Statutory Authority: *MS s 31.10; 31.101; 32.021*

PRODUCERS QUALITY RECORDS FOR MILK

1525.1470 MAINTENANCE OF QUALITY RECORDS.

Subpart 1. **Record and contents.** Every licensed purchaser of milk shall maintain a record of all the quality tests made of milk as required by Minnesota Statutes, section 32.411 and the rules adopted by the commissioner of agriculture, for a period of at least one year from the date of the test. The record must show the name and address of the producer and the patron's number assigned to the producer. The semimonthly record must show at least the day, month, and year the test was made.

Subp. 2. **Monthly records for milk.** Tests used to analyze milk samples must comply with the current edition of Standard Methods for the Examination of Dairy Products of the American Public Health Association and the current edition of Official Methods of Analysis of the Association of Official Analytical Chemists. These tests must be conducted in a certified laboratory approved by the department.

Subp. 3. [Repealed, 13 SR 980]

Subp. 4. **Reporting of monthly test results.** Results of these tests must be reported back to the producer and to the regulatory agency monthly in a manner that assures timely enforcement procedures. Producers whose milk is found to be out of compliance on any quality tests must be notified by the licensed purchaser and enforcement action taken under part 1530.0820.

Maintenance and delivery of records must comply with Minnesota Statutes, section 32.411, subdivisions 2, 3, 4, and 5.

Statutory Authority: *MS s 31.11*

History: *13 SR 980*

1525.1510 PROCEDURE WHEN NO QUALITY RECORD IS AVAILABLE.

A licensed purchaser who accepts milk from a producer without receiving a copy of the producer's quality record for the three months immediately preceding with the first delivery of milk received shall make all quality tests required by law or promulgated by the commissioner and shall make and file with the commissioner a report of the purchaser's acceptance showing:

- A. date first milk received;
- B. name and post office address of producer;
- C. name and post office address of former licensed purchaser to whom deliveries were made during the three months immediately preceding;
- D. reason stated by producer for failure to deliver quality record as required by law; and
- E. results of quality tests of first four deliveries:

	Date of Quality Test	Kind of Test
1		
2		
3		
4		
	Results of Test	Grade Assigned
1		
2		
3		
4		

dence, and no order shall be issued except upon consideration of the whole record or such portions thereof as may be cited by any party.

Statutory Authority: *MS s 32.10*

1525.1590 COMMISSIONER'S NOTICE OF FACTS.

The commissioner may take notice of judiciously cognizable facts and in addition may take notice of general, technical, or scientific facts within the commissioner's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material so noticed and they shall be afforded an opportunity to contest the facts so noticed.

Statutory Authority: *MS s 32.10*

History: *17 SR 1279*

1525.1600 OFFICIAL RECORD.

The official record of all proceedings and testimony before the commissioner shall be taken by the official reporters at the expense of the state. Transcript will be furnished upon application at expense of applicant.

Statutory Authority: *MS s 32.10*

1525.1610 INFORMAL DISPOSITION.

Informal disposition, with the approval of the commissioner, may also be made of any contested case by stipulation, agreed settlement, consent order, or default.

Statutory Authority: *MS s 32.10*

1525.1620 COMMISSIONER'S ORDER.

After the hearing the commissioner shall enter an order vacating such order to show cause or suspending the license for a fixed period or revoking the license as the facts require.

Such order shall become a part of the record and include a statement of findings and conclusions upon all the material issues of fact, law, or discretion presented on the record and the appropriate order of the commissioner.

Statutory Authority: *MS s 32.10*

History: *17 SR 1279*

STANDARD BABCOCK TEST AND ALTERNATIVE TESTS

1525.1630 TEST BOTTLES.

The standard Babcock test bottles for milk and cream shall be as follows: eight percent, 18 gram, six inch milk test bottle; 50 percent, nine gram, short neck, six inch cream test bottle; 50 percent, nine gram, long neck, nine inch cream test bottle; 50 percent, 18 gram, long neck, nine inch cream test bottle.

The descriptions in parts 1525.1640 to 1525.1690 apply to the test bottles listed above.

Statutory Authority: *MS s 32.25*

1525.1640 EIGHT PERCENT, 18 GRAM, SIX INCH MILK TEST BOTTLE.

Subpart 1. **Height, shape, charge.** The total height of the bottle shall be 150 to 165 millimeters (5.9 to 6.5 inches). The bottom of the bottle shall be flat and the axis of the neck shall be vertical when the bottle stands on a level surface. The charge of milk for the bottle shall be 18 grams.

Subp. 2. **Bulb.** The capacity of the bulb to the junction with the neck shall be not less than 45 cubic centimeters. The shape of the bulb shall be either cylindrical or conical. If cylindrical, the outside diameter shall be between 34 and 36 millimeters; if conical, the outside diameter of the base shall be between 31 and 33 millimeters and the maximum diameter between 35 and 37 millimeters.

Subp. 3. **Neck.** The neck shall be cylindrical and of uniform diameter from at least five millimeters below the lowest graduation mark to at least five millimeters above the highest. The top of the neck shall be flared to a diameter of not less than ten millimeters. The gra-

duated portion of the neck shall have a length of not less than 63.5 millimeters. The total percent graduation shall be eight. The graduations shall represent whole percent, .05 percent and .01 percent, respectively, from 0.0 to 8.0 percent. The tenths percent graduations shall be not less than three millimeters in length; the .05 percent graduations shall be not less than four millimeters in length and shall project one millimeter to the left; the whole percent graduations shall extend at least half way around the neck to the right and shall project at least two millimeters to the left of the tenths percent graduations. Each whole percent graduation shall be numbered, the number being placed to the left of the scale. The capacity of the neck for each whole percent on the scale shall be 0.20 cubic centimeters. The maximum error of the total graduation or any part thereof shall not exceed the volume of the smallest unit of the graduation.

Statutory Authority: *MS s 32.25*

1525.1650 FIFTY PERCENT, NINE GRAM, SHORT NECK, SIX INCH CREAM TEST BOTTLE.

Subpart 1. **Height, shape, charge.** The total height of the bottle shall be 150 to 165 millimeters (5.9 to 6.5 inches). The bottom of the bottle shall be flat and the axis of the neck shall be vertical when the bottle stands on a level surface. The charge of cream for the bottle shall be nine grams.

Subp. 2. **Bulb.** The capacity of the bulb to the junction with the neck shall be not less than 45 cubic centimeters. The shape of the bulb shall be either cylindrical or conical. If cylindrical the outside diameter shall be between 34 and 36 millimeters. If conical, the outside diameter of the base shall be between 31 and 33 millimeters and the maximum diameter between 35 and 37 millimeters.

Subp. 3. **Neck.** The neck shall be cylindrical and of uniform diameter from at least five mm below the lowest graduation mark to at least five mm above the highest. The top of the neck shall be flared to a diameter of not less than 15 millimeters. The graduated portion of the neck shall have a length of not less than 63.5 millimeters. The total percent graduation shall be 50. The graduation shall represent five percent, one percent, and one-half percent, respectively, from 0.0 to 50 percent. The five percent graduations shall extend at least halfway around the neck to the right; the one-half percent graduations shall be not less than three mm in length; the one percent graduations shall be intermediate in length between the five percent and the one-half percent graduations and shall project two millimeters to the left of the one-half percent graduations. Each five percent graduation shall be numbered (thus: 0, 5, 10-45, 50), the number being placed to the left of the scale. The capacity of the neck for each whole percent on the scale shall be 0.1 cubic centimeter. The maximum error in the total graduation or any part thereof shall not exceed the volume of the smallest unit of the graduation.

Statutory Authority: *MS s 32.25*

1525.1660 FIFTY PERCENT, NINE GRAM, LONG NECK, NINE INCH CREAM TEST BOTTLE.

The same specifications shall apply to this bottle as to the 50 percent, nine gram, six inch cream test bottle, with the exceptions, however, that the total height of this bottle shall be 210 to 299 millimeters (8.25 to 9.0 inches), and that the graduated portion of the neck shall have a length of not less than 120 millimeters.

Statutory Authority: *MS s 32.25*

1525.1670 FIFTY PERCENT, 18 GRAM, LONG NECK, NINE INCH CREAM TEST BOTTLE.

The same specifications shall apply to this bottle as to the 50 percent, nine gram, nine inch cream test bottle, with the exception, however, that the charge of cream for this bottle shall be 18 grams.

Statutory Authority: *MS s 32.25*

1525.1680 WEIGHT OF CHARGE TO BE USED.

Each bottle shall bear on the top of the neck above the graduation, in plain legible characters, a mark denoting the weight of the charge to be used, "nine grams" or "18 grams," as the case may be.

Statutory Authority: *MS s 32.25*

1525.1690 STRENGTH.

Each bottle shall be constructed of necessary strength to withstand the stress to which it will be subjected in the centrifuge.

Statutory Authority: *MS s 32.25*

1525.1700 RAPID TESTING OF BOTTLES AND ACCURACY OF QUESTIONABLE BOTTLE.

The mercury and cork, alcohol and burette, and alcohol and brass plunger methods may be employed for the rapid testing of the bottles, but the accuracy of any questionable bottle shall be determined by calibration with mercury (13.5471 grams of clean, dry mercury at 20 degrees Celsius, to be equal to five percent on the scale of an 18 gram bottle and ten percent on the scale of a nine gram bottle), the bottle being previously filled to zero with mercury.

Statutory Authority: *MS s 32.25*

1525.1710 PIPETTE.

The standard milk pipette shall be as follows: total length not more than 330 millimeters; outside diameter of suction tube six to eight millimeters; length of suction tube 130 millimeters; outside diameter of delivery tube 4.5 to 5.5 millimeters; length of delivery tube 100 to 120 millimeters; distance of graduation mark above bulb 15 to 45 millimeters; nozzle, straight; graduation to contain 17.6 cubic centimeters of water at 20 degrees Celsius, when the bottom of the meniscus coincides with the mark on the suction tube; delivery in five to eight seconds. The maximum error in graduation shall not exceed 0.05 cubic centimeters. The pipette is to be marked, "holds 17.6 cubic centimeters." The pipette shall be tested by measuring from a burette the volume of water at 20 degrees Celsius which it holds up to the graduation mark.

Statutory Authority: *MS s 32.25*

1525.1720 ACID MEASURE.

The device employed to measure sulphuric acid, whether a graduated cylinder or the pipette attached to a Swedish acid bottle, shall be graduated to deliver 17.5 cubic centimeters.

Statutory Authority: *MS s 32.25*

1525.1730 CREAM WEIGHING SCALES.

The standard cream scales shall have a sensibility reciprocal of 30 milligrams, the addition of 30 milligrams to either pan of the scales, when loaded to capacity, shall cause a deflection of the pointer of at least one division on the graduation. The scales shall be set level upon a stable support and be protected from drafts.

Statutory Authority: *MS s 32.25*

1525.1740 WEIGHTS.

The standard cream test weights shall be nine grams and 18 grams, respectively and shall be plainly marked "nine grams" or "18 grams," as the case may be. They shall be made of material capable of resisting corrosion or other injury, shall preferably be of a low, squat shape, with rounded edges, and shall be verified at frequent intervals by comparison with standardized weights.

Statutory Authority: *MS s 32.25*

1525.1750 CENTRIFUGE OR "TESTER."

The standard centrifuge shall be constructed throughout and so mounted as to be capable, when filled to capacity, of rotating at the necessary speed with a minimum of vibration and without liability of causing injury or accident. It shall be securely fastened to a level,

vibration-free foundation and operated by electrical power. It shall be heated electrically or otherwise to a temperature of at least 55 degrees Celsius (130 degrees Fahrenheit) during the process of centrifugation. It shall be provided with a speed indicator, permanently attached, if possible. The proper rate of rotation may be ascertained by reference to the table below. By "diameter of wheel" is meant the distance between the inside bottoms of opposite cups measured through the center of rotation of the centrifuge wheel while the cups are horizontally extended.

Diameter of Wheel in Inches							
10	12	14	16	18	20	22	24
Number of Revolutions per Minute							
1,074	980	909	848	800	759	724	693

Statutory Authority: *MS s 32.25*

1525.1760 DIVIDERS OR CALIPERS.

Dividers or calipers for measuring the fat column shall be provided.

Statutory Authority: *MS s 32.25*

1525.1770 WATER BATH FOR MILK AND CREAM SAMPLES.

A water bath equipped with a thermometer and a temperature controlling device shall be provided for adjusting the temperature of milk and cream samples to and maintaining it at 90 to 100 degrees Fahrenheit (32 to 38 degrees Celsius).

Statutory Authority: *MS s 32.25*

1525.1780 WATER BATHS FOR TEST BOTTLES.

Water baths shall be provided for adjusting the temperature of test bottles to and maintaining it at 130 to 140 degrees Fahrenheit (55 to 60 degrees Celsius) until the test is read. The water bath shall be large enough to accommodate as many bottles as may be tested at one time and deep enough to bring the water level above the level of the milk fat in the test bottle. The water bath shall be provided with an accurate thermometer and means for maintaining automatically a temperature from 130 to 140 degrees Fahrenheit (55 to 60 degrees Celsius).

Statutory Authority: *MS s 32.25*

1525.1790 CHEMICALS.

Subpart 1. **Commercial concentrated sulfuric acid.** Commercial concentrated sulfuric acid, of specific gravity 1.82 to 1.83 at 20 degrees Celsius (68 degrees Fahrenheit).

Subp. 2. **Glymol.** Glymol or clear, white mineral oil, of specific gravity not to exceed 0.85 at 20 degrees Celsius (68 degrees Fahrenheit). Oil soluble artificial color may be added to the oil.

Statutory Authority: *MS s 32.25*

1525.1800 COLLECTION AND PREPARATION OF SAMPLES OF MILK.

The quantity of sample required will depend upon the number of determinations to be made. For the usual analysis collect 250 to 500 cubic centimeters (one-half to one pint) of sample; for the fat determination only, 50 to 60 cubic centimeters (approximately two fluid ounces) will suffice.

In the case of bottled milk collect one or more bottles as prepared for sale. In sampling bulk milk thoroughly mix by pouring from one clean vessel to another. Where this procedure is impracticable, thoroughly stir the milk for at least one-half minute with a suitable appliance long enough to reach to the bottom of the container. If cream has formed on the milk, continue the mixing until all cream is detached from the sides of the vessel and evenly emulsified throughout the liquid.

Place the samples in nonabsorbent, air tight containers and keep them in the cold, but at a temperature above freezing, until ready for examination. When transported by mail, express or otherwise, the containers should be completely filled, tightly stoppered and marked

for identification. A necessary quantity of preservative (corrosive sublimate, potassium dichromate, or formaldehyde) may be used, except where the presence of the preservative may be objectionable in connection with physical or chemical tests to be applied in addition to the determination of fat.

Before withdrawing portions for analytical determinations, bring the sample to a temperature of 15 to 20 degrees Celsius (56 to 68 degrees Fahrenheit) and mix thoroughly by pouring into a clean receptacle and back until a homogenous mixture is assured. If lumps of cream do not completely disappear, warm the sample to about 38 degrees Celsius (100 degrees Fahrenheit), mix thoroughly, then cool to 15 to 20 degrees Celsius (56 to 68 degrees Fahrenheit). In case a measured volume is required in a determination, bring the temperature of the sample to 20 degrees Celsius (68 degrees Fahrenheit) before pipetting.

Statutory Authority: *MS s 32.25*

1525.1810 COLLECTION AND PREPARATION OF SAMPLES OF CREAM.

The same instructions regarding collection of cream samples and use of preservative therein apply as given under Regulation Agr 1537(a) Milk. Immediately before withdrawing portions for the determinations, mix the sample by shaking, pouring, or stirring, until it pours readily and a uniform emulsion has been secured. If the sample is very thick, warm it to 30 to 35 degrees Celsius (approximately 85 degrees Fahrenheit) and then mix. In case lumps of butter have separated, heat the sample to 38 degrees Celsius (100 degrees Fahrenheit) or, if necessary, to 50 degrees Celsius (112 degrees Fahrenheit) by placing in a warm water bath. Mix thoroughly and weigh immediately the portions for analysis. In commercial testing for fat by the Babcock method, it may be advisable to warm all samples to 38 to 50 degrees Celsius (100 to 122 degrees Fahrenheit) in a water bath previous to mixing. Care must be exercised to avoid overheating the sample, thereby causing the cream to "oil off." This precaution is especially necessary in the case of thin cream.

Statutory Authority: *MS s 32.25*

1525.1820 DETERMINATION OF FAT IN MILK.

To determine fat in milk:

A. Transfer 18 grams of milk from the properly prepared sample to the milk test bottle by means of the pipette. The milk remaining in the pipette tip after free outflow has ceased shall be blown out.

B. Add 17.5 cubic centimeters of sulfuric acid, preferably not all at one time, pouring it down the side of the neck of the bottle in such a way as to wash any traces of milk into the bulb. The temperature of the acid shall be about 15 to 20 degrees Celsius (56 to 68 degrees Fahrenheit).

C. Shake until all traces of curd have disappeared; then transfer the bottle to the centrifuge; counterbalance it; and, after the proper speed has been attained, whirl five minutes.

D. Add soft water at 60 degrees Celsius (140 degrees Fahrenheit) or above, until the bulb of the bottle is filled.

E. Whirl two minutes.

F. Add hot water until the liquid column approaches the top graduation of the scale.

G. Whirl one minute longer at a temperature of 55 to 66 degrees Celsius (30 to 140 degrees Fahrenheit).

H. Transfer the bottle to the warm water bath maintained at a temperature of 130 to 140 degrees Fahrenheit, immerse it to the level of the top of the fat column and leave it there until the column is in equilibrium and the lower fat surface has assumed a final form.

I. Remove the bottle from the bath; wipe it and with the aid of dividers or calipers, measure the fat column, in terms of percentage by weight, from its lower surface to the highest point of the upper meniscus.

Statutory Authority: *MS s 32.25*

1525.1830 DETERMINATION OF FAT IN CREAM.

Weigh nine grams or 18 grams, as the case may be, of the prepared sample, directly into an appropriately marked cream test bottle counterpoised on the weighing scales, then follow one of the methods in parts 1525.1840 and 1525.1850.

Statutory Authority: *MS s 32.25*

1525.1840 METHOD.

After the cream has been weighed into the test bottle, add eight to 12 cubic centimeters of the sulfuric acid in the case of the nine gram bottle or 14 to 17 cubic centimeters of the acid in the case of the 18 gram bottle or add acid until the mixture of cream and acid, after shaking, has assumed a chocolate brown color. Shake until all lumps have completely disappeared; then add five to ten cubic centimeters of soft water at 60 degrees Celsius (140 degrees Fahrenheit) or above. Transfer the bottle to the centrifuge; counter balance it; and after the proper speed has been attained, whirl five minutes. Add hot water until the liquid column approaches the top graduation of the scale; then whirl one minute longer at a temperature of 55 to 60 degrees Celsius (130 to 140 degrees Fahrenheit). Adjust the temperature, as directed under part 1525.1820, item H and with the aid of dividers or calipers, measure the fat column in terms of percentage by weight from its lower surface to the bottom of the upper meniscus.

Statutory Authority: *MS s 32.25*

1525.1850 METHOD TWO FOR NINE GRAM BOTTLE ONLY.

After the cream has been weighed into the test bottle, add nine cubic centimeters of soft water and thoroughly mix; then add 17.5 cubic centimeters of sulfuric acid and shake until all lumps have completely disappeared. Transfer the bottle to the centrifuge; counterbalance it; and after the proper speed has been attained, whirl five minutes. Fill the bottle to the neck with hot water and whirl two minutes. Add hot water until the liquid column approaches the top graduation of the scale; then whirl one minute longer at a temperature of 55 to 60 degrees Celsius (130 to 140 degrees Fahrenheit). Adjust the temperature and measure the fat column as directed in part 1525.1820, item H.

Statutory Authority: *MS s 32.25*

1525.1860 USE OF GLYMOL.

If glymol is used, a few drops only should be introduced into the bottle just before the reading is made; it must not be dropped in, but must be allowed to flow down the side of the neck. The surface separating the glymol and the fat is to be regarded as representing the upper limit of the column for purpose of measurement.

Statutory Authority: *MS s 32.25*

1525.1870 FAT COLUMN.

Whichever method is followed, the fat column, at the time of measurement, should be translucent or a golden yellow to amber color and free from visible suspended particles. Reject all tests in which the fat column is milky or shows the presence of curd or of charred matter or in which the reading is indistinct or uncertain.

Statutory Authority: *MS s 32.25*

**MILK AND CREAM SAMPLES FOR
BABCOCK AND ALTERNATIVE TESTS****1525.1880 DEFINITIONS.**

Subpart 1. Applicability. The word "sample" and words "composite sample" and "stratified random sample" as used in parts 1525.1630 to 1525.2050 shall have the following meanings.

Subp. 2. Sample. "Sample" (unqualified) is hereby defined as consisting of a representative portion of any one delivery of milk or cream by a person, partnership, association, firm, or corporation.

Subp. 3. Composite sample. "Composite sample" is herein defined as consisting of representative portions of a series of deliveries of milk or cream by a person, partnership, association, firm, or corporation.

Subp. 4. **Stratified random sample.** "Stratified random sample" is hereby defined as a sample meeting all requirements for a fresh milk sample as described in subpart 2 except that testing shall be performed once during each of four approximately equal sampling periods determined: by dividing the number of days in a month by four; by selecting one day at random from each such period; and by using the sample taken that day for the tests used to determine the basis for payment for the milk purchased.

Statutory Authority: *MS s 32.25*

1525.1890 SAMPLES OF MILK OR CREAM.

All persons, partnerships, associations, firms, or corporations operating creameries, cream stations, cheese factories, renovating or process butter factories, condenseries or plants manufacturing dried milk products in this state buying or receiving milk or cream on the basis of the amount of butterfat contained therein, and who make daily payment or do credit account daily for each container or number of containers, delivered by same person, partnership, association, firm, or corporation, shall before emptying each container or a number of containers, delivered by same person, partnership, association, firm, or corporation, of any part of the milk or cream received therein and before adding any other substance thereto, thoroughly mix the entire contents thereof and procure therefrom by the use of a thoroughly cleaned and dried sampling device, a representative sample of which not less than two ounces shall be immediately transferred to a thoroughly cleaned and dried sample jar or bottle, properly and securely fitted with such a cover as will prevent the escape of any of the content thereof.

Statutory Authority: *MS s 32.25*

1525.1900 LABELING AND RECORD.

All samples of milk or cream so taken shall be indelibly labeled, marked, or numbered to correspond with a record kept with the net weight of milk or cream, the percentage and amount of butterfat credited as being present in each container received and the amount of money paid for same; except that in case more than one container is used by the owner or owners in the delivery of a quantity of milk or cream, the entire contents, but only the original contents of such containers may be emptied into a tank or vat free from any other substance, where it shall be thoroughly mixed and a representative sample of not less than two ounces procured, transferred to a sample jar or bottle, and labeled to correspond with a record kept as herein provided.

Statutory Authority: *MS s 32.25*

1525.1910 CARE AND RETENTION OF SAMPLES.

All samples shall be protected from extremes of temperature, shall be stored at 32 to 40 degrees Fahrenheit (zero to five degrees Celsius), and shall be retained until three o'clock of the day taken, except that samples taken after three o'clock shall be retained until three o'clock of the following day. Samples taken after three o'clock on Saturday or on a day preceding a holiday shall be retained until three o'clock of the following Monday or day following holiday.

Statutory Authority: *MS s 32.25*

1525.1920 OPENING OF RECEPTACLES.

All receptacles containing such samples shall not be opened until retained for the period specified except by the commissioner of agriculture, the commissioner's deputy, or legal agent who may take and submit these samples to the laboratory of the department of agriculture for the purpose of determining the percentage of butterfat contained therein.

Statutory Authority: *MS s 32.25*

History: 17 SR 1279

1525.1930 COMPOSITE SAMPLES OF MILK OR CREAM.

All persons, partnerships, associations, firms, or corporations operating creameries, cream stations, cheese factories, renovating or process butter factories, condenseries or plants manufacturing dried milk products in this state buying or receiving milk or cream on

the basis of the amount of butterfat contained therein and which percentage and amount of butterfat is determined by means of a composite sample, shall before emptying each container or a number of containers, delivered by the same person, partnership, association, firm, or corporation of any part of the milk or cream received therein and before adding any other substance thereto, thoroughly mix the entire contents thereof and procure therefrom by the use of a thoroughly cleaned and dried sampling device, a representative sample which shall be immediately transferred to a thoroughly cleaned and dried sample jar or bottle, properly and securely fitted with such a cover as will prevent the escape of any of the contents thereof.

Statutory Authority: *MS s 32.25*

1525.1940 LABELING AND RECORD.

All samples of milk or cream so taken shall be indelibly labeled, marked, or numbered to correspond with a record kept of the net weight of milk or cream.

Statutory Authority: *MS s 32.25*

1525.1950 REPRESENTATIVE SAMPLES.

Representative samples shall be taken in the same manner each time milk or cream is delivered and each sample shall be added to those previously taken, care being taken that each person, partnership, association, firm, or corporation has its sample placed in its sample jar or bottle.

Statutory Authority: *MS s 32.25*

1525.1960 COMPLETED COMPOSITE SAMPLE.

When such a composite sample has been completed, it shall consist of not less than two ounces of milk or cream and then on the completed composite sample the percentage and amount of butterfat shall be determined and a record shall be kept of the total amount of milk or cream that has been received from each series of containers or number of containers and the percentage and amount of butterfat contained therein as determined from the composite sample, and the amount of money paid for same; except that in case more than one container is used by the owner or owners in the delivery of a quantity of milk or cream, the entire contents, but only the original contents of such containers may be emptied into a tank or vat free from any other substance, where it shall be thoroughly mixed and a representative sample procured and transferred to a sample jar or bottle and labeled to correspond with a record kept as herein provided. Representative samples shall be taken of such deliveries in the same manner as herein provided and the composite sample completed and its percentage and amount of butterfat determined as herein provided.

Statutory Authority: *MS s 32.25*

1525.1970 CARE AND RETENTION OF SAMPLES.

All composite samples shall be protected from extremes of temperature, shall be stored at 32 to 40 degrees Fahrenheit (zero to five degrees Celsius) and shall be retained for one week after the composite sample has been tested.

Statutory Authority: *MS s 32.25*

1525.1980 OPENING OF RECEPTACLES.

All receptacles containing such composite samples, after they have been once tested to determine their percentage and amount of butterfat, shall not be opened again until retained for the time specified, except by the commissioner of agriculture, the commissioner's deputy or legal agent, who may take and submit these samples to the laboratory of the department of agriculture for the purpose of determining the percentage of butterfat contained therein.

Statutory Authority: *MS s 32.25*

History: 17 SR 1279

1525.1990 PERIOD FOR COLLECTING COMPOSITE SAMPLES.

The period for collecting composite samples for butterfat testing shall not exceed 16 days. The composite samples shall be tested for butterfat within three days after the end of the composing period excluding Sundays and legal holidays.

Statutory Authority: *MS s 32.25*

1525.2000 REMOVAL OF COMPOSITE MILK AND CREAM SAMPLES FROM DAIRY PLANT.

Composite milk and cream samples shall not be removed from the dairy plant or taken out on the milk routes unless authorization is obtained from the commissioner of agriculture.

Statutory Authority: *MS s 32.25*

1525.2010 DELIVERY IN PRODUCER'S CAN OR CONTAINER.

All milk and cream sold, offered, or exposed for sale or being transported for the purpose of manufacture shall be delivered to the creamery, cream station, or plant in the producer's can or container before the milk or cream is sampled, weighed, graded, and transferred except when delivery is by bulk pickup.

Statutory Authority: *MS s 32.25*

1525.2020 ALTERNATIVE TESTS.

Tests considered to be equivalent to the Babcock test for fat in milk and milk products are those in the current edition of Standard Methods for the Examination of Dairy Products of the American Public Health Association and the current edition of Official Methods of Analysis of the Association of Official Analytical Chemists.

Statutory Authority: *MS s 31.11*

History: *13 SR 980*

1525.2030 [Repealed, 13 SR 980]

1525.2040 [Repealed, 13 SR 980]

1525.2050 [Repealed, 13 SR 980]

1525.2060 [Repealed, 13 SR 980]

1525.2070 [Repealed, 13 SR 980]

1525.2080 [Repealed, 13 SR 1107]

1525.2090 [Repealed, 13 SR 980]

1525.2100 [Repealed, 13 SR 980]

1525.2110 [Repealed, 13 SR 980]

1525.2120 [Repealed, 13 SR 980]

1525.2130 [Repealed, 13 SR 980]

1525.2140 [Repealed, 13 SR 980]

1525.2150 [Repealed, 13 SR 980]

1525.2160 [Repealed, 13 SR 980]

1525.2170 [Repealed, 13 SR 980]

1525.2180 [Repealed, 13 SR 980]

1525.2190 [Repealed, 13 SR 980]

1525.2200 [Repealed, 13 SR 980]

1525.2210 [Repealed, 13 SR 980]

1525.2220 [Repealed, 13 SR 980]

1525.2230 [Repealed, 13 SR 980]

1525.2240 [Repealed, 13 SR 980]

1525.2250 [Repealed, 13 SR 980]

1525.2260 [Repealed, 13 SR 980]

1525.2270 [Repealed, 13 SR 980]

1525.2280 [Repealed, 13 SR 980]

1525.2290 [Repealed, 13 SR 980]

CERTIFIED MILK LABORATORIES

1525.2300 PURPOSE.

It is the purpose of parts 1525.2300 to 1525.2400 to carry out and enforce the provisions of Minnesota Statutes 1974, section 32.394, as amended by Laws of Minnesota 1975, chapter 412. The rules relate to certification of milk laboratories before such laboratories may conduct tests for the purpose of enforcement of requirements for the distribution of milk, milk products, or goat milk under the Grade A label and to the issuance to the laboratory of a permit to conduct such test.

Statutory Authority: *MS s 32.394 subd 8a*

1525.2310 DEFINITIONS.

Subpart 1. **Applicability.** As used in parts 1525.2300 to 1525.2400, the following words and terms shall have the meaning given.

Subp. 2. **Analyst.** "Analyst" is a person employed in the milk laboratory for the purpose of conducting tests, the results of which are to be utilized for enforcement of the requirements for distribution of milk, milk products, or goat milk under the Grade A label.

Subp. 3. **Certified milk laboratory.** "Certified milk laboratory" is a milk laboratory which meets the certification and permit requirements of parts 1525.2300 to 1525.2400.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subp. 5. **Milk laboratory.** "Milk laboratory" is a facility which conducts tests for distribution of milk, milk products as defined in part 1530.0700, or goat milk under the Grade A label.

Statutory Authority: *MS s 32.394 subd 8a*

1525.2320 REQUIREMENTS FOR CERTIFICATION.

A milk laboratory that desires to be certified to conduct tests for the purpose of enforcement of requirements for distribution of milk, milk products, or goat milk under the Grade A label must: use only analysts approved to conduct laboratory sampling procedures, bacterial counts, detection of inhibitory substances, coliform determinations, and/or phosphatase and temperature checks; employ sampling procedures and required laboratory examinations that are in substantial compliance with the most recent edition of Standard Methods for Examination of Dairy Products of the American Public Health Association and the most recent edition of Official Methods of Analyses of the Association of Analytical Chemists; and otherwise meet the requirements of the Grade A Pasteurized Milk Ordinance Recommendation of the United States Public Health Service.

Statutory Authority: *MS s 31.11*

History: *13 SR 980*

1525.2330 EVALUATION OF LABORATORIES FOR CERTIFICATION.

The following apply to evaluation of milk laboratories for the purpose of certification:

A. An assessment of the milk laboratory's operation relative to the requirements of the current edition of the Grade A Pasteurized Milk Ordinance must be made at the time of application for certification and not less frequently than once each two years afterwards. In the case of a certified milk laboratory that moves to another building that uses another source of tap water, distilled water, or steam supply for the autoclave, a resurvey may be conducted even though no change in personnel or procedures is planned.

B. Approval of analysts to conduct required laboratory procedures must be based on the ability of the analyst to meet the criteria established in Evaluation of Milk Laboratories — Recommended by the United States Health Service and its supplements, issued by the Food and Drug Administration and the Public Health Service, relating to standards for sam-

pling, preparation of cultures, viable counts, detection of inhibitory substances, coliform groups, phosphatase tests, and inspection of pasteurized milk containers. An analyst may be approved for one or more procedures and need not be approved to make all tests. Nonetheless, no analyst may perform a procedure for which he or she has not been approved.

Statutory Authority: *MS s 31.11*

History: *13 SR 980*

1525.2340 REQUEST FOR APPROVAL OF ANALYSTS.

When a certified laboratory employs as an analyst a person who has not been previously approved for the performance of laboratory procedures and tests, 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, the laboratory shall request in writing within 30 days an evaluation of that analyst. The evaluation will be the same as that applied to other analysts and set forth in part 1525.2330, item B. The analyst shall be evaluated as soon as practical following notification of the commissioner under this part.

Statutory Authority: *MS s 32.394 subd 8a*

1525.2350 SPECIFICATION OF APPROVED ANALYSTS AND LABORATORY TESTS.

A list of names of approved analysts and of laboratory tests each is approved to conduct shall be attached to the permit issued by the commissioner to a certified milk laboratory. After each evaluation of a milk laboratory or after an evaluation on an analyst not previously approved as required by part 1525.2340, an amended list of names and approved analysts and the tests each is approved to conduct shall be issued by the commissioner.

Statutory Authority: *MS s 32.394 subd 8a*

1525.2360 FAILURE TO CERTIFY OR APPROVE.

If the commissioner refuses to certify a milk laboratory or to approve an analyst for any or certain work and the laboratory wishes to take exception to the determination, written objections must be filed with the commissioner within 15 days of the issuance of the determination or any protest will be waived. The commissioner shall first seek to resolve the issue through negotiation with the party or parties involved. In cases where disputes cannot be resolved through negotiation, the party or parties shall proceed in the manner provided for in the contested case procedures established by the rules of the Office of Administrative Hearings, parts 1400.5200 to 1400.8500 and any amendments thereto.

Statutory Authority: *MS s 32.394 subd 8a*

1525.2370 REVOCATION OR SUSPENSION OF PERMIT.

The permit issued by the commissioner under the provisions of these rules shall remain valid without renewal unless suspended or revoked by the commissioner for failure to comply with the requirements of these rules. In cases where the commissioner seeks to suspend or revoke a permit, the procedural and hearing requirements shall be the same as for disputes arising from failure to certify a milk laboratory or to approve an analyst.

Statutory Authority: *MS s 32.394 subd 8a*

1525.2380 ISSUANCE OF PERMIT.

The commissioner shall issue a permit to conduct laboratory tests on milk, milk products, or goat milk for distribution under the Grade A label to milk laboratories complying with all applicable laws and rules.

Statutory Authority: *MS s 32.394 subd 8*

1525.2390 FEES.

An application for initial certification or for recertification following suspension or revocation of a permit must be accompanied by the fee established in Minnesota Statutes, section 32.394, subdivision 8a. The amount of the application fee for an individual laboratory must be based on the costs of conducting laboratory evaluation prior to issuance of the permit. The fee for each set of split samples required for evaluation of laboratories must be as

established by Minnesota Statutes, section 32.394, subdivision 8a. The actual fee must be based on the direct costs to the state laboratory for analysis of samples plus the cost of labor involved in providing the analysis. Fees may be adjusted annually within the prescribed range.

Statutory Authority: *MS s 31.11*

History: *13 SR 980*

1525.2400 USE OF CERTIFICATION IN ADVERTISING.

A certified milk laboratory may indicate in its advertising that it holds a permit from the commissioner for the analysis of Grade A dairy products provided that the laboratory shall clearly indicate those procedures for which it is certified.

Statutory Authority: *MS s 32.394 subd 8a*

TESTING OF MILK ON THE BASIS OF PROTEIN

1525.2410 PURPOSE.

Parts 1525.2410 to 1525.2530 are prescribed pursuant to Minnesota Statutes, section 32.25, by the commissioner to provide for testing protein content of whole milk.

Statutory Authority: *MS s 32.394 subd 8a*

1525.2420 DEFINITIONS.

Subpart 1. **Applicability.** For purposes of parts 1525.2410 to 1525.2530 the following definitions and those in Minnesota Statutes, section 32.01, shall apply.

Subp. 2. **Producer.** "Producer" means any person who operates a dairy herd or herds producing milk commercially and whose milk is sold to, or received or handled by, a purchaser as defined in this part.

Subp. 3. **Purchaser.** "Purchaser" means any person purchasing whole milk from a producer and defined as a dairy plant in Minnesota Statutes, section 32.01, subdivision 6.

Statutory Authority: *MS s 32.394 subd 8a*

1525.2430 SAMPLES COLLECTION AND HANDLING.

Samples to be used for the testing of protein content must be collected and handled in the same manner as samples used for bacterial tests as prescribed in the current edition of Standard Methods for the Examination of Dairy Products published by the American Public Health Association. The minimum size for a fresh milk sample must be two ounces (0.0592 liter).

Statutory Authority: *MS s 31.11*

History: *13 SR 980*

1525.2440 SAMPLE TESTING.

Only the following methods as prescribed by the Association of Official Analytical Chemists shall be used in the testing of whole milk for protein content pursuant to parts 1525.2410 to 1525.2530:

A. Kjeldahl, method No. 1.049 and 16.036, total nitrogen;

B. dye binding, method No. 16.037, acid orange 12;

C. pro milk method for determination of protein in milk, amido black 10B, Journal of the Official Methods of Analysis of the Association of Official Analytical Chemists (Vol. 58, No. 4), 1975;

D. infrared, milk analysis, method No. 16.097 and 16.080, part 2 protein; or

E. any other method of equal or greater accuracy approved by the Association of Official Analytical Chemists and approved by the commissioner.

Statutory Authority: *MS s 32.394 subd 8a*

1525.2450 TESTING EQUIPMENT.

Only testing equipment accurately calibrated as prescribed by the methods for calibration set forth in the methods cited in part 1525.2440 shall be used on conducting sample test-

ing for protein content pursuant to parts 1525.2410 to 1525.2530. The commissioner may inspect and test any testing equipment with standardized solutions to determine their accuracy.

Statutory Authority: *MS s 32.394 subd 8a*

1525.2460 FREQUENCY OF SAMPLING AND TESTING.

When the calculation of protein content for whole milk tested pursuant to Minnesota Statutes, section 32.25, is based on a one month period of production, four or more test results on random samples taken from different deliveries shall be used to compute the arithmetic average of those test samples.

Statutory Authority: *MS s 32.394 subd 8a*

1525.2470 SAMPLE RETENTION AND HANDLING.

All samples collected and used for protein testing pursuant to these rules shall be held at temperatures of 32 to 40 degrees Fahrenheit until tested and shall be returned to that temperature within two hours of the last test made on the sample. All samples shall be retained at the place of testing until 3:00 p.m. of the day following the last testing date of the sample.

Statutory Authority: *MS s 32.394 subd 8a*

1525.2480 TEST RECORDS.

Purchasers shall provide producers with a statement of the protein content of the milk with or in each settlement statement.

If the purchaser disqualifies abnormal milk for testing on a protein basis when whole milk is found to be abnormal pursuant to parts 1530.0820 to 1530.0990, the purchaser's records shall indicate the results of the confirmatory tests. Only confirmatory tests approved pursuant to parts 1530.0820 to 1530.0990 shall be used in determining the ineligibility of whole milk tested on a protein basis.

Statutory Authority: *MS s 32.394 subd 8a*

1525.2490 RETENTION OF RECORDS BY PURCHASER.

All test records and results for protein content pursuant to these rules shall be retained by the purchaser for a period of not less than one year. All records relative to such tests shall be available for inspection during normal working or other reasonable hours by persons authorized by the commissioner.

Statutory Authority: *MS s 32.394 subd 8a*

1525.2500 LICENSED TESTERS.

All persons engaged in the sampling and/or testing of whole milk for protein and purchase of same shall be licensed by the commissioner. Any person desiring to secure such a license shall make application on forms provided by the commissioner. Before a license is issued, the commissioner shall determine that the applicant is competent and qualified to use such testing apparatus for determining protein content of whole milk and to make accurate tests with them.

Statutory Authority: *MS s 32.394 subd 8a*

1525.2510 LICENSE.

Every license issued by the commissioner shall be for a period ending on the December 31 following issuance and shall not be transferable.

Statutory Authority: *MS s 32.394 subd 8a*

1525.2520 FEES.

The fee for each license to test for protein content will be as established in Minnesota Statutes, section 32.074 and must be paid to the commissioner before a license or renewal is issued.

Statutory Authority: *MS s 31.11*

History: *13 SR 980*

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1525.2530 SUSPENSION OR CANCELLATION OF LICENSE.

The commissioner shall suspend or cancel any license issued pursuant to parts 1525.2410 to 1525.2530, after notice and hearing, found to be in violation of Minnesota Statutes, section 32.25, or parts 1525.2410 to 1525.2530.

Statutory Authority: *MS s 32.394 subd 8a*